

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**GENERAL NOTICE 1917 OF 2023****CONSUMER ADVISORY PANEL REGULATIONS**

The Independent Communications Authority of South Africa (“the Authority”) hereby publishes the Consumer Advisory Panel Regulations in terms of section 4, read with section 71 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) as amended, to the extent reflected in the Schedule.

A copy of the Regulations will be made available on the Authority’s website at <http://www.icasa.org.za>.

A handwritten signature in black ink, appearing to read 'Yolisa Kedama', written over a horizontal line.

Yolisa Kedama**Acting Chairperson****ICASA**

SCHEDULE

1. DEFINITIONS

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act or the Independent Communications Authority of South Africa Act, 2000 (Act 13 of 2000), as amended shall have the meaning so assigned, and the following words and expressions shall have the meaning set out below:

"Act" means the Electronic Communications Act, 2005 (Act No. 36 of 2005) as amended;

"Authority" means the Independent Communications Authority of South Africa;

"Chairperson" means a Panel member appointed by Council to chair the Panel;

"Consumer" means a subscriber, end-user or person making use of a service licensed (or exempted) under Chapter 3 of the ECA or in terms of Chapter 3 of the Postal Services Act.

"Community of interest" means a group of persons or sector of the public having a specific ascertainable, common interest, the distinctive feature of the group being the common interest that makes such a group of persons or sector of the public an identifiable community;

"Council" means the Council appointed in terms of section 5 of the ICASA Act;

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

"Panel" means the Consumer Advisory Panel established in terms of section 71 of the Act;

"Panel member" means a member referred to in regulation 5 of these Regulations; and

"SMME" has the meaning assigned to it in the Act.

2. PURPOSE OF REGULATIONS

The purpose of these Regulations is to:

- (a) establish the Panel;
- (b) set out the criteria and process for the appointment, disqualification, and removal of Panel members; and
- (c) set out the roles and responsibilities of the Panel.

3. ESTABLISHMENT AND FUNCTIONS OF THE PANEL

- (1) The Authority hereby establishes the Consumer Advisory Panel in terms of section 71 of the Act to advise the Authority on matters relating to consumer issues in the Republic.
- (2) The functions of the Panel shall include the following:
 - (a) preparation and submission of quarterly and annual advisory reports to the Authority, on consumer related issues resulting from the usage of electronic communications, broadcasting, and postal services, which include:
 - (i) critical concerns affecting consumers with particular emphasis on persons with disabilities, senior citizens, women, youth, and people living in underserved areas; and
 - (ii) research on issues affecting consumers and report findings.
 - (b) providing a consumer perspective through commentary on relevant Regulations and regulatory projects when published for public comment;
 - (c) liaising and engaging with consumers on a quarterly basis to understand consumer perspectives on issues impacting the electronic communications, broadcasting and postal services sectors; and
 - (d) preparing the Panel's annual plan and budget for approval by Council.
 - (e) reporting quarterly and annually to Council through the Panel's Chairperson on activities and findings for the year.

4. THE APPOINTMENT PROCESS OF THE PANEL

- (1) The Authority shall call for the nomination of Panel members from members of the public for suitable candidates following an advertisement on the Authority's website, media platforms and/or national newspapers.
- (2) The nominations must take into consideration the following:
 - (a) representation of a community of interest;
 - (b) knowledge and understanding in the fields of consumer legislation and rights, law, economics, engineering, communications, academia, labour, or any other relevant experience in the field of consumer protection; and
 - (c) knowledge and understanding of the electronic communications, broadcasting and postal services sectors.
- (3) Panel members must represent a consumer segment or work in an environment that provides the member with relevant electronic communications, broadcasting or postal services sector consumer insight which will aid and enhance the Authority's consumer protection mandate.

5. MEMBERSHIP OF THE CONSUMER ADVISORY PANEL

- (1) The Authority will appoint nine (9) members to the Panel.
- (2) The Authority will appoint one (1) of the members to be the Chairperson of the Panel.
- (3) The Chairperson holds office for a period of four (4) years as from the date of his or her appointment as Chairperson.
- (4) The Chairperson may at the end of his or her term of office be re-appointed for one (1) additional term of four (4) years only.
- (5) The other members of the Panel hold office for a period of three (3) years as from the date of their appointment.
- (6) The other Panel members may at the end of their term of office be re-appointed for one (1) additional term of three (3) years only.

6. RESIGNATION

- (1) A Panel member may at any time, upon submitting at least one (1) month's written notice, tender his or her resignation to the Authority.
- (2) Where a Chairperson resigns, the Authority may appoint a Chairperson or an acting Chairperson from any of the remaining Panel members for the remainder of his or her existing term of office.
- (3) Where a Panel member resigns, the Authority will call for the nomination of a replacement of the vacant position created by such resignation.

7. ELIGIBILITY OF PANEL MEMBERS

- (1) Panel members must have a minimum of five (5) years' experience in the electronic communications, broadcasting and/or postal services sector.
- (2) In addition to the requirement of sub-regulation (1) above, the Authority will consider appointing representatives from organisations that represent the interests of the following groups:
 - (a) women;
 - (b) youth;
 - (c) persons with disabilities;
 - (d) SMME; and/or
 - (e) community-based organisations or non-governmental organisations.

8. DISQUALIFICATION

A person may not be appointed as a Panel member if he or she:

- (a) is not a citizen of the Republic; or
- (b) is not a permanent resident of the Republic; or
- (c) is a member of Parliament, a provincial legislature or municipal council; or
- (d) is an office-bearer or employee of a party, movement, or organisation of a party-political nature; or

- (e) has a spouse or partner who has a direct or indirect financial interest in the electronic communications, broadcasting, or postal services sectors; or
- (f) is declared by a court of law as mentally ill or disordered; or
- (g) is an unrehabilitated insolvent; or
- (h) has been convicted of an offence, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and sentenced to imprisonment without the option of a fine; or
- (i) has at any time been removed from an office of trust on account of misconduct.

9. REMOVAL OF PANEL MEMBERS FROM OFFICE

- (1) Subject to a decision of Council, a Panel member may be removed from the Panel on account of:
 - (a) misconduct;
 - (b) inability to perform his or her role as a Chairperson, acting Chairperson or Panel member;
 - (c) absence from three consecutive meetings of the Panel without tendering a written apology to the Chairperson, except on good cause shown;
 - (d) his or her disqualification as contemplated in regulation 8;
 - (e) bringing the Panel or Authority into disrepute;
 - (f) failure to disclose a conflict of interest.
- (2) Where a Panel member is removed from office, the Authority will call for the nomination of a replacement of the vacant position created by such removal.

10. INDUCTION OF PANEL MEMBERS

The Authority will induct Panel members on how it conducts its business and what is expected of Panel members before the Panel commences with its advisory work.

11. FUNCTIONS OF THE CHAIRPERSON

The Chairperson must:

- (a) allocate and manage the work of the Panel;
- (b) chair meetings and ensure that all meetings are noted with minutes;
- (c) sign off on written submissions on behalf of the Panel;
- (d) submit quarterly and annual reports to Council on behalf of the Panel;
- (e) review and assess the performance of Panel members on a quarterly and annual basis; and
- (f) monitor the budget utilisation of the Panel.

12. FUNCTIONS OF PANEL MEMBERS

The Panel members must:

- (a) identify issues affecting consumers in the electronic communications, broadcasting and postal services sectors;
- (b) contribute to the work of the Panel as assigned;
- (c) attend meetings and activities of the Panel;
- (d) provide advise to the Authority on issues affecting consumers;
- (e) carry out research on issues affecting consumers;
- (f) fulfil the objectives set out in the Terms of Reference; and
- (g) contribute information on its work to the Authority's annual report to ensure that issues affecting consumers are reflected.

13. MEETINGS OF THE PANEL

- (1) The Panel must meet once in a quarter.
- (2) Where there is a need for additional meetings, such must be requested and approved by the Authority.
- (3) The Chairperson may make a request to the Authority to hold additional meetings and provide motivation for such further meetings.

14. AGENDA OF MEETINGS

The Chairperson shall prepare meeting agenda/s, which shall be circulated with any relevant supporting documentation at least seven (7) working days prior to each meeting.

15. QUORUM OF MEETING

- (1) The quorum of the Panel shall consist of the majority of Panel members serving, including the Chairperson.
- (2) In the absence of the Chairperson, Panel members in attendance may elect a Panel member to chair the meeting.

16. VENUE OF MEETINGS

The meetings of the Panel shall be held online and/or at a date, place and time determined by the Chairperson, in consultation with the Authority.

17. DECLARATION OF INTEREST

- (1) A Panel member must declare any potential or existing conflict of interest.
- (2) A Panel member must recuse himself or herself from voting on or engaging in a discussion over a matter pending before the Panel, in which he or she has a direct or indirect interest.
- (3) A Panel member must declare a conflict of interest which arises during the course of his or her appointment.

18. MINUTES

- (1) Minutes of all Panel meetings must be adopted by the Panel and signed-off by the Chairperson.
- (2) The Authority will offer administrative support to all Panel activities.

19. DECISIONS OF THE PANEL

- (1) Decisions and/or recommendations of the Panel are to be taken by majority vote of the Panel members present at a meeting.
- (2) In the event of a split vote, the Chairperson has a casting vote in addition to his or her deliberative vote.

20. FUNDING OF PANEL ACTIVITIES

The Authority shall be responsible for funding the activities of the Panel as identified in the Panel's annual plan in line with the approved allocated budget and subject to the Authority's procurement processes.

21. REMUNERATION OF PANEL MEMBERS

Panel members will be remunerated at rates determined by the Authority from time to time for:

- (a) the attendance of meetings in line with regulation 13;
- (b) the attendance of special or other meetings at the written request of the Authority; and
- (c) any work performed in line with regulations 3, 11 or 12.

22. RECOMMENDATIONS OF THE PANEL

- (1) The Panel must consider relevant matters and prepare a submission with recommendations to the Authority.
- (2) Every recommendation of the Panel must be:
 - (a) recorded in writing;
 - (b) within the scope of these Regulations;
 - (c) based on reliable information; and
 - (d) submitted by the Chairperson to the Authority.

23. REPORTS BY THE PANEL

The Panel must:

- (a) submit a written report with respect to its findings, advice, and recommendations;
- (b) prepare and submit a written report on its activities and findings on a quarterly and annual basis or as directed by the Authority;
- (c) prepare written report/s no later than two weeks after each meeting of the Panel or any meeting with stakeholders; and
- (d) prepare and submit quarterly and annual report for submission to the Authority.

24. ENGAGEMENTS WITH OTHER CONSUMER BODIES

- (1) Upon the written approval of the Authority, the Panel may engage with regional and international consumer protection bodies with similar mandates to those of the Panel for knowledge-sharing.
- (2) The Chairperson must seek permission from the Authority before engagements with such said bodies.
- (3) The Authority may pay for Panel members' registration and membership fees where necessary.

25. TRAVEL AND ACCOMMODATION COSTS

The Authority may pay the travel and accommodation expenses of a Panel member, subject to prior arrangement with the Authority and in accordance with the Authority's Subsistence and Travel Policy.

26. CONFIDENTIALITY

Members of the Panel must not disclose any confidential information with regard to any matter which may come to their knowledge in the performance of their duties under

these Regulations, unless they are required by law or a court order to disclose such information.

27. INTERACTION WITH MEDIA AND PUBLIC

- (1) A Panel member must not issue media statements, comment in the media on the activities of the Panel or on any matter related to the work of the Authority.
- (2) All media enquiries on the Panel's activities or any matter relating to the Panel must be directed to the Authority.

28. TERMS OF REFERENCE

The Authority shall, after consultation with the Panel, develop Terms of Reference which will guide the Panel on how to execute its mandate.

29. REPEAL OF REGULATIONS

These Regulations repeal the Consumer Advisory Panel Regulations published in Government Gazette No 40725 of 28 March 2017, as amended by Government Gazette No 42725 of 27 September 2019.

30. SHORT TITLE AND COMMENCEMENT

These Regulations are called the Consumer Advisory Panel Regulations, 2023 and will come into effect on the date of publication in the *Government Gazette*.

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA**REASONS DOCUMENT ON THE CONSUMER ADVISORY PANEL REGULATIONS,
2023****1. INTRODUCTION**

- 1.1 The Independent Communications Authority of South Africa (“the Authority” or “ICASA”) acts in accordance with the empowering framework established by the Constitution of the Republic of South Africa¹, the Broadcasting Act², the Independent Communications Authority of South Africa Act (“the **ICASA Act**”)³, the Electronic Communications Act (“**ECA**”)⁴ and Postal Services Act⁵.
- 1.2 The Authority is empowered in terms of section 4 (1) of the ECA “to make Regulations with regard to any matter which in terms of the ECA or the related legislation must or may be prescribed, governed or determined by regulation”.
- 1.3 Section 4 of the ECA is read together with section 71 (2) of the ECA, to make regulations on the constitution of the Consumer Advisory Panel.
- 1.4 On 11 November 2022, the Authority published the Draft Consumer Advisory Panel Regulations (“the Draft Regulations”) in *Government Gazette* No. 47489 and called for interested persons to make written representations within thirty (30) working days.
- 1.5 The Authority extended the call for written comments through an extension notice published in *Government Gazette* No. 47729 of 15 December 2022.

¹ 1996.

² Act 4 of 1999.

³ Act 13 of 2000.

⁴ Act 36 of 2005.

⁵ Act 124 of 1998.

1.6 The Authority received four (4) written representations on the Draft Regulations by closing date of 16 January 2023 from the following interested persons:

1.6.1 Cell C (Pty) Ltd ("Cell C");

1.6.2 MTN (Pty) Ltd ("MTN");

1.6.3 Ms Josephine Mabotja ("Ms Mabotja"); and

1.6.4 Consumer Advisory Panel Committee ("CAP Committee").

Two stakeholders expressed their interest in making oral representations and after considering all the written submissions the Authority did not deem it necessary to hold public hearings given that the Authority received limited submissions which did not raise any issues which required further ventilation.

1.7 The Authority has considered and analysed the written submissions provided by the stakeholders and hereby publishes the reasons in support of the final Regulations.

1.8 This Reasons Document highlights the submissions received from stakeholders and sets out the relevant considerations and reasons which informed the Authority's decision to publish the final Regulations.

2. REASONS DOCUMENT

2.1 Ad Definitions

2.1.1 Submissions Received

2.1.1.1 Ms Josephine Mabotja ("Ms Mabotja") proposed that the definition of NGO and secretariat be added into the regulations.

2.1.2 The Authority's Decision:

2.1.2.1 The Authority has removed reference to the acronym "NGO" and has provided the full term "non-governmental organisations" in regulation 7 (2) (e).

In relation to the proposal to include a definition for "secretariat", the Authority does not deem it necessary considering that the term is not used in the body of the regulations. Secondly, the Authority at this point in time, does not envision the appointment of a secretariat.

2.2 Ad Regulation 2 Purpose of the Regulations

2.2.1 Submissions Received

2.2.1.1 Ms Mabotja proposed the deletion of sub-regulation (d) because it is already catered for in sub-paragraph (c).

2.2.2 The Authority's Decision:

2.2.2.1 The Authority has decided to amend regulation 2 by deleting sub-paragraph (d) as it is sufficiently captured in sub-paragraph (c).

2.3 Regulation 3: Establishment of the Panel

2.3.1 Submissions Received

2.3.1.1 MTN supported the functions of the Panel enumerated in the Regulations and proposed that the quarterly and annual reports submitted by the Panel to the Authority be made available to the public.

2.3.1.2 MTN further submitted that the timelines for the submission of the reports are adequate for the Panel to review for accuracy and finalisation. MTN supported sub-regulation 22 (2) that requires that the recommendations of the Panel must be based on reliable information. MTN further submitted that the effectiveness of the Panel will be largely influenced by the

unremitting administrative and financial support from the Authority for the proper functioning of the Panel.

2.3.1.3 Further, MTN noted that the Regulations covered the preparation of an annual plan and budget for Council approval.

2.3.1.4 Ms Mabotja proposed that Regulation 3 (2) (a) be amended to read as follows:

“(a) preparation and submission of quarterly, advisory and annual reports to the Authority, on consumer related issues resulting from the usage of Electronic Communications, Broadcasting, and Postal services, which includes:

(i) critical concerns affecting consumers especially youth, women, persons with disabilities, senior citizens and people living in underserved areas” (own emphasis).

2.3.1.5 Ms Mabotja proposed the deletion of regulation 3(2) (c), which outlines the Panel’s duty to promote consumer interests, with particular emphasis on persons with disabilities, senior citizens, women, youth, and people living in underserved areas when submitting their findings to the Authority. The proposal was made on the basis that sub regulation (2)(c) was a repetition of regulation (2)(a).

2.3.2 **The Authority’s Decision:**

2.3.2.1 A copy of the quarterly and annual reports can be sent via email upon request.

2.3.2.2 The Authority has considered the amendments proposed by Ms Mabotja and agrees with her that sub regulation (2)(c) is a repetition of sub regulation (2)(a)(i).

2.4 Ad Regulation 4: The appointment process of the Panel

2.4.1 Submissions Received

2.4.1.1 MTN supported the process of appointing the Panel members and recommended that the member nomination period be long enough and be sufficiently advertised and communicated to the public to facilitate participatory recommendations for eligible candidates.

2.4.1.2 MTN supported the minimum conditions that nominees must meet before they will be considered for the Panel positions.

2.4.1.3 Ms Mabotja proposed that the Authority allow prospective Panel members an opportunity to either apply for the vacant position or be nominated. She further submitted that most people know their skills and therefore there will be more CVs received by the Authority which will broaden the variety of skills.

2.4.1.4 Ms Mabotja further proposed that regulation 4 (2) (b) be amended to include knowledge of the fields of economics and engineering as a factor that nominations should take into consideration. Ms Mabotja further proposed that reference to NGO's be deleted as it does not constitute a field of knowledge and NGO's are represented in Regulation 7 (e).

2.4.2 The Authority's Decision:

2.4.2.1 Regarding the proposal to open the vacant positions for direct application by prospective applicants, it is envisioned that the CAP is made of members who represents designated groups as outlined in regulation 7 (2). In order to ensure their legitimacy, it is important that applicants be appointed by way of nomination as opposed to direct applications as proposed by Ms Mabotja.

- 2.4.2.2 The Authority agrees with Ms Mabotja's proposal to include economics and engineering as a skills requirement when nominating Panel members and has amended regulation 4 (2) (b).

2.5 **Ad Regulation 5: Membership of the Consumer Advisory Panel**

2.5.1 **Submissions Received**

- 2.5.1.1 MTN supported the suggested tenures for both the Panel members and the Chairperson, and further suggested the appointment of a deputy or vice Chairperson if the Chairperson is not available.
- 2.5.1.2 Ms Mabotja made a similar proposal to ensure that the Deputy Chairperson has the attributes and ensure continuity and consistency.
- 2.5.1.3 The CAP Committee appreciated the rationale for the reduction of panel members from eleven (11) to nine (9) members, but requested the Authority to consider the implications of a reduced panel. The CAP Committee explained in detail the implications that could affect a reduced Panel in their submission.
- 2.5.1.4 Ms Mabotja further proposed that regulation 5 (1) provide for the appointment of 15 Members to the Panel as opposed to 9 without further substantiation.

2.5.2 **The Authority's Decision:**

- 2.5.2.1 The Authority has made provision for the appointment of a new Chairperson or an acting Chairperson in the event the Chairperson resigns, as per Regulation 6 (2).
- 2.5.2.2 The Authority is operating under a reduced budget and that affects the available budget of the Panel. The Authority is of the view that the enhanced requirements of regulation 7 (1), requiring Panel members to have a minimum of five (5) years' experience in the electronic

communications, broadcasting and postal services sectors compensates for the reduction from eleven (11) to nine (9) members. The Authority is of the considered view that a reduced but well experienced Panel will be able to deliver its mandate and ensure that all members are contributing meaningfully to the work of the Panel.

2.6 Ad Regulation 6: Resignation

2.6.1 Submissions Received

2.6.1.1 MTN supports the recommended one (1) month written notice period for when Panel members resign. With regard to resignation of an acting or new Chairperson, MTN suggests that the notice period be amended to two (2) months, given the administrative process of replacing the Chairperson and the process of finalising projects and handing over.

2.6.2 The Authority's Decision:

2.6.2.1 The Authority notes MTN's suggestion of two (2) months written notice period for the Chairperson upon resignation. In terms of regulation 6 (2) the Authority is empowered to appoint a chairperson from the remaining Panel members and will thus not need to cater for additional time to replace the Chairperson or to facilitate a handover. The Authority is of the view that the proposed 1 month written notice as per regulation 6 (1) is sufficient for all Panel members including the Chairperson.

2.7 Ad Regulation 7: Eligibility of Panel members

2.7.1 Submissions Received

2.7.1.1 MTN supported the proposed minimum period of experience proposed in the electronic communications, broadcasting and postal sector as they believe the members should be fit and proper. MTN was also in favour of the Panel representing different groups in society. MTN has, however,

noted that representatives from industry were not explicitly included as potential Panel members, nor were industry representatives from the electronic communications, broadcasting or postal sectors appointed as Panel members. MTN believes that industry representatives have first-hand knowledge of products, technology and consumer insights that would assist the Panel and realise benefits for consumers. MTN proposed that the regulations explicitly provide for membership by industry representatives.

- 2.7.1.2 The CAP Committee proposed that the Authority replace the reference to experience in the ICT sector with electronic communications, broadcasting and/postal services sector and that the Authority scrutinise the five (5) year requirement during the shortlisting phase.
- 2.7.1.3 Ms Mabotja proposed a minimum of three (3) years' experience in the ICT sector to allow for the youth to participate.

2.7.2 **The Authority's Decision:**

- 2.7.2.1 The Authority notes MTN's proposal for the inclusion of industry representatives as panel members. However, in order to avoid potential conflicts of interest the members appointed to the panel should not represent specific market participants in order to ensure that they are able to act in the broader interest of consumers and the public at large.
- 2.7.2.2 The Authority noted the CAP Committee's submission, and reference to ICT sector has been replaced with electronic communications, broadcasting and postal services sector.
- 2.7.2.3 The Authority does not agree with the proposed three (3) years' experience proposed by Ms Mabotja, as it believes the five (5) years' experience proposed in the Regulations is more appropriate to bring into existence a well-experienced Panel which will advise the Authority on the basis of in-depth experience.

2.8 Ad Regulation 8: Disqualification

2.8.1 Submissions Received

2.8.1.1 MTN supported the conditions set out in the Regulations for disqualifying Panel members from occupying the position.

2.8.2 The Authority's Decision:

2.8.2.1 The Authority notes MTN's support of the conditions for the disqualification of Panel members.

2.9 Ad regulation 9: Removal of Panel Members from Office

2.9.1 Submissions Received

2.9.1.1 Ms Mabotja proposed that the Authority should revise regulation 9 (c) as follows: "absence from three consecutive meetings of Panel without acknowledgement of the Chairperson, except on good cause shown". She further submitted that Panel members were not subordinates and therefore need no approval to be absent from a meeting.

2.9.2 Authority's Decision:

2.9.2.1.1 The Authority notes and agrees with Ms Mabotja's comment and has accordingly amended Regulation 9 (c) to reflect that a panel member does not need the permission from the Chairperson, however the Chairperson does need to acknowledge the Panel member's absence from a meeting.

2.10 **Ad Regulation 10: Induction of panel members**

2.10.1 **Submissions Received**

2.10.1.1 MTN supported the introduction of the induction process which will facilitate Panel members becoming familiar with ICASA operations.

2.10.1.2 The CAP Committee also supported the induction of Panel members and proposed that the Authority include inducting Panel members on the Authority's strategic plan and high-level regulatory universe.

2.10.1.3 Ms Mabotja proposed that the Authority consider a special focus on organisational strategy, the roles of Council Committees, and linkages and regulations governing the organisation and the relevance of CAP's role.

2.10.2 **The Authority's Decision:**

2.10.2.1 Regulation 10 is open-ended, the scope of an induction is not limited, and the Authority is amenable to covering any relevant area of interest which may impact the role and responsibilities of the Panel.

2.11 **Ad Regulation 11: Functions of the Chairperson**

2.11.1 **Submissions Received**

2.11.1.1 MTN supported the duties enumerated for both the Chairperson and Panel members, but submitted that the duties should be obligatory, as failure to fulfil the duties without any reasonable justification should result in removal from office.

2.11.1.2 With regards to Regulation 11 (f) the CAP Committee proposed that the Authority replace the requirements of Chairperson to manage the budget with a monitoring role as the Chairperson does not have daily control of the budget.

2.11.1.3 Ms Mabotja proposed that the Authority delete the provision of Regulation 11 (f) given that the Panel only works in an advisory capacity on a part-time basis and is dependent on ICASA for its resources – the Authority’s finance department does not report to the Chairperson of the Panel. It is therefore impossible for the Chairperson to manage the budget. Ms Mabotja further submitted that the Chief Financial Officer is the Ex-officio Member of the Board and as an Accounting Officer he or she is accountable for ICASA governance inclusive of oversight of operational management and as such he or she manages the Budget or finances. According to Ms Mabotja, the Panel Members can only prepare an Annual Plan and Budget for approval by the Authority but has no capacity to manage the Budget as per reasons provided.

2.11.1.4 The CAP Committee proposed the insertion of an additional sub-regulation 11 (g): *“In the execution of its mandate the Panel may need to set up Working Groups to focus and facilitate its work between meetings of the full CAP”*. The CAP Committee further proposed that the Chairperson, as part of his or her function to allocate and manage the Panel’s work as per regulation 11(a) and (f), shall approve such Working Group meetings.

2.11.1.5 Further, the CAP Committee submitted that the reason for giving the Chairperson the responsibility to approve Working Group Meetings is to ensure that such decisions are made quickly as they are operational and essential to achieving the Panel Work Plan targets as the Chairperson is, in any event, already tasked with “monitoring” of the budgetary resources.

2.11.2 **The Authority’s Decision:**

2.11.2.1 The Authority notes MTN’s submission regarding the need to make the duties of the Chairperson obligatory. The functions of the Chairperson are already couched in mandatory terms given that regulation 11 emphasis that the Chairperson must carry out the duties enumerated in regulation 11 (a-f). Furthermore regulation 9 (1) (b) provides that a Panel member

may be removed from office on account of inability to perform the roles of Chairperson, Acting Chairperson or Panel member.

2.11.2.2 Having considered the CAP Committee and Ms Mabotja's submissions, the Authority has replaced the management requirement in relation to the budget with a monitoring requirement. The Authority is of the view that the Chairperson of CAP should be able to exercise the monitoring function as and when assigning tasks to the Panel members.

2.11.2.3 Further, The Authority is of the view that working groups can be included in the Panel's operational plan.

2.12 **Ad Regulation 12: Functions of the Panel**

2.12.1 **Submissions Received**

2.12.1.1 The CAP Committee proposed rewording of Regulation 12 (e) to only the carrying out of "preliminary" research on issues affecting consumers.

2.12.1.2 Ms Mabotja, without motivation, proposed regulation 12 (2) be amended to reflect that the Panel establish the following three Sub-Committees:

2.12.1.2.1 Stakeholder Engagement and Advocacy (Chairperson and 4 members);

2.12.1.2.2 Research and Regulations Analysis (Chairperson and 4 member); and

2.12.1.2.3 Strategy, Budget and Risk (Chairperson and 4 members).

2.12.2 **The Authority's Decision:**

2.12.2.1 The Authority is of the view that the Panel will have the necessary expertise (five years' experience in the electronic communications, broadcasting and postal services sector) to carry out the required research on issues affecting consumers beyond preliminary research findings.

2.12.2.2 Further, the Authority is of the view that Sub-Committees can be achieved through the Panel's workplans.

2.13 **Ad Regulation 13: Meetings of the panel**

2.13.1 **Submissions Received**

2.13.1.1 The CAP Committee submitted that the Authority must ensure that Panel meetings are made accessible to persons with disabilities.

2.13.2 **The Authority's Decision:**

2.13.2.1 The Authority notes the submission. The Authority is always sensitive towards the needs of persons with disabilities and will endeavour to cater for such needs on a case-by-case basis to enable affected Panel members to perform their functions.

2.14 **Ad Regulation 18: Minutes**

2.14.1 **Submissions Received**

2.14.1.1 The CAP Committee proposed that the Authority amend regulation 18 (2) to include offering of *secretariat* support towards all panel activities.

2.14.2 **The Authority's Decision:**

2.14.2.1 The Authority will provide administrative support afforded to the Panel and as explained in clause 0 above it is not necessary to revise regulation 18 (2).

2.15 **Ad Regulation 19: Decisions of panel**

2.15.1 **Submissions Received**

2.15.1.1 MTN submitted that it was in favour of the recommendations or decisions being determined through majority vote. The stipulated total number of Panel members, which is ten (10), will make the voting process more efficient, as the Chairperson or acting Chairperson will have a casting vote.

2.15.2 **The Authority's Decision:**

2.15.2.1 The Authority notes MTN's support for the Panel's decisions to be determined by a majority vote. The Authority points out, however, that regulation 5 (1) provides that the Authority will appoint nine (9) members of the Panel instead of the ten (10) stipulated by MTN.

2.16 **Ad Regulation 22: Recommendations of the panel**

2.16.1 **Submissions Received**

2.16.1.1 The CAP Committee recommended that the Authority should include an additional sub regulation that clarifies what the Authority does with the recommendations of the Panel. The CAP Committee submits that it is prudent to ensure that there is also an obligation on the Authority's part to provide visibility and regular feedback on how and what happens with these recommendations.

2.16.1.2 Further, the CAP Committee expressed that in its engagements with the Authority it has consistently expressed concern about the lack of engagement with some of the recommendations that it submits from time to time.

2.16.2 **The Authority's Decision:**

2.16.2.1 The Authority notes the concerns from the CAP Committee. The Authority considers all recommendations from the Panel and the Panel members may request for feedback on any of its recommendation.

2.17 **Ad Regulation 24: Engagements with other consumer bodies**

2.17.1 **Submissions Received**

2.17.1.1 MTN welcomed the proposal made in the regulation relating to collaboration with other consumer bodies as that will result in more coherent consumer services across the board, as well as giving the Panel the opportunity to learn from and add to the existing body of knowledge in the field. They further submitted that a collaborative position will be of benefit to the consumers and similarly placed consumer bodies.

2.17.1.2 Ms Mabotja proposed that regulation 24 (3) be amended to say that the Authority will as opposed to may pay for registration fees and membership fees required where necessary.

2.17.2 **The Authority's Decision:**

2.17.2.1 The Authority notes MTN's support in relation to Regulation 24 (1).

2.17.2.2 The Authority considered Ms Mabotja proposal but is of the considered view that it is within the Authority's discretionary powers to pay registration and membership fees for Panel members. The Authority will assess the necessity for such membership and registration payments request from time to time and advise members of its decision.

2.18 **Ad Regulation 25:**

2.18.1 **Submissions Received**

2.18.1.1 Ms Mabotja proposed that regulation 25 be amended to say that the Authority will as opposed to may pay the travel and accommodation expenses of a Panel member.

2.18.2 **The Authority's Decision:**

2.18.2.1 The Authority will consider request from Panel members and advise the Panel of its decision towards such request for travel and accommodation from time to time.

END