

Statutory Instrument No. of 2015

COMMUNICATIONS REGULATORY AUTHORITY ACT

(No. 19 of 2012)

COMMUNICATIONS REGULATIONS, 2015

(Published on , 2015)

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SCHEDULES

IN EXERCISE of the powers conferred on the Minister of Transport and Communication by section 94 (1) of the Communications Regulatory Authority Act, the following Regulations are hereby made -

*No. 19 of
2012*

PART I
Preliminary

- | | |
|-----------------------|---|
| <i>Citation</i> | 1. These Regulations may be cited as Communications Regulations, 2013. |
| <i>Interpretation</i> | 2. In these Regulations, unless the context otherwise requires - |
| <i>No. 19 of 2012</i> | "Act" means the Communications Regulatory Authority Act; |
| | "address capacity" means a part of the address plan's total address resource; |
| | "advertising" means the broadcasting or distribution of any item or information by any means in return for payment or other valuable consideration. |
| | "assigned frequency" means the centre of the frequency band assigned to a broadcasting service; |
| | "Authority" means Botswana Communications Regulatory Authority |

referred to in section 3 of the Act;

“Board” means the Board of the Authority appointed under section 4(1) of the Act;

“broadcaster” means any person who composes or distributes television or radio programme services for reception by subscribers to such services or members of the public;

"broadcasting licence" means a licence issued in terms of section 32 of the Act for the provision of a broadcasting service;

"children" means persons who are below the age of 18 years;

"commercial broadcasting" means a broadcasting service which is operated for a profit, or which forms part of a profit-making entity;

“Committee” means the Universal Access and Services Advisory Committee” established under regulation 90;

"coverage area" means the territory covered by a broadcasting station signal strength, allowing for clear reception, and includes an area specified in a broadcasting licence by the Board;

“courier services” means specialized services for the collection, conveyance and delivery of postal items other than letters;

“deactivate” means to disable a telecommunications service to a subscriber by a licensee;

“declaration of conformity” means a procedure by which a manufacturer or a supplier gives a written assurance accordance with ISO/IEC 17050:2004 that RTTE conforms to these Regulations *and standards*;

“designated postal operator” means a public postal operator as defined in section 2 of the Act,

"disaster" includes any event or circumstance arising out of accidents, natural phenomena, fires, floods, explosions, or incidents involving exposure or potential exposure to radioactive or toxic materials;

“Fund” means the Universal Access and Service Fund referred to in section 29 (3) of the Act;

"harmful interference" means any interference which endangers the

functioning of a radio communications service, or which seriously degrades, obstructs or repeatedly interrupts such a service;

“identification particulars” means details given by a subscriber to a licensee or a licensee’s agent for the purpose of registration of the subscriber;

"infomercial" means any advertising broadcast in visual or audio form, lasting for more than two minutes, which may contain demonstrations of the use of the product or service advertised, entailing direct offers to the public in return for payment, and which results in the broadcaster receiving payment in monetary terms or otherwise;

"letter" means any form of written communication or personal correspondence and includes a postcard;

“levy” means the universal access and service levy charged by the Authority on determined licensees for the purpose of the Fund;

“licensee” means a service provider or operator licensed under the Act;

“light licensing” means mechanism whereby the users of a band are awarded non-exclusive licenses which are typically available to all, and are either free or only have a nominal fee attached to them. There may be further obligations associated with the provision of a license such as the need to register the location of any transmitters and possibly to coordinate their deployment with other registered users.

"local content" means the output or results of the regulated sectors production that have been produced using material or resources gathered or originating in Botswana, and which mostly use Botswana personnel and services;

"local market" means the area in which a licensee is licensed to operate;

“Minister” means the Minister responsible for transport and communications;

"national emergency organisation" include the police force, security forces, fire brigade, ambulance services, medical services, veterinarian services and environmental disaster agencies, whether or not such organisations are owned and managed on a private or public basis;

"number capacity" means a part of the numbering plan's total number resource.

"performance period" means the period between 6.00 a.m. and 12 midnight each day;

"political party" means a party which is either lawfully registered or recognised as a political party in Botswana;

“post” means a system for the dispatch, holding conveyance of postal items by or through a postal licensee;

“post office” means any building, house, room, vehicle or place, under the control of a postal licensee used for purposes of posting or conveyance of postal items;

“postal licensee” means any person licensed under the Act to provide postal service;

“postal tariff” means any charges raised by the licensee for the conveyance of letters, provision of supplementary services to the letter post and the provision of postal financial services;

"programme", in relation to a broadcasting service, means visual information or sound, or a combination of visual information and sounds, which inform, enlighten or entertain members of the public, and includes advertising or sponsorship material, whether of a commercial nature or not;

"public notice of emergency service" means any service provided by the licensee alone, or in conjunction with any other person, by means of which emergency broadcasts are made free of charge by national emergency organisations;

“public postal licensee” means a postal operator licensed under section 67 of the Act to provide universal postal services;

"radio licence" means a licence issued in terms of section 45 of the Act;

“registration” means the recording of identification particulars of a subscriber by a licensee or a licensee’s agent;

“registrar” means a person or entity that, via contract with the Registry, provides domain name registration services to registrants.

“registry” means the entity entrusted with the organisation, administration and management of the .bw TLD including maintenance of the corresponding databases and the associated public query services, registration of domain names, operation of the Registry of domain names, operation of the Registry TLD

name servers and dissemination of TLD zone files

"signal" includes any signs, sounds, text, images, information or data of any configuration sent, or to be sent, for conveyance by a licensed system;

"special event broadcast licence" means a broadcasting licence issued for an event that does not last for more than seven days and which is broadcast-

- (a) outside a licensee's coverage area; or
- (b) in partnership with a foreign broadcaster;

"sponsored programme" means a programme that has all or part of its costs paid by a sponsor, with a view to promoting that sponsor's, or another sponsor's name, product or service;

"station format" means an arrangement of programmes which are presented on a broadcasting station;

"subscriber" means a person who uses or accesses a telecommunication service provided by licensee;

"suspend" means to temporarily disable a regulated service to a subscriber by a licensee.

"territory" means the geographical area of Botswana;

"undeliverable postal item" means an item which is considered undeliverable in terms of section 63 (3) of the Act;

"universal access" means public access to quality and affordable communication systems and services;

"universal service" means access to use communication systems and services of good quality on an individual, household or institutional basis including, among others, to the provision of—

- (a) public voice telephony;
- (b) internet access; or
- (c) other services by which the public access efficient, affordable and modern communications systems and services;

"Universal Postal Union" or "UPU" means the specialized agency of the United Nations on postal services;

"un-served areas" means geographic areas where no designated level

of universal access is currently available or where there is reduced availability of communication services;

PART II - *Broadcasting*

Ownership and control

3. (1) No person shall directly or indirectly own and exercise control over more than one commercial broadcasting services station.

(2) Broadcasting licences shall be reserved to enterprises which are owned by citizens or in which citizens have a significant shareholding.

(3) For the purposes of subregulation (2), “significant shareholding” means –

(a) in relation to a television station, at least 55 *per cent* shareholding; or

(b) in relation to a radio station, at least 80 *per cent* shareholding.

(4) Political parties shall not own a broadcasting service station.

Commencement of broadcasting service

4. (1) A licensee shall publish a notice in a regional or national newspaper or both, circulated in the licensee's intended market, not later than seven days before commencing to transmit a broadcasting service.

(2) A notice under subregulation (1) shall contain-

(a) a statement about the licensee's intention to transmit a broadcasting service from a station in the licensee's local market;

(b) the commencement date and time of transmissions;

(c) the assigned frequency that the station will use;

(d) the station format;

(e) the services provided by other licensees; and

(f) the address and telephone number of the licensee.

Fairness in advertising

5. (1) All licensees shall ensure that any advertisements they broadcast are -

(a) honest, decent and lawful;

- (b) in conformity with the principles of fair competition in business;
- (c) do not contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and
- (d) do not unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.

(2) A licensee shall, before broadcasting an advertisement, ensure that any descriptions or claims in the advertisement have been adequately authenticated by the advertiser thereof.

(3) A licensee shall not unreasonably discriminate against or in favour of any advertiser.

Scheduling of advertisements

6. (1) A licensee shall exercise responsible judgement when scheduling advertisements which may be unsuitable for children during periods when children may be expected to be watching or listening.

(2) A licensee shall ensure that any advertising breaks are clearly distinguishable from broadcast programmes.

(3) A licensee shall ensure that its presenters, when reading advertisements, make a clear distinction between programming material and the advertisements they deliver.

Sponsorship of programmes

7. (1) A licensee shall not-

- (a) accept sponsorship for news broadcasts;
- (b) broadcast any programme which has been sponsored by a political party; or
- (c) unreasonably discriminate against or in favour of any particular sponsor

(2) A licensee may accept sponsorship of weather broadcasts, financial broadcasts or traffic reports:

Provided that the licensee shall retain ultimate editorial control of the sponsored programme.

(3) A licensee shall ensure that sponsorship of an informative programme does not compromise the accuracy and impartiality of the programme contents.

(4) The sponsorship of a programme shall clearly be acknowledged

by a licensee immediately before and after the programme is broadcasted, and any link between the programme's subject-matter and the sponsor's commercial activities shall be made clear.

Infomercials

8. (1) An infomercial shall not be broadcast-

- (a) for a period exceeding three hours of the performance period in any day;
- (b) during prime-time; or
- (c) during any break in the transmission of a children's programme.

(2) A licensee shall ensure, either by visual or audio form that the broadcast of any infomercial is distinguishable from any programme material broadcast.

(3) A licensee shall ensure that all infomercials that are broadcast are-

- (a) lawful, honest and decent; and
- (b) in conformity with the principles of fair competition in business.

(4) The provisions of subregulations (1) and (2) shall not apply to channels which exclusively broadcast infomercials.

Harmful interference

9. A licensee who operates a broadcasting station by transmitting on an assigned frequency in the broadcasting service band shall not cause harmful interference to any broadcasting service provided by another station.

Local content

10. (1) The Authority shall prescribe an annual minimum local content quota for the broadcasters to ensure that the quotas are achieved progressively.

(2) The provisions of subregulation (1) shall not apply to news broadcasts.

(3) Except as otherwise stated as a specific licence condition, local news shall constitute the majority of a licensee's news broadcast content.

Broadcasting standards

11. A licensee, or any employee thereof, shall not broadcast any matter which, measured by contemporary community standards-

- (a) offends against good taste or decency;
- (b) contains the frequent use of offensive language, including blasphemy;
- (c) presents sexual matters in an explicit and offensive manner;
- (d) glorifies violence or depicts violence in an offensive manner; or
- (e) is likely to incite or perpetuate hatred or vilify any person or section of the community on account of the race, ethnicity, nationality, gender, sexual preference, age, disability, religion or culture of that person or section of the community.

Protection of children

12. (1) A licensee shall ensure that due care is exercised in order to avoid the broadcasting of content which may disturb or be harmful to children where the licensee broadcasts programmes at times when a large number of children may be expected to be listening to radio or watching television programmes.

(2) A licensee shall, when determining whether a large number of children are listening to or watching any programme, take into account any available audience research carried out, as well as the times that programmes are broadcast.

(3) The content of programmes which may disturb or be harmful to children includes -

- (a) offensive language;
- (b) explicit sexual material;
- (c) explicit violent material;
- (d) music containing sexually explicit lyrics; and
- (e) music containing lyrics which depict violence.

Accurate, fair and impartial reporting

13. (1) A licensee, its employees or agents shall report news and information accurately, fairly and impartially.

(2) A licensee shall ensure that news and information are broadcast and presented in a balanced manner, without any intentional or negligent departure from any facts through distortion, exaggeration, misrepresentation, material omissions or through excessive summarising or editing.

(3) A licensee, its employees or agents, shall broadcast a fact fairly, having regard to its context and importance.

Broadcasting of unconfirmed reports

14. (1) A licensee shall not broadcast any report that is not based on fact or that is founded on an opinion, supposition, rumour or allegation unless the broadcast is carried out in a manner that clearly indicates these circumstances.

(2) Where any doubt exists as to the accuracy of a report, and verification is not possible, this fact shall be mentioned in the report.

(3) A licensee shall not broadcast any report where there exists sufficient reason to doubt the accuracy thereof and it is possible to verify accuracy of the report before it is broadcast.

Correction of errors in broadcasting

15. A licensee shall broadcast the correction of any factual error-

- (a) without reservation, as soon as is reasonably possible after the error has been committed; and
- (b) with such degree of prominence and timing as may be adequate and fair so as to easily attract attention and, where appropriate, include an apology.

Reporting on controversial issues

16. (1) A licensee shall ensure that, when reporting on controversial issues, a wide range of views and opinions is reported, either within a single programme or within a series of programmes, which shall be broadcast as soon as is reasonably possible.

(2) A licensee shall ensure that when broadcasting controversial issues of a political, industrial or public importance during phone-in programmes, a wide range of views and opinions are represented.

(3) A person whose views have been criticised on any controversial issues of political, industrial or public importance during a programme, and who makes any representations, within a reasonable time, to the licensee responsible for the programme, that he or she is aggrieved, shall be offered an opportunity by the licensee to reply to such criticism.

(4) A reply to a criticism under subregulation (3) shall be given a similar degree of prominence to the original criticism during its broadcast, and shall be broadcast during a similar time-slot to the original criticism, as soon as is reasonably possible after the original criticism.

(5) For the purposes of this regulation "programme" includes news bulletins, current affairs programmes, informative programmes,

interviews, panel discussions and phone-in discussions.

Conduct of interviews

17. (1) A person who is to be interviewed by a licensee shall be-
- (a) advised of the subject of the interview; and
 - (b) informed, before the interview takes place, as to whether the interview is to be recorded or broadcast live.

(2) A licensee shall, before conducting an interview with a minor, request permission to conduct the interview from the minor's parents or guardian.

(3) A licensee shall exercise sensitivity in conducting interviews with bereaved persons, survivors of traumatic incidents or witnesses thereof.

Comments

18. Any comments that are broadcast by a licensee, or by any person invited by a licensee, shall be presented in a manner that clearly indicates that it is a comment and that it is made on facts which are clearly stated.

Invasion of privacy

19. A licensee shall not broadcast any material which invades a person's privacy unless there is a justifiable reason, in the public interest, for doing so.

Consent to broadcast

20. A licensee shall not broadcast any information acquired from a person without that person's consent, unless the information so acquired is essential to establish the credibility and authority of a source, or where the information is clearly in the public interest.

Sexual offences

21. (1) A licensee, its employees or agents, shall not disclose, in a broadcast –

- (a) the identity of a victim of a sexual offence unless the victim consents, in writing, to such disclosure of his or her identity; or
- (b) the identity of a minor where such minor is a victim of a sexual offence.

(2) A licensee, its employees or agents, shall avoid the use of unnecessary or repetitive detail when broadcasting the circumstances of a sexual offence.

Payment of criminals

22. A licensee shall not pay-

(a) any person involved in a crime; or

(b) any person who has been convicted of a criminal offence,

in order to obtain information, unless there is a compelling reason in the public interest to do so.

Emergencies or public disaster broadcasting

23. A licensee shall provide a public notice of emergency service or made by any Government department, free of charge.

Special event broadcasting licence

24. No agreement or contract of broadcast rights relating to special event broadcasting shall be entered into unless the service provider has been issued with a licence by the Authority.

External satellite feed

25. (1) A licensee shall not carry out an external satellite feed without a special event broadcast licence.

(2) A licensee shall apply to the Authority, in writing, to carry out an external satellite feed.

(3) An application under subregulation (2) shall be accompanied by the following particulars-

(a) the name of the licensee; and

(b) the type of external satellite feed which the licensee intends to carry out.

Party political notice

26. (1) A licensee shall not be obliged to broadcast a party political notice.

(2) Where a licensee elects to broadcast a party political notice there shall be no discrimination either against or in favour of any particular political party.

(3) No broadcast of a party political notice shall exceed three minutes for every 60 minutes programming.

(4) A party political notice shall be clearly distinguished from other programmes aired by the broadcaster such that it is clearly identified as a party political notice.

(5) A party political notice shall only be broadcast outside the election period.

(6) All party political notices of different political parties shall -

(a) be announced in a similar manner; and

(b) not be pre-packaged or pre-recorded.

(7) No party political notice shall be broadcast immediately before or after news items or current affairs programmes.

(8) No party political notice shall include any political party manifesto content, party slogan or campaign messages.

Prohibition on party-political broadcasts

27. (1) A licensee shall not permit party-political broadcasts under any circumstances except during an election period.

(2) A licensee shall not permit party-political adverts under any circumstances.

Broadcasting during elections

28. (1) A licensee shall air contesting party-political broadcasts and afford all contesting political parties similar opportunities.

(2) If, during an election period, the programming of any licensee extends to the elections, political parties and issues relevant thereto, the licensee shall provide reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably.

(3) In the event of any criticism against a political party being levelled in a particular programme of any licensee without such party having been afforded an opportunity to respond thereto in the same programme or without the view of such political party being reflected therein, the licensee concerned shall afford such party a reasonable opportunity to reply to the criticism.

(4) If, within 48 hours before the commencement of the polling period, a licensee intends broadcasting a programme in which a particular political party is criticised, the licensee shall afford the political party a reasonable opportunity to reply thereto in the same programme, or as soon as is reasonably practicable before polling day.

(5) The opportunity to reply referred to in subregulations (3) and (4) shall be broadcast with the same degree of prominence and, where applicable, in substantially the same timeslot as the initial criticism.

(6) The Authority shall in consultation with the relevant stakeholders develop a code of conduct for broadcasting during the election period.

*Restrictions on
dealing with
foreign
Governments*

29. A licensee shall not acquire any licence, right, privilege or concession from a foreign Government, or enter into any agreement with such Government, without the approval of the Authority.

*Broadcasting
licensing
framework*

30. The Authority shall develop a broadcasting licensing framework to inform the classification and categories of licences by the Minister for both commercial and non-commercial broadcasting services.

Complaints

31. (1) A licensee shall establish and publish procedures to investigate and deal with complaints from members of the public.

(2) A licensee shall submit to the Authority-

- (a) before such licensee begins its operation, the procedures established under subregulation (1) and the names and addresses of the persons designated to handle complaints;
- (b) any changes in the complaint procedures within 7 days of the change being made.

(3) A licensee shall broadcast information on the procedure for lodging complaints at least three times per week, during prime-time.

(4) Where a complaint is made to a licensee, the licensee shall advise the complainant of his or her right to refer the complaint to the Authority when dissatisfied with the licensee's response thereto.

(5) Where a complaint is referred to the Authority, a licensee shall upon request-

- (a) submit, any recordings or documentation required by the Authority;
- (b) respond to queries from the Authority relating to allegations of non-compliance with the Act or with licence conditions;
- (c) submit, to the Authority, written reports or written responses to allegations of non-compliance with the Act or with licence conditions; and
- (d) appear, before the Authority during the adjudication of any complaint or investigation into any alleged non-compliance with the Act or with licence conditions.

(6) The Authority shall invite a licensee to make written or oral representations within such period as may be specified by the

Authority, where it intends to investigate-

- (a) alleged non-compliance with the Act or with licence conditions; or
- (b) any complaint relating to the licensee's failure or refusal to deal with any complaint, or the unsatisfactory handling of any complaint, by a member of the public.

(7) The Authority may, where necessary, order a licensee to broadcast an apology, correction or retraction, in such terms as the Authority may specify.

Online content service

32. (1) The Authority shall develop codes of practice for the provision of online content services and the service providers shall be required to adhere to it.

(2) The Authority may issue a take down notice to the service providers if the Authority is satisfied that the material they are hosting is unlawful or prohibited material and it does not comply with the code of practice.

PART III - *Telecommunications*

General obligation

33. Every licensee shall -

- (a) operate its telecommunications system or provide its telecommunications service in accordance with international telecommunication treaties and conventions which are binding on Botswana;
- (b) take the necessary measures to ensure telecommunications services availability in the case of war or other crisis or emergency; and
- (c) take the necessary measures to ensure conveyance of emergency calls and related information at all times.

Numbering and addressing system

34. (1) Every licensee shall comply with such numbering and addressing system as is determined by the Authority.

(2) The Authority shall allocate, to each licensee, a number or address capacity which the Authority considers reasonable taking into account the following -

- (a) the number of subscribers which the Authority has forecast;
- (b) the need for operator codes; and
- (c) any other relevant factor.

(3) The Authority shall, when allocating a number capacity, specify, in writing, the purpose for which such capacity may be used.

(4) A licensee may apply in writing to the Authority, with the necessary justification to supply it with additional number capacity or address capacity.

(5) A licensee shall use only the number or address capacity allocated to it in accordance with subregulation (3), and only for the purpose for which it has been allocated.

(6) The Authority may revoke the number or address capacity allocated to the licensee if not used for the purpose for which it was intended or for any other reasonable cause as may have been disclosed to the licensee by the Authority.

Infrastructure sharing

35. (1) The Authority shall establish guidelines which set a framework within which communications operators can negotiate and conclude sharing arrangements for communications infrastructure.

(2) The Authority may direct communications operators to share infrastructure in order to promote and maintain competition in the market.

Right to enter upon land and construct lines

36. (1) A licensee may, for the purposes of providing a telecommunications service, seek permission in writing to the local authority or any person owning or having the control and management of any land, street, road, footpath, waterway or railway-

- (a) to enter upon such land, street, road, footpath, waterway or railway and there construct or maintain or remove any telecommunication line or pipe or conduct any other work necessary for such lines upon, under, over, along or across any such land, street, road, footpath, waterway or railway; and
- (b) to alter or cause to be altered the position, under the ground, of any pipe other than a sewer, drain or mains for the supply of water, gas or electricity.

(2) A local authority or person to which or to whom any such pipe belongs or by which or by whom it is used shall be entitled, while work in connection with the removal or alteration in the position thereof is in progress, to supervise that work, and the licensee shall pay all expenses incurred by such local authority or person in connection with such removal or alteration or in connection with the supervision of the work relating to such removal or alteration.

*Trees
obstructing
telecommunication
lines*

37. (1) Where a telecommunication line is or may be interfered with or endangered by a tree or undergrowth, the licensee may, at its expense, cause such tree or undergrowth to be cut down or trimmed.

(2) The licensee shall seek the permission of the plot owner or occupier of the land to carry out the necessary cutting down or trimming of obstructing trees.

*Electrical
works, etc. to
conform to
requirements*

38. (1) Any person intending to erect, move or alter any line for the transmission of electricity shall, before erecting, moving or altering such line, obtain the written approval of the licensee, in order to ensure that the proposed line shall not injuriously affect any existing or proposed telecommunication line.

(2) Where any line for the transmission of electricity is so constructed as to injuriously affect any telecommunication line or proposed telecommunication line, the owner of such line for the transmission of electricity shall make such alterations thereto as the licensee may determine:

Provided that if it is more economical or practical to do so, the licensee shall, at its own expense, move or alter the telecommunication line in question.

(3) The cost of any alteration made to, or movement of, existing lines for the transmission of electricity to avoid interference with proposed telecommunication lines shall be borne by the licensee provided that the electricity line was lawfully erected; except that in all other cases the cost of alteration or movement shall be borne by the owner of the electricity line.

*Height and
depth of lines*

39. (1) The height and depth of telecommunication lines shall be as follows -

(a) along any land, street, road or footpath, at least 3 metres;

- (b) crossing any land, street road or footpath, at least 5 metres above the surface of the ground; and
- (c) crossing a main road or railway, at least 60 centimetres below the surface of the ground.

(2) A licensee shall take such steps, at its own expense, as it considers it necessary to effect relief to the owner or occupier of any land who proves, to the satisfaction of the licensee, that he or she is obstructed in the free use of the land by reason of the insufficient height or depth of any telecommunication line.

Alteration of works at request of local authority or other person

40. (1) Where, as a result of any works undertaken by a local authority or any person, it becomes necessary to alter any pre-existing telecommunication line, the cost of such alteration shall be borne by such local authority or person.

(2) Where any telecommunication line passing over private property interferes with any building about to be erected on that property, the owner or occupier of that property shall so notify the licensee responsible for that line in writing, and also, at the same time, provide proof that such building is to be erected.

(3) The licensee shall, within four weeks of receiving such notification and proof referred to in subregulation (2), cause the line to be altered in such a manner as will remove all obstacles to building operations.

(4) Where the owner or occupier of any land through which a telecommunication line passes requests a licensee to alter or move any telecommunication line for any reason other than as provided in subregulation (2), the licensee shall, within 28 days of such request, either comply with the request or, if it does not so comply, so inform the owner or occupier in writing, giving reasons for its decision not to comply.

(5) Where there is no agreement between the licensee and the owner or occupier of land referred to in subregulation (4), the matter may be referred to the Authority for determination.

Damage to property or injury to persons

41. (1) A licensee shall, in carrying out any work required for its purposes –

- (a) exercise due care;
- (b) carry out such work with regard to the safety and convenience of the owners or occupiers of the land, street, road, footpath, waterway or railway upon which the work is carried out;

- (c) carry out such work with minimum damage to the property of that owner or occupier or telecommunication infrastructure on, over, or under that property; and
- (d) make good all streets, roads, footpaths, waterways, railways, telecommunication lines or other infrastructure disturbed by such work.

(2) A licensee shall be liable for compensation for injury or damage caused to any property including telecommunication lines or other infrastructure if such injury or damage was caused wilfully or through the negligence of its employees.

(3) Any person who, either directly or indirectly by his or her servant or employee, by an animal, vehicle or thing owned by that person or in his or her custody, with intention or through negligence, destroys or damages any line, mast, building or other component constituting telecommunication infrastructure, shall be liable to pay the owner or, if applicable, the user of the infrastructure, the cost of making good the destruction or damage.

*Technical
feasibility and
compatibility*

42. A licensee shall, in order to fulfil essential requirements, ensure that the network operations or services it provides are technically feasible and are compatible with the networks, operations or services provided by other licensees.

*Essential
requirements
applicable to
terminal
equipment*

43. (1) Every service provider and every person who supplies telecommunications equipment shall ensure that any terminal equipment provided or supplied by him or her complies with the following essential requirements, that is to say that it-

- (a) is electrically safe for users, subscribers or the employees of the telecommunications system operators;
- (b) is electromagnetically compatible with other equipment to which it is or will be connected or used;
- (c) is fitted with a device which will protect the telecommunications system of which it is a part or to which it is connected against electrical, electromagnetic or other similar damage;
- (d) makes efficient use of the radio spectrum where applicable; and
- (e) is capable of interworking with other telecommunications equipment for the purpose of establishing, modifying, charging for, holding or clearing real or virtual connections.

*Limitation,
interruption,
termination of
service*

44. (1) A licensee may not limit, interrupt or terminate the provision of any telecommunications service unless-

- (a) it is justified by essential requirements for the efficient provision of a telecommunications network or service;
- (b) ordered by the Authority to do so; or
- (c) it is justified on a commercial basis following the non-payment or other breach of contract on the part of a subscriber.

(2) A licensee shall, before it limits, interrupts or terminates the provision of a telecommunications service in terms of sub-regulation (1), give the subscriber concerned at least 14 days' notice.

PART IV - *Radio communication*

*National
radio
frequency
plan*

45. (1) The Authority shall manage and control the use of or emissions from the radio frequency spectrum and use of geostationary orbital slots within the territory of Botswana and shall establish and maintain a national radio frequency plan, which shall be published in the *Gazette*.

(2) The Authority shall, in accordance with the Act, have the power to negotiate with the International Telecommunication Union, its affiliated bodies and other countries' regulatory bodies or entities for the purpose of planning and co-ordinating radio frequency spectrum.

*Frequency
assignments*

46. (1) Frequency assignments shall adhere to the national radio frequency plan.

(2) The Authority may assign frequencies on first come first serve basis if it is satisfied that the frequencies can be shared without causing harmful interference:

Provided that if the radio frequency spectrum is limited the Authority may use competitive means to assign the spectrum.

(3) Every licensee assigned the use of frequencies or frequency bands shall –

- (a) maintain a frequency register and provide, at the Authority's request, the frequency utilisation details in terms of area of operation, transmit power, antenna height and any other parameters which the Authority may specify.
- (b) keep the licence in force by regular payment of annual radio licence fees as may be prescribed from time to time by the Authority; and,

- (c) ensure that there is no unauthorized emission from its transmitters which cause harmful interference or illegal use of the spectrum.

Frequency ownership

47. (1) A frequency assignment shall not confer any ownership rights of the frequency to the licensee and may be withdrawn or changed as the Authority may determine to be in the best interests of the country.

(2) Frequencies assigned to be used by a licensee and the rights therein granted by such assignment shall not be transferred, without the written consent of the Authority.

(3) No material change may be made in a licensed station, including change of station parameters as specified in the license without the approval of the Authority.

(4) The Authority may require licensees to share frequencies.

(5) The Authority may where it considers appropriate require the licensee to migrate to a new frequency band.

Harmful interference

48. (1) A licensee shall ensure that it does not, in providing its service or operating its telecommunications equipment, interfere with the frequency or operation of any other telecommunications service or radio equipment.

(2) A licensee shall, where any interference referred to in subregulation (1) occurs, take all steps necessary to eliminate the interference.

Emergency and distress signals

49. (1) Radio stations shall comply with international regulations concerning distress, such as the group ... --- ... (SOS) in radio telegraphy and the words "MAY DAY" in radio telephony and priority shall be given to any other communication.

(2) The Authority shall ensure that all frequencies identified emergency and distress signals are not used for any other communication.

Application of this Part

50. (1) The provisions of this Part shall apply to all parties involved in the import, manufacture, use or supply of telecommunications, broadcasting and postal electronic equipment.

(2) Any type of electronic equipment used or to be used in connection with the provision of the regulated services, unless explicitly exempted by the Authority, shall be type approved by the Authority in accordance with these Regulations prior to import into, use or sale in

Botswana.

Application procedure

51. The Authority shall specify the application procedures and forms for type approval for the telecommunications, broadcasting and postal equipment and the required additional information.

Repair centre

52. (1) The Authority shall type approve Radio and Telecommunications, broadcasting and Postal telecommunications equipment only where the licensee concerned can demonstrate that it can arrange for an acceptable repair service in Botswana:

Provided that the Authority may, where it is satisfied that the standard of service will not be compromised, permit the licensee to have a service contact point in Botswana, which service contact point may where necessary, send the said equipment outside Botswana for repairs or subcontract the repair service to such person as the Authority may approve.

(2) The Authority may, where it considers it appropriate, exempt a licensee from the provisions of subregulation (1).

(3) A licensee who wishes to be exempted in terms of subregulation (2) shall apply to the Authority in writing for such exemption at the same time as it applies for type approval stating reasons in support of the application for the exemption.

(4) The Authority shall accredit the equipment repair centre and laboratory centres in order to ensure that they meet the required technical standard.

Technical standard

53. (1) The Authority shall develop technical standard and specifications for communications equipment requiring type approved.

(2) The technical standard and specifications formulated by the Authority shall be published in the *Gazette*.

(3) The Authority shall specify and publish a list of the equipment which are exempted from the type approval requirement from time to time as is appropriate and required.

Declaration of

- conformity*
54. (1) A manufacturer or importer shall declare that the product for which registration is required complies with the requirements of the standard and specifications established by the Authority.
- (2) The declaration of conformity shall be issued by the manufacturer of the equipment indicating the standard and specifications to which the equipment conform and shall be submitted to the Authority.
- (3) If the Authority is not fully satisfied with the declaration of conformity, the Authority may refer the equipment to the laboratory for further testing.
- (4) Test reports and data which form the basis of the declaration of conformity shall be obtained from a testing laboratory or institution acceptable to the Authority.
- Configuration of equipment*
55. In type approving telecommunications equipment, the Authority shall ensure that the technical configuration of equipment corresponds to the equipment in respect of which an application for type approval is made.
- Operating instructions*
56. Type approved equipment shall have operating manuals or instructions, in English or Setswana, for use by subscribers.
- Mutual recognition*
57. The Authority may recognise the test report, compliance certificate, type approval certificate or declaration of conformity issued by accredited test laboratories, and other authorities or institutions.
- Labelling*
58. (1) Type approved equipment shall have a legible label permanently affixed to the equipment and on its packaging or container in accordance with the Authority's labelling rules unless otherwise agreed with the Authority.
- (2) The Authority shall issue, to the licensee, a type approval registration number which shall also be permanently affixed to the equipment by the licensee together with a mark identifying the type, batch or serial number thereof.
- (3) No symbol or mark which is likely to be confused with the symbols or mark referred to in subregulation (2) shall be affixed to any communications equipment.
- Revocation of type approval*
59. (1) The Authority may revoke a type approval if –
- (a) the equipment does not comply with essential requirements when properly or correctly used for the purpose for which it was intended by the

manufacturer;

- (b) an acceptable repair service arrangement ceases to exist;
- (c) a licensee ceases to adhere to the provisions of these Regulations; or
- (d) the licensee supplied, with its application for type approval, any information which was false and which it knew to be false, and on which the Authority relied upon to make a decision to grant type approval.

(2) Where it revokes a type approval, the Authority may direct that the equipment relating thereto be withdrawn from the market, or not be supplied, connected or used in relation to any communication system.

PART VI - *Subscriber Registration*

Requirement for registration

60. (1) A licensee shall register any subscriber who has not registered at the commencement of these Regulations.

(2) A licensee shall only activate access to the service for customers after complying with these Regulations.

(3) Where a licensee relies upon the services of an agent to comply with the provisions of these Regulations -

- (a) the licensee shall notify the Authority in writing of this relationship; and
- (b) such agent shall also comply with the provisions of these Regulations;
- (c) the licensee shall keep a record of all registrations of subscriptions made by the agent and provide a copy of this record to the Authority upon request by the Authority.

Registration information

61. (1) Where a subscriber wishes to register in order to access services the subscriber shall provide the licensee with the following particulars:

- (a) in the case of a natural person -
 - i) the subscriber's assigned cellular or telephone number,

- ii) the subscriber's official first name(s) and surname in full,
 - iii) the subscriber's date of birth,
 - iv) the subscriber's gender,
 - v) the subscriber's physical address (Plots number or wards),
 - vi) the subscriber's postal address, where available,
 - vii) the subscriber's national identity card *Omang* number or passport number,
 - viii) the subscriber's work permit number, where relevant, and
 - ix) the subscriber's resident permit, where relevant;
- (b) in the case of a juristic person —
- i) the subscriber's assigned cellular or telephone numbers,
 - ii) the names of the juristic person in full,
 - iii) the subscriber's physical address (plots number or wards),
 - iv) the subscriber's postal address,
 - v) a copy of the subscriber's certificate of incorporation,
 - vi) a copy of the subscriber's certificate of registration, and
 - vii) where a juristic person distributes cellular or telephone numbers to natural persons, the juristic person shall further provide the registration information for the natural person as required herein.

(2) Where there is a change in any of the details provided by a subscriber under subregulation (1), the subscriber shall inform the licensee of the change within seven days of the change taking place and the licensee shall alter the relevant registration particulars of the subscriber.

(3) The licensee or the licensee's agent shall not register any person for access to the service unless the person provides all the required registration information.

*Verification of
identification
particulars*

62. (1) A licensee shall rely on the following documents to verify the registration details of a subscriber -

- (a) for a Botswana citizen, the original identity card;
- (b) for a foreign national, a passport; or
- (c) for a juristic person, certified copies of the following documents –
 - i) certificate of incorporation, or
 - ii) certificate of registration.

(2) The accuracy of registration information is the responsibility of the licensee who shall and keep a record of documents referred to in subregulation (1).

*Registration
process*

63. The registration process shall involve the recording of data by the licensee or the licensee's agent in the following manner -

- (a) by entering the registration particulars in an electronic form;
- (b) by requiring the person submitting the registration particulars to appear in person before the licensee or licensee's agent ; and
- (c) by keeping and protecting the registration particulars collected in a secure form.

*Record of
registration*

64. (1) A licensee shall maintain a centralised electronic subscriber database.

(2) Where a subscription has been deactivated the licensee shall keep the records of the relevant subscriber for a period of one year from the date of the deactivation of the subscription.

*Confidentiality
and disclosure
of subscriber
personal
information*

65. (1) A licensee shall not disclose the registration particulars of a subscriber to any person without the written consent of the subscriber.

(2) A licensee shall ensure that the registration details of a subscriber are kept in a secure and confidential manner.

(3) A licensee shall notify the Authority of the steps taken and processes introduced to ensure the security and confidentiality of the registration particulars of its subscribers within 90 days of the commencement of these Regulations.

Suspension and notification of deactivation of unregistered subscriber

66. (1) A licensee shall suspend a telecommunications service to an unregistered active subscriber.

(2) A licensee shall reconnect a suspended telecommunications service to a subscriber after the subscriber complies with these Regulations.

(3) All licensees shall notify all their unregistered subscribers that the subscribers' telecommunications services will be suspended if they do not comply with these Regulations.

(4) A notice under subregulation (3) may be published by advertisement -

- (a) in a newspaper of national circulation; or
- (b) in an electronic medium that broadcasts throughout the country.

Deactivation of unregistered subscriber.

67. (1) A licensee shall deactivate a subscriber's telecommunications service if the service has been suspended for at least 90 days.

(2) A licensee shall deactivate a subscriber's access to the service where -

- (a) the licensee or the Authority establishes that the subscriber has provided false information for registration; or
- (b) upon written request by the subscriber.

(3) A licensee shall only deactivate a subscribers for false information after giving the subscriber a reasonable opportunity to be heard.

PART VII - *Postal services*

Provision of universal postal services

68. (1) The designated postal operator shall be obliged to provide universal postal services in terms of the Act and the UPU Acts.

(2) The Authority shall determine targets to facilitate the achievement of universal service obligations.

(3) In providing targets for the fulfillment of universal service obligations by the designated postal operator, the Authority shall have regard to-

- (a) measurable quantity and quality of service standards for postal services in relation to customer satisfaction;
- (b) speed, reliability and security of the service; and
- (c) accessibility to and affordability of universal postal services.

(5) The designated postal operator may receive funding from the Fund.

Postage stamps

69. (1) No person other than the designated postal operator shall produce postage stamps.

(2) The image depicted on postage stamps shall be of national and international interest and shall project the good image of Botswana and its people.

(3) Postage stamps shall be available for sale to the public at the prices equal to the value denoted thereon.

(4) The designated postal operator shall develop a stamp issuance policy for approval by the Authority.

(5) All postage stamp archival materials produced belong to the Government and shall be kept by the designated postal operator.

(6) The designated postal operator may enter into arrangements with any person to sell postage stamps.

(7) The Authority may authorize exchange of unused adhesive postage stamps which have not ceased to be valid by reason of any directions made by the Authority, and which have been inadvertently undersigned or spoiled or rendered unfit for use.

Posting of postal items

70. (1) No person other than a postal operator shall erect and maintain letter posting boxes or mail delivery boxes.

(2) No letter posting box or mail delivery box shall be so placed as to interfere with road traffic.

(3) A postal item shall be deemed to have been posted when it is put into a letter posting box or accepted at the post office counter.

(4) A hybrid mail shall be deemed to have been posted when an electronic version has been sent or transmitted and received by the postal operator or when the physical version has been sent or transmitted and received by the postal operator.

Certificate of posting

71. (1) A postal operator shall at the request of the sender of an unregistered postal item intended for transmission by letter posing box give the sender a certificate of posting of such postal item upon payment of the appropriate fee.

(2) A certificate of posting an item shall convey no entitlement to compensation nor shall it be acceptable as proof of the nature of the contents of the postal item to which it relates.

(3) No postal item in respect of which a certificate of posting is issued shall be returned after the issue of such certificate to the sender thereof unless the certificate is cancelled.

Delivery of postal items

72. (1) A postal item or hybrid mail shall be deemed to be delivered to the addressee when it is delivered by the postal operator at his or her geographical address, postal address or into his or her private box or bag operated at a post office or rural delivery box.

(2) A postal item shall be deemed to be delivered to the addressee when it is delivered by courier licensee at his or her geographical address.

(3) Where a postal licensee is satisfied upon proof that the addressee of a postal item is dead, it may -

- (a) deliver or redirect the postal item on the written application of any one of the executors named in the will of the addressee or any person appearing to the postal licensee to be entitled to take out letters of administration of the estate of the addressee; or
- (b) deliver or direct the postal item on the written application of any such person appearing to the postal licensee to be conducting the affairs of the deceased; or
- (c) retain the postal item and on production of the will or letter of administration of the estate of the addressee together with the written request on application by one or more of the executors or administrators, deliver or redirect the article in accordance with such request; or
- (d) treat the postal item in accordance with the

provisions of these Regulations as an undelivered postal item.

(4) The appropriate charges payable for redirection shall be as specified by the postal licensee.

*Undelivered
foreign postal
items*

73. Any postal item (other than a postal parcel) that is posted outside Botswana and addressed to an addressee at an address in Botswana, and which for any reason cannot be delivered by the postal operator, shall be returned free of charge to the foreign postal administration for the place at which the postal item was posted.

*Undelivered
postal items*

74. (1) Where a postal item (other than a postal parcel) that is posted inside Botswana and addressed to an addressee at an address outside Botswana is returned to a postal operator in Botswana by the foreign postal administration, it shall be dealt with as follows -

- (a) if practicable, it shall be returned to the sender by the cheapest mode available; or
- (b) if the name and address of the sender do not appear on the outside -
 - i) an employee of the postal operator authorised to open such postal items and bound to secrecy, may open the postal item to determine the contents for appropriate disposal in terms of the UPU Acts, or
 - ii) it shall be kept for a minimum period of three months and then thereafter it may be destroyed.

(2) Where a postal item (other than a postal parcel) that is posted outside Botswana and addressed to an addressee at an address in Botswana is undeliverable due to an unreadable or non-existent address it shall be dealt with as follows -

- (a) if practicable, it shall be returned to the sender; or
- (b) if the name and address of the sender does not appear on the outside, an employee of the postal operator authorised to open such items and bound to secrecy, open the postal item to determine the contents for appropriate disposal in terms of the protocols and conventions of the UPU or be kept for a period of minimum three months and thereafter it may be destroyed.

Disposal of undeliverable postal items

75. (1) Undelivered postal items which cannot be disposed of in accordance with these Regulations shall be retained by the postal licensee for such period and in such a manner, as the Authority may specify.

(2) Subject to these Regulations, undelivered or undeliverable postal items received from outside Botswana shall be disposed of in accordance with the UPU Acts.

Exemption from postal charges

76. (1) No postage or any other fees or charges shall be charged and paid on any postal item containing literature for the blind.

(2) If a postal item containing literature for the blind is intended for transmission by air mail, there shall be paid an air mail fee equivalent to the difference between the surface and air mail.

(3) The weight of the postal item containing literature for the blind shall not exceed the weight that is allowed under the UPU Acts for free postage.

(4) For the purposes of this regulation, the expression "literature for the blind" means -

- (a) papers of any kind, periodicals and books, impressed in braille or other special type for the use of the blind, including letters in writing used by the blind posted unsealed;
- (b) plates bearing the characters of writing used by the blind; and
- (c) sound records and the special paper intended solely for the use of the blind if sent by or addressed to an officially recognised institute for the blind.

(5) For the purposes of subregulation (4)(c), whether an institute for the blind is officially recognised shall be determined by the Authority.

Courier services

77. (1) Every courier service licensee shall operate from permanent premises provided with the following basic amenities and facilities-

- (a) public counters;
- (b) rooms or lobbies for the comfort and convenience of customers waiting to be served;

- (c) adequate ventilation;
- (d) adequate transport or arrangements for the conveyance of postal items;
- (e) adequate and secure storage facilities for postal items awaiting conveyance or delivery; and
- (f) track and trace system and mechanisms.

Procedure for parcel post

78. (1) No parcel shall contain any letter or an enclosure of any kind bearing an address other than that to which the parcel is addressed, but an open] invoice confined to the particulars necessary to describe the contents of the parcel and a paper bearing the address of the sender may be contained or enclosed.

(2) Where the laws for the time being in force in any country or place to which the parcel is directed permit the enclosure therein of correspondence, such enclosure shall be remitted but it shall be restricted to one written communication.

(3) A person offering a parcel for transmission to a country outside Botswana, as may from time to time be notified by the postal licensee may, upon payment of the specified charges, be permitted to enter into an undertaking with the postal licensee to prepay such customs and other charges as may be levied by the appropriate authority in the country of destination of such parcels.

(4) All parcels originating from outside Botswana shall be subject to customs checks and procedures and a postal licensee and courier service provider and shall make arrangements with customs authorities in checking the incoming parcels.

Insured post

79. (1) Letters, packets or parcels, containing articles of value shall be accepted for transmission as insured post at the appropriate postage rate for such articles and on payment of the insurance fees specified by the postal licensee.

(2) Every postal operator shall abide by all Universal Postal Union regulations relating to insured post.

Quality of service

80. (1) The public postal operator shall comply with quality of service standards, which the Authority shall set and monitor from time to time.

(2) Every postal operator, other than the public postal operator shall submit its quality of service standards to the Authority for monitoring purposes.

Compensation

81. (1) Every postal licensee shall submit to the Authority its

compensation policies in respect of loss of or damage to postal items.

(2) Subject to subregulation (3), a postal licensee shall pay compensation for loss or damage of postal items.

(3) A postal licensee shall not pay any compensation for loss of or damages to a postal item where-

- (a) the postal item is prohibited under these Regulations;
- (b) in the case of an insured postal item -
 - i) it has been insured for an amount in excess of its value,
 - ii) a false statement in relation thereto has been made by the sender or addressee for such item;
 - iii) the addressee thereof has signed and returned the receipt thereof without objection,
 - iv) any bill of exchange, bond, coupon or other negotiable security particulars sufficient to identify such contents are not supplied to the postal licensee, or
 - v) the cover or seal of such item bear apparent trace of theft or damage.

Criteria for transmission of prohibited postal items

82. Prohibited postal items may be exceptionally conveyed by post in a manner as may be determined by the postal operator and approved by the Authority.

Postal security and safety

83. (1) Every postal licensee shall ensure that all necessary steps are taken to improve mail security and combat postal crimes.

(2) For the purposes of subregulation (1) “postal crime” includes -

- (a) mail violation and secretion;
- (b) posting of mail bombs;
- (c) illicit drug or firearms trafficking;
- (d) crime against postal property and identity; and

PART VIII -
Tariff regulation

(e) *acts of terrorism committed through the post*

(3) All international inbound and outbound postal items shall be routed through an international mail exchange.

*Use of
technology*

84. A postal licensee shall, where practicable, use appropriate technology to enhance quality of service as well as to diversify postal services.

*International
obligations of
licensee*

85. A postal licensee shall exercise its rights and powers and perform its duties and obligations under the licence, in a manner which is consistent with the UPU Acts.

*Restriction on
exclusive
agreements for
international
service*

86. A postal licensee shall not enter into any exclusive arrangement or agreement with any person operating an international postal service, without the prior written consent of the Authority.

*Postal
addresses*

87. (1) The Authority shall allocate and regulate postal addresses in Botswana.

(2) A postal licensee shall ensure that postal items received at its network have full postal addressing as an element of identification of an area where an addressee may be located.

(3) The Authority shall ensure that postal licensees maintain and manage their respective postal address databases.

*Application of this
Part*

88. This Part shall apply to all tariffs for licensed services.

*Price
discrimination*

89. No licensee shall price discriminate against customers or other

operators.

Cost-oriented prices

90. Every licensee shall ensure that the price of its product and services reflect the underlying costs of providing that product or services and shall avoid cross subsidisation between services.

Margin squeezing

91. (1) In order to ensure fair competition licensee shall ensure that the difference between the retail price and wholesale prices are not set too low in order to squeeze other competing operators from the market.

Predatory pricing

92. The retail price of the licensed services shall not be unjustifiably set below the cost in order to foreclose the market to competing operators.

Abusive bundling or tying of services

93 (1) Every licensee shall avoid bundling services or tying services in order to leverage market power horizontally or vertically.

(2) The bundling of uncompetitive or limited competition services with competitive services is prohibited.

Application for tariff approval

94. Unless otherwise exempted by the Authority, tariffs for all regulated services shall be filed with the Authority for approval prior to market implementation. All applications for approval of tariffs shall -

- (a) be filed with the Authority
- (b) conform to the principles as may be defined by the Authority; and
- (c) contain relevant documentation, including all calculations and other information in support of the application.

Investigation on tariffs

95. The Authority may, on its own motion or pursuant to a complaint investigate any tariffs charged by a licensee and make a determination as appropriate.

Tariffs filing

96. (1) Every licensee who provides services to the public shall file with the Authority schedules of their tariff rates including those of their agents and correspondents.

(2) Every licensee whose services are not subject to a tariff shall

file with the Authority changes to existing tariffs, including the terms and conditions applicable thereto but excluding special offers and other promotions.

Tariff publication

97. All tariffs shall be made available to the public by conspicuously displaying them in all business offices of the licensees, and where applicable making them available on the licensees website.

PART IX - *Interconnection*

Interconnection agreements

98. (1) Operators shall interconnect their networks in accordance with the rules as may be stipulated by the Authority

(2) Operators may enter into commercial interconnectivity agreements where they require to use each other's network and infrastructure and shall submit a copy of the agreement to the Authority to monitor for fair and non-discriminatory practices.

(3) Where any dispute arises relating to an interconnection, the Authority shall, after hearing both parties in accordance with such procedures as it may determine, decide on the matter.

Quality of services

99. (1) Interconnection agreements shall provide for adequate capacity, service levels and reasonable remedies for any failure to meet those service levels.

(2) Parties to an interconnection agreement shall comply with all relevant service standards of the International Telecommunication Union, International Postal Union and such other technical standards as the Authority may from time to time determine.

PART X - *Dispute resolution*

Disputes

100. (1) The Authority shall resolve disputes among licensees and service providers across all the regulated sectors.

(2) Where there is a dispute between two or more licensees, or between a licensee and any other party, such dispute shall be dealt with in accordance with the dispute resolution procedures as may be determined by the Authority.

PART XI - *Confidentiality of messages*

Application of this Part

101. (1) The provisions of this Part shall apply to all communication messages and information regarding

subscriptions regardless of the medium of transmission.

(2) The provisions of this Part shall not apply to any information given to a subscriber in respect of his or her own subscription, or to information given to facilitate action in an emergency.

Divulging of messages

102. No person shall intercept or tamper with a communication message or any information regarding a subscription or, divulge the contents or substance of such message or information to another person unless he or she-

- (a) has the consent of the sender or addressee of such message or of the subscriber concerned;
- (b) so intercepts or tampers with the message or information or divulges the contents or substance thereof in pursuance of his or her intention to maintain the technical operation or quality of any service provided, or in pursuance of any other duty under the Act or these Regulations; or
- (c) is a witness in a court of law.

PART XII - *Consumer affairs*

Complaint handling procedure

103. (1) Every licensee shall provide a mechanism through which consumers may lodge complaints concerning the services given by such licensee and it shall be submitted to the Authority for approval.

(2) Notwithstanding the generality of sub regulation (1) above, the procedures for lodging complaints shall provide for –

- (a) notification to customers of the right to complain;
- (b) availability of a complaint form or any other written method for raising complaints; and
- (c) maintenance of a log of consumer complaints.

Consumer information

104. Every licensee shall provide to consumers information on products and services which is complete, accurate and up to date in a simple and clear language.

Consumer information protection

105. (1) A licensee may collect and maintain information on individual consumers where it is reasonably required for its business purposes.

(2) Consumer information shall be processed fairly and used for business purposes only and shall not be transferred to any third party except as permitted by any terms and conditions agreed with the consumer, or by any permission or approval of the Authority, or as otherwise permitted or required by these Regulations or other applicable laws.

Accurate consumer billing or charging

106. (1) Every licensee shall ensure that consumer billing and charging are accurate, timely and verifiable.

(2) The Authority shall develop guidelines for ensuring –

- (a) that consumers are charged appropriately; and
- (b) the protection of consumer rights.

(3) The Authority shall on a regular basis audit the licensees billing systems.

Safety, health and environment

107. All operators shall adhere to the Safety, Health and Environment (SHE) obligations and requirements as may be determined by the Authority from time to time.

PART XIII - Reports

Reports

108. (1) Every licensee shall, for the purposes of these Regulations, furnish to the Authority a true and certified copy of its audited financial accounts relating to business operations not later than three (3) months after the end of financial year.

(2) The Authority shall have the right to request the licensee to submit periodic reports, statistics and other data or information as may be required for the effective supervision and monitoring of the performance of the regulated sector.

(3) The Authority shall in making any request for information, ensure that no undue burden is imposed on the licensee in procuring and furnishing such information.

(4) A licensee may request the Authority to treat any information contained in a report submitted under this regulation as confidential business information that may not be disclosed to third parties

PART XIV – Domain Name

Obligations of the Registry

109. The Registry shall:

(a) organise, administer and manage the .bw TLD in the general interest and on the basis of principles of quality, efficiency,

reliability and accessibility;

(b) register domain names in the .bw TLD through any accredited .bw Registrar. The policy shall provide adequate procedural guaranties for the parties concerned, and shall apply without (prejudice to any court proceeding); adopt procedures for, and carry out, accreditation of .bw Registrars and ensure effective and fair conditions of competition among .bw Registrars

(c) impose fees directly related to costs incurred;

(d) implement the extra-judicial settlement of dispute resolution policy based on recovery of costs and a procedure to resolve promptly disputes between domain name holders regarding rights relating to names including intellectual property rights as well as disputes in relation to individual decisions by the Registry.

(f) ensure the integrity of the databases of domain names

Policy framework

110. (1) After consulting the Registrars and all stakeholders, and following the procedure on policy development procedure, the Authority shall adopt policy rules concerning the implementation and functions of the .bw TLD and the policy principles on registration.

The policy shall include:

(a) Dispute resolution policy;

(b) Acceptable Use policy

(c) Domain-Life Cycle policy

(d) Registration Policy

(e) Registrar Accreditation policy

(f) Whois Policy

(2) The registry may after consulting the stakeholders, list a limited number of recognised names with regard to geographical and /or concepts which affect their political or territorial organisation that may either

(a) not be registered, or

(b) be registered only under a second level domain according to

the policy rules. The Registry shall notify the stakeholders without delay the list of notified names to which such criteria apply. The registry shall publish the list at the same time as it notifies the stakeholders.

Where the stakeholders within 30 days of publication raises an objection to an item included in a notified list, the registry shall take measures, in accordance with the procedure to remedy the situation.

PART XV – *Miscellaneous provisions*

Licence exemptions

111. (1) The persons and entities specified in Schedule 1 are exempt from holding a telecommunication system licence (section 40) or a radio licence (section 45).

(2) Any entity that possesses to operates radio communication equipment which has the technical parameters specified in Schedule 2 and schedule 3 and type approved by the Authority is exempt from holding a radio licence (section 45) in respect of such equipment.

Light Licensing

112. (1) Any entity that possesses to operates radio communication equipment which has the technical parameters specified in Schedule 4 and type approved by the Authority is subject to Light Licensing

Revocation

113. The following Regulations are hereby revoked –

SI. 52 of 1997

(a) Telecommunications Regulations;

SI. 97 of 2004

(a) Broadcasting Regulations;

SI. 65 of 2005

(b) Broadcasting (Fees) Regulations.

MADE this day of 2015

Tshenolo Mabeo
Minister of Transport and Communications

SCHEDULE 1
Licence Exemptions

The following persons and entities are exempt from holding a telecommunications system (section 40) or radio licence (section 45)–

1. Botswana Defence Force;
2. Botswana Police Service;
3. Directorate on Corruption and Economic Crime;
4. Directorate of Intelligence and Security; and
5. Botswana Red Cross

SCHEDULE 2
Exemption of ISM Frequency Bands from licensing

- (1) All radio equipment that operates in frequencies identified in the ITU Radio Regulations as being for use by Industrial, Scientific and Medical (ISM) applications in Region 1 of the ITU shall be exempted from licensing, provided;
 - (a) the equipment has been type approved by BOCRA
 - (b) Operate with technical parameters as set by BOCRA and adheres to ITU recommendation and international standards
 - (c) Operate on a no interference and no protection basis

- (2) No radio licence fees shall be payable to the BOCRA for the use of radio equipment that has been exempted in accordance with (a) above

SCHEDULE 3

Other Radio Equipment Exempted from Radio Licensing

- (1) The following equipment meeting technical requirements outlined in Table 1 (i.e. where applicable) provided it has been type approved by BOCRA, shall be exempted from the requirements for radio licensing (Full technical details in Table 1 below):
 - (a) All terminal equipment controlled by licensed (or authorised) network operators;
 - (b) All radio communication equipment which has been issued with a temporary permit by the Authority
 - (c) Land Mobile Satellite Service (e.g. Inmarsat at 1.6 GHz, Iridium at 2 GHz);
 - (d) CB Walkie Talkie Radios at 27 and 29 MHz;
 - (e) PMR 446 and DMR 446 radio equipment;
 - (f) High Density Fixed Satellite Service at 28 and 31 GHz;
 - (h) Specific low power devices (ie Micro FM Transmitters, Wireless microphones, Remote control, Wildlife tracking, meter reading, etc)
 - (i). Non-Specific Low power devices that operate in the frequency bands shown in Table 1 below:
 - (j). Inductive applications that meet the requirements outlined in Table 1 below:

- (2) No radio licence fees shall be payable to the BTA for the use of radio equipment that has been exempted in accordance with (1) above.

Table 1: Requirements for exempted equipment

Frequency Band (Hz)	Type of Device	Technical parameters (Maximum Radiated Power, Field Strength Limits, Duty cycle or Channel Spacing)	Relevant Standard	Additional Requirements
9-59.750 k	72 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
59.750-60.250 k	42 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
60.250-70.000 k	69 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
70-119 k	42 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
119-135 k	66 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
135-140 k	42 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
140-148.5 k	37.7 dB μ A/m at 10 m	No restriction	No spacing	Only loop coil antennas allowed for external use
6765-6795 k	42 dB μ A/m at 10 m	No restriction	No spacing	
7400-8800 k	9 dB μ A/m at 10 m	No restriction	No spacing	
13.553-13.567 M	42 dB μ A/m at 10 m	No restriction	No spacing	
26.957 – 27.283 M	Non-specific SRD	10 mW erp, No restrictions on duty cycle, No channel spacing	EN 300 220 EN 301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
26.995; 27.045; 27.095; 27.145; 27.195M	Surface Model Control.	100 mW erp, No restrictions on duty, 10kHz channel spacing.	EN 300 220 EN 301 489-1.3 EN 60950	CEPT/ERC/REC 70-03
35.00 – 35.25 M	Aircraft Model Control.	100 mW erp No restrictions on duty cycle 10kHz channel spacing	EN 300 220 EN 301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
36.65 – 36.75	Wireless Microphones.	100 mW erp, No restrictions 100% duty cycle, No channel spacing	EN 300 220 EN 301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
40.65 – 40.7	Wireless Microphones.	100 mW erp, No restrictions 100% duty cycle, No channel spacing	EN 300 220 EN 301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
26.957 – 27.283 M	Non-specific SRD, Citizen Band radios	10 mW erp, No restrictions on duty cycle, 12.5 KHz	EN 300 220 EN 301 489-1,3 EN 60950	CEPT/ERC/REC 70-03

		channel spacing	60950	
29.710 – 29.985 M	Non-specific SRD, Citizen Band radios	4W erp, No restrictions on duty cycle, 12.5KHz channel spacing		
40.665, 40.675, 40.685, 40 695M	Surface Model Control.	4W erp, No restriction on duty cycle. 12.5kHz channel spacing.	EN 300 220 EN301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
40.66-40.7 M	Non-specific SRD.	10 mW erp, No duty cycle restriction, No channel spacing	EN 300 220 EN301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
46.61 – 46.97M, 49.67 – 49.97 M	CTO Cordless Phones.	10 mW	The Authority TE014	Government Gazette 22443 of 4 th July 2001
53 – 54 M	Wireless Microphones.	50 mW erp, for class 1 equipment 100 mW, 100% duty cycle, No channel spacing	EN 300 422 EN 301 489-1,9 EN 60950	CEPT/ERC/REC 70-03
54.4500; 54.4625; 54.4750; 54.4875; 54.500; 54.5125; 54.5250; 54.5375; 54.5500M	Model Control.	5W erp, 12.5kHz channel spacing	EN 300 220 EN301 489-1,3 EN 60950	CEPT/ERC/REC 70-03
87.5-108 M	Micro FM Transmitters	50 nW e.r.p, Up to 100 % duty cycle, 200 kHz channel spacing	ETSI EN 301 367 applies	
141 – 142M	Remote control Industrial Apparatus.	100mW erp	EN 300 220, EN 60950 EN 301 489-1,3	
148-152M	Wildlife telemetry Tracking	25mW erp	EN 300 220, EN 301 489-1,3, EN 60950	The use of the band is restricted to National game Parks
169.4 - 169.475M	Meter Reading	500mW erp 50kHz, channel spacing, <10% duty cycle	EN 300 220, EN 301489-1,3, EN 60950	CEPT/ERC/REC 70-03, ECC/DEC (05)02
173.2125 - 173.2375M 173.2375 - 173.2875M	Non-specific SRD-telecommand only	10 mW erp , 25 kHz channel spacing	EN 300220, EN 301 489-1,3, EN 60950	
173.965 174.015M	Wireless Microphones and assistive listening	2 mW eirp, 100% duty cycle, No	EN 300220, EN 301 489-9,	CEPT/ERC/REC 70-03, ECC/DEC (05)02

	devices.	channel spacing	EN 60950	
433.05 – 434.79M	No-specific SRD.	10 mW erp. 100% duty cycle, Up to 25kHz channel spacing.	EN 300 220, EN 301 489-3, EN 60950, ISO/IEC 18047-7	CEPT/ERC/REC 70-03
446 - 446.1M includes the following eight channels. 446.00625M; 446.01875M; 446.03125M; 446.04375M; 463.975 M; 464.125 M; 464.175M; 464.325M;	Public Mobile Radio (PMR).	500mW, 6.25 or 12.5 k channel spacing.	EN 300 296, EN 301 489-5, EN 60950	
463.975 M; 464.125M; 464.175M; 464.325M; 464.375M	Low Power Radio.	500mW, 12.5 k channel spacing	EN 300 296, EN 301 489-5, EN 60950	CEPT/ERC/REC 70-03
863-865M	Wireless Audio Systems.	10 mW 100% duty cycle No channel spacing.	EN 301 357, EN 301 489-9, EN 60950	CEPT/ERC/REC 70-03, CEPT/ERC/DEC (01) 18
2400-2483.5 M	Low power Communication System, NFC devices, wireless network	10 mW e.i.r.p, No restriction, No channel spacing	EN 300 440	
5725-5875 M	No-specific SRD.	25 mW e.i.r.p, No restriction, No channel spacing	EN 300 440	
24.00-24.25 G	Short range Radar	100 mW, No restriction, No channel spacing	EN 300 440	
28 and 31G	High Density Fixed Satellite Service	100 mW, No restriction, No channel spacing		
61-61.5 G	No-specific SRD.	100 mW, No restriction, No channel spacing	EN 300 440	
122-123 G	No-specific SRD.	100 mW, No restriction, No channel spacing	EN 300 440	
244-246 G	No-specific SRD.	100 mW, No restriction, No channel spacing	EN 300 440	

SCHEDULE 4

Technical requirements for 2.5 GHz and 5 GHz BWA Systems

(1) Broadband Wireless Access (BWA) systems operating in the 2.5 GHz (2400 - 2483.5 MHz) and 5 GHz frequency bands (5150 – 5250 MHz, 5250 – 5350 MHz, and 5470 – 5725 MHz) shall be subject to “Light Regulation” as described in (2) below.

(2) Operators whose equipment has been type approved by BOCRA and whose equipment complies with the technical requirements specified in Table 2 below shall apply for registration with BOCRA under the “Light regulation” scheme prior to installing their equipment. The registration procedure shall be established by the Authority with a nominal fee for administration.

(3) Broadband wireless access equipment operating in the 2.5 GHz and 5 GHz bands shall conform to the technical requirements in Table 2 below.

Table 2: Requirements for 2.5 GHz and 5 GHz broadband wireless access radio equipment.

Frequency Band (MHz)	Service	Maximum mean e.i.r.p	Maximum mean e.i.r.p density	Additional Requirements
2400-2483.5	Mobile Service except Aeronautical Mobile Service (Devices associated with Nomadic/Mobile and Local Area Wireless Network applications)	100 mW	10 mW/1 MHz in any 1 MHz band	Equipment shall comply with ETSI EN 300.328 standard.
5150-5250	Mobile Service except Aeronautical Mobile Service (Devices associated with Nomadic/Mobile and Local Area Wireless Network applications)	200 mW	10 mW/ 1 MHz in any 1 MHz band	None ¹
5250-5350	Mobile Service except Aeronautical Mobile Service (Devices associated with Nomadic/Mobile and Local Area Wireless Network applications)	200 mW	10 mW/ 1 MHz in any 1 MHz band	Equipment shall use Dynamic Frequency Selection (DFS) and Transmitter Power Control (TPC). See ETSI EN 301 893 for specific parameters
5470-5725	Mobile Service except Aeronautical Mobile Service (Devices associated with Nomadic/Mobile and Local Area Wireless Network applications)	1 W	50 mW/ 1 MHz in any 1 MHz band	Equipment shall use Dynamic Frequency Selection (DFS) and Transmitter Power Control (TPC). See ETSI EN 301 893 for specific parameters

¹ Resolution 229 recommends that the use of equipment in the band 5150-5350 MHz shall be restricted to indoor use. Due to the low number of radars in Botswana and the practical problems of enforcing such a requirement, this restriction has been omitted in this Table.

