



Independent Communications Authority of South Africa
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**CYBERSMART (PTY) LTD
COMPLIANCE REPORT 2011-2012**

1. INTRODUCTION

The following report is intended to give an account of Cybersmart (Pty) Ltd ("Cybersmart") compliance for the 2011/2012 financial year. Cybersmart is required to comply with the Electronic Communications Act 36 of 2005 ("the Act"), applicable regulations and licence terms and conditions.

2. BACKGROUND

On 15 January 2009, the Authority issued Cybersmart with the following converted Licences:

- Individual Electronic Communications Network Services (I-ECNS) Licence with licence number 0021/IECS/JAN/09; and
- Individual Electronic Communications Services (I-ECS) Licence with licence number 0021/IECNS/JAN/09.

This Annual Compliance Report assesses Cybersmart's compliance with its licence terms and conditions, General Licence Fees Regulations ("ALF"), the Universal Service and Access Fund, Form 1 Standard Terms and Conditions. Cybersmart's financial year end is **31 December**.

Below is an analysis of compliance with the abovementioned regulations.

3. DISCUSSION

3.1. COMPLIANCE PROCEDURE MANUAL REGULATIONS, 2011; FORM 1 STANDARD TERMS AND CONDITIONS FOR ECS, ECNS AND BS

The Compliance Procedure Manual Regulations; which contains Form 1 "Standard Terms and Conditions for ECS, ECNS and BS" were published on 15 December 2011.

The purpose of these Regulations is to assist the Authority to proactively monitor compliance and to ensure that information is obtained in a consistent format.

These Regulations apply to all licensees issued with a licence in terms of chapter 3 and 9 of the Act and in terms of the Postal Services Act, 1998 (Act 124 of 1998).

General Licence Information

3.1.1 Organisation Status- subsequent to being granted the above mentioned licences Cybersmart commenced operations in 1998 at their offices based in Cape Town.

3.1.2 Ownership- Cybersmart is limited to local ownership. In terms of its shareholding 30% of the company is owned by a historically disadvantaged individual.

3.1.3 Shareholding- the shareholders of Cybersmart are South Africans. The shareholding comprises of 85% white males and 15% coloured male.

3.1.4 Staff- Cybersmart has forty-five (45) staff members, of the forty-five (45) staff members in the company thirty (30) are in technical department. The technical department is predominantly males. Management is composed of sixteen (16) members, 6 (six) White males, 4 (four) African males, 1 (one) White female, 1 (one) African female.

3.2 LICENCE TERMS AND CONDITIONS

Licence Requirement – Paragraph 2 of the Schedule to the issued Licences' requires "*the licensee to provide national coverage of its electronic communication network services.*"

3.2.1 Network Coverage

Geographical Coverage

Cybersmart provides coverage nationally.

Population coverage

Cybersmart did not mention population coverage.

3.2.2 Network Type / Infrastructure

Cybersmart did not mention whether the infrastructure is wireless / fixed or fibre.

3.2.3 Services offered

- i. ADSL;
- ii. Dialup;

- iii. VOIP;
- iv. Metro Ethernet;
- v. International bandwidth;
- vi. IPC;
- vii. Fixed IP;
- viii. VPNs; and
- ix. Hosting and email.

3.3. GENERAL LICENSE FEES REGULATIONS, 2009

The General Licence Fees Regulations came into operation on the date of publication, being 01 April 2009.

3.3.1. Regulatory Requirements – Regulation 5: provides that *“Payments in respect of annual licence fees are due as prescribed in schedule 3.”*

3.3.2. Regulatory Requirements – Schedule 3 of Regulation 1 (4): states: *“In respect of Annual Payments, such:*
(a) are due annually based on the licensee’s financial year;
(b) are due and payable within 6 months from the end of the licensee’s financial year end.”

Compliance Assessment

01 January 2012 to 31 December 2012

Cybersmart has complied with these Regulations in that it made a payment within 6 months of their financial year end. Cybersmart has submitted its Audited Annual Financial Statements to the Authority.

3.4. UNIVERSAL SERVICES AND ACCESS FUND REGULATIONS, 2011

The USAF Regulations were published on 10 February 2011 and came into operation on the same date.

3.4.1. Regulatory Requirements - Regulation 3 (1): requires *“Every holder of a licence granted in terms of Chapter 3, 4 and/or 9 or converted in terms of Chapter 15 of the Act, must pay an annual contribution of 0.2% of its Annual Turnover to the Fund”.*

- 3.4.2. Regulatory Requirements - Regulation 4(2):** requires that
"Payments in respect of contributions to the Fund:
(a) are due annually based on the licensee's financial year;
(b) are payable within 6 months from the end of the licensee's financial year end.

Compliance Assessment

01 January 2012 to 31 December 2012

Cybersmart has complied with this regulation, in that Cybersmart made payment within six (6) months after Cybersmart financial year end as per regulatory requirements.

4. CONCLUSION AND SUMMARY OF PERFORMANCE

4.1. Compliance Procedure Manual Regulations, 2011; Form 1 Standard Terms and Conditions For ECS, ECNS

Cybersmart has submitted the required information as requested.

4.2. General Licence Fees Regulations, 2009

Cybersmart has complied with the Licence Fees Regulations.

4.3. Universal Service and Access Fund Regulations, 2008

Cybersmart has complied with the Universal Service and Access Fund Regulations.