

RESPONSES TO THE QUESTIONS BY HON. E.J. DIENDA TO THE MINISTER OF INDUSTRIALIZATION, TRADE AND SME DEVELOPMENT

(49)

Question

Despite various public warnings and statements by CRAN (Communications Regulation Authority of Namibia) that MTC continues to act in contravention of principles of fair competition and the provisions of the Communications Act, no tangible repercussions or steps have been taken to ensure MTC does not continue to violate the rights of Namibian consumers and the provision of the Communications Act.

Response

Consumer Protection in the Telecommunications Sector

One of the objects of the Communications Act (Act No 8 of 2009) is to ensure consumer protection in the telecommunications sector. Section 79 of the Communications Act read with the Regulations regarding Consumer Complaints empowers the Authority to adjudicate over the following types of complaints:

- non-compliance or breach of a license or license condition;
- non-compliance or breach of a contract;
- non-compliance or breach of the Act or Regulations; and
- including, but not limited to billing, charges and refunds, service delivery and product delivery, confidential information, customer services and customer treatment, and service interruptions and drops calls.

From inception, CRAN has received numerous consumer complaints in respect of an array of issues pertaining to the services provided by Mobile Telecommunications Limited ("MTC") of which some were resolved amicably between the parties, some were forwarded to the Authority's Board of Directors for decision (which decisions have been made and communicated to the parties); and the remaining complaints are pending final adjudication due to outstanding information to be submitted by the parties.

In those instances where the complaint pertained to a breach of license conditions, the Communications Act or Regulations, CRAN has prosecuted the offences in terms of sections 114 - 116 of the Communications Act and the outcome of such matters are kept on a public register that can be inspected at the CRAN Head office.

Fair Competition in the Telecommunications Sector

One of the objects of the Act is to establish the general framework governing the opening of the Telecommunication Sector in Namibia for fair competition. The Competition Act (Act No 3 of 2003) provides that the Namibia Competition Commission (NACC) should enhance the promotion and safeguarding of competition in Namibia.

Pursuant to the provision of section 67 of the Competition Act, CRAN and NACC entered into a Memorandum of Understanding (MOU), which sets out the procedures for managing issues of concurrent jurisdiction. The aim of the MOU is to facilitate the promotion of competition in the ICT markets by CRAN and NACC, as well as the exchange of information.

This therefore, means that the Communications Act and the Competition Act combined the technical and economic regulation of the ICT markets in both CRAN and NACC, and the two authorities must coordinate to perform their respective competition law and enforcement functions.

In 2012, CRAN made a determination in terms of Section 78 of the Communications Act that MTC is a dominant player within the