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IMPORTANT NOTICE

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GENERAL NOTICE

Independent Communications Authority of South Africa

General Notice

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GENERAL NOTICE

NOTICE 913 OF 2010

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

The Independent Communications Authority of South Africa ("the Authority"), hereby gives notice in terms of section 4(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the EC Act") of its intention to publish regulations in terms of section 71 (1) and (2) in respect of Consumer Advisory Panel.

A copy of the proposed regulations is available on the Authority's website (www.icasa.org.za) and in the ICASA Library at 164 Katherine Street, Pin Mill Farm, First Floor, Block D between 10h00 and 16h30, on working days only.

Interested persons are hereby invited to submit written representations on these draft Consumer Advisory Panel Regulations by no later than 1 November 2010 by post, hand delivery, facsimile transmission or electronic mail (in Microsoft Word) for the attention of:

Ms. Thenjiwe Dube
Project Leader
ICASA
Private Bag X10002
Sandton
2146

or

Block C
Pinmill Farm
164 Katherine Street
Sandton

Facsimile: (011) 566 3408

or

Telephone: (011) 566 3407

Electronic mail: tdube@icasa.org.za

Persons making written representations are requested to indicate if they wish to make oral submissions; the estimated duration thereof must not exceed 45 minutes.

All written representations submitted to ICASA pursuant to this notice will be made available for inspection by interested persons at the ICASA library and copies of such representations will be obtainable on payment of the prescribed fee.

At the request of any person who submits written representations pursuant to this notice, ICASA will determine whether such representations or any portion thereof is confidential in terms of section 4D of the ICASA Act. If the request for confidentiality is refused, the licensee making the request will be allowed to withdraw such representations or portion thereof

The final regulations will be published in the Government Gazette.



STEPHEN MNCUBE
CHAIRPERSON
ICASA

Schedule

1. DEFINITIONS

In these regulations a word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned, unless the context otherwise indicates:

- (1) **"the Act"** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);
- (2) **"Consumer"** means a person who uses the services of a licensed service provider as referred to in Chapter 3 of the Electronic Communications Act (Act No. 36 of 2005).
- (3) **"Panel"** means the Consumer Advisory Panel (CAP) established in terms of Section 71 of the ECA.
- (4) **"Panel Member"** means a member of the Consumer Advisory Panel (CAP) established in terms of Section 71 of the ECA.

2. PURPOSE OF THE REGULATIONS

The purpose of these regulations is to:-

- (1) establish the Consumer Advisory Panel (CAP);
- (2) prescribe the constitution of the Panel; and
- (3) prescribe the functions and obligations of the Panel.

3. ESTABLISHMENT OF THE CONSUMER ADVISORY PANEL (CAP)

The Authority hereby establishes the CAP in terms of Section 71 of the Act.

4. COMPOSITION AND APPOINTMENT OF PANEL MEMBERS

- (1) The CAP will consist of not less than nine (9) and not more than thirteen (13) persons.
- (2) The composition of the Panel will result from an open public process to be determined by the Authority.
- (3) Members of the CAP will be selected to balance their consumer expertise and viewpoints in order to discharge their mandate.

- (4) The term of office for members of the Panel will be three (3) years.
- (5) The CAP will be constituted with representatives from among the organizations that represent: -
- (a) women;
 - (b) the youth;
 - (c) people with disabilities;
 - (d) Internet and electronic communications services;
 - (e) broadcasting services;
 - (f) postal services;
 - (g) small, micro and medium enterprises (SMME's);
 - (h) the Consumer Affairs Tribunal of the Department of Trade and Industry (DTI);
 - (i) the South African Local Government Association (SALGA);
 - (j) the National Consumer Forum (NCF);
 - (k) the South African National Consumer Union (SANCU);
 - (l) the consumer community based organization (CSO) or non governmental organization (NGO);
 - (m) any other interested stakeholder.
- (6) When viewed collectively, members of CAP to be part of demographics nationally

5. FUNCTIONS AND RESPONSIBILITIES OF THE CAP

The functions and responsibilities of the CAP are to -

- (1) advise on consumer matters of national importance that may have a direct impact on the Authority's operations and mandate, these include but not limited to:
- (a) technical issues;

- (b) consumer complaints;
 - (c) availability and access to services;
 - (d) policy issues; and
 - (e) strategies to be adopted by the Authority.
- (2) provide advice on the impact of the Authority's regulatory activities on the consumer;
 - (3) make recommendations and suggestions to the Authority on current consumer concerns;
 - (4) provide advice on consumer issues referred to it.

6. OBLIGATIONS OF A MEMBER OF THE PANEL

A member of the PANEL must-

- (1) at all times act as part of the Panel and in the best interests of the Authority;
- (2) attend meetings of the panel;
- (3) conduct herself or himself with the highest integrity and professionalism;
- (4) declare any potential or existing conflict of interest;
- (5) reflect values enshrined in the Constitution of the Republic of South Africa;
- (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 ICT industry;
- (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
- (8) act in the best interests of the consumer at all times.
- (9) collective decision making

7. MEETINGS OF THE CONSUMER ADVISORY PANEL

- (1) The Panel must meet as regularly as possible, provided that the number of meetings per annum must not be less than four (4) unless council provides on good cause shown.
- (2) The Chairman and other members of the panel, will be appointed by the Authority on a Non - executive basis.
- (3) The CAP must at its first meeting elect one of its members as a Deputy Chairman.
- (4) The quorum for any meeting of the Panel is a majority of its serving members.
- (5) The Chairman must convene meetings of the Panel as may be necessary for the proper execution of its functions.
- (6) If the Chairman is absent from a meeting, the Deputy Chairman must chair the meeting.
- (7) If both the Chairman and the Deputy Chairman are absent from a meeting the meeting must elect a temporary chairman to chair.
- (8) The Panel must make its own rules for governing meetings, including but not limited to:-
 - (a) The period of notice of any meeting; and
 - (b) The manner of giving notice of any meeting.
- (9) Unless a set procedure has been determined by the Authority, the Chairman of any meeting of the Panel must determine the procedure to be followed at such meeting.
- (10) The Panel must meet at such times and places as may be determined by the Chairman, in consultation with the Authority.
- (11) The Chairman must as far as is reasonably practical provide at least seven (7) days written notice of any meeting and attach an agenda to such notice.
- (12) Decisions of the Panel must be taken by majority vote. Such decisions of the members present at a meeting must constitute decisions of the Panel.
- (13) In the event of an equality of votes on any matter the person chairing the meeting has a casting vote.

8. REIMBURSEMENT OF MEMBERS OF THE PANEL-

The reimbursement of the Panel will comprise of honorarium covering all related subsistence and travel claims associated with the functions of the Panel;

9. TRAVEL, ACCOMMODATION AND ASSOCIATED EXPENSES

The travel and accommodation policy and tariffs of the Authority shall apply.

10. SECRETARIAT AND RECORD KEEPING

- (1) All secretariat duties and administrative support of the Panel will be provided by the Authority.
- (2) The Panel must keep minutes of all its meetings and provide an updated list of its activities.
- (3) Records and proceedings of the Panel will be kept at the Authority's Head Office.

11. PROCEEDINGS OF THE PANEL

- (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.
- (2) Every recommendation of the Panel must be;
 - (a) recorded in writing;
 - (b) based on facts; and
 - (c) submitted by the Chairman or Deputy Chairman of the Panel to the Authority.

12. REPORTING BY THE PANEL

The Panel must -

- (1) file a written report with respect to its findings, advice and recommendations;
- (2) prepare a written report on its activities on a quarterly and annual basis as may be directed by the Authority.

13. INTERACTION WITH THE MEDIA

- (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 without prior approval by the Authority, through the Chairman.
- (2) Any media enquiries on the Panel activities or any matter must be directed to the Authority.

14. VACANCIES AND REMOVAL OF A PANEL MEMBER

- (1) A vacancy will arise in the Panel where the Authority removes a member on any of the following grounds:
 - (a) upon conviction of a criminal offence;
 - (b) where a member is found guilty of misconduct within his or her organization;
 - (c) a finding by the Authority that a member has brought the Authority or the Panel into disrepute;
 - (d) incapacity or failure by a member to fully discharge his or her responsibilities;
 - (e) a member's failure to discharge his or her responsibilities for a continuous period of three (3) months without just cause;
 - (f) a member has been absent for more than two (2) consecutive meetings of the Panel without an apology.
- (2) A vacancy will also arise upon the resignation or death of a member.
- (3) The Authority may appoint any person it deems fit to fill the vacancy.

15. SHORT TITLE AND COMMENCEMENT

These regulations are called the Regulations on the establishment and constitution of the Consumer Advisory Panel, 2010 and shall come into force on publication in the Government gazette.

16. REPEAL

The Consumer Advisory Panel Regulations, Government Gazette No. 30273 dated 10 September 2007 are hereby repealed.
