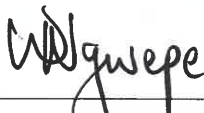



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## **CODE OF ETHICAL CONDUCT AND DISCLOSURE OF INTEREST**

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## 1. ACRONYMS AND DEFINITIONS

In this Code of Ethics, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings-

<b>Authority/ ICASA</b>	Independent Communications Authority of South Africa established in terms of section 3 of the ICASA Act.
<b>Business Partner</b>	a person who shares a financial interest with an employee of the Authority.
<b>Bribery</b>	Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of employees.
<b>Code of Ethics</b>	this Code of Ethical Conduct and Disclosure of Interest.
<b>CEO/ Accounting Officer</b>	the Chief Executive Officer appointed in terms of section 14(1)(a) of the ICASA Act.
<b>Committee</b>	The Audit, Risk, Ethics and Disclosures Committee.
<b>Compliance</b>	Adherence to the requirements of laws, industry and organisational standards and codes, principles of good governance and accepted ethical standards. This definition includes compliance with: <ul style="list-style-type: none"> <li>• Common Law;</li> <li>• The ICASA and EC Act;</li> <li>• All other applicable statutes; and</li> <li>• All internal policies and procedures, including the Authority's Code of Ethics.</li> </ul>
<b>Conflict of interest</b>	a situation in which an employee is in a position to derive personal benefit from actions or decisions made in his/her official capacity.
<b>Corruption</b>	The general offence of corruption is contained in Section 3 of The Prevention and Combating of Corrupt Activities Act. This section provides that any person who gives or accepts or agrees or

	<p>offers to accept / receive any gratification from another person in order to influence such other person in a manner that amounts to:</p> <ul style="list-style-type: none"> <li>• The illegal or unauthorised performance of such other person's powers, duties or functions;</li> <li>• An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules;</li> <li>• The achievement of an unjustified result; or</li> <li>• Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of corruption.</li> </ul> <p>Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty. Corruption takes various forms in the public service and elsewhere in society. The following are examples of different types of corruption: bribery theft, fraud etc.</p>
<b>Councillor</b>	a person who has been appointed as such in terms of section 5 of the ICASA Act.
<b>EC Act</b>	Electronic Communications Act, 2005 (Act No. 36 of 2005) as amended.
<b>ICASA Official</b>	For the purpose of application of this Code, it includes any person receiving or entitled to receive remuneration, including permanent and contract staff members as well as service providers assisting in carrying on the business of the Authority and external members of committees of the Authority, and members of Council and the CEO.
<b>Family member</b>	As the term relates to an ICASA Official, means his or her parent, child or spouse, permanent

	companion or dependents.
<b>Fraud</b>	<p>In South Africa, the Common Law offence of fraud is defined as “the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another”. The term “fraud” is also used in a wider sense by the general public.</p> <p>In this regard, the term is used in this Code of Ethics in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.</p> <p>Any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.</p>
<b>ICASA Act</b>	Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) as amended.
<b>Immediate family</b>	As the term relates to an ICASA Official, means his or her children, spouses’ children, brothers, sisters, spouses of his or her brothers and sisters, parents, spouse, and the parents of the spouse.
<b>Nepotism</b>	An employee ensuring that family members are appointed to public service positions or that family members receive contracts from the state is regarded as nepotism.
<b>Permanent Companion</b>	A person who is publicly acknowledged by an employee as his or her permanent companion, and includes an employee living with that person as if they were married to each other.
<b>PFMA</b>	Public Finance Management Act, 1999 (Act No. 1 of 1999).
<b>Policy</b>	A concise, formal and mandatory statement of principle which provides a framework for decision-making and a means by which the Authority reduces institutional risk. Policies support the Authority’s course for the foreseeable future and

	should therefore change infrequently.
<b>POPI Act</b>	Protection of Personal Information Act, 2013 (Act No. 4 of 2013).
<b>Procedure</b>	The steps required to implement and comply with a policy and meet its intent. A procedure specifies who does what and when. A procedure may be reviewed and revised more frequently than the policy it is associated with.
<b>Public Interest</b>	an outcome which affects any right of the public, public finances or the public good.
<b>Register</b>	the register of employees' disclosed interests.
<b>Registrable interest</b>	an interest required to be disclosed in terms of this Code of Ethics.
<b>Responsibility</b>	The management position responsible for implementation of a policy and procedures, and also responsible for monitoring implementation of and compliance with the policy and its associated procedures.
<b>Spouse</b>	an employee's partner in marriage, civil union and customary marriage.
<b>Thing of economic value</b>	means money or any items of economic value, Except: - <ul style="list-style-type: none"> <li>(1) Promotional items having no substantial resale value;</li> <li>(2) Food, drink, or refreshments consumed while as a guest of a person or representative of another entity; and</li> <li>(3) Salary or remuneration and related benefits due to public employment.</li> </ul>

## 2. INTRODUCTION

- 2.1. This Code of Ethics is subject to the provisions of the ICASA Act, the EC Act, the PFMA and Treasury Regulations, the Public Service Regulations, 2001 and any other applicable law or regulatory provision.
- 2.2. Section 11B of the ICASA Act requires the Authority to publish and make publicly available on its website and in its library a Code of Ethics which addresses amongst others, the processes for the disclosure required by section 7(7) and 12(2) of the ICASA Act, and which specifies the governance principles according to which the Authority or the Council functions, including, amongst others: -
  - 2.2.1 principles of mutual respect and collective responsibility;
  - 2.2.2 a requirement that the Council will, at all relevant times or places, have all relevant information necessary to make an informed decision, taking account of all relevant facts at its disposal; and
  - 2.2.3 a commitment by the Council to conduct the affairs of the Authority in accordance with the highest level of corporate government, including professionalism and integrity.
- 2.3. Compliance with the Code of Ethics will enhance professionalism and maintain public confidence in the Authority as an independent public body.
- 2.4. Although the Code of Ethics is intended to be as comprehensive as possible, it is not an exhaustive set of rules regulating standards of conduct. Heads of divisions, are, *inter alia*, under a duty to ensure that the conduct of their staff members conforms to the basic values and principles governing public administration.

## 3. PRINCIPLES

- 3.1. This Code of Ethics is predicated on the following foundational and key principles:
  - 3.1.1 Ethical corporate culture;



- 3.1.2 Integrity;
- 3.1.3 Rule of Law;
- 3.1.4 Honesty;
- 3.1.5 Accountability;
- 3.1.6 Responsiveness; and
- 3.1.7 Transparency.

#### **4. THE PURPOSE**

- 4.1 The purpose of this Code of Ethics is to provide: -
  - 4.1.1 the ethical standards for conduct expected from ICASA Officials; and
  - 4.1.2 a framework of reference for discharging duties and responsibilities and guidelines for disclosing any financial or business interest by ICASA Officials.
- 4.2 The Code of Ethics contains broad principles reflecting the types of behavior the Authority expects towards stakeholders, peers and the public.
- 4.3 This Code of Ethics is not intended to serve as a stand-alone policy. It does not embody the totality of the Authority's ethical standards, nor does it answer every ethical question or issue that might arise. Rather, it is one element of a broader effort to create and maintain a quality organization that gives ethical conduct the highest priority it deserves.

#### **5. THE SCOPE**

- 5.1 This Code of Ethics applies all ICASA Officials, whether employed permanently, temporarily or on a fixed term contract.
- 5.2 The Code of Ethics outlines the minimum ethical standards of behaviour that is expected from ICASA Officials which include upholding propriety, honesty, fair dealing, integrity, bona mores or good morals and ethical values.

- 5.3 The Code of Ethics incorporates the functions related to ethics and disclosures into the Committee to investigate hear and adjudicate/recommend on complaints that have been lodged against an ICASA Official for breaching or contravening a provision of this Code of Ethics.

## **6. COMPLIANCE WITH LAWS AND REGULATIONS**

ICASA Officials must:

- 6.1 comply, at all times with all applicable laws and regulations including the Constitution which relate to their activities for and on behalf of ICASA; and
- 6.2 ensure that their conduct cannot be interpreted as being in contravention of applicable laws and regulations governing the operations of ICASA, in any way.
- 6.3 ICASA will not condone any violation of the law or unethical conduct in any business dealing by any ICASA Official, including bribery or other participation in an illegal act.

## **7. RELATIONSHIP WITH STAKEHOLDERS**

7.1 Relationship with the public:

7.1.1 ICASA Officials should, when performing their official duties –

- 7.1.1.1 promote the unity and well-being of the South African nation;
- 7.1.1.2 serve the public in an unbiased and impartial manner in order to create confidence in the Authority;
- 7.1.1.3 be polite, helpful and listen to stakeholders and make all reasonable efforts to satisfy their needs and concerns within the scope of the Authority's mandate, and to strive for excellence and innovation and demonstrate professional respect and responsiveness to stakeholders;

- 7.1.1.4 have regard for the circumstances and concerns of the public when making decisions that affect them;
- 7.1.1.5 be committed through timely service to the development and upliftment of all South Africans;
- 7.1.1.6 not unfairly discriminate against any member of the public on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;
- 7.1.1.7 not abuse his or her position in the Authority to promote or prejudice the interest of any political party or interest group;
- 7.1.1.8 respect and protect every person's dignity and his or her rights as contained in the constitution; and
- 7.1.1.9 recognise the public's right of access to information, excluding information that is specifically protected by law.

## 7.2 Relationship among ICASA Officials:

- 7.2.1 When performing their duties, ICASA Officials shall –
  - 7.2.1.1 co-operate fully with each other to advance the mandate of the Authority;
  - 7.2.1.2 execute all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of any relevant legislation and regulations;
  - 7.2.1.3 refrain from favouring relatives and friends in work-related activities and never abuse his or her authority or influence another employee, nor is influenced to abuse his or her authority;
  - 7.2.1.4 use the appropriate channels to air grievances or to direct representations;
  - 7.2.1.5 be committed to the optimal development, motivation and utilisation of his or her staff and the promotion of sound labour and interpersonal relations;

- 7.2.1.6 deal fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language; and
- 7.2.1.7 refrain from party political activities in the workplace.

## **8. PERFORMANCE OF DUTIES**

ICASA Officials shall, when performing their duties: -

- 8.1 strive to achieve the objectives of the Authority in a cost-effective manner and in the public interest;
- 8.2 be creative and strategic in planning and in the executing their duties;
- 8.3 seek innovative ways to resolve problems and enhance effectiveness and efficiency within the context of the law;
- 8.4 be punctual in the executing their duties;
- 8.5 execute duties in a professional and competent manner;
- 8.6 not engage in any transaction or action that is in conflict with or infringes on the objectives of the Authority;
- 8.7 ask for recusal from any official duty or decision-making process which may result in improper personal gain, and this should be properly declared, in writing by the ICASA Official;
- 8.8 be available for ongoing training and self-development throughout the employ by the Authority;
- 8.9 be honest and accountable in dealing with public funds and use the Authority's property and other resources effectively, efficiently, and only for authorised official purposes;
- 8.10 promote sound, efficient, effective, transparent and accountable administration by:

- 8.10.1 reporting to the appropriate authorities any information relating to fraud, corruption, nepotism, maladministration and any other conduct which constitutes an offence, or which is prejudicial to the public interest;
- 8.10.2 giving honest and impartial advice, based on all available relevant information, to higher authority when requested to do so; and
- 8.10.3 honouring the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret;
- 8.11 comply, at all times, with all applicable laws and regulations;
- 8.12 dress decently and behave in a manner that enhances the reputation of the Authority; and
- 8.13 act responsibly in as far as the use of alcoholic beverages is permitted.

## **9. CONFLICT OF INTERESTS**

- 9.1 ICASA Officials must ensure that, in performing official duties, they declare any financial or business conflict of interest upfront or when the conflict arises, in writing to the Senior Manager: Risk and Compliance.
- 9.2 Where appropriate, they must request recusal from any forum, hearing, committee, or meeting considering or deciding on a matter where they may be conflicted.
- 9.3 ICASA Officials must not accept any reward, benefit or gift from any person or institution:
  - 9.3.1 that may create a conflict of financial or business interest for such an employee or any immediate family member, business partner or permanent companion of that employee; and
  - 9.3.2 that is intended or is an attempt to corruptly influence that employee in the exercise of his or her duties and responsibilities.
- 9.4 ICASA Officials must not engage in any personal or private financial or business activity, which may lead to the employee using information or

knowledge acquired in his or her employment with the Authority which is not available in the public domain, in such a manner as to improperly enrich himself or herself directly or indirectly through an immediate family member, permanent companion or business partner of that employee.

- 9.5 ICASA Officials must declare any direct or indirect personal or private financial or business interest that either an immediate family member, permanent companion or business partner of that employee may have in a matter to be considered or decided before any committee, hearings, forum or meeting of which they are required to participate in.
- 9.6 Where an ICASA Official is found to have an interest following a declaration in terms of Clause 9.5, the Official must withdraw from the proceedings of the committee, forum, hearing, or meeting when a matter that is under consideration or decided upon, unless that committee, hearing, forum, or meeting decides that the Official's interest is trivial or not relevant.
- 9.7 ICASA Officials must not lobby for any remuneration or receive any reward, benefit or gift for himself or herself or an immediate family member, permanent companion or the business partner of that employee, for making such representation as an employee on behalf of any person or body.
- 9.8 If an ICASA Official believes or has reason to believe that a course of action which he or she has pursued or is pursuing or is contemplating pursuing, may involve him or her in a conflict of interest situation, real or perceived, he or she should immediately make all facts known to the Senior Manager: Risk and Compliance in the Authority for discussion and referral to the Committee for consideration and guidance.
- 9.9 An ICASA Official is prohibited from employing a member of his or her immediate family, permanent companion or business partner as an assistant or any other position within his or her office.
- 9.10 The kind of financial interests that are listed hereunder are registrable interests and must be disclosed by ICASA Officials:
  - 9.10.1 Shares and other financial interests in companies and other

corporate entities;

- 9.10.2 Remunerating employment outside the Authority;
  - 9.10.3 Directorships, partnerships and Consulting work;
  - 9.10.4 Sponsorships;
  - 9.10.5 Gifts and hospitality in excess of R1500;
  - 9.10.6 Any other benefit that is of economic value;
  - 9.10.7 Foreign travel (other than visits paid by an employer), business visits unrelated to the employees' official role;
  - 9.10.8 Official and formal visits paid for by a State Department;
  - 9.10.9 Ownership in land and property including land outside the Republic of South Africa; and
  - 9.10.10 Public contracts awarded.
- 9.11 An employee who has a registrable interest must disclose such interest within sixty (60) days, or upon commencement of duties, with sufficient particulars to such an extent that it is easily identifiable, or in the event that such interest arises during the course of execution of a duty obtain permission from the Committee prior to engaging in such registrable interest.

## **10. REMUNERATING EMPLOYMENT OUTSIDE THE AUTHORITY**

- 10.1 Councillors should not perform other remunerative employment or hold any occupation or office except in the circumstances provided in terms of section 7(7) of the ICASA Act.
- 10.2 The CEO and an employee may not perform or undertake remunerated employment for additional earnings outside of the Authority without the prior written approval of the Authority, except the following, subject to disclosure:



- 10.2.1 An employee is a member of a public interest organisation and performs concomitant tasks with honorarium payable;
  - 10.2.2 An incidental gift for attendance at conference or public lecture; and
  - 10.2.3 Any other work which reasonably advances the work of the Authority.
- 10.3 Such appointment, office and honorarium, or gift must be disclosed in writing and recorded.

## **11. GIFTS, HOSPITALITY AND FAVOURS**

- 11.1 To avoid a conflict of interest or potential thereof, the appearance of a conflict of interest, or the need for examining the ethics of acceptance, the ICASA Official may not accept anything of economic value as a gift from suppliers or licensees (prospective or existing), unless it is in line with this Code of Ethics;
- 11.2 ICASA Officials are prohibited from soliciting or receiving anything of economic value as a gift from a person who has or is seeking to obtain a contractual or business relationship with the Authority;
- 11.3 ICASA Officials are also prohibited from receiving anything of economic value from a private source for the performance of his or her duties and responsibilities; or because of the position he or she occupies as an employee except:
  - 11.3.1 Promotional items having no substantial resale value;
  - 11.3.2 Food, drink, tickets to sporting events or theatre, seasonal gifts with a value of less than R 1 500, or refreshments consumed while a personal guest of a person or representative of another entity;
  - 11.3.3 Salary or remuneration due to employment with the Authority; and
  - 11.3.4 Discounts (or other preferential treatment) from a supplier should only be accepted if approved and is widely applicable to other Employees and generally to other customers of the supplier.



- 11.4 An ICASA Official may not use her or his official position to obtain private gifts or benefits during the performance of official duties.

## **12. PROHIBITED CONTRACTS AND CONDUCT**

- 12.1 Contractual arrangements that have a direct or indirect impact on the Authority that are entered into between an immediate family member, permanent companion or business partner of ICASA Officials and the Authority are prohibited.
- 12.2 Participation in bids and licensing processes by ICASA Officials where a member of the immediate family, the permanent companion or business partner of the Official has an interest, financial or otherwise, is a sufficient reason to disqualify the legal entity from participation in the bid or licensing process.
- 12.3 A spouse, business partner or a permanent companion of an ICASA Official, including any related legal entity where the above persons are members, are prohibited from entering and concluding contractual and business arrangements with the Authority.

## **13. MEDIA RELATIONS**

- 13.1 The Authority will, in the normal and ordinary course of conducting the business of the Authority, be obliged to communicate some of its critical decisions to the media for public consumption or respond to some of the media enquiries relating to the activities of the Authority.
- 13.2 An ICASA Official may not communicate or liaise with the media purporting to represent or act on behalf of the Authority without prior approval of Council.
- 13.3 The Authority will not be liable, vicariously or otherwise, for communication to the media by any ICASA Official who had chosen to act in breach or contravention of the above paragraph 13.2 of this Code of Ethics when the purported communication results in damages being incurred.

- 13.4 All external communication must be subjected to the scrutiny of senior management in the Communications department of the Authority before transmission to the various media houses.

#### **14. CONFIDENTIAL INFORMATION**

- 14.1 The Authority has a repository of information and data that belongs to third parties, for example, licensees and manufacturers of electronic communications facilities or radio apparatus and such information and data may be categorised as highly confidential and sensitive.
- 14.2 ICASA Officials must, in the exercise of their duties and responsibilities, keep the strictest confidence and must not disclose for any improper purpose any information with respect to any product, scientific or technical information, trade secrets, price or market-sensitive information or financial information that has been entrusted to the Authority by third parties, licensees or prospective licensees unless proper authorisation for such disclosure has been obtained.
- 14.3 ICASA Officials may not disclose or use the personal information regarding any other employee including the salary or remuneration package, health status for an improper purpose unless and until proper authorisation for such disclosure or use has been obtained.
- 14.4 In the event of any conflict between this Code of Ethics and the POPI Act, then the provisions of the POPI Act shall prevail.

#### **15. ENFORCEMENT, MONITORING AND REPORTING**

- 15.1 In terms of section 11B(2) of the ICASA Act, all Councillors and the CEO must comply with the requirements of this Code of Ethics.
- 15.2 The Committee will investigate, hear and adjudicate/recommend on complaints that have been lodged against an ICASA Official for breaching or contravening a provision of this Code of Ethics.
- 15.3 The CEO or employees who fail to comply with the provisions of this Code of Ethics, or do not co-operate with any investigation relating to

the objects of this Code of Ethics, shall be subjected to disciplinary processes in accordance with the Disciplinary Code and Procedure Policy of the Authority.

- 15.4 In the event that there is any contract entered into between the Authority and any supplier which is in contravention of the provisions of this Code of Ethics, such contract will be terminated with immediate effect upon conclusion of an investigation.

## **16 RULES OF ENGAGEMENT**

- 16.1 The Authority's management is responsible for communicating this Code of Ethics to all staff members, committee members, service providers and graduates to ensure compliance at all times.
- 16.1 ICASA Officials may not engage in any behaviour that may bring ICASA into disrepute.
- 16.2 ICASA Officials may not act outside of their delegated authority.
- 16.3 ICASA Officials must refrain from using ICASA processes to advance their personal interest.
- 16.4 ICASA Officials should strive to cultivate and maintain good relations with the public, media and stakeholders. However, they should recognize their limitations to speak for the Council as set forth in the Council Charter, Delegation of Authority Framework or other relevant policies.
- 16.5 ICASA Officials should not communicate with persons under consideration for selection for contracts, acquisitions, licensing or other administrative decisions, while the regulatory or procurement process is in progress, regarding the pending issue.
- 16.6 ICASA Officials may not be party to a breach of this Code of Ethics, contribute to the concealment of such breach, or knowingly or negligently allow such breach to occur.
- 16.7 Any person that has a reason to suspect that ICASA Officials are acting in breach of this Code of Ethics, may lodge a complaint through the

Ethics Hotline or the Whistleblowing Policy.

- 16.8 ICASA Officials may request the Committee for advice, should there be uncertainty regarding the existence of a conflict of interest, registerable right or any other ethics related matter.

## **17. INCORPORATION OF ETHICS AND DISCLOSURES INTO THE AUDIT, RISK, ETHICS AND DISCLOSURES COMMITTEE**

- 17.1 ICASA must integrate the relevant provisions of this Code of Ethics into the terms of reference of the Committee, that must perform its functions in terms of the terms of reference of the Committee.
- 17.2 The Committee must, amongst other requirements set out in the Committee's terms of reference:
- 17.2.1 Review declarations of interest;
  - 17.2.2 Investigate any matter referred to it by Council;
  - 17.2.3 Investigate complaints lodged through the ethics hotline, against an ICASA Official, by a member of the public or another ICASA Official who has reason to believe that a breach or contravention of the Code of Ethics has incurred, and such investigation must be guided by the principle of promptness, fairness and consistency; and
  - 17.2.4 Proffer advisory opinions on the interpretation of the Code of Ethics.
- 17.3 The Committee must, on investigations that warrant further action, conduct hearings with a view to make a recommendation to the relevant Minister and Parliament on an appropriate course of action.

## **18. REVIEW**

- 18.1 This Code of Ethics will be reviewed by the Committee every three years or such sooner period as necessitated by changes in the legislative framework.