



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

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CODE OF ETHICAL CONDUCT AND DISCLOSURE OF INTEREST

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Table of Contents

1. ACRONYMS AND DEFINITIONS	4
2. INTRODUCTIONS.....	10
3. PRINCIPLES	10
4. PURPOSE.....	11
5. SCOPE	11
6. COMPLIANCE WITH LAWS AND REGULATIONS.....	12
7. RELATIONSHIP WITH STAKEHOLDERS.....	12
8. PERFORMANCE OF DUTIES	14
9. CONFLICT OF INTERESTS	16
10. REMUNERATION EMPLOYMENT OUTSIDE THE AUTHORITY	19
11. GIFTS, HOSPITALITY AND FAVOURS	19
12. PROHIBITED CONTRACTS AND CONDUCT	20
13. MEDIA RELATIONS	21
14. CONFIDENTIAL INFORMATION	22
15. ENFORCEMENT, MONITORING AND REPORTING.....	23
16. RULES OF ENGAGEMENT	23
17. INCORPORATION OF ETHICS AND DISCLOSURES INTO THE AUDIT, RISK, ETHICS AND DISCLOSURES COMMITTEE.....	24

1. ACRONYMS AND DEFINITIONS

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

Authority/ ICASA	Independent Communications Authority of South Africa established in terms of section 3 of the ICASA Act
Business Partner	a person who shares a financial interest with an employee of the Authority
Bribery	Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of public servants.
	this Code of Ethical Conduct and Disclosure of Interest
CEO/ Accounting Officer	the Chief Executive Officer appointed in terms of section 14(1)(a) of the ICASA Act
Committee	The Audit, Risk, Ethics and Disclosures Committee
Compliance	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: Common Law The ICASA and Electronic Communications Act All legislative statutes, and All internal policies and procedures, including the Authority's code of ethics

Compliance Breach or Failure	An act or omission whereby any part of the Authority has not met its compliance obligations, processes or behavioural obligations.
Compliance Culture	Means the values, ethics and beliefs that exist throughout the Authority and interact with the Authority's structures and control systems to produce behavioural norms that are conducive to compliance outcomes
Conflict of interest	a situation in which an employee contrary to the obligation and duty to act for the benefit of public interest, exploits the relationship for personal or pecuniary benefit
Corruption	<p>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 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"> • The illegal or unauthorised performance of such other person's powers, duties or functions; • An abuse of authority, a breach of trust, or the violation of a legal duty or a set of rules; • The achievement of an unjustified result; or • Any other unauthorised or improper inducement to do or not to do anything is guilty of the offence of corruption.

	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.
Councillor	a person who has been appointed as such in terms of section 5 of the ICASA Act
EC Act	Electronic Communications Act, 2005 (Act No. 36 of 2005) as amended
Embezzlement	This involves theft of resources by persons who control such resources.
Councilors, CEO and Employees	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
Extortion	Coercion of a person or entity to provide a benefit to a public servant, another person or an entity, in exchange for acting or failing to act, in a particular manner .
Family member	as the term relates to an employee, means his or

	her parent, child or spouse, permanent companion or dependents
Favouritism	The provision of services or resources according to personal affiliation, e.g. cultural or religious
Fraud	<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 document 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>
ICASA Act	Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) as amended
Immediate family	as the term relates to an employee, means his or her children, spouses' children, brothers, sisters, spouses of his or her brothers and sisters, parents, spouse, and the parent of the spouse
Nepotism	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.
Permanent Companion	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
PFMA	Public Finance Management Act, 1999 (Act No. 1 of 1999)
Policy	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.
POPI Act	Protection of Personal Information Act, 2013 (Act No. 4 of 2013)
Procedure	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.
Public Interest	an outcome which affects any right of the public, public finances or the public good
Register	the register of employees' disclosed interests
Registrable interest	an interest required to be disclosed in terms of this Code
Responsibility	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
Spouse	an employee's partner in marriage
Thing of economic value	<p>means money or any items of economic value, Except:-</p> <ol style="list-style-type: none"> (1) Promotional items having no substantial resale value; (2) Food, drink, or refreshments consumed while as a guest of a person or representative of another entity; and (3) Salary or remuneration and related benefits due to public employment

2. INTRODUCTION

- 2.1 The Authority acknowledges the need for a Code in order to ensure that the Authority upholds high ethical standards in line with good governance principles.
- 2.2 This Code 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.
- 2.3 Compliance with the Code will enhance professionalism and maintain public confidence in the Authority as an independent public body.
- 2.4 Although the Code 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 The Code of Ethical Conduct 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. PURPOSE

- 4.1 The main objective of this Code is to provide the ethical standards of conduct expected from Councillors, the Chief Executive Officer (CEO) and Employees and to provide a Framework of reference for discharging duties and responsibilities and guidelines for disclosing any financial or business interest by Councillors, the CEO and Employees of the Authority.
- 4.2 The Code contains broad principles reflecting the types of behaviour the Authority expects towards stakeholders, peers and the public. This policy is not intended 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.

5. SCOPE

- 5.1 This Code applies to Councillors, the Chief Executive and all Employees of the Authority whether employed permanently, temporarily or on a fixed term contract.
- 5.2 The Code outlines the minimum ethical standards of behaviour that is expected from Councillors, the CEO and Employees of ICASA which include upholding propriety, honesty, fair dealing, integrity, bona mores or good morals and ethical values in conduct.
- 5.3 The Code intends to incorporate the functions related to ethics and disclosures into a committee known as the Audit, Risk, Ethics and Disclosures Committee (Committee) that is empowered to investigate hear and adjudicate/recommend on complaints that have been lodged

against a Councillor, the CEO or an Employee for breaching or contravening a provision of this Code.

6. COMPLIANCE WITH LAWS AND REGULATIONS

6.1 Councillors, the CEO and all Employees must comply, at all times with all applicable laws and regulations including the Constitution which relate to their activities for and on behalf of ICASA. ICASA will not condone any violation of the law or unethical conduct in any business dealing by any Councillor, the CEO or any Employee, including bribery or other participation in an illegal act.

6.2 Councillors, the CEO and all Employees must ensure that their conduct cannot be interpreted as being in contravention of applicable laws and regulations governing the operations of ICASA, in any way.

7. RELATIONSHIP WITH STAKEHOLDERS

7.1 Relationship with the public:

7.1.1 Councillors, the CEO and all Employees shall, 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 Councillors, the CEO and all Employees:

7.2.1 When performing their duties, Councillors, the CEO and all

employees 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

Councillors, the CEO and all Employees 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;

A handwritten signature in black ink is located in the bottom right corner of the page. It appears to be a stylized name, possibly 'M. M.' or similar, with a circular mark around the first part.

- 8.2 be creative in thought and in the execution of duties. Seek innovative ways to solve problems and enhance effectiveness and efficiency within the context of the law;
- 8.3 be punctual in the execution of duties;
- 8.4 execute duties in a professional and competent manner;
- 8.5 not engage in any transaction or action that is in conflict with or infringes on the objectives of the Authority;
- 8.6 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 Councillors, the CEO and the Employee;
- 8.7 be available for ongoing training and self-development throughout the employ by the Authority;
- 8.8 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;
- 8.9 promote sound, efficient, effective, transparent and accountable administration by:
 - 8.9.1 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;
 - 8.9.2 giving honest and impartial advice, based on all available relevant information, to higher authority when requested to do so; and

- 8.9.3 honouring the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret;
- 8.10 must comply, at all times, with all applicable laws and regulations;
- 8.11 dress decently and behave in a manner that enhances the reputation of the Authority; and
- 8.12 act responsibly in as far as the use of alcoholic beverages is permitted

9. CONFLICT OF INTERESTS

- 9.1 Councillors, the CEO and all Employees shall 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, Governance, 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 Councillors, the CEO and Employees must not accept any reward, benefit or gift from any person or institution:
 - 9.3.1 that creates 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 Councillors, the CEO and an employee 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 Councillors the CEO and an employee 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 Councillors, the CEO and an Employee must withdraw from the proceedings of a 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 employee's interest is trivial or not relevant
- 9.7 Councillors, the CEO and an employee 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 Councillors, the CEO or an employee 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: Governance Risk and Compliance in the

Authority for discussion and referral to the Committee for consideration and guidance.

- 9.9 Councillors, the CEO and an employee 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 Councillors, the CEO and all employees excluding employees in finance or the supply chain unit, who are not allowed to engage in any registrable interests:
- 9.10.1 Shares and other financial interests in companies and other corporate entities;
 - 9.10.2 Remunerated 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 employee, 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.

9.10.11 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 duty obtain permission from the ARED Committee prior to engaging in such registrable interest.

10. REMUNERATION EMPLOYMENT OUTSIDE THE AUTHORITY

10.1 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:

10.1.1 An employee is a member of a public interest organisation and performs concomitant tasks with honorarium payable;

10.1.2 An incidental gift for attendance at conference or public lecture; and

10.1.3 Any other work which reasonably advances the work of the Authority.

10.1.4 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, the appearance of a conflict of interest, or the need for examining the ethics of acceptance, Councillors, the CEO and an employee 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;

11.2 Councillors, the CEO and an employee is 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 Councillors, the CEO and an employee is 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;

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; and

11.4 Councillors, the CEO and an employee 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 Councillors, the CEO and employee of the Authority are prohibited.


- 12.2 Participation in bids and licensing processes by Councillors, the CEO or an employee where a member of the immediate family, the permanent companion or business partner of the employee 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 Councillors, the CEO or an employee including any related legal entity where the above persons are members, will be 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 Councillors, the CEO or an employee of the Authority may not communicate or liaise with the media purporting to represent or act on behalf of the Authority without prior approval of Councillors.
- 13.3 The Authority will not be liable, vicariously or otherwise, for communication to the media by a Councillors or, the CEO or an employee who had chosen to act in breach or contravention of the above paragraph 13.2 of this Code 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 Division 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 Councillors, the CEO and Employees 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 Councillors, the CEO or an employee 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 section 12 of the Code and the POPI Act, then the relevant provisions of the POPI Act shall prevail.

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15. ENFORCEMENT, MONITORING AND REPORTING

- 15.1 Councillors, the CEO or Employees who fail to comply with the provisions of this Code, or do not cooperate with any investigation relating to the objects of this Code, shall be subjected to disciplinary processes in accordance with the Disciplinary Code of the Authority.
- 15.2 In the event that there is any contract entered into between the Authority and any supplier which is associated with the contravention of the provisions of this Code, such contract will be terminated with immediate effect upon conclusion of an investigation.
- 15.3 The Authority's management is responsible for communicating this Code of Ethics to all members of staff, committee members, service providers and graduates to ensure compliance at all times.

16. RULES OF ENGAGEMENT

- 16.1 Councillors, the CEO and employees may not engage in any behaviour that may bring ICASA into disrepute.
- 16.2 Councillors, the CEO or employees may not act outside of their delegated authority.
- 16.3 Councillors, the CEO and Employees will refrain from using ICASA processes to advance their personal agenda.
- 16.4 Councillors, the CEO and Employees will strive to cultivate and maintain good relations with the public, media and stakeholders; however, they will 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 Councillors, the CEO and Employees will 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 Councillors, the CEO or Employees shall not participate in a breach of this Code by another member, 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 Councillors, the CEO and Employees are acting in breach of this Code, may lodge a complaint through the Ethics Hotline.
- 16.8 Councillors, the CEO and Employees, may request the ARED 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 into the terms of reference of the Audit, Risk, Ethics and Disclosures 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 a Councillor, the CEO or Employee of ICASA by a member of the public or an ICASA employee who has reason to believe that a breach or contravention of the Code has incurred, and such investigation must be guided by the principle of promptness, fairness and consistency;

17.2.4 Proffer advisory opinions on the interpretation of the Code.

17.4 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 will be reviewed by the Committee every two years.