



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 2

2013

NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING SERVICE LICENCES AND SPECTRUM USE LICENCES

The Communications Regulatory Authority of Namibia, in terms of sections 85 and 101 read with regulation 11 of the "Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences", published in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011(as amended), herewith gives notice that the applications for a broadcasting service licence and a spectrum use licence by Confluence Broadcasting CC has been denied in whole. The following are the reasons for the decision:

1. On the 26th of June 2013, Confluence Broadcasting CC submitted applications for a commercial broadcasting service licence and spectrum use licence for consideration by the

Authority. Due process in respect of the applications were followed in terms of the procedures outlined in the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences.

2. When considering the award of a broadcasting service licence, the Authority must consider the following as set out in section 85(8) of the Communications Act:
 - (b) *the adequacy of the expertise, experience and financial resources available to the applicant;*
 - (f) *the allocation of spectrum in such a manner as to ensure the widest possible diversity of programming and the optimal utilization of such resources. Provided that priority may be given to broadcasters transmitting the maximum number of hours per day;*
3. Confluence Broadcasting CC does not comply with the requirements of issuance of a broadcasting service licence as required by section 85(8) (b) and (f) in that-
 - (i) Confluence Broadcasting CC submitted an application for a commercial broadcasting service licence to provide FM broadcasting. As per Section 87(1) of the Act, such a service licence must be issued for a period of 5 years. The initial statement provided by Confluence Broadcasting CC indicated that First Finance, Nigeria would provide funding, but that it may be withdrawn after an initial investment period of 3 years. This time period falls short of the period for which the licence is being considered. On written request from the Authority, dated 24 October 2013, Confluence Broadcasting CC submitted proof of its Namibian bank account indicating a balance of N\$6,260.00. In the opinion of the Authority, Confluence Broadcasting CC therefore, does not have sufficient financial resources to pay spectrum use licence fees to the Authority and cover all operating expenses associated with the operation of a commercial broadcaster.
 - (ii) The Walvis Bay area is already well serviced by existing broadcasters including the national broadcaster. The program schedule submitted by Confluence Broadcasting CC does not indicate compelling content not already provided by existing Broadcasters as it is centered around a morning show, music and news every day of the week. The Authority requested Confluence Broadcasting CC on 24 October 2013 to provide a full description of the services it intends to provide in order to assess whether the services to be provided will add to the diversity of broadcasting services already provided in the Walvis Bay geographical area. Confluence Broadcasting CC replied on 31 October 2013 that it will provide "*local and international music and a bit of news*". The Authority notes that spectrum is a scarce resource and because Confluence Broadcasting CC did not provide proof that it will add value to the current broadcasting services available by adding new content not already available in the area, the Authority is of the opinion that the objectives of clause 85(8)(f) to ensure the optimal use of spectrum will not be achieved by awarding this licence.
4. In light of the consideration of the information submitted with the application and evaluation thereof based on the criteria as set out in Section 85(8) (b) & (f) of the Communications Act, 2009, the Authority is of the view that Confluence Broadcasting CC should not be awarded a commercial broadcasting service licence. Therefore, the application for a commercial broadcasting service licence and spectrum use licence submitted by Confluence Broadcasting CC is declined in whole. Confluence Broadcasting CC may submit to the Authority in writing a request to reconsider this decision within thirty (30) days of notice of the decision, and the Authority will reconsider such decision within the time set out in section 31 of the Act.

L.N. JACOBS
CHAIR PERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 3

2013

**NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING
PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING
SERVICE LICENCES AND SPECTRUM USE LICENCES**

The Communications Regulatory Authority of Namibia, in terms of section 38 of the Communications Act (No 8 of 2009) read with regulation 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, published in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011, (as amended), herewith gives notice that the application for a Class Telecommunications Service Licence (ECS) by M & E Information Technologies CC has been denied in whole. The following are the reasons for the decision:

1. In accordance with section 38 of the Communications Act (Act No 8 of 2009) (hereinafter referred to as the “Act”) and the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use licences, M & E Information Technologies CC submitted an application for a Class Telecommunications Service Licence (ECS) on 9 April 2012. The initial application was submitted in Mr. Syed Sami Anwar’s name and an amended application was done on 16th August 2012 in the name of the close corporation, i.e. M & E Information Technologies CC. The subsequent licence application submitted under the name M & E Information Technologies CC indicated shareholding as 51% Namibian and 49% Pakistani, respectively.
2. Due process in respect of the application was followed in terms the procedures outlined in the Regulations regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences.
3. When considering the award of a licence, the Authority is obliged to consider the provisions of section 39 (3) of the Communications Act, which provides as follows:

“Without limiting the power to refuse a licence when the granting of a licence is not in the public interest, the Authority may refuse to issue a licence on one or more of the following grounds -
 - (a) *national defence or public security;*
 - (b) *technical constraints due to the limited availability of frequencies;*
 - (c) *the lack of technical and financial capability to substantially meet the obligations arising out of the applicant’s operating conditions or the fact the it does not meet prior specified selection criteria; or*
 - (d) *the fact that the applicant has been subject to penalties referred to in section 115(4).”*
4. The Authority therefore, concluded the following in respect of this application;-
 - 4.1 As the business case submitted does not contain operational expenses such as licence fees, network leasing costs or capital investment, the Authority is unable to determine future sustainability of the company should a licence be awarded;

- 4.2 M&E Technologies CC did not prove to the Authority that the company will be able to comply with the standard licensing conditions for telecommunications service licensees in respect of section 7, 8 and 12 of the Regulations regarding Licence Conditions for Telecommunications Service Licences published in Government Gazette No. 5037, Notice No. 308 dated 13 September 2013; and
- 4.3 There is also no provision made for licence fees or capital expenses for servers, software, etc. It is therefore, very difficult to establish how these financial projections were made as no information has been provided to substantiate operating expenses. Initially tariffs were submitted in US Dollars but amended to Namibian Dollars with submission of the business case on 28 October 2013. The tariffs submitted refer to international calls only.
5. After consideration of the information submitted with the application and evaluation thereof based on the criteria as set out in Section 39(3) (a) and (c) of the Communications Act, 2009, the Authority has declined the award of a Class Telecommunications Service Licence (ECS) to M & E Technologies CC. M & E Technologies CC may submit to the Authority in writing a request to reconsider this decision within thirty (30) days of notice of the decision, and the Authority will reconsider such decision within the time set out in section 31 of the Act.

L.N. JACOBS
CHAIR PERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY

COMMUNICATIONS REGULATORY AUTHORITY OF NAMIBIA

No. 4

2014

**NOTICE IN TERMS OF THE REGULATIONS REGARDING LICENSING
PROCEDURES FOR TELECOMMUNICATIONS AND BROADCASTING
SERVICE LICENCES AND SPECTRUM USE LICENCES**

The Communications Regulatory Authority of Namibia, in terms of regulation 11 of the “Regulations Regarding Licensing Procedures for Telecommunications and Broadcasting Service Licences and Spectrum Use Licences”, in Government Gazette No. 4785, Notice No. 272, dated 29 August 2011 (As amended), herewith gives notice that the person referred to in the table below has submitted the following application to the Authority:

Applicant	Applicant's Citizenship or place of incorporation	Percentage of Stock owned by Namibian Citizens or Namibian citizens or Namibian Companies controlled by Namibian Citizens	Category of Class Telecommunications service intended to be provided	Does applicant intend to use spectrum in the provision of the telecommunication service?	Concise statement on Services intended to be provided	Description of geographic coverage area(s)	Proof of Licence Application Fees Paid Up to Date Submitted?
Promax Communications (Pty) Ltd	Namibia	100%	Comprehensive Telecommunications Service Licence (ECNS & ECS)	Although applicant intends to use spectrum in the provision of the telecommunication services it is in the spectrum use licence exempt band as contained in the Regulations Regarding Licence Exempt Spectrum published in Government Gazette No. 4839, Notice No. 395 dated 25 November 2011.	Electronic Communications	Namibia	Yes

The public may submit comments in writing to the Authority within a period of fourteen (14) days from the date of publication of this notice in the *Gazette*. The applicant may submit written reply comments within fourteen (14) days from date of notification of the written public comments.

All written submissions must contain the name and contact details of the person making the written submissions and the name and contact details of the person for whom the written submission is made, if different, and be clear and concise.

All written submissions must be made either physically or electronically -

- (1) By hand to the head offices of the Authority, namely Communication House, 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) By fax to e-mail to: 088642748.

L.N. JACOBS
CHAIR PERSON OF THE BOARD
COMMUNICATIONS REGULATORY AUTHORITY
