



**NAB WRITTEN SUBMISSION TO THE REGULATIONS  
SETTING OUT STANDARDS FOR END-USER AND  
SUBSCRIBER SERVICE CHARTERS**

16 MAY 2008

## **1. INTRODUCTION**

1.1 On 13 July 2007, the Independent Communications Authority of South Africa (ICASA) published in Government Gazette number 30073, a notice of its intention to make regulations in respect of End-user and Subscriber Service Charters for Postal, Broadcasting, Electronic Communications Network Services and Electronic Communications Service Licensees (draft regulations). The closing date for written submissions was 24 August 2007. The NAB and a number of its members made written submissions.

1.2 Subsequently, ICASA invited stakeholders to participate in a consultative workshop on 17 October 2007. The NAB, and its members were represented in this workshop. The workshop focused on the Draft Regulations in respect of End-user and Subscriber Service Charter. It is worth noting that comments made in the submissions made on 24 August 2007 by interested parties, were not incorporated in the draft Regulations that were being discussed in the workshop, despite the fact that the written comments had been submitted to the Authority more than a month before.

1.3 Furthermore, the NAB and its members were unsure about the process being followed. It was not clear whether ICASA intended replacing individual oral hearings with consultative workshops, or whether the workshop was to be supplemented by oral hearings. Broadcasting service licencees (broadcasters) indicated that they were more comfortable with ICASA holding individual oral hearings, as opposed to consultative workshops.

1.4 In the workshop two discussion groups were established, one comprising Broadcasters, and the other comprising Electronic Communications Service Licencees (ECS licencees) and Electronic Communications Network Service Licencees (ECNS licencees). At the end of the plenary session, the groups were requested to submit their written comments within 7 days. The broadcasting service licencee group submission was made under cover of the letter dated 26 October 2007.

1.5 ICASA did not call for oral hearings in this regard, but proceeded to publicize, in Government Gazette number 30792, the final Regulations Setting out Minimum Standards for End-user and Subscriber Service Charter (the Regulations) on 25 February 2008.

1.6 The NAB would like to commend ICASA as the workshop was productive. The NAB is pleased to note that the broadcaster's inputs made at the workshop played an influential role in the drafting of the final Regulations, as, to a large extent, ICASA has incorporated the comments made by broadcasters. However there are certain areas where broadcasters are of the view that ICASA can improve on. These will be discussed in detail in subsequent paragraphs. The NAB therefore welcomes the opportunity ICASA has availed by resolving to reconsider the Regulations, by opening them for further comment, as published in Government Gazette 30956, dated 07 April 2008.

## **2 COMMENTS ON THE REGULATIONS**

### **2.1 AD PARA 3 THE SCOPE AND APPLICATION OF THE REGULATIONS**

2.1.1 From the onset, broadcasters indicated that the application of the regulations as they were would not be possible, as the draft regulations created confusion as to which of the provisions of the draft regulations were applicable to a particular type of licensee. Therefore it was recommended in the Broadcasters' submission that where a particular section relates only to a particular class of licensees, generic terms such as *all licensees* should not be used. The NAB therefore recommends that the scope and application of the regulations should be phrased as follows:

*"The Regulations prescribe the minimum standards for end-user and subscriber service charters applicable to the relevant licensees in each licence category."*

2.1.2 We propose further that each regulation should indicate clearly which category of licensees it applies to.

### **2.2 AD PARA 4.9 CONSUMER CONFIDENTIALITY**

2.2.1 It is recommended that in the interest of consistency, the use of the word "customer" in paragraph 4.9 should be substituted with end-user and subscriber.

### **2.3 AD PARA 5.1 COMPLAINTS PROCEDURE**

#### **2.3.1 Ad para 5.1 (d) Licensees must formally resolve all complaints within 14 days upon receipt of a complaint**

The practical experience of dealing with complaints received by the broadcaster is that in most of the cases, it is not possible to resolve

complaints within 14 days. The steps needed to give due attention to a complaint once it is received are sometimes lengthy.

The NAB therefore suggests that the prescribed period within which a complaint should be resolved should be increased to 30 days from date of receipt of the complaint.

**2.3.2 Ad para 5.1(f): A licensee must prepare six-monthly reports on complaints received and processed, copies of which must be submitted to the Authority.**

In terms of their licence conditions, broadcasters are currently required to submit annual Complaints Report annually to ICASA. By introducing a requirement to submit six monthly complaints reports, ICASA is introducing some inconsistency. The NAB therefore suggests that this provision be deleted from the regulations as it is already provided for in the broadcaster's licence conditions. Alternatively, the Regulations must require the reporting to be done annually in order to be in line with the broadcaster's licence conditions.

**3. CONCLUSION**

The NAB thanks ICASA for the opportunity of making these representations on the Regulations Setting out Minimum Standards for End-user and Subscriber Service Charters.