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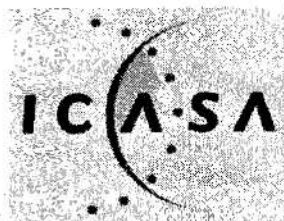
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GENERAL NOTICE

NOTICE 1648 OF 2001**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA****NOTICE IN TERMS OF THE TELECOMMUNICATIONS ACT, 1996 (ACT 103 OF 1996), WITH RESPECT TO METROPOLITAN AND CITY COUNCILS USING CLOSED CIRCUIT TELEVISION (CCTV) SURVEILLANCE SYSTEMS IN THE FORM OF PRIVATE TELECOMMUNICATIONS NETWORKS.**

The Independent Communications Authority of South Africa ("ICASA") hereby gives notice to Metropolitan and City Councils (the entities) of the Republic of South Africa on the status of a Closed Circuit Television (CCTV) Surveillance System in relation to the Telecommunications Act 103 of 1996.

What provision does the Act make for CCTV Surveillance Systems?

The establishment of CCTV Surveillance Systems by the entities referred to herein, where remote surveillance units are connected to a central control room is governed by the provisions of section 41 of the Telecommunications Act where such systems are established for purposes principally or integrally related to the operations of such entities.

A CCTV Surveillance System can be classified as a telecommunication system by means of which a person can provide a telecommunication service. It may carry voice, video or data and falls within the ambit of a Private Telecommunication Network (PTN) and section 41 of the Telecommunications Act therefore applies.

Section 41(2) (a) provides that telecommunication facilities made available by Telkom or any other licenced person providing a public switched telecommunication network (PSTN) shall be used **but** states in subsection (b) that this requirement does not apply in respect of a system situated on a single piece of land or contiguous pieces of land owned by the same person.

When should a CCTV Surveillance System (PTN) be licensed?

Section 32(1) of the Telecommunication Act states that *"no person shall provide a telecommunication service except under and in accordance with a telecommunication service licence issued to that person"*.

According to Section 41(1) of the Telecommunications Act a PTN does not require a telecommunication service licence, where it is not interconnected to Telkom or any other person providing a PSTN. Thus, a PTN only requires a licence when it is interconnected to a PSTN.

Does leasing of Telkom facilities for a PTN constitute interconnection?

Section 41(1)(a) clearly differentiates between interconnection and facilities leasing and it is evident from this section that the leasing of any facilities of Telkom does not constitute interconnection. A PTN that comprises of facilities made available by Telkom, amongst others, may not necessarily be interconnected to Telkom or any other PSTN.

Is a person, who is providing a PTN on a single piece of land or contiguous pieces of land which is owned by that person compelled to lease telecommunication facilities from Telkom?

No. Section 41(2)(a)&(b) clearly exempts the scenario where a PTN is provided by means of a telecommunication system situated on a single piece of land or contiguous pieces of land.

A person providing a telecommunication system on a single piece of land or contiguous pieces of land may lease telecommunications facilities from Telkom, or any other PSTN operator. That person however is in no way limited to using only Telkom's telecommunication facilities, or any other licensed PSTN operator's telecommunication facilities as long as the PTN is situated on the single piece of land or contiguous pieces of land owned by that person. Any facilities in adjacent land or on structures in adjacent land would therefore fall out of the contiguous or single piece of land.

What type of facilities may be used to provide a CCTV Surveillance System?

- a) Any form of cable, be it copper, fibre optic, co-axial, UTP, etc.
- b) Radio Frequency (RF) facilities may be used, but only if licensed by the Authority as prescribed in section 30 of the Act.

**MANDLA LANGA
CHAIRPERSON
ICASA**

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