



## **GENERAL NOTICE NO. 12, 2018**

**DECISION MADE IN TERMS OF SECTION 9 OF THE ELECTRONIC COMMUNICATIONS ACT, 2013 AND SECTION 11 OF THE ELECTRONIC COMMUNICATIONS (LICENSING) REGULATIONS, 2016, ON THE APPLICATION BY SWAZI MTN LIMITED FOR THE RENEWAL OF ITS ELECTRONIC COMMUNICATIONS SERVICE AND ELECTRONIC COMMUNICATIONS NETWORK LICENCES RESPECTIVELY**

### **1. EXECUTIVE SUMMARY**

1.1 Noting the expiration of the MTN Swaziland Limited (hereinafter referred to as “Swazi MTN”) license on 18 November 2018, and further to Swazi MTN’s submission of an application for renewal on 4 of August 2018, and a compliance evaluation process described in section 4 of this Decision, the Commission has decided as follows:

1.1.1 Swazi MTN’s Individual Electronic Communications Service (“ECS”) license (IECS/002/16/MTN) should be renewed for a period of 10 years (17 November 2018 – 16 November 2028) in accordance with the Electronic Communications (Licensing) Regulations, 2016, (Licensing Regulations hereinafter). The terms and conditions of the licence will be in accordance with the prevailing licensing framework, as may be amended from time to time.

1.1.2 Swazi MTN’s Individual Electronic Communications Network (“ECN”) license (IENS/002/16/MTN) should be renewed for a period of 10 years (17 November 2018 – 16 November 2028) in accordance with the Licensing Regulations. The terms and conditions of the licence will be in accordance with the prevailing licensing framework, as may be amended from time to time.

1.1.3 Additional new Terms and Conditions shall be included in the new licenses to address any non-compliance issues identified during the evaluation process.

- 1.1.4 Swazi MTN be granted the new licence upon the payment of licence fees to be determined by the Commission.

## 2. LEGAL AND REGULATORY BACKGROUND

2.1 Swazi MTN was initially licensed on 18 November 2008 to provide mobile telephony networks and services in the Kingdom of Eswatini. On 28 November 2016, the Eswatini Communications Commission (“ESCCOM” or “The Commission”) converted the Swazi MTN licence to align it with the new legal and regulatory regime. In so doing the Commission issued an Electronic Communication Service Licence (ECS Licence) and an Electronic Communications Network Licence (ECN Licence) to Swazi MTN.

2.2 It is important to note that:

2.2.1 Swazi MTN’s “ECS” and “ECN” licenses (“the licenses”) were issued in accordance with Section 50 of Electronic Communications Act, no. 9 of 2013 (hereinafter referred to as the Act). Jointly, the licences allow Swazi MTN to own and operate electronic communications networks and services in the Kingdom on a converged and technology neutral basis.

2.2.2 Swazi MTN’s licences were valid for the remainder of the validity period of the existing licence issued in 2008. Thus, the licenses are valid from 18 November 2008 to 17 November 2018. In terms of clause 3.3 of the current licence, Swazi MTN shall apply for the renewal of its licence to the Commission, no earlier than twelve (12) months and no later than six (6) months prior to the expiry of the licence.

2.2.3 The “ECN” Licence allows Swazi MTN to establish, operate and maintain an electronic communications network; interconnect its network with and lease facilities from any duly licensed Electronic Communications Network licensee within the Kingdom of Eswatini; and provide Electronic Communications Network services and lease facilities to any duly licensed operator providing Electronic Communications Services and Broadcasting Services within the Kingdom of Eswatini.

2.2.4 The “ECS” Licence permits Swazi MTN to provide, *inter alia*, the following electronic communications services on a technology-neutral basis: public voice telephony, data and value-added services; and to lease transmission capacity directly from an “I-ECN” Licensee/ and/or another licensee (as set forth in the Regulations) in order to provide public or private telecommunications services, whether on an international or national basis, to end users and/or another licensee.

### **3. CONTEXT OF LICENCE RENEWAL APPLICATION**

3.1 Swazi MTN applied for the renewal of its ECS and ECN licences in terms of clause 3.3 of the licences on 4 August 2017, which signaled the commencement of the licence renewal process. As a result, the Commission embarked on a process to evaluate Swazi MTN's compliance with the prevailing legislation, licence conditions, regulations, decisions, guidelines, determinations and authorizations issued by the Commission in order to assess

- (1) whether the licences should be renewed;
- (2) if so, on what terms they should be renewed; and
- (3) whether any sanctions should be issued in the event of non-compliance.

3.2 The Commission advised Swazi MTN of the process to be followed and requested the company to submit information to be considered in terms of the license renewal process based on its license obligations and regulatory requirements. Swazi MTN duly submitted the said information to the Commission which then undertook the evaluation exercise and made the findings set out in section 5 of this Decision.

### **4. SUMMARY OF ANALYSIS AND FINDINGS**

4.1 The evaluation process undertaken by the Commission found that Swazi MTN has complied broadly with the obligations as set out in the previous and current licenses, legislative and regulatory instruments. The process revealed that Swazi MTN has complied with the following obligations as set out in the previous and current licences, legislative and regulatory instruments:

- 4.1.1 All services provided by Swazi MTN are provided in manner that is compliant with the scope of the licence, all legislative instruments, regulations, decisions, guidelines, determinations and authorizations issued by the Commission;
- 4.1.2 Ensuring that all tariffs and charges for electronic communication services offered by Swazi MTN are approved by the Commission prior to the rollout of such services;
- 4.1.3 Ensuring that customers are accurately billed for services consumed;
- 4.1.4 Submission of quarterly and annual reports, as well as information

required by the Commission from time to time, in a format specified by the Commission, including financial performance, network quality of service, and numbering, amongst others;

- 4.1.5 Ensuring compliance with payment of all requisite fees and Contribution into the Universal Service Fund;
- 4.1.6 Ensuring skills development;
- 4.1.7 Ensuring that all electronic communications equipment used by Swazi MTN is certified for use in the country.

## **5. FINAL DECISION**

5.1 In light of the above analysis and findings, the Commission has decided that:

- 5.1.1 Swazi MTN's Individual "ECS" license be and is hereby renewed for a period of 10 years (17 November 2018 to 16 November 2028) in accordance with the Licensing Regulations. The terms and conditions of the licence will be in accordance with the prevailing licensing framework, as may be amended from time to time.
- 5.1.2 Swazi MTN's Individual "ECNS" license be and is hereby renewed for a period of 10 years (17 November 2018 to 16 November 2028) in accordance with the Licensing Regulations. The terms and conditions of the licence will be in accordance with the prevailing licensing framework, as may be amended from time to time.
- 5.1.3 Additional new Terms and Conditions shall be included in the new licenses to address any non-compliance issues identified during the evaluation process.
- 5.1.4 The new licences be issued to Swazi MTN upon the payment of licence fees levied in terms of section 14 of the Electronic Communication (Licensing) Regulations, 2016, for the evaluation and renewal of the licence.
- 5.1.5 In line with Section 37 (3) of the Eswatini Communications Act, 2013, the Commission hereby determines the effective date for the decision to be **16 November 2018**.

**CHIEF EXECUTIVE**  
**ESWATINI COMMUNICATIONS COMMISSION**