



Independent Communications Authority of South Africa
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ECS/ECNS/0133/JAN/09

**WEB AFRICA NETWORKS (PTY) LTD
COMPLIANCE REPORT – 2011/2012**

1. INTRODUCTION

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

2. BACKGROUND

On 28 May 2009, the Authority issued Web Africa Networks with the following converted Licences:

- Individual Electronic Communications Network Services (I-ECNS) Licence with licence number 0133/IECS/JAN/09; and
- Individual Electronic Communications Services (I-ECS) Licence with licence number 0133/IECNS/JAN/09.

This Annual Compliance Report assesses Web Africa Networks' compliance with its Licence Terms and Conditions, General Licence Fees Regulations ("ALF") and the Universal Service and Access Fund Regulations, Form 1 Standard Terms and Conditions. Web Africa Networks' financial year end is **29 February**. Below is an analysis of compliance with the above-mentioned regulations.

3. DISCUSSION

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

The Compliance Procedure Manual Regulations 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-** Web Africa Networks is an internet service provider and is based in Cape Town.
- 3.1.2 Ownership** – Web Africa Networks is 100% locally owned and does not have HDI shareholding.
- 3.1.3 Shareholding-** Web Africa Networks has six (6) shareholders. Matthew Tagg holds 55.1%, Rupert Bryant holds 12.5%, Portofino 1996 Trust holds 11.4%, VMC Communications holds 5.8%, Bertus Levendal Trust holds 0.9% and Smartphone (Pty) Ltd holds 14.2%.
- 3.1.4 Staff-** Web Africa Networks has one hundred and twenty four (124) staff members. All their staff members are South African citizens. Web Africa Network staff is composed of technical, non-technical, management and non-management. In terms of Form 1 of the CPMR Web Africa Networks offers six (6) internships. Of the one hundred and twenty four (124) staff members in the company forty six (46) are in the technical department comprising of forty three (43) males and three (3) females. Of the forty six (46) staff members, 45% of them are Whites, 34% Coloureds, 13% Africans and 6% Indians. The company has eleven (11) staff members in its management, 81% of which are whites and 63% males.

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

Web Africa Networks states in a separate letter attached to their Form 1 of the CPMR that it provides national coverage of their services. Web Africa Network states that it is entirely dependent on Telkom's ADSL lines and infrastructure despite owning their Inter-Process Communications network (IPC). Their network coverage extends as far as Telkom's ADSL lines reach. Web Africa states that Telkom's ADSL lines and infrastructure do reach national coverage.

3.2.2. Network Type / Infrastructure

Web Africa Network states that it has an IPC network and it relies completely on Telkom's ADSL lines and infrastructure.

3.2.3. Services Offered

The company provides broadband services and hosting solutions.

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 March 2011 to 28 February 2012

Web Africa Networks made its submissions and submitted financial statements in terms of the above Regulations. In terms of its submission, the company had a loss and consequently made no payment in respect of licence fees. However, a meeting was convened between the Authority and Web Africa in respect of Web Africa's computation of allowable costs. In the above meeting, it was agreed that the company had incorrectly computed its allowable costs. A revised computation of its allowable costs resulted in the company making a profit and therefore incurring a liability in respect of its licence fees. Web Africa Networks has for all purposes complied with the above Regulations in that it made its submissions within six (6) months as required by Regulations but its incorrect computation of allowable costs was only brought to its attention later. The company has ultimately paid its licence fees in February.

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(1) and 4(4): states that *"Payments in respect of contributions to the Fund:*

(a) are payable within 6 months from the end of the licensee's financial year end;

(b) calculations for payments will be based on the licensee's audited financial statement for the preceding financial year.

Compliance Assessment

01 March 2011 to 28 February 2012

Web Africa Networks has complied with the above Regulations in that it made a payment towards USAF contribution within the stipulated timeframe as required by the above Regulations.

4. CONCLUSION AND SUMMARY OF PERFORMANCE

4.1 . GENERAL LICENCE FEES REGULATIONS, 2009

Web Africa Networks has complied with the above Regulations in that it submitted its incorrect calculations in time and they were only brought to its attention later and has, as a consequence, only paid its licence fees in terms of the revised calculations in February 2013.

4.2 . UNIVERSAL SERVICES AND ACCESS FUND REGULATIONS, 2011

Web Africa Networks has complied with the above regulations in that it made the required payment within the required timeframe.

4.3 . NATIONAL COVERAGE – LICENCE TERMS AND CONDITIONS

Web Africa Networks states that it provides national coverage of its network to the extent allowed by Telkom's ADSL lines and infrastructure which achieve national coverage.