



ICASA

Independent Communications Authority of South Africa
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**SAGATEWAY INTERNET SERVICE PROVIDER
(PTY) LTD
COMPLIANCE REPORT 2011/2012**

1. INTRODUCTION

The following reports are intended to give an account of Licensees compliance for the 2011/2012 financial year. SA gateway Internet Service Provider (Pty) Ltd ("SA gateway") 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 Sagateway with the following converted Licences:

- Individual Electronic Communications Network Services (I-ECNS) Licence: with licence number 0075/IECNS/JAN/09; and
- Individual Electronic Communications Services (I-ECS) Licence :with licence number 0075/IECS/JAN/09.

This Annual Compliance Report assesses Sagateway compliance with its licence terms and conditions, the General Licence Fees Regulations ("ALF"), the Universal Service and Access Fund ("USAF"), Form 1 of the Standard Terms and Conditions. Sagateway's financial year end is **31 May**. Below is an analysis of compliance with the abovementioned regulations.

3. DISCUSSION

3.1. COMPLIANCE PROCEDURE MANUAL REGULATIONS,2011;FORM1 STANDARD TERMS AND CONDITIONS FOR ECS, ECNS AND BB

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 - Sagateway started to operate as a profit company in 2001 at Centurion, Halfway House.

3.1.2. Ownership – Sagateway is 100% owned by South African citizens. Sagateway is 50% owned by Historically Disadvantaged Individuals (“HDI”).

3.1.3. Shareholding - Sagateway has four (4) Shareholders namely; Tom Weiss Muller 25%, Dieter Febel 25%, Mahomed Joosub Cassim 25% and Asga Alli Mahomed 25%.

3.1.4. Directors – Sagateway Internet Service Provider (Pty) Ltd has four (4) directors, all are South Africans; Tom Weiss Muller, Dieter Febel, Mahomed Joosub Cassim and Asga Alli Mahomed.

3.1.5. Staff - Sagateway has indicated that it has only one (1) staff member.

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

Sagateway does not provide its services nationally.

Population coverage

Sagateway covers Gauteng, Western Cape, Kwa-Zulu Natal, Mpumalanga, North West, Northern Cape and Eastern Cape.

3.2.2. Network Type / Infrastructure - Sagateway advised that they do not have a Network hence they can't provide the Authority with network coverage.

3.2.3. Services offered

- Broad band ADSL;
- Dial up services of ADSL capped account; and
- Business uncapped ADSL accounts.

3.3. GENERAL LICENCE FEES REGULATIONS, 2009; FORM 2

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

3.3.1. Regulatory Requirements – Regulation 5: requires 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 June 2011 to 31 May 2012

Sagateway did not comply with this Regulation in that it did not pay for the General Licence Fees. Sagateway claims to be a reseller; however it submitted Form 2 and its financial statements.

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 June 2011 to 31 May 2012

Sagateway did not comply with this Regulation in that it did not pay the USAF Fees. Sagateway Internet Service Provider (Pty) Ltd claims to be a reseller.

4. CONCLUSION AND SUMMARY OF PERFORMANCE

4.1. General Licence Fees Regulations, 2009

Sagateway Internet Service Provider (Pty) Ltd did not comply with the Licence Fees Regulations.

4.2. Universal Service and Access Fund Regulations, 2008

Sagateway did not comply with the Universal Service and Access Fund Regulations.

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

Sagateway has complied with Standard Terms and Conditions for ECS and ECNS.

4.4. National coverage – Licence terms and conditions - Sagateway has complied with the Licence terms and conditions in that it provide its services nationally.