



Independent Communications Authority of South Africa
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**SEACOM SOUTH AFRICA (PTY) LTD
COMPLIANCE REPORT 2011/2012**

1. INTRODUCTION

The following report is intended to give an account of Seacom South Africa (Pty) Ltd ("Seacom") compliance for the 2011/2012 financial year. Seacom 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 Seacom with the following converted Licences:

- Individual Electronic Communications Network Services (I-ECNS) Licence with licence number 0041/IECS/JAN/09; and
- Individual Electronic Communications Services (I-ECS) Licence with licence number 0041/IECNS/JAN/09.

This Annual Compliance Report assesses Seacom'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. Seacom'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- Seacom is a profit company. Seacom provides customized wholesale broadband services to requisitely licenced operators within South Africa. Seacom started operation on 1st June 2011 for IECS and 1st January 2012 for IECNS.

3.1.2 Ownership- Seacom is locally owned. In terms of its submission HDI constitute 35.5%.

3.1.3 Shareholding- Seacom has 2 shareholders; namely Newshelf 893 (Pty) Ltd which holds 50 % and SEACOM SA SPV (Pty) Ltd which holds 50% of shares in the company.

3.1.4 Staff- Seacom has twenty (20) staff members. Seacom is comprised of three (3) people in the technical division are all males. Seacom has six (6) people in management with majority who are white, 66.7% of them are males and 33.3% are females.

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

Seacom has a geographical coverage in Mtunzini, Umhlanga, Midrand, Isando, Rondebosch and Yzerfontein.

Population coverage

Seacom is a wholesale provider of capacity, meaning they do not directly service end users or the population. Seacom contracts with telecom providers or corporates whom in turn service the population.

3.2.3. Network Type / Infrastructure

Seacom has a fixed network based on fiber technology.

3.2.4. Services offered

Voice / Data

Seacom offers IP VPN, Internet, Ip Transit, Ethernet and IPL.

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 2011 to 31 December 2011

Seacom did not comply with these Regulations, Seacom made a payment in respect of annual licence fees after the prescribed regulatory period.

Seacom also submitted its Audited Annual Financial Statements to the Authority for verification of its payments.

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 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 2011 to 31 December 2011

Seacom did not comply with these Regulations in that it made a payment in respect of USAF fees after the prescribed regulatory period.

4. CONCLUSION AND SUMMARY OF PERFORMANCE

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

Seacom has submitted information as requested.

4.2. General Licence Fees Regulations, 2009

Seacom has not complied with the Licence Fees Regulations.

4.3. Universal Service and Access Fund Regulations, 2008

Seacom has not complied with the Universal Service and Access Fund Regulations.