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## GENERAL NOTICE

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### NOTICE 1113 OF 2007

#### REGULATIONS ON THE CONSTITUTION OF CONSUMER ADVISORY PANEL ("CAP" or "the PANEL")

The Authority is required in terms of section 71 of the Electronic Communications Act (ECA), 2005 (No. 36 of 2005) intends to make regulations on the constitution of the Consumer Advisory Panel.

#### SCHEDULE

##### 1. PURPOSE OF REGULATION

The purpose of the regulation is to:-

- (a) Establish the Consumer Advisory Panel; and
- (b) Prescribe the composition of the Panel.

##### 2. DEFINITIONS

In this schedule, unless the context indicates otherwise —

**"Consumer"** means a natural person excluding a juristic person, and includes an end user (as defined in section 2 of the ECA), who uses and/or receives the services and/or products of a licensed service referred to in Chapter 3 of the ECA.

**"ECA"** means the Electronic Communications Act "the ECA" (Act No. 36 of 2005)

**"ICASA Act"** means the Independent Communications Authority of South Africa Act as amended (Act No. 13 of 2000).

**"Panel"** means the Consumer Advisory Panel "CAP" established in terms of Section 71 of the ECA.

**"Panel Member"** means a member of the Consumer Advisory Panel established in terms of Section 71 of the ECA.

##### 3. ESTABLISHMENT OF THE CONSUMER ADVISORY PANEL

The Authority hereby establishes the Consumer Advisory Panel in terms of section 71 of the ECA.

#### **4. COMPOSITION AND APPOINTMENT OF PANEL MEMBERS**

- 4.1 The Consumer Advisory Panel will consist of not less than nine and not more than thirteen persons.
- 4.2 The composition of the Panel will result from an open public process to be determined by the Authority.
- 4.3 Members of the Consumer Advisory Panel will be selected to balance their consumer expertise and viewpoints in order to discharge their mandate.
- 4.4 The term of office for members of the Panel will be three years.
- 4.5 The Consumer Advisory Panel will be constituted with representatives from organizations that represent: -
  - 4.5.1 women;
  - 4.5.2 the youth;
  - 4.5.3 people with disabilities;
  - 4.5.4 Internet and electronic communications service providers;
  - 4.5.5 broadcasting service providers;
  - 4.5.6 postal service providers;
  - 4.5.7 small micro and medium enterprises (SMME's);
  - 4.5.8 the Consumer Affairs Committee of the Dept of Trade and Industry (DTI);
  - 4.5.9 the South African Local Government Association (SALGA);
  - 4.5.10 the National Consumer Forum (NCF);
  - 4.5.11 the South African National Consumer Union (SANCU);
  - 4.5.12 the consumer community based organization (CBO) or non governmental organization (NGO);
  - 4.5.13 senior representative/ employee of the Authority

## **5. FUNCTIONS AND RESPONSIBILITIES OF THE CONSUMER ADVISORY PANEL**

The functions and responsibilities of the Consumer Advisory Panel are to –

- 5.1 provide advice on matters relating to Consumer Affairs and research and development in the sector;
- 5.2 advise on consumer matters of national importance that may have a direct impact on the Authority's operations;
- 5.3 recommend policy or strategies that may have to be implemented;
- 5.4 provide general guidance on a diverse range of consumer issues that regularly arise in the communications industry;
- 5.5 provide assessment on the impact of ICASA's regulatory activities on the consumer;
- 5.6 gather data and information in order to inform views and needs of different groups such as residential, small to medium enterprises and large businesses and people with disabilities;
- 5.7 perform analysis that may be necessary to respond to the questions or matters before it;
- 5.8 generally promote and endeavour to protect the interests of the consumer to maximize consumer welfare awareness;
- 5.9 solicit views from various organizations representing consumer interests; and
- 5.10 make recommendations and suggestions to the Authority on current consumer concerns.

## **6. DUTIES OF A MEMBER OF THE PANEL**

A member of the PANEL must –

- 6.1 at all times act as part of a Panel;
- 6.2 attend meetings and any activities of the Panel;

- 6.3 conduct herself or himself with the highest integrity and professionalism;
- 6.4 declare any potential or existing conflict of interest;
- 6.5 reflect values enshrined in the Constitution of the Republic of South Africa;
- 6.6 act in accordance with the necessary changes required by the context of applicable laws, regulations, codes of conduct and policies governing the Authority and the industry;
- 6.7 recuse himself or herself from and refrain from voting on or engaging in a discussion of any matter, pending before the Panel , in which she or he has a direct or indirect financial interest; and
- 6.8 act in the best interests of the consumer at all times.

## **7. MEETINGS OF THE CONSUMER ADVISORY PANEL**

- 7.1 the Panel must meet as regularly as possible , provided that the number of meetings per annum must not be less than four.
- 7.2 The Chairperson of the Panel will be appointed by the ICASA Council
- 7.3 The Consumer Advisory Panel must at its first meeting elect one of its members as a deputy Chairperson
- 7.4 The quorum for any meeting of the Panel is a majority of its serving members.
- 7.5 The Chairperson must convene meetings of the Panel as may be necessary for the proper execution of its functions.
- 7.6 If the Chairperson is absent from a meeting the Deputy Chairperson must chair the meeting.
- 7.7 If both the chairperson and the deputy chairperson are absent from a meeting the meeting must elect a temporary chairperson to chair.
- 7.8 The Panel must make its own rules for governing meetings, including:—
  - 7.8.1 The period of notice of any meeting; and
  - 7.8.2 The manner of giving notice of any meeting

- 7.9 Unless a set procedure has been determined by the Authority, the chairperson of any meeting of the Panel must determine the procedure to be followed at such meeting.
- 7.10 The Panel must meet at such times and places as may be determined by the Chairperson, in consultation with the Authority.
- 7.11 The Chairperson must as far as is reasonably practical provide at least seven days written notice of any meeting and attach an agenda to such notice.
- 7.12 Decisions of the Panel must as far as is possible be taken by consensus and in other cases by majority vote. Such decisions of the members present at a meeting constitute decisions of the Panel.
- 7.13 In the event of an equality of votes on any matter the person chairing the meeting has a casting vote.
- 7.14 Any meeting of the Panel shall not be open to the public unless the meeting passes a resolution to the effect that, for the part of the meeting concerned, members of the public may attend

#### **8. RESPONSIBILITY FOR PAYMENT OF REMUNERATION OF THE PANEL MEMBERS AND EXPENDITURE INCURRED**

- 8.1 All expenditure incurred in respect of the activities and business of the Panel will be for the account of the Authority's designated department.
- 8.2 The responsible department may designate a specific person(s) to provide and keep separately any record of remuneration of the Panel and any expenditure incurred in the daily upkeep and related needs of the Panel.
- 8.3 The department responsible for the activities of the Panel may maintain separate subsidiary records of remuneration of and any expenditure incurred by the Panel.
- 8.4 Every finance related transaction must be in line with the provisions of the Public Finance Management Act (Act No. 1 of 1999), and/or other applicable legislation.
- 8.5 The relevant records in this regard may be kept separately so as to ensure that particulars thereof are readily available if required by Parliament or the Auditor-General.

**9. REMUNERATION OF MEMBERS OF THE PANEL –**

- 9.1 The remuneration of the Panel will comprise –
- 9.1.1 an honorarium covering all related subsistence and travel claims associated with the duties contemplated in clause 3 above;
  - 9.1.2 the size and limits applicable to such honoraria will be determined by the Authority;
  - 9.1.3 the honorarium is payable after each meeting or after the completion of specific outputs.
- 9.2 No board fees will be payable.

**10. TRAVEL AND ACCOMMODATION AND ASSOCIATED EXPENSES**

- 10.1 A Panel member, (excluding a Government employee and any member who is in the employ of the Authority), will be paid allowances and disbursements as may be determined by the Authority.
- 10.2 The travel and accommodation policy and tariffs of the Authority apply to committee members, with the necessary applicable changes..

**11. SECRETARIAT AND RECORD KEEPING**

- 11.1 All secretariat duties and related daily needs of the Panel will be provided by the Authority.
- 11.2 The Authority's responsible department may designate a specific person or persons to provide the secretariat duties and related daily needs of the Panel.
- 11.3 The Panel must keep minutes of all its meetings and provide an updated list of its activities.
- 11.4 Records and proceedings of the Panel will be kept at the Authority's Head Office and where possible, on its website.
- 11.5 Copies of records of any proceedings of the Panel are available to the public, electronically or in hard copy or in any acceptable format in line with the provisions of the ECA and ICASA Act and subject to confidentiality, where applicable.

## **12. PROCEEDINGS OF THE PANEL**

- 12.1 The Panel considers and only makes recommendations on any matter before it, after which, the matter must be submitted to the Authority which will take the final decision.
- 12.2 Every recommendation of the Panel must be –
  - 12.2.1 recorded in writing;
  - 12.2.2 within the ambit of these regulations;
  - 12.2.3 based on reliable information; and
  - 12.2.4 submitted by the Chairperson or deputy of the Panel to the Authority within a set timeframe or as soon as possible after completion thereof.

## **13. REPORTING BY THE PANEL**

The Panel must –

- 13.1 file a written report with respect to its findings, advice and recommendations;
- 13.2 prepare a written report on its activities on a quarterly basis or as may be directed by the Authority; and
- 13.3 submit the written report(s) to the Authority within a reasonable period after completion thereof.

## **14. INTERACTION WITH THE MEDIA**

- 14.1 The Panel or any of its Members must not issue media statements and may not comment in the media on the activities of the Panel or on any matter related to the Authority.
- 14.2 Any media enquiries on the Panel activities or any matter must be directed to the Authority.

## **15. VACANCIES AND REMOVAL OF A PANEL MEMBER**

- 15.1 A vacancy will arise in the Panel where the Authority removes a member on any of the following grounds:

- 15.1.1 upon conviction of a criminal offence;
  - 15.1.2 where a member is found guilty of misconduct within his or her organization;
  - 15.1.3 a finding that a member has brought the Authority or the Panel into disrepute;
  - 15.1.4 incapacity or failure by a member to fully discharge his or her responsibilities;
  - 15.1.5 a member's failure to discharge his or her responsibilities for a continuous period of three months without just cause;
  - 15.1.6 a member has been absent for more than two consecutive meetings of the Panel without the permission of the Chairperson of the Panel or without a reasonable explanation;
- 15.2 A vacancy will also arise upon the resignation and death of a member;
- 15.3 The Authority may appoint any person it deems fit to fill the vacancy.

## **16. AMENDMENT OF THE REGULATIONS**

These regulations may be amended by the Authority on its own initiative or on recommendation by the Panel.

## **17. SHORT TITLE**

These regulations will be known as the Regulations on the establishment and constitution of the Consumer Advisory Panel of ICASA.

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