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Independent Communications Authority of South Africa (ICASA)
350 Witch-Hazel Avenue,
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Eco Park, Centurion,
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Brussels, 28 February 2019

Attention: Mr. Lumkile Qabaka
Email: LQabaka@icasa.org.za

Independent Communications Authority of South Africa: Draft Conformity Assessment Framework for Equipment Authorization

Dear Sirs,

DIGITALEUROPE wishes to thank you for the opportunity to respond to your consultation "Draft Conformity Assessment Framework for Equipment Authorization" published by the Independent Communications Authority of South Africa (ICASA) in the Government Gazette No. 42108 on December 13th, 2018.

DIGITALEUROPE welcomes the Authority's objective of developing a more robust multilateral Conformity Assessment Framework and also the deep investigations and the broad ranging reviews of various types of assessment schemes that underpin this consultation. DIGITALEUROPE believes that an effective, efficient and adaptive framework can be built on the basis of elements already considered in this document and hope that the Authority will find value in the considerations below together with the answers to the Authority's specific questions.

DIGITALEUROPE believes that the regulatory system that has been long established serving the large and diverse market place in Europe should be carefully considered for adapted application in South Africa. We have provided further detail in our answers to the 10 questions asked by the Authority as attached below.

DIGITALEUROPE is committed to working with ICASA in its quest to establish an advance, balanced and effective product regulatory system that will achieve the Authority's objectives and optimize barrier-free access by South African citizens to the evolving technologies that are crucial to personal and national development.

We thank you for this opportunity to provide our input and look forward to your responses.

Yours sincerely,

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Question 1 What are the benefits of having Conformity Assessment to support the regulations?	To ensure that only compliant products are made available on the South African market, regardless of their origin, be it local or foreign. To ensure the same rules apply equally to all manufacturers.
Question 2 Do you see any benefits in risk profiling and the categorisation of equipment in carrying out the conformity assessment?	Distinguishing between low and high risk products can provide significant benefits to all stakeholders. For low risk products it can allow streamlined conformity assessment procedures and acceptance thereof, supporting an efficient, uninterrupted flow of demanded products into the South African market at the lowest cost to the end users and with minimum burden on the Authority's resources. On the other hand, for high risk products, where the probability of compliance is low, the Authority will be able to concentrate scarce and highly skilled resources more comprehensive and exacting conformity assessment procedures, where the real need lies. In this it will be important to structure the risk profiling in a clear and simple way so as to achieve these two goals. The Authority might consider the approach taken by the EU in its Radio Equipment Directive, where in Article 5 it places a focus on categories of product for which low levels of compliance are observed. Such products would be considered high risk, and the remainder low risk. A benefit of this approach would be alignment with the EU and an enhanced basis for potential cooperation between this Authority and European authorities.
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?	DIGITALEUROPE sees this as a work in progress by the Authority, as evidenced by this draft Framework and consultation, in which steps 1-4 have been executed and Steps 5-8 are yet to be executed. DIGITALEUROPE commends the Authority on the work done so far and on consulting stakeholders on the options in order to seek the best outcome. However, DIGITALEUROPE recommends to the Authority to consider our comments and develop a draft regulation with proposed Conformity Assessment approaches, taking into consideration labelling regulations, review of short-range device regulations before publishing the final Conformity Assessment Regime. In this way, it will help manufacturers to assess and measure the possible regulatory impact and respond accordingly.
Question 4	

Can you suggest an appropriate conformity assessment approach that can address the current Approval Framework challenges?	DIGITALEUROPE recommends an approach based on risk profiling as discussed in our response to Question 2. In the case of high risk products (that is categories of products for which low levels of compliance are observed), DIGITALEUROPE views that Type Approval procedures may be appropriate. In the case of low risk products (all other products) a Supplier's Declaration of Conformity procedure such as the tried and tested method of the EU would be optimum. In both cases test reports of ISO/IEC 17025 certified and ILAC accredited facilities should be required and accepted for evidence of compliance. An effective market surveillance system with adequate powers of enforcement and communication procedures would be required to identify instances and trends of non-conformity, to provide the trigger for requiring corrective action and for informing the risk profiling process, and to serve as a deterrent to those seeking to place non-compliant product on the South African market.
Question 5 In South African context, what are the benefits for the Authority collaborating with other regulatory institutions/organizations/states?	ICASA should collaborate with the following stakeholders: • Other authorities overseeing comparable requirements and schemes such as those of the EU in order to share and leverage information and experiences. • Other Southern African regional authorities, especially where non-compliant product might be targeted into the region as a whole • Certified / accredited test laboratories for providing market surveillance phase testing services • Consumer protection organisations and trade associations for gathering information about product trends and compliance patterns.
Question 6 Given table 3, which SDoC scheme/s would best suit the South African market, and why?	The EU SDoC scheme has the longest and most highly developed history and well established and respected track record. A strong and well directed market surveillance system is a vital element of the overall EU compliance system to this as outlined in the response to question 4. In line with EU SDoC scheme, DIGITALEUROPE recommends implementation of SDoC II as outlined in table 3. The SDoC II would ensure products are placed in the market quicker as it leaves product's declaration, product marking and

	keeping of the supporting technical documentation to the control of manufacturers or their representatives.
Question 7 In your definition/understanding, what ICT equipment can be classified as low risk and may be considered for equipment authorization exemption?	In line with an objective of ensuring that only compliant equipment is placed on the South African market, and that there be an even non-discriminatory set of rules for all participants, DIGITALEUROPE recommends that there be no exemptions for equipment intended to be used in normal use by end-users. There are limited circumstances and uses where exemptions might be provided, such as: • Equipment for display / demonstration that will not be put into normal commercial use • Equipment to be tested and not put into service unless it has been shown to be compliant • Prototype equipment for use in scientific research and development DIGITALEUROPE also recommends that spare and replacement parts and components for the purposes of restoring failed products to their former condition be excluded from the scope of the Conformity Assessment Framework.
Question 8 What are the risks associated with exempting ICT equipment from Approval Framework, and how can they be mitigated or eliminated?	The risks of providing exemptions other than as described in the response to Question 7 are those of: • Opening the door to non-compliant and even unsafe equipment entering the market without hindrance • Providing competitive advantage to rogue manufacturers competing with those who ensure they provide compliant and safe products as a global policy • Allowing the grey marketing of goods intended for other markets with differing compliance requirements to enter the South African market. • Distracting market surveillance authorities with complaints and issues regarding exempted products. An accumulation of non-compliant products would be to the disadvantage of South African users and even the infrastructure in the long term, and would be extremely difficult to recover from. The best and possibly only mitigation / elimination strategy would be to minimise exemptions as described in the response to question 7.
Question 9 What would you propose the Authority do to effectively execute its responsibilities on market	We would propose that the Authority maximises the focus of market surveillance activities to where

surveillance considering the current fiscal challenges?	material non-compliances exist. This can be achieved by: • providing a means to capture and qualify user complaints • establishing links with external authorities to gather information of and about products found to be non-compliant in other countries having comparable requirements and schemes • establishing links with representatives of other stakeholders such as consumer protection organisations • Agree on cooperation procedures with Customs. • Build records of non-compliance to identify trends, histories, compliance records of suppliers so as to be able to fine tune surveillance activities and manage high risk categories We would also propose that while the Authority should employ staff of high levels of expertise, it should not invest in duplicating high cost capabilities that already exist and are commercially available such as certified and accredited test laboratories. Where such facilities are to be used, the Authority might consider having the supplier cover costs where product is found to be non-compliant.
Question 10 What are the prevalent equipment authorization challenges that may be experienced by manufacturers, distributors, suppliers and retailers post- and pre-market surveillance?	Under the present equipment authorization scheme manufacturers experience challenges that the Authority itself has recognised as described in the Executive Summary of this draft Framework paper, including lengthy and sometimes varying turnaround times and excessive administration work. DIGITALEUROPE strongly discourage pre-export inspections conducted in the country of origin and are unnecessary and burdensome to the manufacturers. DIGITALEUROPE welcomes this initiative to improve the Framework and the Authority's approach of consulting with all stakeholders before committing to a particular choice regarding its proposed Conformity Assessment Framework.

ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total 35,000 ICT Companies in Europe represented by 63 corporate members and 40 national trade associations from across Europe. Our website provides further information on our recent news and activities: http://www.digitaleurope.org

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National Trade Associations

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Sweden: Foreningen Teknikföretagen i Sverige, IT&Telekomföretagen
Switzerland: SWICO
Turkey: Digital Turkey Platform, ECID
Ukraine: IT UKRAINE
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