



Independent Communications Authority of South Africa  
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**CNL/0255/2012/INL/0255/2012**

**MWEB**  
**COMPLIANCE REPORT 2011/2012**

## **1. INTRODUCTION**

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

## **2. BACKGROUND**

On 16 January 2009, the Authority issued MWEB with the following converted Licences:

- Individual Electronic Communications Network Services (I-ECNS) Licence with licence number 0173/IECS/JAN/09; and
- Individual Electronic Communications Services (I-ECS) Licence with licence number 0173/IECNS/JAN/09.

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

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**

MWEB states that the Regulations requiring them to comply with Form 1 only came into effect after the date on which the 2011/2012 Ownership report was due. They believe that they have therefore complied with the filing requirements for the 2011/2012 financial year. MWEB will submit the information requested in the proper prescribed format for the next financial year, due end January 2013.

### **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 communications network services.”

#### **3.2.1. Network Coverage**

##### **Geographical**

MWEB rely on Telkom infrastructure for ADSL coverage.

#### **3.2.3. Network Type / Infrastructure**

According to MWEB’s submission, MWED does not have a network, MWEB uses Telkom’s infrastructure.

#### **3.2.4. Services offered**

MWEB offers internet services to their customers.

### **3.2. GENERAL LICENSE FEES REGULATIONS, 2009**

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

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

**3.2.2. 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 April 2011 to 31 March 2012*

MWEB did not make a payment in respect of the annual licence fees which were due and payable by 30 September 2012. MWEB claims non-liability for annual licence fees payment on the basis that their gross profit was negative and no revenue was generated from licenced services.

MWEB submitted its Audited Annual Financial Statements to the Authority for verification and the Authority satisfied itself to the fact that MWEB did not generate any profit from its licenced services and therefore not liable for payment of the annual licence fees.

### **3.3. UNIVERSAL SERVICES AND ACCESS FUND REGULATIONS, 2011**

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

**3.3.1. 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"*.

**3.3.2. 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 April 2011 to 31 March 2012*

MWEB has complied with these Regulations in that it made a payment in respect of USAF within six months of the company's financial year end.

#### **4. CONCLUSION AND SUMMARY OF PERFORMANCE**

##### **4.1. Compliance Procedure Manual Regulations, 2011; Form 1 Standard Terms AND Conditions For ECS, ECNS AND BS**

MWEB did not submit information as requested.

##### **4.2. General Licence Fees Regulations, 2009**

MWEB has complied with the Licence Fees Regulations.

##### **4.3. Universal Service and Access Fund Regulations, 2008**

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