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## GENERAL NOTICE

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### NOTICE 2355 OF 2001

#### ESTABLISHMENT AND CONSTITUTION OF THE BROADCASTING MONITORING AND COMPLAINTS COMMITTEE OF THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

##### *Definitions:*

*"the Authority" refers to the Independent Communications Authority of South Africa (ICASA)*

*"the Unit" refers to the Monitoring and Complaints Unit of ICASA*

*"the BMCC" refers to the Broadcasting Monitoring and Complaints Committee of the ICASA*

*"the Chairperson" refers to the Chairperson of the BMCC*

##### **Establishment**

- 1.) The BMCC is a standing committee of the Authority as contemplated under section 17 of the ICASA Act, 13 of 2000.
- 2.) The Chairperson of the BMCC shall be a judge of the Supreme Court of South Africa (whether on active service or not) or an advocate or attorney of at least 10 years' standing or a magistrate or retired magistrate with at least 10 years' appropriate experience.
- 3.) The BMCC, as established in terms of section 17 of the ICASA Act, must consist of:
  - a.) one or more councillors designated by the Council;
  - b.) a Chairperson who shall meet the requirements of section 2 above
  - c.) a Deputy Chairperson who shall meet the requirements of section 2 above; and
  - d.) at least ten additional appointed members.
- 4.) The additional members referred to in subsection (3)(d) must be persons who-
  - a.) are not subject to disqualification contemplated in section 6(1)(d) to (l) of the ICASA Act; and
  - b.) on account of their expertise, qualifications and experience are suited to serve the BMCC.

##### **Constitution of and appointment of members to the BMCC**

- 5.) The members of the BMCC shall be appointed by the Council. In appointing members the Council shall be guided by the following principles:
  - a.) participation by the public, in the nomination process;
  - b.) transparency and openness;
  - c.) applications and nominations will be evaluated by the existing members of the BMCC and recommendations made to the Council; and

- d.) the Council will make appointments.
- 6.) The Chairperson of the BMCC shall meet the requirements of section 2, above.
- 7.) Other persons appointed to the BMCC must be persons who-
  - a.) are committed to fairness, freedom of expression, openness and accountability; and
  - b.) when viewed collectively-
    - i.) are representative of a broad cross-section of the population of the Republic; and
    - ii.) possess suitable qualifications, expertise and/or experience in one or more of the following fields, amongst others, broadcasting policy, law, marketing, journalism, entertainment, education, economics, business practise and finance or any other related expertise or qualifications.
- 8.) At least one other member of the BMCC, apart from the Chairperson, must meet the requirements of section 2 above, and shall be appointed as Deputy Chairperson. This person shall be required to act as Chairperson of any hearings of the BMCC in the absence of the Chairperson.

#### **Terms of office**

- 9.)
  - a.) The Chairperson holds office for a period of four years as from the date of his or her appointment.
  - b.) Such Chairperson that holds office with the coming into effect of these regulations will hold office for a period of three years as from the date of publication of these regulations.
  - c.) The Deputy Chairperson holds office for a period of four years from the date of his or her appointment.
  - d.) Additional members hold office for a period of three years as from the date of their appointment.
  - e.) Such additional members that hold office with the coming into effect of these regulations will hold office for a period of two years as from the date of publication of these regulations.
  - f.) The Chairperson may at any time, upon at least three months' written notice tendered to the Council, resign from office.
  - g.) An additional member may at any time, upon at least two months written notice tendered to the Council, resign from office.
  - h.) The Chairperson and additional members may at the end of their term of office be reappointed.
  - i.) Where a vacancy has arisen-
  - j.) the procedure as contemplated in sections 6 and 7 applies.

- iii.) any member appointed under this subsection holds office for the rest of the period of the predecessor's term of office, unless the Council directs that such member holds office for a longer period which may not exceed three years.

#### **Removal from office**

10.) (1.) Subject to subsection (2), a BMCC member may be removed from office by the Council for one or more of the following-

- a.) misconduct;
- b.) inability to perform the duties of his or her office efficiently;
- c.) absence from three consecutive meetings of the BMCC without permission of the BMCC, except on good cause shown;
- d.1.) failure to disclose an interest or voting or attendance at, or participation in, any meeting or hearing of the BMCC, nor be present at the place where the meeting is held, if-
- d.2.) in relation to any matter before the BMCC, he or she has any interest which may preclude him or her from performing his or her functions as a BMCC member in a fair, unbiased and proper manner.

10.) (2.) A BMCC member may only be removed from office by a decision taken by the Council on a simple majority.

#### **Remuneration**

11.) The members of the BMCC, who are not councillors or members of the staff of the Authority shall be paid such remuneration and allowances as the Council determines.

#### **Meetings and hearings of the BMCC**

- 12.)
- a.) Meetings of the BMCC must be held at such times and places as the BMCC may determine.
  - b.) The Chairperson may at any time convene a special meeting of the BMCC held at such a time and place as the chairperson may determine.
  - c.) The quorum of any meeting of the BMCC is the majority of the BMCC members in office at the time.
  - d.) The quorum of any hearing of the BMCC shall be the chairperson or the deputy Chairperson, representative from Council and one additional member.
  - e.) In the event of the absence of the Chairperson from a meeting of the BMCC the deputy Chairperson shall chair such a meeting.
  - f.) The Chairperson or Deputy Chairperson must preside over any hearing into the adjudication of any complaint.
  - g.) In the event of an equality of votes regarding any matter, the Chairperson has a casting vote in addition to his/ her deliberative vote.
  - h.) The BMCC must as soon as reasonably possible determine the form and procedure as regards the adjudication of any complaint.



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