



GENERAL NOTICE NO. 9/2018

DECISION ON ESCCOM INVESTIGATION IN TERMS OF SECTION 36(1)(A) OF THE SWAZILAND COMMUNICATIONS COMMISSION ACT 2013 RELATING TO SOURCING OF INTERNET BANDWIDTH WIRELESSLY FROM SOUTH AFRICA BY JENNY SWAZILAND (PTY) LIMITED – ESWATINI COMMUNICATIONS COMMISSION

Executive summary

1. The Eswatini Communications Commission is a regulatory authority established by the Swaziland Communications Commission Act, 2013 charged with the duty to regulate and supervise the operation of electronic communications networks and the provision of electronic communications services in Eswatini.
2. On or about 8 February 2018, the Eswatini Communications Commission (ESCCOM hereinafter) received a complaint from other internet service providers against Jenny Swaziland (PTY) Limited (Hereinafter referred to as Jenny Swaziland), an internet service provider licensed by the Commission.

The Complaint

3. The complaint was in relation to the manner in which Jenny Swaziland was conducting its business when providing internet services to the market. The complainants alleged that Jenny Swaziland was sourcing internet bandwidth using their wireless network, directly from their parent Company in South Africa into the country, bypassing the national backbone infrastructure in contravention of Section 53 of the Electronic Communications Act.

4. Section 36 of the Swaziland Communications Commission Act 2013 enjoins the Commission to investigate any alleged contravention by any licensee of a law or terms and conditions of a licence where such contravention has been brought to the attention of the Commission through a complaint filed by another licensee of the same service or network.

The Investigation

5. The Commission instituted an investigation wherein Jenny Swaziland was required to make written and oral submissions in response to the allegations. The Commission further conducted technical tests to ascertain whether or not Jenny Swaziland was not utilizing the national backbone infrastructure when sourcing bandwidth from other jurisdictions.

Findings

6. The outcome of the investigation confirmed that Jenny Swaziland's conduct was indeed contravening section 53 of the Electronic Communications Act, 2013.

Sanction(s)

7. In exercise of its powers as provided under Sections 42 and 43 of the SCCOM Act, the Commission imposed an administrative fine on Jenny Swaziland for the contravention.
8. The Commission further issued a directive that Jenny Swaziland rectify the non-compliance in their operations within 60 days of issue of the Decision.

Mvilawemphi Dlamini
Chief Executive