

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 310

2012

REGULATIONS REGARDING HEARINGS

The Board of the Communications Regulatory Authority of Namibia in terms of sections 30(1)-(2), read with section 129, of the Communications Act, 2009 (Act No. 8 of 2009), hereby publishes these ~~regulations~~ effective from the date of publication in the *Gazette*.

Definitions

1. In these regulations, any word or expression to which a meaning is assigned in the Act, shall have the same meaning and –

“Act” means the Communications Act, 2009 (Act No. 8 of 2009).

Submission of documents to the Authority

2. In these regulations, when persons are permitted or called upon to submit information to the Authority in writing, they may do so either physically or electronically -

(1) by hand to the head offices of the Authority, namely Communication House, No 56 Robert Mugabe Avenue, Windhoek;

(2) by post to the head offices of the Authority, namely Private Bag 13309, Windhoek 9000;

(3) by electronic mail to the following address: legal@cran.na

(4) by facsimile to the following facsimile number: +264 61 222790; or

(5) in any other manner or at alternative addresses set out by the Authority from time to time.

Applicability

3. (1) These regulations are applicable to hearings conducted by the Authority in terms of the Act or regulations made in terms of the Act.

(2) These regulations must be read with any relevant provisions of the Act and any regulations made in terms of the Act.

The Authority's discretion to hold hearings

4. If the Act or regulations require the Authority to hold a hearing or if the Authority exercises its discretion to hold a hearing, except if there is a specific requirement to hold a paper (by submitting written submissions) or oral hearing, the Authority may hold either a paper hearing or an oral hearing or both.

Written Submission (Paper hearings)

5. (1) If the Authority decides to hold a paper hearing, it will invite all relevant persons in terms of the Act and regulations, to submit in writing to the Authority written representations, within the time set out in the invitation.

(2) If the Authority considers it necessary or appropriate, it will provide the opportunity for written responses to written submissions and for written replies to written responses.

(3) Written responses and written replies must be submitted in writing to the Authority within the time set out by the Authority.

(4) The times for the submission of written representations, responses and replies will be determined by the Authority in light of the nature of the hearing.

(5) The Authority may consider written submissions not timeously filed, if, in its opinion, it is practicable and appropriate to do so.

(6) The Authority may request further written or oral submissions which must be provided to the Authority in the manner set out by the Authority.

(7) All written submissions must -

(a) contain the name and contact details of the person making the submission and the name and contact details of the person for whom the submission is made, if different;

(b) be clear and concise; and

(c) conform to any further requirements determined by the Authority.

Oral hearings

6. (1) If the Authority decides to hold an oral hearing, it will invite all relevant persons in terms of the Act and regulations to make oral submissions at the time set out in the invitation.

(2) Unless otherwise specified by the Authority, hearings will be open to the public.

(3) The format and agenda of the hearing is at the discretion of the Authority, depending on the nature of the hearing.

(4) The Authority may request further oral or written submissions, which must be provided to the Authority in the manner set out by the Authority.

(5) All oral submissions must -

(a) include a statement indicating the name and contact details of the person making the oral submission and the name and contact details of the person for whom the oral submission is made, if different;

(b) be clear and concise; and

(c) conform to any further requirements determined by the Authority.

Decisions of the Authority

7. (1) After the conclusion of the hearing, the Authority will decide the issue or issues required to be decided in terms of the Act or regulations.

(2) The Authority's decision and reasons will be communicated to all relevant persons within sixty (60) days from date of hearing and may be published in the *Gazette*.

(3) The Authority will keep a register of decisions, which will be held at the head offices of the Authority and if practicable, on the Authority's website.

(4) Except for confidential information, any person may examine any decision and reasons at the head offices of the Authority during normal business hours and copies may be made on payment of a fee determined by the Authority from time to time, and, if available, on the Authority's website where copies may be downloaded free of charge.

Confidential information and communications

8. (1) Any person providing written information to the Authority may designate all or part of the information, confidential, in terms of section 28(1) of the Act, in which case, the Authority's Regulations regarding Confidential Information and Confidential Communications with the Authority will apply.

(2) Any person making oral submissions may request a closed hearing on the grounds that the submissions are confidential, in which case, the submissions will be treated as a confidential meeting in terms of section 29 of the Act and the Authority's Regulations regarding Confidential Information and Confidential Communications with the Authority will apply.

***Ex Parte* communications**

9. A person may not communicate with the members of the Board, the CEO or staff members of, or consultants to the Authority, to discuss the subject matter of request for confidentiality proceeding, except as provided for herein.

Record of proceedings

10. (1) All documents deemed relevant by the Authority to the hearings contemplated by these regulations must be maintained by the Authority in its files located at the head offices of the Authority.

(2) Except for confidential information, any person may examine the Authority's files at the head offices of the Authority during normal business hours and copies may be made on payment of a fee determined by the Authority from time to time, and, if available, on the Authority's website where copies may be downloaded free of charge.

Reconsideration

11. (1) The Authority may, on its own, reconsider any decision made in terms of these regulations within the time set out in section 31 of the Act.

(2) Any person may submit to the Authority in writing a request to reconsider any decision made in terms of these regulations within 30 days of notice of the decision, and the Authority must reconsider such decision within the time set out in section 31 of the Act.

(3) The Authority may publish its decision on reconsideration without further submissions being received, or it may provide an opportunity for further submissions in a manner set out by the Authority.

L.. N. JACOBS

CHAIR PERSON - BOARD OF DIRECTORS

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA
