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Mr. Lumkile Qabaka
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PRETORIA

Per Email: LQabaka@icasa.org.za
chairperson@icasa.org.za

Dear Mr. Qabaka

REQUEST FOR WRITTEN COMMENTS TO THE DRAFT CONFORMITY ASSESSMENT FRAMWEWORK FOR EQUIPMENT AUTHORISATION

1. The draft Conformity Assessment Framework for Equipment Authorisation for consultation regulations ("**draft Regulations**") published in *Government Gazette 42108* on 13 December 2018 refers.

2. Cell C welcomes the Authority's invitation to comment on these draft Regulations and thanks the Authority for the extension granted for written comments. Cell C confirms that it would be participating in the oral hearings when they are convened.

3. It is Cell C's understanding from the draft Regulations that the purpose of this exercise is to consult on a forward looking type approval regime that will be expanded towards reaching a robust Conformity Assessment Framework incorporating Conformity Assessment Schemes that have worked in other jurisdictions and will assist the Authority in resolving the current type approval challenges experienced by the ICT industry. In this regard, Cell C supports the initiative undertaken by the Authority and trusts that the outcome will culminate in the following amongst others:

    i. Improved consumer choice, quality of service at reduced costs,
    ii. Improved time to go to market,
    iii. The competitive environment for innovation and introduction of latest technologies, and

iv. To curb substandard and non-conforming products in the market by implementing the appropriate market surveillance mechanisms.

4. Cell C notes that this consultation is a follow through from the Authority's Position derived from the discussion document on Equipment Type Approval exemption. This is supported by the following statement by the Authority:

"The Authority shall embark on the process of reviewing the current Type Approval Framework and work towards a multi-level Conformity Assessment Framework based on the relevant criteria to deal with equipment intended to be made available commercially in the South African market. The broader framework will incorporate the circumstances under which MRA's may be entered into and provide for robust market surveillance activities."

5. From a Cell C perspective, Cell C believes that manufacturers, suppliers and Original Equipment Manufacturers ("OEM") have a greater role to play in respect of providing valuable input to these draft Regulations as some of them have operations in jurisdictions where the Conformity Assessment are mature and stable. In this regard, Cell C comments are minimal and restricted to the Authority's questions. Furthermore, we understand that the Authority intends addressing the following challenges:

a) The current Type Approval process is used for all different equipment categories due the lack of clarification of equipment according to its risk profiles;
b) The Authority accepts the ISO/IEC 17025 test reports from laboratories accredited by their local accreditation bodies in general;
c) Lack of effective post market surveillance mechanisms; and
d) Delays in time to market due to legacy type approval process.

Cell C recommends that these draft Regulations are followed by another round of consultation prior to publishing the final Conformity Assessment Framework regulations.

6. Question 1

In your view, what are the benefits of having conformity assessment to support the regulations?

The benefits of the conformity assessment ensures that the ICT equipment meet an acceptable level of quality prior to it being sold to the market. The Conformity Assessment scheme adopted must facilitate the above benefits whilst ensuring the cost of compliance is kept to a minimum, is efficient and effective and aligned with best practice including ITU guidelines.

7. Question 2

Do you see any benefits in risk profiling and the categorization of equipment in carrying out the conformity assessment?

Yes, it will help in determining the level of risk, probability of it arising and categorizing the risk level according to the impact it might have on networks and other equipment. It will also will provide certainty to the industry, avoid vagueness and allow for clear definitions on profiling and classifications of equipment.

Cell C recommends that the classification of different categories of equipment be determined as high or low risk. The high-risk equipment are considered as those that have low level of compliance and we propose equipment that operates in the Authority issued licensed radio frequency spectrum bands (under the radio frequency spectrum licence fee regime ie, administrative incentive pricing –AIP, ensures that Licensees have protected rights of use of their assigned spectrum) whilst we propose the low risk equipment to be those operating in the radio frequency spectrum ranges in the ISM bands.

8. Question 3

With the recommended steps for using conformity assessment in support of the regulations (figure 10), which of the steps would you say are missing in the Approval Framework, and how can they help improve the Approval Framework efficiency?

Communication step is key, and can be improved by regular engagements and collaboration between suppliers/manufactures, the regulator, operators and the interested parties e.g.

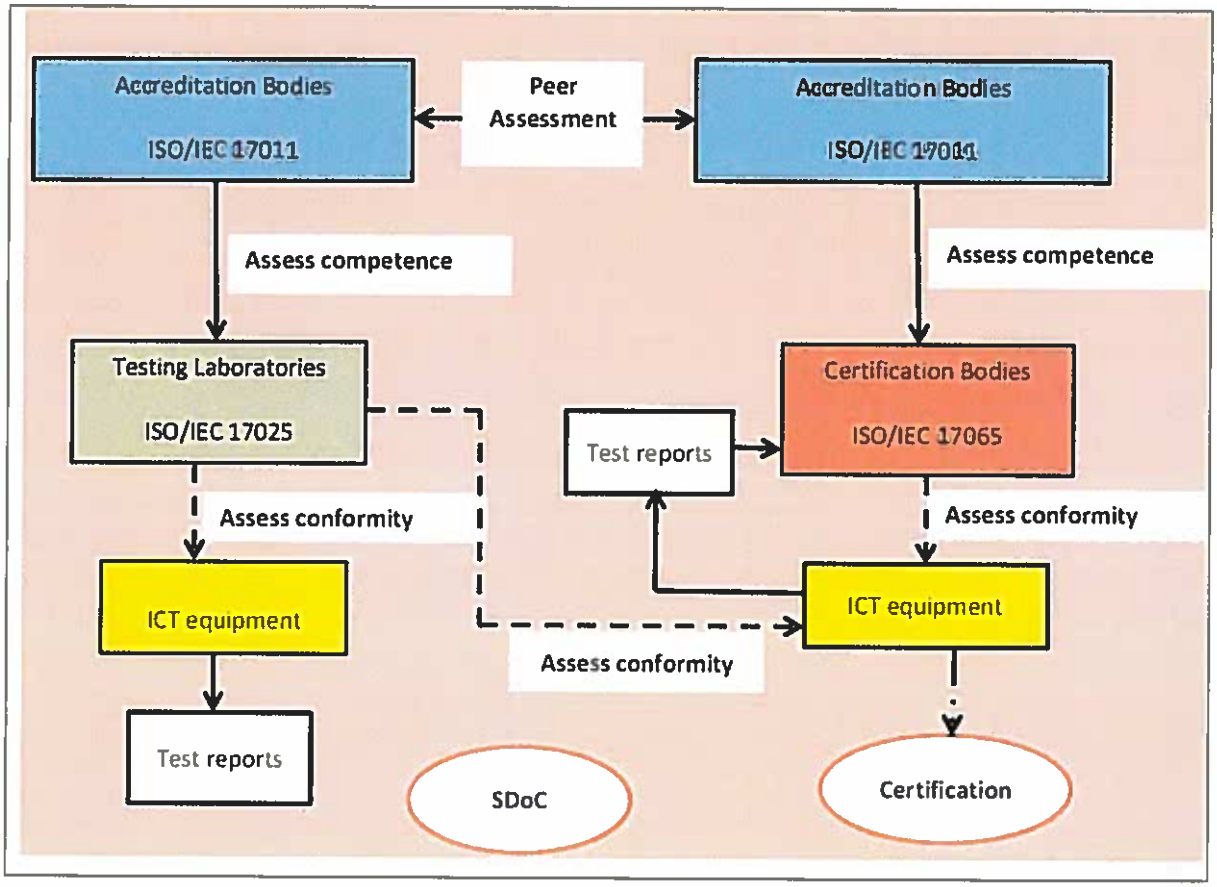
accessibility of information on a monthly basis of equipment that are type approved or rejected by the Authority for failing prescribed standards or in non-compliance with standards and specifications. This information may be placed on the Authority's website. In addition, the lack of surveillance requires a comprehensive plan to ensure that equipment continue to be in compliance with the regulated standards and specifications. The resources (eg. appointment of inspectors by the Authority) and management rules for this plan must be consulted and agreed upon by industry.

9. Question 4

Can you suggest an appropriate conformity assessment approach that can address the current Approval Framework challenges?

The current conformity assessment approach seem to be working for Cell C but may be significantly improved in terms of delays and the backlog of type approval applications. Cell C supports a two way approach, where the existing type approval process is supplemented with the Suppliers Declaration of Conformity ("**SDoC**") process.

However to accommodate SDoC procedure, it is Cell C's understanding that the Authority is required to recognise international bodies like International Laboratory Accreditation Co-operation ("**ILAC**") who appoint accredited calibration laboratories, testing laboratories and inspection bodies. In addition, Cell C recommends that frequent consultation and collaboration takes place with other local/international Conformity Bodies and Regulatory Authorities for the purposes of harmonising Conformity Assessment schemes. Cell C believes that this approach will alleviate the existing burden placed on the Type Approval process making way for efficiencies for time to go to market. Cell C recommends the approach proposed by the ITU in its document titled "*Establishing Conformity and Interoperability regimes: Basic Guidelines*", dated February 2014. Table below is an illustration of the guidelines:



10. Question 5

In South African context, what are the benefits for the Authority collaborating with other regulatory institutions/organizations/states?

The benefit will ensure that high quality equipment with the appropriate standards and specifications enter the marketplace whilst enjoying the benefits of equipment harmonization, interoperability, efficient type approval processes and economies of scale. The duplication of resources are avoided ensuring the cost benefits to the end-users.

11. Question 6

Given table 3, which SDoC scheme/s would best suit the South African market, and why?

Cell C recommends SDoC II procedure for the low risk equipment as this procedure will ensure improved go to market timeline. By the proposed definition of the low risk products, it is unclear where signal/cell extenders may be categorised. Cell C has experienced

interference from Cell signal/cell extenders. We believe such non-type approved equipment should be categorised as high risk due to the level of harm they cause to Cell C's networks and its subscribers and should be linked to the processes associated to high risk products. In addition, these signal/cell extenders operate in the licensed radio frequency spectrum bands. With the assistance of the Authority, these are only confiscated after detecting radio frequency spectrum interference (a re-active approach).

12. Question 7

In your definition/understanding, what ICT equipment can be classified as low risk and may be considered for equipment authorization exemption?
Cell C supports the list of equipment in Table 1 in the Type Approval exemption paper.

13. Question 8

What are the risks associated with exempting ICT equipment from Approval Framework, and how can they be mitigated or eliminated?
The integrity of Safety and Health for the public cannot be compromised, otherwise there are unintended consequences of loss of life, liability and brand defamation. In addition, there is a possibility of the marketplace being flooded with inferior / counterfeit / substandard equipment which also contributes to the degradation of the network and poor QoS. These challenges can be mitigated against by ensuring that all equipment undergoes the type approval or the conformity assessment processes.

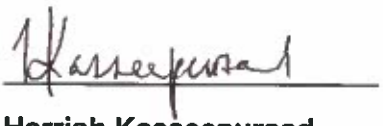
14. Question 9

What would you propose the Authority do to effectively execute its responsibilities on market surveillance considering the current fiscal challenges? The ICASA Act, Section 17 F provides for the appointment of Inspectors. The Authority may consider this provision for the execution of inspection of equipment in the market surveillance process similar to radio frequency spectrum interference investigations. However, for acquisition of test samples and equipment testing thereof, the Authority must plan and ensure adequate budget allocation to ensure compliant equipment are available in the marketplace.

15. Question 10

What are the prevalent equipment authorization challenges that may be experienced by manufacturers, distributors, suppliers and retailers post- and pre-market surveillance? Post-market surveillance challenges includes the process to seize unauthorised equipment from the marketplace by the Authority. There is no recourse for owners who unknowingly purchased these equipment. There is no liability on the persons owning this equipment that results in the degradation of network, subscriber complaints, poor QoS, revenue loss and brand defamation.

Yours sincerely



Harrish Kasseepursad

Executive: Regulatory