



# **Notice 5/2026: EPTC AND JENNY ESWATINI DECISION ON SELF – PROVISIONING -** Decision in Terms of Section 36 Eswatini Communications Commission Act, 2013 – Complaint Lodged by Eswatini Posts and Telecommunications Corporation Against Jenny Internet Eswatini



ESWATINI  
DATA PROTECTION  
AUTHORITY



**CIRT**  
ESWATINI COMPUTER  
INCIDENT RESPONSE TEAM



Eswatini Communications Commission  
**UNIVERSAL**  
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# GENERAL NOTICE NO. 5/2026

## EPTC AND JENNY ESWATINI DECISION ON SELF – PROVISIONING

1. The Eswatini Communications Commission (ESCCOM) has issued a final decision in respect of a dispute between Eswatini Posts and Telecommunications Corporation (EPTC) and Jenny Internet Eswatini (Jenny Internet) relating to a cross-border fibre link passing through Malutha Border Post entering Eswatini.
2. EPTC raised a dispute that Jenny Internet had unlawfully established its own direct cross-border fibre infrastructure, bypassing EPTC's national backbone network at Malutha. The concern was that this conduct was in contravention of Section 53 of the Electronic Communications Act, 2013 and Regulation 5 of the Electronic Communications (Facilities-Sharing) Regulations, 2016.
3. Following an investigation, through written and oral submissions from both parties, ESCCOM confirmed that Jenny Internet had established a direct fibre link that bypassed EPTC's backbone infrastructure in entering Eswatini, specifically at Malutha. The Commission established that the conduct contravened the applicable laws governing national backbone interconnection and infrastructure sharing.
4. ESCCOM further established that EPTC had not adequately discharged her obligations relating to backbone access, infrastructure sharing, and quality of service. Following an indepth analysis of evidence and submissions on the matter, including collaborative measures adopted by the parties to resolve the dispute, the Commission issued the following orders to conclude the matter:
  - a) EPTC to ensure that acces to national backbone infrastructure and related services are availed to Jenny Internet, and to process all applications expeditiously and in good faith, as to maintain acceptable technical and service standards.
  - b) Jenny Internet to pay an administrative penalty in the sum of **E150,000.00** (One Hundred and Fifty Thousand Emalangen) to ESCCOM on or before 30 July 2026 for the violation of the law and to use EPTC backbone connectivity when bringing services into Eswatini.
  - c) EPTC and Jenny Internet are directed to continue cooperating in good faith to ensure lawful interconnection arrangements and compliance with the Electronic Communications Act and applicable Regulations.

The full document relating to this dispute is available on [www.esccom.org.sz](http://www.esccom.org.sz)

Dated: **1<sup>st</sup> June 2026**

FIKILE GAMA  
ACTING CHIEF EXECUTIVE OFFICER  
ESWATINI COMMUNICATIONS COMMISSION

## 1. INTRODUCTION

The Eswatini Communications Commission (hereinafter referred to as “the Commission”) is a statutory body established in terms of the Swaziland Communications Commission Act, 2013 (“the ESCCOM Act”). The Commission is mandated to regulate and supervise the provision of communications services in the Kingdom of Eswatini, including the regulation and supervision of electronic communications networks and electronic communications services. In execution of its statutory mandate, the Commission is empowered, inter alia, to ensure compliance with all applicable communications laws, regulations, licence conditions, directives and guidelines governing the electronic communications sector in Eswatini. The Commission is further empowered to investigate complaints lodged by licensees, consumers, stakeholders, or members of the public in accordance with Section 6 of the ESCCOM Act.

The Commission’s mandate includes ensuring the orderly development of the communications sector, promotion of fair competition, safeguarding the integrity of national telecommunications infrastructure, and ensuring adherence to the principles of non-discrimination, open access, infrastructure sharing, and universal connectivity.

## 2. JURISDICTION AND POWERS OF THE COMMISSION

The Commission derives its authority to investigate complaints and enforce compliance from Section 36 of the ESCCOM Act, which empowers the Commission to investigate any matter relating to communications services, networks, facilities, operators, licensees, or any alleged contravention of the governing legislative and regulatory framework.

Section 36 of the ESCCOM Act empowers the Commission to:

- a) investigate complaints lodged against licensees;
- b) summon and hear representations from parties;
- c) conduct inspections and investigations;
- d) issue directives and compliance orders;
- e) impose administrative sanctions; and
- f) take corrective measures necessary to ensure compliance with the law.

The Commission further exercises enforcement powers in terms of Section 42 of the ESCCOM Act, including the power to impose administrative sanctions and corrective measures where a licensee is found to have contravened the Act, Regulations, licence conditions, or directives issued by the Commission.

### **3. THE COMPLAINT**

The Commission received a formal complaint from Eswatini Posts and Telecommunications Corporation ("EPTC") against Jenny Internet Eswatini ("Jenny Internet"). EPTC alleged that Jenny Internet Eswatini had unlawfully established its own cross-border fibre infrastructure link extending from the Malutha Border Post, thereby bypassing the national backbone infrastructure operated by EPTC.

EPTC alleged that such conduct constituted a contravention of:

- Section 53 of the Electronic Communications Act; and
- Regulation 5 of the Electronic Communications (Facilities Sharing) Regulations, 2016.

### **4. APPLICABLE LEGAL FRAMEWORK**

#### **4.1. Section 53 of the Electronic Communications Act**

Section 53 of the Electronic Communications Act provides for the utilization of the national telecommunications backbone infrastructure and establishes the framework governing interconnection to backbone infrastructure within the Kingdom of Eswatini.

The Section provides, inter alia, that:

- a) the national backbone infrastructure shall constitute the designated national telecommunications backbone network;
- b) licensed operators and service providers shall interconnect to the national backbone infrastructure;
- c) all licensed operators and service providers shall establish last-mile interconnection to the national backbone infrastructure;
- d) interconnection rates shall be subject to the regulatory control and approval of the Commission.

## 4.2. Electronic Communications (Facilities Sharing) Regulations, 2016

Regulation 4 as read with Regulation 5 of the Electronic Communications (Facilities-Sharing) Regulations, 2016 declares certain telecommunications infrastructure, as essential facilities requiring open access and infrastructure sharing obligations. The Regulations further impose obligations on infrastructure owners to provide access on fair, transparent, non-discriminatory and reasonable terms.

## 5. INVESTIGATION BY THE COMMISSION

Upon receipt of the complaint, the Commission initiated an investigation in terms of Section 36 of the ESCCOM Act. The Commission conducted inspections *in loco* at the Malutha Border Post.

The findings of the investigation confirmed that:

- a) Jenny Internet Eswatini had established a direct cross-border fibre link into Eswatini;
- b) Jenny Internet was self-provisioning services at Malutha Border Post.

The Commission subsequently invited written representations from both EPTC and Jenny Internet, thereby affording both parties an opportunity to be heard in accordance with the principles of procedural fairness and natural justice. The parties were further invited to make oral submissions in support of their respective positions before the Commission. Both parties duly appeared and made oral representations.

## 6. FINDINGS OF THE COMMISSION

Following consideration of the complaint, the inspection findings, written submissions, oral representations, and applicable law, the Commission made the following findings:

## 6.1. Contravention by Jenny Internet Eswatini

Jenny Internet admitted to the conduct complained of and pleaded guilty to the contravention. The Commission accordingly found Jenny Internet guilty of contravening Section 53 of the Electronic Communications Act by unlawfully bypassing the national backbone infrastructure.

The Commission reaffirmed that Section 53 envisages that all licensed operators and service providers shall establish last-mile interconnection to the national backbone infrastructure and that all internet connectivity entering the Kingdom of Eswatini must be routed through the designated national backbone infrastructure operated by EPTC.

## 6.2. Findings Against EPTC

The Commission further found that EPTC, as the sole national telecommunications backbone operator and a critical participant in the communications sector, was not fully discharging its obligations in terms of Regulation 4 as read with Regulation 5 of the Facilities Sharing Regulations.

The Commission found that:

- a) the backbone infrastructure constitutes an essential facility;
- b) EPTC was experiencing infrastructure reliability challenges;
- c) such challenges were largely attributable to EPTC's financial constraints;
- d) the quality and reliability concerns relating to EPTC's infrastructure contributed to the circumstances that occasioned Jenny Internet's non-compliance.

The Commission observed that certain instances of non-compliance by Jenny Internet were occasioned by violations relating to quality of service challenges attributable to EPTC infrastructure deficiencies.

## 7. INITIAL INTENDED DECISION OF THE COMMISSION

Consequent upon the above findings, the Commission issued the following Decision in line with Section 42(2) of the Act, which gives the Commission the power to issue a preliminary decision, prior confirmation on the lapse of 30 days:

1. ESCCOM issued an intention to direct Jenny Internet to pay an administrative fine of E300,000.00 (Three Hundred Thousand Emalangeni) to the Commission on or before 25 February 2026 subject to the parties taking corrective measures in addressing the disputed conduct.
2. A fine of E300,000.00 (Three Hundred Thousand Emalangeni) was imposed on EPTC, wholly suspended for a period of twenty-four (24) months from 15 January 2026, on condition that EPTC was not found to have contravened the Quality of Service Regulations, licence conditions, or the Electronic Communications Act during the suspension period.
3. Jenny Internet was directed to utilize EPTC backbone connectivity when entering into Eswatini by or before 25 February 2026.
4. Jenny Internet was directed to submit a written application to EPTC for backbone connectivity services in terms of Regulation 4 and to comply with all subsequent regulatory processes.
5. EPTC was directed to share existing connections and fibre topology with Internet Service Providers for national backbone connectivity and to provide transparent information concerning service levels, pricing, and complaint resolution processes.
6. Jenny Internet was directed to implement corrective measures and report compliance status to the Commission on or before 25 February 2026.

## 8. SECTION 42(2) NOTICE AND RECTIFICATION PROCESS

Acting in accordance with Section 42(2) of the ESCCOM Act, the Commission emphasised that prior to proceeding with corrective measures or administrative sanctions, the Commission was obligated to issue written notice of the alleged contravention and provide the affected licensee with at least thirty (30) days within which to rectify the contravention. Section 42(2) provides that:

*"Before proceeding with any contemplated corrective measures, the Commission shall give written notice of the alleged contravention and provide the person concerned at least thirty (30) days within which to rectify the contravention."*

The Commission, in the ruling, clarified that the directives issued were not final and were returnable on or before 25 February 2026 pending assessment of compliance and rectification efforts by the parties.

## **9. SUBSEQUENT REVIEW APPLICATIONS**

Subsequent to the issuance of the aforesaid directives, the Commission received review applications from both Jenny Internet and EPTC.

### **9.1. REVIEW APPLICATION BY JENNY INTERNET**

The Commission declined to engage on the merits of Jenny Internet's review application. The Commission held that in terms of Section 42(2) of the ESCCOM Act, the matter remained within the statutory rectification phase contemplated under the Act. The Commission emphasised that:

- a) the return date of 25 February 2026 had not yet elapsed;
- b) no final determination had yet been made following assessment of non-compliance;
- c) the Commission remained seized with the matter pending expiration of the rectification period.
- d) On the return date, the parties sought a postponement of the matter to the 30<sup>th</sup> March, whilst they sought to amicably resolve the dispute through alternative means, which the Commission applied.

The Commission accordingly determined that the review application by Jenny Internet was brought before the Commission prematurely. This meant that the intention to make a final determination of the matter remained effective for confirmation on the 30<sup>th</sup> March 2026.

### **9.2. REVIEW APPLICATION BY EPTC**

The Commission received a Notice of Review in terms of Section 44(1) of the ESCCOM Act filed by Eswatini Posts and Telecommunications Corporation seeking the review, correction and setting aside of portions of the ruling issued on 14 January 2026.

#### **9.2.1. Procedural Irregularities Relating to the Fine**

EPTC contended that the Commission misdirected itself by imposing an administrative fine without first affording EPTC an adequate hearing in relation to the contemplated sanction, contrary to Section 42(2)(a)–(b) of the ESCCOM Act and the audi alteram partem principle.

### 9.2.2. Improper Basis for the Fine

EPTC further submitted that:

- a) Jenny Internet had admitted wrongdoing;
- b) the Commission itself had found Jenny guilty of contravening the law;
- c) the Commission improperly relied on allegations relating to Quality of Service deficiencies and refusal to collaborate;
- d) these matters had allegedly already been adequately addressed during proceedings.

### 9.2.3. Imposition of Equal Pecuniary Penalties

EPTC further argued that the Commission committed an irregularity by imposing the same pecuniary sanction of E300,000.00 on both parties despite the differing nature and gravity of the findings.

## 10. DETERMINATION OF THE REVIEW BY EPTC

Having considered the review application and representations made by EPTC, the Commission issued the following determination:

- a) The finding imposing a wholly suspended fine of E300,000.00 against EPTC as a final order was reviewed, substituted and set aside.
- b) Acting in terms of Section 42(2) of the ESCCOM Act, the Commission resolved to issue EPTC with written notice of the alleged contravention and to afford EPTC thirty (30) days to rectify the identified contravention.
- c) The Commission indicated its intention to impose an administrative fine of E300,000.00 wholly suspended for twenty-four (24) months from 30 March 2026, subject to EPTC taking corrective measures concerning the provision of connectivity to Jenny Internet at Malutha Border Post.
- d) The Commission directed that EPTC must not to be found to have transgressed the Quality of Service Regulations, licence conditions, or the Electronic Communications Act for a period of twenty-four (24) months following the decision.
- e) EPTC was directed to implement corrective measures and report compliance status to the Commission on or before 30 March 2026.

The Commission afforded EPTC thirty (30) days' notice prior to activation or enforcement of the contemplated sanction.

## II. MEDIATION AND COLLABORATIVE ENGAGEMENT

Following the determination of the Commission on the review applications received from both licensees, the parties moved an application to the Commission, to facilitate and mediate between the two parties by arranging for site inspections of the areas in question and further assist the parties by setting timelines within which they would prepare and submit their respective reports on the matter.

Subsequent to the review stage, both parties indicated their willingness to amicably resolve the dispute and committed to a collaborative engagement. The mediation process was coordinated by the Commission in furtherance of its statutory obligation to promote orderly sector development and cooperation amongst licensees.

The parties agreed to conduct joint inspections *in loco* to identify the technical aspects necessary to facilitate collaboration and lawful interconnection arrangements. Joint site visits were accordingly conducted. The Commission commended both parties for their constructive engagement and demonstrated willingness to regularize the situation in the broader interests of the communications sector and national connectivity objectives.

## MITIGATING FACTORS CONSIDERED BY THE COMMISSION

The outcome of these engagements between the parties, it appears they have now reached common ground on the matter, enabling the Commission to issue a final determination on the matter, taking into account the mitigating factors both parties presented to the Commission which were duly considered.

## 12. FINAL DECISION OF THE COMMISSION

### HAVING CONSIDERED:

- a) the complaint lodged by EPTC;
- b) the investigation findings;
- c) the applicable legal and regulatory frameworks;
- d) the written and oral representations of the parties;
- e) the review proceedings;

- f) the mediation process;
- g) the subsequent cooperative efforts of the parties;

### **13. THE COMMISSION HEREBY ORDERS AS FOLLOWS:**

#### **13.1. ESCCOM Decision on EPTC**

13.1.1. EPTC is hereby directed to ensure that its national backbone infrastructure, and related electronic communications services are made available to Jenny Internet Eswatini in an efficient, reliable, non-discriminatory, transparent, and serviceable manner, in accordance with the provisions of the Electronic Communications Act, the Electronic Communications (Facilities Sharing) Regulations, 2016, applicable Quality of Service obligations, and the principles governing access to essential facilities.

13.1.2. EPTC is hereby strongly warned against providing unsatisfactory services to customers and failing to attend to timeously attending to service interruptions and concerns raised by Jenny Internet as such conduct impacted Jenny Internet's ability to service its customers in line with existing Service Level Agreements.

13.1.3. EPTC is further directed to ensure that all requests for backbone connectivity, interconnection, infrastructure sharing, and access to essential facilities by licensed operators and service providers are processed expeditiously, reasonably, and in good faith, and that such services are maintained at acceptable technical, operational, and service quality standards consistent with its statutory and licence obligations.

13.1.4. In the event that EPTC fails to ensure the availability, reliability, accessibility, efficiency, and serviceability of its infrastructure and services to Jenny Internet Eswatini, the Commission shall consider the imposition of appropriate regulatory enforcement measures and sanctions, as laid out in the Quality of Service Regulations, 2016, on the compensation of affected customers as a result of outages.

13.1.5. EPTC is directed to share existing connections and fibre topology with Internet Service Providers for national backbone connectivity and to provide transparent information concerning service levels, pricing structures, and complaint resolution mechanisms.

### **13.2. ESCCOM Decision on Jenny**

13.2.1. Jenny Internet Eswatini is directed to pay an administrative fine in the sum of E150,000.00 (One Hundred and Fifty Thousand Emalangeni) to the Commission on or before 30 July 2026.

13.2.2. Jenny Internet Eswatini is directed to utilize EPTC backbone connectivity when bringing services into the Kingdom of Eswatini.

13.2.3. The parties are directed to continue cooperating in good faith to ensure lawful interconnection arrangements, infrastructure sharing, and compliance with the Electronic Communications Act and all applicable Regulations.

## **14. CONCLUSION**

The Commission reiterates that compliance with the Electronic Communications Act and the Facilities Sharing Regulations remains mandatory and is fundamental to ensuring the integrity, sustainability, reliability, and orderly development of the communications sector in the Kingdom of Eswatini.

The Commission further emphasises that whilst regulatory enforcement remains necessary to preserve the rule of law within the sector, collaborative engagement between sector participants remains critical to advancing national connectivity objectives, infrastructure resilience, competition, and consumer welfare. Accordingly, the Commission expects strict compliance with this Decision and reserves the right to take further enforcement action in the event of future non-compliance.

This Decision shall be effective as of 1 July 2026.

Issued 1st June 2026



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**FIKILE GAMA**

**ACTING CHIEF EXECUTIVE OFFICER ESWATINI  
COMMUNICATIONS COMMISSION**

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Directors: E.Nathi Dlamini (Chairperson), Loncwala Mahlalela-Ziyane, Joseph Waring, Company Secretary: Ozzie Thakatha.