CHAIRPERSON'S *overview*

It is an honour to present the second Annual Report of the Independent Communications Authority of South Africa ("ICASA") to Parliament and other stakeholders. The year under review was a challenging one for us. In an ideal world, a better option for ICASA would have been to halt all the operations and concentrate on restructuring and consolidating the merger between the then Independent Broadcasting Authority ("the IBA") and South African Telecommunications Regulatory Authority ("SATRA"). However, this is a luxury that neither the economy nor we can afford. By all accounts, we have done a fairly decent job of maintaining the delicate balance between change management and delivering on our mandate.

As an output of the restructuring process, we have delivered a new organisational structure merging the operations of the IBA and SATRA; and have filled at least 80% of positions in the management echelon. Equally important has been our determination, as part of the change process, to re-orientate ICASA's institutional focus and entrench a business cultural ethos and *modus operandi*. As I have already said, not only did we manage to effect structural changes to ICASA during the preceding year, but have also produced a number of regulations and policy positions that impact on the communications sector - and issued several licences.

What instantly comes to mind in this regard is the release in February 2002, of the Position Paper and Regulations on South African Music and South African Television Content. ICASA sees this regulation as one of the necessary pillars to fulfil its mandate towards the empowerment of a locally creative industry as well as bolstering the economy. This it achieves through its stated aim to develop, protect and promote a national and provincial identity, culture and character and to create vibrant, dynamic, creative and economically productive local industries. Other broadcasting policies, initiated during the year under review, include the inquiry into sports rights for broadcasting; the review of statutory limitations on ownership and control as well as the status of existing commercial radio licences. The review of the ownership and control rules will be critical to establish certainty subsequent to the debate occasioned by the ICASA ruling in the Kagiso/Nail merger case. Regarding Public Broadcasting Services, I want to note that ICASA has developed an issues paper that will guide it in overseeing the restructuring of the South African Broadcasting Corporation ("the SABC").

On the Telecommunications side of our business, the challenges were phenomenal. Many of the challenges in Telecommunications were prompted by Government's determination to gradually liberalise South Africa's telecommunications market, starting on 7 May 2002. To achieve this, there had to be legislative reform in the telecommunications environment and ICASA, as with many other stakeholders, assisted Parliament when it considered amendments to Telecommunications Act 103 of 1996 ("the Telecoms Act"). The Telecommunications Amendment Act was signed into law on 30 November 2001 and ICASA was galvanised into motion to develop a number of policy instruments to create an environment for competition as South Africa moved closer to the process of licensing a Second National Operator ("SNO"). The regulatory policies introduced for this purpose included regulations for the Chart of Accounts/Cost Allocation Manual ("COA/CAM"); Carrier Pre-Selection; Supplementary Facilities Leasing; Supplementary Interconnection Guidelines and Universal Service Fund Contributions.

Possibly the most eagerly-awaited telecommunications licensing process in the history of South Africa's communications industry is the licensing of the SNO. This process started in December 2001 when the Minister of Communications ("the Minister") decided that the SNO licensing process would be managed in three separate phases. The first phase would involve the determination of the winning bid for the 19% equity stake set aside by the Minister for the empowerment of historically disadvantaged persons. The second phase would focus on the award of the 51% stake to the Strategic Equity Partner (including either domestic or international investors or both) and the third phase would cover the allocation of the Eskom-Transnet 30% Equity Interest. At the time of writing this report, ICASA had already made a recommendation to the Minister on the winning bid for the 19% BEE stake.

The next and decidedly challenging phase of the SNO licensing process is the 51%. The expectation, both in circles of government and the market, is that the holder of this stake will bring expertise and resources to mount effective competition to the incumbent operator. The jury is still out whether - in this globalising world - this is a realistic expectation given the downturn in telecoms stocks, which have been exacerbated by the collapse of major telecommunications corporations and concomitant accounting scandals. Then there will be the integration of the three major shareholders in the SNO, that is, the 19%, the 51% and the 30% stakes into a corporation or venture that forms the SNO.

There is, however, the stubborn hope - which characterises South Africans - that going ahead and licensing the SNO at all costs will be the required elixir for the ailing markets, and could be an impetus for a cycle of future growth. ICASA is charged with the task of licensing the SNO and has put in place all struts to meet this responsibility.

The foregoing might at first glance seem daunting, but ICASA takes all that in its stride, with the understanding of the Government's policy of managed liberalisation - and that this unique period in our history possibly requires equally unique solutions.

Mandla Langa
(Chairperson)

CEO'S *report*

Introduction

In the annual report for the period 1 July 2000 to 31 March 2001, we presented a report whose primary focus was on the change management challenges and imperatives, which confronted ICASA and its leadership at the time. These challenges, as we then asserted, revolved around two conflicting cultures relating to work processes and systems. We responded to this challenge by designing a change management strategy with an emphasis on:

> A review of ICASA's core business systems as well as a work study to define and quantify work processes;
> A skills audit to identify the skills base and gaps in relation to ICASA's core and critical support functions;
> Job Evaluation and Classification;
> IT Infrastructure and Systems Assessment; and
> Culture Audit and Change.

We are happy to report that we have achieved most of the above deliverables. Through this process, we also delivered two key additional outputs, namely, the development of a vision, mission and value statement and the capture of ICASA's key business activities on the continuum of a value chain. The vision, mission and values statement of ICASA is:

VISION

To be a strong, service-oriented and responsive communications regulator in South Africa.

MISSION

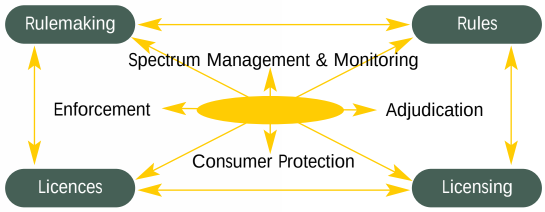
To increase access to communication services through the promotion of a competitive and socially responsive communications industry.

VALUES

The promotion of choice and diversity, both in carriage and content, as an expression of the creativity of the South African people.

Value chain

A key output - and possibly the most valuable to come out of the restructuring process - was the organisation of ICASA's business activities on the continuum of a value chain which, graphically illustrated, is as follows:



This illustration identifies the development of regulatory rules or policy and the issuing of licences as the very essence of ICASA's life, existence and business. For any rule to be developed, a rule-making process has to be followed. Regulatory rules or policy are an embodiment of the tools that ICASA requires to promote competition and product choice, increase access and enhance diversity in the communications sector of the economy. ICASA is enabled, through policies derived from its regulatory rules and primary legislation, to issue licences with conditions. Licensees are obliged to comply with licence conditions. ICASA's enforcement functions are derived from these licence conditions and legislation. Furthermore, ICASA's Council has adjudicating powers over complaints that are lodged with ICASA by industry players. Complaints arise typically when a licensee has, or is perceived to have, violated licence conditions or pre-determined regulatory rules or for that matter an ICASA determination.

The characterisation of the business of ICASA as a value chain continuum has prompted us to effect arrangements that divide the organisation into five delivery programmes, namely: Broadcasting; Telecommunications; Engineering and Technology; Law, Consumer Protection and Council Support; and the Office for Finance and Business Support. Each of these programmes is directed by a General Manager, with the exception of the Office for Finance and Business Support, which is led by a Chief Financial Officer. General Managers oversee the work of departments. Departments are managed by Senior Managers. A department constitutes a business unit or cost centre in ICASA's organisational hierarchy.

Strategy and business plan

For a variety of reasons, some political and others economic, the management of the organisation over the past two years has been undertaken in 'crisis mode'. As ICASA consolidates, we believe that it is critical that a strategic and structured approach to the management of our business is introduced. To this end, a Strategy and Business Plan has been developed covering the period 1 April 2003 to 31 March 2006 (See Appendix D). We are aware that the setting of business goals over a three-year period in a sector of the economy as fluid as communications is an ambitious project. Yet it is necessary and vital, for purposes of accountability, that the performance of a government agency like ICASA be scrutinised and measured against tangible deliverables. Despite the fact that the Strategy and Business Plan covers a three year period, it should not be seen as 'cast in stone' and will be reviewed, relentlessly, every financial year.

Review of the Auditor General's Report

As is standard practice for Public Sector Organisations, the Auditor General has audited ICASA's financial statements and our compliance with relevant primary and subordinate legislation. The Auditor General's report is recorded on page 29 of this publication. We are happy to advise that for the second year in a row the Auditor General has declared our financial statements, without qualification, to be a fair presentation of ICASA's financial position as at 31 March 2002.

The Auditor General has registered concerns relating to the absence of an Internal Audit department and Fraud Prevention Plan, as well as a few accounting errors for VAT. These concerns are receiving attention and will be addressed soon.

Conclusion

Change is a process that requires management and nurturing. We believe that the changes initiated in ICASA since its establishment on 1 July 2000 are beginning to show results; demonstrated through the overall improvement in ICASA's capacity to raise additional revenue for the National Revenue Fund ("NRF") and the concise definition of its business and organisational goals. In the financial year ended 31 March 2001, we collected and transmitted R643,052,173 to the NRF. In the year under review, there has been 22.27% increase in the license fees collected and transferred to the NRF. There is still more that we can and aim to do, but to achieve most of our goals we require enormous support from the authorising environment and a recognition that the precondition for the successful transformation of any organisation is a willingness to plough investments, before any return can be realised and counted.

Nkateko Nyoka
(Chief Executive Officer)

COUNCIL *members*

Yasmin Carrim

William Currie

Mandla Langa

Julia Hope

Libby Lloyd

Neël Smuts

Mbulelo Ncetezo

BROADCASTING

ICASA, through its Broadcasting Programme, has a responsibility to develop regulatory rules, issue licences, and monitor the activities of all Broadcasters. The role of the Broadcasting Programme is to give advice and support to the ICASA Council in its legislative function and role as the Regulator of the Broadcasting Sector of the Communications Industry. The regulations take the form, *inter alia*, of granting broadcasting and broadcasting signal distribution licences; monitoring compliance with licence conditions, developing standards for the content of programmes; determining limitations on advertisements; and encouraging programming diversity by Public, Commercial and Community Broadcasters. ICASA's Broadcasting Programme is divided into two business units, namely, the Policy Development and Research; and the Licensing and Monitoring Departments.

Policy development and research

The Policy Development and Research Department consists of two Units, namely, Policy Development and Projects. The responsibility of the Policy Development Unit is to conceptualise and develop policies for the regulation of the Broadcasting Industry. Since the process of developing policies is underpinned by public participation and consultation as its key features and elements, the Policy Development Unit is responsible for compiling discussion papers, which through the Projects Unit, are put into the public domain for comment and discussion. Once consultations have closed and comments collated, the Policy Development Unit integrates all information into the discussion paper and translates these into a policy instrument for review and approval by the ICASA Council. During the year under review, ICASA has considered and developed the following regulatory policy instruments for the Broadcasting Industry:

South African Music and Television Content

ICASA has reviewed the South African Music and Television Content regulations; first published in 1997. A discussion paper for this review was published in November 2000 for comment. Hearings took place on 15 May 2001 and the position paper and regulations were gazetted on 20 February 2002. The effective date for the implementation of the new South African Music and Television Content regulations is 22 August 2003. The quotas established in terms of the new rules are:

Television	Old	New
Public Broadcasting	50%	55%
Commercial Free-to-Air	20%	35%
Terrestrial	5%	8%
Radio	**Old**	**New**
Public Service Radio Stations	20%	40%
Community Radio Stations	20%	40%
Commercial Radio Stations	20%	25%

Inquiry into Sports Rights

The acquisition of exclusive rights for the broadcasting of national sporting events, as determined to be in the public interest by ICASA in consultation with the Ministers of Communications and Sports and Recreation, are prohibited by section 30(7) of the Broadcasting Act 4 of 1999 ("the Broadcasting Act"). During the year under review, ICASA began with an inquiry into sports rights for broadcasting to:

> Determine international trends in sports rights acquisition;
> Consider any lessons that could be learnt on the international broadcasting landscape; and
> Encourage investment in the broadcasting sector and examine similar concerns raised by sports rights holders.

Through this process, ICASA will solicit views that will enable it to develop a sustainable sports rights regulatory regime. A discussion paper in this regard has been published for comment.

Ownership and Control and Existing Sound Broadcasting

The process of reviewing the status of existing private radio licences, as well as regulatory rules pertaining to ownership and control, commenced on 15 January 2002. This review was prompted by the realisation that the current cross-media and ownership rules may be too restrictive and in many cases serve as a disincentive to foreign investment in the sector.

This review will revisit the limitations, set out in sections 48, 49 and 50 of the Independent Broadcasting Act 153 of 1993 ("the IBA Act"), on foreign control of:

> Private broadcasting services; and
> Cross-media control of private broadcasting services.

Based on this review, ICASA will publish new ownership and control regulations, which will be followed by the licensing of private radio stations in rural cities and towns. A discussion paper for this purpose will be published in September 2002.

Licensing and Monitoring

Licensing

Public Broadcasting

Section 6 of the Broadcasting Act entrusts ICASA with the responsibility of monitoring compliance by the SABC with the Charter for Public Broadcasting Services. This charter has yet to be developed and passed by Parliament.

The Broadcasting Act also provides that a public company, namely SABC Limited, has to be registered with the Registrar of Companies. The State will be the sole shareholder of this company. On its incorporation as a public company, it is envisaged that the SABC will be restructured into two separate business units, one public and the other commercial. ICASA will then issue two separate broadcasting licences to the public and commercial wings of the SABC.

In anticipation of the transformation of the SABC into a registered Public Company, ICASA has put together an issues paper to guide it in overseeing the SABC restructuring process and the eventual issue of broadcasting licences for both the Public and Commercial business units of the SABC.

Commercial Broadcasting Services

The following commercial sound-broadcasting licensees, prompted by impending changes to their shareholding structures, applied for amendments to their respective licences. The applications were submitted for the purpose of consolidation, as in the case of Jacaranda FM, East Coast Radio and Radio Oranje following the proposed Nail/Kagiso merger, and recapitalisation.

P4 Radio (Durban) and P4 Radio (Cape Town)

On 2 February 2001, ICASA held a hearing, after receiving applications for the amendment of licences in relation to the shareholding structure of P4 Radio (Durban) and P4 Radio (Cape Town) in terms of section 52(1)(c) of the IBA Act. The stated purpose of the amendment application was to facilitate the participation of Nail's subsidiary, New Africa Media Holdings (“NAM”) as a minority shareholder in the shareholding of Radio P4 (Durban) and Radio P4 (Cape Town). ICASA also held a closed hearing in terms of section 28A(5) of the IBA Act to determine, among others, the empowerment status of NAM.

The applications by both Radio P4 (Durban) and Radio P4 (Cape Town) were presented as one indivisible transaction in that both licensees submitted their respective amendment applications at the same time so that, assuming the applications were granted, NAM could acquire minority shareholder rights in both licensees. As a result, ICASA could not grant or refuse either application; it had to accept or reject both.

ICASA rejected both applications for the following reasons:

> *The financial arrangements underpinning the transaction - though a minority shareholding in theory - gave NAM control over both Radio P4 (Durban) and Radio P4 (Cape Town).*

> *Failure on the part of NAM, which owns and controls other commercial sound-broadcasting licensees, to show good cause why it had to be exempted from ownership and control restrictions embodied in section 52 of the IBA Act.*

Classic FM

Classic FM made an application, in terms of section 52(1)(c) of the IBA Act, to amend its shareholding structure to enable MoneyWeb Holdings Limited to join the licensee as a minority shareholder. ICASA held a hearing on this application on 1 February 2001.

After considering the application, ICASA approved the changes to the shareholding structure for the following reasons:

> *Amendments to the shareholding structure would not impact on Classic FM's empowerment credentials as the empowerment groupings would still retain control over the licensee; and*

> *Increased liquidity and financial viability of the licensee.*

Kaya FM (Pty) Ltd

Kaya FM (Pty) Ltd (“Kaya FM”) submitted an application to amend its shareholding structure in terms of section 52(1)(c) of the IBA Act. The application was prompted by NAM's decision to acquire a controlling stake over Kaya FM and the desire of both the Communications Workers Union (“CWU”) and Independent Newspapers to exit the licensee. ICASA held hearings on the transaction on 16 October 2001.

ICASA approved the amendment for the following reasons:

> *The amendments to shareholding structure would not impact on Kaya FM's empowerment credentials as the empowerment groupings, namely, Thebe Investment, Makana and Mokgosi, would retain ownership control over the licensee; and*

> *Re-Capitalisation of Kaya FM and increased liquidity from NAM's investment.*

The amendments were approved on condition that NAM would not use its financial 'muscle' to acquire either direct or indirect control over the licensee.

Kagiso/NAIL Merger

On 8 August 2001, Jacaranda FM, East Coast Radio and Radio Oranje submitted applications for the amendment of their broadcasting licences to change their respective shareholding structures. These applications were necessitated by the merger and acquisition deal involving NAIL and Kagiso. Kagiso, in terms of this deal, proposed to sell its assets (including shares in East Coast Radio and Radio Oranje) to NAIL. The transaction was indivisible so that ICASA either had to accept or reject both applications, but could not grant one and refuse the other. The application by East Coast Radio included a request for exemption from the section 49(2) ownership limitations, as provided in section 49(6) of the IBA Act. NAIL had a controlling stake in both Jacaranda FM and KFM (Pty) Ltd and a minority stake in Kaya FM (Pty) Ltd. Kagiso, on the other hand, had controlling stakes in East Coast Radio, Jacaranda FM and a minority stake in Radio Oranje.

The hearing into these applications was held on 18 October 2001. The section 49(2) exemption request was refused for the following reasons:

> *Failure on the part of the applicant to show good cause for its exemption from the ownership limitation rules;*

> *ICASA's reluctance to look at this case as an exception in view of plans to review the ownership and cross-ownership restrictions for the industry as a whole;*

> *The concern that the empowerment credentials of Kagiso (which gave the licensees competitive advantage over other applicants when this license was first issued) were likely to be compromised, given the questions raised and a failure by the applicants to provide a satisfactory explanation on the empowerment status of NAIL; and*

> *Public interest, fairness and diversity.*

M-Net licence Renewal Application

On 5 December 2001, Electronic Media Network Limited ("M-Net") lodged an application in terms of section 44 of the IBA Act for the renewal of its broadcasting licence expiring on 31 March 2002. The decision to grant or refuse the renewal application was dependent on M-Net's compliance with the terms and conditions of its licence.

As is required by section 41(6) of the IBA Act, ICASA published a notice in Government Gazette 23007 of 3 January 2002, containing the material particulars of M-Net's renewal application. Written representations were received from Midi Television and the SABC. The representations focused on M-Net’s Open Window rights. The SABC proposed in this regard that M-Net's licence be amended in terms of section 52(1)(d) of the IBA Act. ICASA, after considering all the relevant factors, decided to proceed with the renewal application.

The hearing in respect of this application was held and the following findings were made:

> *In terms of its licence conditions, M-Net was obliged to broadcast a weekly average of 20% South African drama, measured annually, during unencoded time. For the period 1 April 1999 to 31 March 2000, M-Net failed to comply with this condition, with its weekly drama programming averaging only 18,8%. Since M-Net had taken the initiative to raise this non-compliance with ICASA and had subsequently been reprimanded by the Broadcasting Monitoring and Complaints Committee (“BMCC”), ICASA took the view that, although it considered this transgression in a serious light, M-Net had responded positively to the BMCC’s warning and had rectified its conduct accordingly.*

> *ICASA noted that M-Net had failed to comply with the licence condition requiring that 35% of positions in its management echelon be occupied by persons from previously disadvantaged communities. ICASA accepted M-Net's explanation that it had put a policy in place to fill vacancies with black South Africans and that deviations from this policy will only be authorised by its CEO, as adequate assurance and commitment.*

> *M-Net was found to have, on a number of occasions, violated the Broadcasting Complaints Commission of South Africa's (“BCCSA”) Code of Conduct for Broadcasters, for broadcasting:*
> - *on two occasions, promotional advertisements for an adult programme during family time viewing;*
> - *a movie on a lower age restriction when in fact a higher age restriction was called for; and*
> - *inaccurate material; or alternatively without a proper balance to the story in one of its current affairs programmes.*
>
> *ICASA decided that in each of these contraventions, M-Net had taken appropriate measures to ensure a non-recurrence of the contraventions and that there was no reason to suspect that M-Net would not, in the future, comply with the BCCSA's Code of Conduct.*

Given the above findings, ICASA was satisfied that M-Net had materially complied with its licence conditions and that it would continue to do likewise. Accordingly, M-Net's broadcasting licence was renewed for a further period of 8 years.

Community Broadcasting Services

During the year under review ICASA has, in terms of section 47 of the IBA Act, granted 26 temporary one year Community Sound Broadcasting Service Licences

(See Appendix A, page 43). A licence on four-year community television broadcasting service, grand-fathered in the pre-IBA era, was granted to Trinity Broadcasting Network (TBN). Hearings on four-year community sound broadcasting services were held in KwaZulu-Natal and the Western Cape. Short-term/Special events licences were also considered.

Trinity Broadcasting Network (Ciskei)

On 25 April 2001, ICASA held a public hearing on the renewal of Trinity Broadcasting Network's ("TBN") four-year community television broadcasting licence in terms of section 44 of the IBA Act. In its renewal application, TBN also submitted an application for the extension of its coverage area to include the Port Elizabeth and East London metropolitan areas.

On these two issues, ICASA ruled that:

> *A community television licence for a further four year period be granted to TBN, as is required by section 44 of the IBA Act, for material compliance with its licence conditions; and*

> *The request for the extension of coverage be rejected on the following grounds: TBN was the only community television service station in the Port Elizabeth/East London area; and a regulatory framework still has to be developed for the community television sector.*

KwaZulu-Natal Four Year Community Sound Broadcasting Services Hearings

From 22 to 27 October 2001, ICASA held hearings in KwaZulu-Natal on applicationsn for community radio station licences. These hearings were held in Durban, Newcastle and Richards Bay covering the following Radio Stations: ICORA (Eshowe Development); Radio Kwezi; Radio Noordkus; Radio Maputaland; Radio Drakensberg; Radio Newcastle; Radio Azania; Rainbow Radio; Umbumbulu Community Radio; North Coast FM; CBI Community Radio; Izwi Lomzantsi; Kazimula FM; Radio Boesman Rand; Radio Maritzburg; C-Talk Radio; Durban Youth Radio; Highway Radio; Goodnews Radio; Radio KNI; and Radio Sunny South.

Special Events Licences

ICASA grants Special Events Licences, from time to time on receiving an application from any person, natural or juristic, for the broadcast - on a non-profit or not-for-gain basis - of special events taking place in communities. These licences are granted for a maximum period of 30 days and are not renewable.

During the year under review, ICASA considered special events and other short-term licences. Eighteen applications for Special Events Licences were granted (See Appendix A, page 43).

Monitoring and Complaints

ICASA's Monitoring Unit is responsible for: ensuring that licensed broadcasting and signal distribution services adhere to their: licence conditions and obligations, the various codes, regulations and certain provisions of the IBA Act and the Broadcasting Act; and receiving, processing and adjudicating complaints as well as acting as the registrar of complaints for the BMCC.

Monitoring

A major part of the Monitoring Unit's work has been the preparation of assessment reports on each licensee. This involves an analysis of a licensee's compliance with licence conditions during its licence period, and the compilation of a report on the performance of licensees to the ICASA Council and the Licensing Unit. During the period under review, the Monitoring Unit has produced and published 72 assessment reports and observed the programming activities of e-tv; M-Net and SABC Television.

ICASA has a responsibility to monitor sound broadcasters' compliance with the South African Music Content regulations. ICASA's review of the content quota during the first half of 2001 and the subsequent publication of the new regulation on South African content will require that a new strategy be developed to measure compliance with the new regulations. The regulations come into effect on 22 August 2003 and ICASA, through its Monitoring Unit, will conduct workshops to ensure that all broadcasters affected by the new music content rules understand the new regime. The importance of the South African content quota became clear during the public hearings when a number of artists, producers and actors indicated that the quotas were definitely contributing to growth in the production industry. The enforcement of these regulations is critical if there is to be any hope of stimulating a vibrant production industry.

Due to the complexity of monitoring all the licensees and their compliance with regulations such as South African Content, ICASA's capacity is inadequate - both in terms of human and technical resources - as the processes and equipment, put in place in 1995, are now outdated. ICASA can no longer cope with the workload, which increases exponentially as more and more broadcasters are licensed. As a result, the Monitoring Unit initiated an assessment process to identify its needs. A review of the process established may take place at any time when new needs are identified such as the entry into the market of a significant number of new broadcasters.

In keeping with the requirements of the Broadcasting Act, the Monitoring Unit has also placed additional emphasis on community participation and democratic processes in the case of community broadcasters. Community participation in the activities of community broadcasters,

to ensure accountability and responsible management, has proven to be very important. This, together with employment equity and training and development, has directed the Monitoring Unit's focus in assessing broadcaster's performance. This method appears to have paid dividends as the level of trained people in the broadcasting industry has increased.

With four-year community sound broadcasting licences having been issued in six of the nine provinces, the Monitoring Unit undertook to review its monitoring requirements for community sound broadcasters. This process was concluded and monitoring visits were conducted to all broadcasters that had been issued with four-year community sound broadcasting licences. As new broadcasters are licensed on a monthly basis, the process continues, but should be concluded by the end of 2002.

BMCC

The BMCC is a statutory body established in terms of the IBA Act and is convened on an ad hoc basis to adjudicate complaints and discuss policy matters relating to the monitoring of broadcasters. The members of the BMCC comprise Advocate Jules Browde, SC (Chairperson); Ms. Keneiloe Mohafa; Prof Tina Uys; Ms. Irene Menell; Dr. Devi Rajab and Ms. Libby Lloyd (representative of the ICASA Council in the BMCC).

The BMCC initiated a process of reviewing its constitution and the procedures for appointing BMCC members. This process was concluded and the constitution and procedures were published as regulations during the year under review. The new constitution of the BMCC allows for additional BMCC members to be appointed, and this will ease the backlog and increase efficiency.

Complaints from the public are lodged with the Complaints Officers in the Monitoring Unit. In most cases ICASA attempts to resolve the complaints itself. Only those complaints that cannot be resolved are referred to the BMCC for adjudication. During the year under review, the BMCC held regular meetings and called four hearings to address the following complaints:

Punt Geselsradio

Two hearings addressed alleged contraventions by Punt Geselsradio ("Punt"), in both Gauteng and the Western Cape, broadcasting services. In both hearings, Punt had to answer allegations of possible contravention of its licence conditions by changing its control and ownership structure without the permission of ICASA.

The BMCC ruled that Punt had contravened its licence conditions and ordered Punt to submit the required amendment application to correct the contraventions.

The BMCC further ruled that failure by Punt to submit the amendment application would result in both licences being recommended for revocation.

Punt failed to submit the required applications and the ICASA Council decided to revoke the licences, in accordance with the BMCC's ruling.

Highveld Stereo

Highveld Stereo was called to appear before the BMCC to answer charges of failing to meet the prescribed music quotas in the South African Music Content Regulations.

Highveld Stereo was found guilty and fined an amount of R5 000, 00 and was further ordered to desist from any such contraventions in the future.

Good Hope FM

Good Hope FM was charged with failure to meet the prescribed minimum quotas for South African Music Content. A hearing was held and the matter was postponed to enable ICASA to revise the charge sheet and the SABC, which is the licensee, to prepare its defence. At the time of writing this report, the second hearing had not been held.

Complaints Received

During the period under review the Monitoring Unit received 102 written complaints from the public. 37 of these were received via e-mail and the remainder by mail or fax. Approximately 156 telephonic queries were also processed during this period. In addition to the above, the Monitoring Unit lodged 18 complaints with the BMCC following investigations into alleged contraventions by Broadcasters. Two complaints were carried over from the previous year due to delays caused by court proceedings.

At the time of writing this report, only seven of the 102 written complaints received were still to be finalised. The Monitoring Unit processed 14 complaints initiated by it. All telephonic queries were processed and finalised.

Although the number of complaints received by ICASA was substantially lower than in the previous year, the nature and complexity of the complaints received was a challenge. As an example, the Monitoring Unit was called upon to consider issues that had constitutional implications. These related mostly to alleged unfair labour practises, religiously offensive programming and lack of programming information for viewers. A breakdown of Broadcasters that received two or more complaints is as follows:

E-tv (12); M-Net (9); SABC TV (23); SABC Radio (14); Radio 702 (8); Highveld Stereo (3) and Community Radio (35).

The above complaints exclude those that fell outside the jurisdiction of ICASA. These related mostly to alleged unfair labour practices, contractual disputes, internal managerial issues and advertising.

TELECOMMUNICATIONS

The Telecommunications Programme of ICASA, lead by a General Manager, is composed of two departments, namely; Policy Analysis and Development; and Licensing, Enforcement and Numbering Administration. The responsibility of this programme, *inter alia*, is to: review the inter-corporate activities of the telephone operators and their accounting practices; assess the rates, terms and conditions of tariffed services offered by regulated telecommunications operators; oversee the evolution of competition in the various telecommunication, markets; and licence telecommunications carriers and ensure compliance with licence conditions.

Policy Analysis and Development

The Policy Analysis and Development Department is responsible for all telecommunications regulatory policy initiatives. During the year under review, this department developed a number of regulatory policy instruments to foster competition as the incumbent telecommunications operator's monopoly drew to a close. These policies were critical not just in terms of the liberalisation of the fixed line telecommunications market, but also for Telkom's Initial Public Offering ("IPO") process. The regulatory policies introduced for this purpose included: Chart of Accounts/Cost Allocation Manual ("COA/CAM"); Carrier Pre-selection; Supplementary Facilities Leasing; Supplementary Interconnection Guidelines and Universal Service Fund ("USF") Contributions.

COA/CAM

The COA/CAM regulatory rules set out a detailed system of accounting and the maintenance of records - as required by section 46 of the Telecoms Act - for Public Switched Telecommunications Service ("PSTS") Providers with market power. These rules are based on the internationally accepted pricing methodology, known as Long Run Incremental Costing ("LRIC"), in terms of which prices are cost-orientated towards the efficient operations of a telecommunications operator.

COA/CAM sets out a detailed system of accounts for operators with market power so that uniform accounting methods are employed. This makes it easy for ICASA to undertake audits and to effectively monitor the operator's compliance with applicable regulations and licence conditions. Therefore, under a COA/CAM account regime, ICASA will be equipped to determine, *inter-alia*, proper benchmarks for cost-based pricing of services as well as provide sufficient separation of accounts to allow detection of discriminatory behaviour and unlawful cross-subsidisation of services.

The implementation date of LRIC has been delayed to allow Telkom, the incumbent operator, to make the transition from its present accounting system to LRIC.

Carrier Pre-Selection and Carrier Selection

Carrier Pre-Selection is a consumer-orientated concept, which allows telephone subscribers to choose their national long distance and join international carriers. The Carrier Pre-Selection Regulations have been promulgated under Section 89C of the Telecoms Act. Pursuant to these Regulations a Telkom subscriber, for example, has a right to choose the SNO as the national long distance carrier and/or international carrier while remaining a Telkom subscriber for the local service. Conversely, an SNO subscriber may choose Telkom for long distance and/or international connection. Such a preset choice can be over-ridden manually by entering a code before the call. Similarly, carrier selection can be done manually, without a preset choice, by entering a code.

Carrier Pre-Selection has been successfully implemented in numerous countries and proven beneficial to consumers by facilitating competition between service providers in the national long distance and international segments of the telephony markets. Generally, the end result is that consumers pay lower prices for long distance and international calls because of competition for "customers" by licensed operators. As called for in the Telecoms Act, the Regulations provide for a transition period and therefore carrier pre-selection will only be operational as of 31 December 2003.

Facilities Leasing

The Facilities Leasing Regulations, promulgated pursuant to section 44 of the Telecoms Act, govern the commercial relationship between telecom carriers when seeking to lease facilities (lines, cables, equipment, etc.) from Telkom and eventually from the SNO. They also govern the commercial relationship between Telkom and the SNO when either carrier leases facilities from the other.

These Regulations set out: certain minimum requirements that must be addressed in the lease agreements; pricing guidelines; rules to ensure that telecommunications carriers, including private telecommunications network operators, value added network service operators, and mobile operators can lease the facilities needed on fair and non-discriminatory terms and conditions.

The supplementary regulations also address those provisions of the Telecoms Act relating to the SNO's right to lease facilities from Telkom during the first two years of its operation. In this respect the Telecoms Act has reserved certain rights for the SNO to help facilitate its "start-up" soon after it is licensed. The Facilities Leasing Regulations attempt to provide adequate protection, as prescribed by the Telecoms Act, to give the SNO a viable start in keeping with the Government's policy of managed liberalisation.

Interconnection

Towards the end of the period under review, ICASA held a public hearing and received written comments on its draft Supplementary Interconnection Regulations. The Supplementary Interconnection Regulations, *inter alia*, set out a transition pricing methodology to be used by major operators (PSTS operators with significant market power) until the implementation of the LRIC methodology under COA/CAM.

Interconnection is key to ensuring that South Africa has a fully integrated and ubiquitous telecommunications infrastructure. Through interconnection, the various networks of mobile operators, PSTS operators, private networks and the like, communicate with one another. Interconnection does not only make it possible for consumers to make and receive calls originating from different carrier's networks (e.g. a mobile call to a Telkom subscriber); but also facilitates Internet access from multiple networks giving consumers a variety of choices.

USF Contributions

In line with the requirement of the Ministerial Policy direction, issued in August 2001, which requires all telecommunications licensees, including Value Added Network Service, to contribute to the USF on the basis of a percentage of turnover from April 2003, ICASA embarked on a process of revising the existing regulations which limits the USF levy that may be imposed on an operator to 0.16% of turnover. ICASA has recommended that the USF levy on operators be increased to 0.2% of turnover, which is within the 0.5% ceiling determined by the Minister. As at the time of writing this report, the Minister was still considering this recommendation.

The Universal Service Agency ("USA") is mandated to utilise these funds to subsidise projects whose objectives are to promote the universal and affordable provision of telecommunications services. Another aim of this fund is to ensure that the needs of disabled persons are catered for in the provision of telecommunications services.

The Policy Analysis and Development Department, while prioritising the pro-competition regulations, has also produced regulations relating to Application Fees; Fees and Charges for PSTS Services; and Ownership and Control.

Application Fees

Radio Communications Licences have historically been issued by ICASA and its predecessors at no cost to the Licensees. The Application Fees Regulations have changed the legal position and ICASA can now recover any direct cost incurred when a licence is issued to a Radio Communications Licensee.

Fees and Charges for PSTS Services ("Rate Regime")

These regulations are designed to provide a basis for the level of charges and fees for services offered by PSTS operators, including monthly rental and local, national and international call charges. These regulations are necessary to ensure that consumers are not unduly over-burdened in markets where there is little or no competition.

Ownership and Control

ICASA, after holding a public enquiry in terms of Section 27 of the Telecoms Act, published ownership and control regulations in Government Gazette 23190 of 27 February 2002 to promote competition in the telecommunications market. The objective of these regulations is to promote competition in restricted (markets with less than 5 telephone operators) telecommunications markets. What this means is that an investor who owns and controls one operator cannot have a controlling and ownership interest in another operator. The interest in such other or second operator would, in terms of these regulations, be limited to 1.5% shareholding.

Licensing, Enforcement and Numbering Administration

The primary function of the Licensing, Enforcement and Numbering Administration department is to: analyse and process applications for telecommunications service licences; check compliance of licensees against applicable regulations, legislation and their respective telecommunications service licence conditions, i.e payment of licence fees and delivery of universal and community service obligations; and administer the number plan to ensure fair and efficient use of numbers for present and future generations. During the period under review the department participated in a number of licensing activities, including the following:

Third Mobile Licence

On 5 June 2000, Nextcom (Pty) Ltd ("Nextcom"), one of the bidders for the third mobile licence, sought an interdict from the High Court of the Transvaal Provincial Division, preventing: the Minister of Communications from acting upon the then SATRA's recommendation that the third cellular licence be awarded to Cell C (Pty) Ltd ("Cell C"); and SATRA from issuing a third cellular licence to Cell C.

After a year-long legal battle, Nextcom and Cell C reached an out of court settlement. The nature of the settlement has never been made public. On the basis of this, the Minister made an announcement that the third mobile licence would be awarded to Cell C. ICASA issued the licence on 25 June 2002. This licence authorises Cell C to construct, operate and maintain licensed lines within South Africa to:

(i) Provide the Service by means of mobile cellular telecommunications, operating within the frequency bands allocated to it, in terms of a frequency spectrum licence issued by ICASA;

(ii) Connect fixed Terminal Equipment and mobile Terminal Equipment according to the Technical Standards, using GSM cellular radio telephony technology for the provision of the Service; and

(iii) Interconnect with any PSTS licensee and with the network of other persons licensed to provide telecommunications services.

Re-issue of the Mobile Cellular Telecommunications Service Licences for MTN and Vodacom

During the course of the year under review, the existing cellular licences of MTN and Vodacom, which were originally issued on 30 September 1993, were aligned with the Telecoms Act. Council approved the licences and copies were forwarded to both cellular operators and the Minister. The Minister has since approved these licences.

Sentech Licences

Section 32C(1)(a) and (b) of the Telecoms Act bestows onto Sentech Limited an international telecommunications gateway service licence and a multimedia service licence, respectively. ICASA is enjoined by the Telecoms Act to issue these two licences on or before 7 May 2002. The draft licences were published on 20 December 2001 and public hearings were held on 20 and 21 February 2002. These licences were finalised and published in Government Gazette Notice No.: 23405 on 8 May 2002.

SNO

Section 32A of the Telecoms Act states that from 7 May 2002 until 7 May 2005, Telkom and the SNO shall be the holders of PSTS licences. The effect of s32A is to end Telkom's monopoly and introduce competition, in the form of a duopoly, in the PSTS market.

The Minister, empowered by section 34(2) of the Telecoms Act to issue Invitations to Apply ("ITA's") for certain categories of licences, including PSTS, took a policy decision that the SNO Licensing process would be managed in three separate phases. The first phase would involve the determination of the winning bid for the 19% equity stake set aside by the Minister for the empowerment of historically disadvantaged persons. The second phase would focus on the award of the 51% stake to the Strategic Equity Partner and the third phase would involve the integration of Eskom-Transnet, joint holders of a 30%, stake into the SNO.

On 21 December 2001, the Minister issued the Black Economic Empowerment ("BEE") ITA, inviting people from historically disadvantaged backgrounds to apply for the 19% equity stake in the SNO. This ITA set the stage for the SNO licensing process. The closing date for these applications was originally 14 March 2002 and was later extended to 15 April 2002. At the time of writing this report, ICASA had recommended that the 19% BEE stake be awarded to Nexus. The SNO licence, as an integrated licence, will be issued in the first quarter of 2002.

Anticipating the issuing of the SNO licence in the first quarter of 2002, ICASA prepared a draft licence, authorising the provision of local, national and international telecommunications services. The draft licence also authorises the SNO to provide all of the services that are currently offered by Telkom (public pay telephones, private network services, multi-media, Internet, etc.) to facilitate competition in the market. In keeping with the government's policy of fostering 'facilities-based competition', the licence will require the SNO to meet certain 'build-out' and 'quality of service' obligations. The licence allows the SNO to provide the authorised services throughout the Republic, including sending and receiving international traffic. It is expected that certain of the terms and conditions set out in the draft licence will be negotiated with potential SNO licensees.

VANS and PTNS

An enquiry was held into whether a Virtual Private Network ("VPN") constitutes a Managed Data Network Service ("MDNS"). The finding made by ICASA on 1 June 2001 was that a VPN is not a Managed Data Network Service, but a technology used to provide various services.

On 1 June 2001 the findings and conclusions of the VPN enquiry were published and an industry briefing held. At the same time draft VANS and PTN licences were published and the closing day for comments was 29 June 2001. The public hearings of the proposed VANS and PTN licences were held on 11 July 2001. Furthermore, ICASA proposed definitions for VANS and PTNs to the Department of Communications for incorporation into the Telecommunications Amendment Bill. These were subsequently incorporated and are now part of the Telecoms Act.

The final section 34(1) regulation on the manner and form in which to apply for VANS and PTN licences, together with the section 88 regulation on application fees for VANS and PTNs, was forwarded to the Minister for promulgation.

For the period under review ICASA issued a total of 45 VANS and five PTN licences. (See Appendix A, page 44).

New Numbering Plan

A new numbering plan and regulation was developed by the Telecommunications Licensing Department during the year under review. The Numbering Plan will see the introduction, six months after the promulgation of the numbering plan, of mandatory 10-digit dialling across South Africa and a national short code strategy for all telecommunications operators. A national public emergency number '112' and an international direct code '00' will also be introduced within several days of the promulgation of the numbering plan. The numbering plan regulation will be finalised during August 2002.

Engineering & technology

This programme is divided into two departments, namely, Frequency Spectrum, and Monitoring and Regions. The responsibility of this programme covers: support in the granting of frequency and station licences, certificates and authorities; the management and planning of access to the radio frequency spectrum through radio communications licensing; the preparation of frequency band plans; investigation of radio communications interferences; and the assessment, adoption and management of technical standards relating to customer equipment and other devices.

Frequency Spectrum

The Frequency Spectrum department undertook the following projects during the period under review:

South African Band Replanning Exercise ("SABRE") 1 and 2

SABRE 1 was initiated as part of the National Telecommunications Forum and Telecoms Act development process and was published by the Department of Communications ("DoC") on 6 May 1997. The purpose was to review the Frequency Plan in the range 20MHz to 3GHz, to align it with international developments and to provide for the migration of certain services from one band to another.

With the proliferation of new technologies, it also became imperative to extend the plan for frequencies above 3GHz. ICASA initiated a consultation process to determine this new Frequency Plan, SABRE 2, and to provide for various services that were being established in frequency bands above 3GHz. SABRE 2 was finalised and published in Government Gazette 1920 of 29 August 2001, under the title "Radio Frequency Spectrum Band Plan covering the range 3GHz to 70GHz".

The SABRE 1 requirement for the migration of certain users (mostly the security agencies of the state) from the 1800MHz spectrum to facilitate access to this spectrum by Cell C, MTN, the SNO and Telkom was initiated in July 2001 by the ICASA 1800MHz Spectrum Committee established in terms of section 17 of the ICASA Act 13 of 2000 ("the ICASA Act"). This committee collated and developed a database reflecting the usage of the 1800MHz band.

Review of Equipment Type Specifications

All relevant standard telecommunications technical specifications are assessed through the national Standards Technical Committee, TC 80, which is governed by the South African Bureau of Standards ("SABS"). The Standards Liaison Committee of ICASA oversees this work, as well as that carried out by the SABS Committees TC 73 "Electromagnetic Compatibility" and TC 74 "Communications Technology". ICASA and the SABS concluded a Memorandum of Understanding ("MoU") to govern their co-operation.

Several new South African specifications were finalised in the reporting period. These include:

> Analogue Terminal Equipment Standard: TE 001
> Standard for Basic and Primary Rate: ISDN
> Switching System Standard: SWS001
> Standard for Analogue Calling Line Identification: TE 010

Short Range Devices (SRDs)

SRDs are devices used very widely by the public and include devices such as electronic car keys, cordless phones, security systems controls and wireless LANs, for which there is only type authorisation in certain frequency bands at very low signal levels. SRDs use frequency spectrums that have typically been allocated for Industrial, Medical and Scientific ("ISM") use, e.g. telemetry, wireless audio systems and wireless LANs, on the basis that individual units must be of an approved type but would not require its own frequency licence as long as it is used under the specified conditions. Proliferation of this equipment may result in undesirable interferences, if not properly regulated. Therefore, there is an urgent need for regulations to be developed to regulate the above services and equipment. After a public enquiry, a notice was drafted advising the public of ICASA's intention to develop regulations relating to the use or possession of certain radio apparatus without a radio frequency spectrum licence, certificate, authority or permit.

Licensing of the Public Safety/Emergency Trunking System

The Ministerial Policy Directive of August 2001 stipulated a need for a uniform national public safety/emergency communications system to enable all emergency services to communicate seamlessly. ICASA initiated preparations for the necessary licensing of these services and frequency allocation. The project was placed on hold pending results of a pilot project by the Department of Communications, utilising GSM technology as opposed to digital radio trunking.

Telecommunications Regulators' Association of Southern Africa ("TRASA") Projects

Following the TRASA AGM, held in Livingstone, Zambia from 3 to 6 September 2001, several projects were identified for action, for example, the Regional Licensing Centre; Cross-Border Co-ordination; and Regional Standards. Cross-Border Co-ordination was advanced by an MoU between ICASA and Lesotho Telecommunications Authority ("LTA"), signed on 14 February 2002. This formed a platform, which was later used to address GSM spillovers, services in 'no-person's land' as well as adjustments to international tariffs.

International Telecommunications Union ("ITU") World Radio Conference

Preparation for the ITU World Radio Conference is a major effort co-ordinated by the Department of Communications to ensure South African input to this event. ICASA was nominated to Chair the committees assigned to deal with Chapter 2 (Mobile, Mobile Satellite and Space Science Services) and Chapter 5 (Maritime Mobile and Broadcasting) of the ITU conference-planning document. This global event is scheduled for 9 June to 4 July 2003 in Geneva, Switzerland.

Publication of an Annual Broadcasting Frequency Plan

Section 31(5)(a) of the IBA Act requires that the Authority reviews the plan annually. A similar frequency plan was last published in 1999. The current plan was finalised in January 2002. The plan provides for a broadcast frequency assignment policy framework, schedules of frequencies in the various broadcasting frequency bands allocated to the different categories of broadcasting services and assignments that are operational, licensed or spare.

Digital Broadcast Frequency Plan Development

Preliminary input was provided by ICASA to the Digital Broadcasting Advisory Body ("DBAB") appointed by the Minister in terms of the Broadcasting Act. ITU guidelines are expected to be issued in 2004. Further contributions will be made once the discussion document is published.

Radiocommunications Frequency Licences

Frequency licences are issued for radiocommunications operators. These licences are issued to a variety of users, ranging from large-scale users who hold multitudes of frequencies to single frequency users who use the licences for two-way radios or burglar alarms. During the period under review, 3476 frequency licences were issued. The main frequency licences issued during this period are set out in Appendix A, page 48.

Type Approval and Licensing of Telecommunications Equipment

The Equipment and Supplier Licensing Unit is responsible for the processing of applications for type approval and licensing of Telecommunications equipment in terms of Chapter VI of the Telecommunications Act. This approval and licensing is done against relevant specifications and standards covering Technical Performance, Electrical Safety and Electromagnetic Compatibility.

Telecommunication Line Terminal Equipment ("TLTE")

Telecommunication equipment that interfaces with the Public Switched Telephone Network ("PSTN") is classified as a TLTE (sometimes also referred to as Customer Premises Equipment or Telephone Attachments). This category includes, amongst others, modems, all types of phones, fax machines, speech recorders and lightning protection devices, etc.

The Telecoms Act requires that such equipment is type approved and licensed. The number of TLTE licences issued during the period under review were 114 (see Appendix A, page 46). In addition to the 114 TLTE licences issued, there were also 592 TLTE licence renewals (see Appendix A, pages 46 to 47).

Switching Systems (SWS)

Telecommunications equipment with one or more input ports that are capable of connecting to the Public Switched Telephone Network ("PSTN"); a number of extension ports to which TLTE may be connected; and the ability to interconnect incoming and extension ports for the purposes of exchanging electronic information, is classified as a Switching System ("SWS"). This category includes, amongst others, Private Automatic Branch Exchange ("PABX"), Integrated Services Digital Network ("ISDN"), Automatic Call Distribution Systems ("ACD") and Automatic Call Processing Systems ("ACP"). Seventy-one licences were issued (see appendix A, pages 46 to 47) and 381 renewed for this type of equipment.

Grey Market Products

Grey marketing essentially involves the unauthorised transfer of brand name equipment and software outside of authorised channels. This could lead to the sale of grey market products which may be damaged or obsolete products, products rebuilt with counterfeit parts, or products delivered without manufacturer support or warranty.

The Frequency Spectrum Department received several complaints regarding suspected grey market products from organisations such as the Telecommunications Line Terminal Equipment Association ("TLTEA"), Association of Information Technology Suppliers and Media, Telkom and Telkom Test Laboratory, Customs and Excise and the SABS. These complaints were investigated with the help of the various regional offices. The ICASA Council appointed several staff members of this department as inspectors, to enable them to participate in investigations into suspected unlicensed equipment.

Licensing of Line Maintenance Organisations

Two categories of Line Maintenance Organisations are licensed in terms of sections 56 and 57 of the Telecoms Act. Twenty five licences (see Appendix A, page 47) were issued and 84 were renewed in this category in the period under review.

> Line Maintenance Organisation type 1 ("LMO-1")

The organisation is licensed to install, alter and maintain ICASA approved PABX switching units as well as the associated extension-line cabling and terminal equipment.

> Line Maintenance Organisation type 2 ("LMO-2")

The organisation is licensed to install and maintain telephone cabling and reticulation.

Frequency Spectrum Assignments and Licensing Software Project

The tender for this project was issued in August 2001. The tender was awarded to the LS and Z-Comms consortium. LS broadcasting frequencies module had been used by the IBA in the past. This project, once completed, will replace the obsolete Spectrum System, which does not provide further upgrade paths to facilitate new licensing categories and requirements or revised licensing processes. The new Frequency Spectrum Assignment System will provide for comprehensive nationwide frequency assignments and licensing; integrating radiocommunications and broadcasting. The new system will be fully operational by December 2002.

Installation of fixed DF monitoring units in Gauteng

This project involves the deployment of four direction-finding monitoring units purchased from Protea Electronics in 1998. The contract was awarded to Poyntings Engineering for the installation of one unit as a pilot project. The project officially commenced on 26 March 2002. The first direction-finding monitoring unit is expected to be operational by October 2002. This infrastructure will significantly improve effectiveness of spectrum monitoring and location of sources of unlicensed radio transmissions.

Monitoring and Regions

The Monitoring and Regions department enforces compliance with the Telecoms Act in terms of spectrum usage and stamps out illegal spectrum usage by unlicensed defaulters. The Regional Offices conduct inspections, monitoring, interference investigations, maritime surveys and maritime examinations.

The Durban, Port Elizabeth and Cape Town offices perform maritime surveys. These offices have experienced technical officers who carry out marine surveys on behalf of the South African Maritime Safety Authority ("SAMSA") and conduct Global Maritime Distress and Safety System ("GMDSS") examinations.

Law consumer protection & council support

The Law, Consumer Protection and Council Support Programme is divided into three business units, i.e., Law; Consumer Protection; and Council Support. The responsibility of this programme includes, *inter alia*; legal advice on a broad range of communications and general administrative law issues including a wide array of statutes, regulations, and procedures; assistance and recommendations in adjudicatory matters before Council; management of all complaints lodged with Council in terms of sections 53 and 100 of the Telecommunications Act; secretariat support to Council and its Sub-Committees; co-ordination of Council's public hearing schedule; co-operation and consultation on international telecommunications matters with other regulators; development of plans for consumer safeguards, in the form of, *inter alia,* Customer Service Guarantees Standards; and the management of public education and awareness programmes on key issues affecting consumers.

Law

The core business of ICASA is rulemaking and licensing. Law is one of three key support services playing a critical role in upholding and supporting the rulemaking and licensing wheel as articulated in the CEO's report. The support provided by the Legal Department to ICASA's core business programmes, takes the form of opinions on various legal subjects, litigation, legal checks and scrutiny of all regulations passed by the ICASA Council, as well as the publication of notices in the Government Gazette.

During the year under review, the Legal Department managed various legal disputes, instituted either by or against ICASA. These include:

Radio Kingfisher

During the evaluation of four year community sound broadcasting applications in the Eastern Cape, ICASA refused Radio Kingfisher (a community of interest applicant based in Port Elizabeth) a four-year community licence and awarded it to Radio Nkqubela (a geographic community applicant in the same geographic area), which was competing for the same frequency. Radio Kingfisher brought a judicial review application against ICASA's decision in the Eastern Cape Provincial Division of the High Court on the following grounds: (a) lack of prior notice that Radio Kingfisher was competing for the same frequency with Radio Nkqubela; and (b) failure by ICASA to make the Licensing Unit's assessment report available to Radio Kingfisher.

The Court ruled that Radio Kingfisher was not afforded a fair hearing due to ICASA's failure to notify it of Radio Nkqubela's competing application as well as the non-disclosure of the assessment report compiled by its Licensing Unit.

Link FM Trust

Link FM Trust (a community of interest applicant based in East London) applied for a four year community sound broadcasting licence in the Eastern Cape and was competing with Imonti FM (a geographic applicant in the same coverage area) for the frequency. The Authority, having evaluated the applicants, decided to award the licence to Imonti FM. Link FM Trust launched an application for judicial review in the Eastern Cape Provincial Division of the High Court on the grounds that the IBA had not advised that it was competing for the same FM Frequency with Imonti FM.

The Court ruled that the IBA, in spite of having published material particulars of the applicants in the Government Gazette as required by the IBA Act, ought to have informed the competitors that they were competing against each other to enable both applicants to make representation on each other's applications. Failure by the IBA, to notify the applicants of the competing applications tainted the licence application process and the court referred the matter back to ICASA (successor of the IBA) for reconsideration.

Iscorian FM

Iscorian FM was refused a one-year temporary sound broadcasting licence for the period 1 April 2000 to 31 March 2001. Iscorian FM launched judicial review proceedings and the matter was set down for hearing on 5 February 2002 at the Witwatersrand Local Division of the High Court.

ICASA and Iscorian FM settled the matter out of court. This settlement was based on the view that as the Iscorian FM application *was refused without an oral hearing, ICASA would consider a fresh application from Iscorian FM for a one-year temporary sound broadcasting licence for the period 1 April 2002 to 31 March 2003. ICASA would, if this application was submitted by 5 March 2002, exercise its discretion and decide whether or not to hold an oral hearing.*

Radio Pretoria

Radio Pretoria applied for a one-year temporary sound broadcasting licence together with 13 signal distribution licences to cover various areas of the country.

ICASA refused the application on the following basis: (a) the Board of Directors of Radio Pretoria was not a product of a democratic election process as envisioned by section 32(3) of the Broadcasting Act; and (b) Radio Pretoria's practice of employing "Boere-Afrikaners" was inconsistent with the Constitution and the Employment Equity Act.

Radio Pretoria launched judicial review proceedings, still to be heard by the Transvaal Provincial Division of the High Court, against ICASA's decision.

Campus Bay FM

Campus Bay FM applied for a four year community sound broadcasting licence in Port Elizabeth in the Eastern Cape. It defined the community that it proposed to serve as being the youth and students around the Port Elizabeth area. ICASA refused this application on two grounds: (a) Campus Bay FM's lack of support from schools situated in previously disadvantaged areas; and (b) lack of community participation in Campus Bay FM's controlling structures.

Campus Bay FM launched judicial review proceedings against ICASA's ruling in the Witwatersrand Local Division of the High Court and the case was heard on 29 November 2000. As at the end of the year under review, the Court had still not handed down a judgement.

Teks FM

Teks FM (a community broadcaster based in Secunda, Mpumalanga) which failed to submit an application for a four year community sound broadcasting licence brought an application before the Transvaal Provincial Division of the High Court for permission to broadcast without a licence. The application was set down for hearing on 26 March 2002.

The Court ruled that this case could not be decided on papers alone and remanded the case for oral evidence in a Trial Court. At the time of writing this report a trial date had not been set.

Phoenix Community Radio/ICASA and Others

ICASA was served, as an interested party, with an urgent application, brought by The Voluntary Association of the Greater Durban Metropolitan Region, issued out of the High Court of the Durban and Coast Local Division, against the licensee, Phoenix Community Radio, after it was granted a one-year temporary sound broadcasting licence provided that the following conditions were met by 30 November 2001:

> The Annual General Meeting ("AGM") of the Association be held and properly constituted;
> A new board be elected at the AGM; and
> A new constitution be drafted and adopted at the AGM.

The application was brought to restrain the licensee from holding a planned public meeting and from representing that such meeting was an AGM. The application was based on averments that the licensee was not serving the community it was licensed to serve.

As the licensee had not met the conditions, ICASA did not oppose the matter and the licence lapsed on 30 November 2001.

ICASA/Megawan (Pietermaritzburg)

In response to a complaint received from Telkom SA, ICASA appointed and delegated inspectors, in terms of Section 98 of the Telecoms Act, to conduct an inspection on the site of the alleged radio interference. In response to ICASA Inspectors' actions of searching and sealing equipment used by Megawan in terms of a warrant, Megawan lodged a High Court application in Pietermaritzburg seeking interim relief through the release of the sealed and seized equipment. ICASA filed papers opposing the application.

The Court set the warrant of the Magistrates Court aside on the basis that it had been incorrectly issued in terms of the Criminal Procedure Act instead of the Telecoms Act. It ordered that the decision to seal and seize equipment be set aside and that ICASA return the equipment. The Court further ordered that if there were interferences detected within thirty days of the date of the Court Order, such interference would have to be rectified by Megawan.

ICASA/Megawan (Gauteng)

Telkom SA complained to ICASA about radio interferences it was experiencing in various parts of the country. Upon investigation, ICASA found that the interference emanated from Megawan's network operations. ICASA applied to the Transvaal Provincial Division of the High Court for a search warrant to carry out inspections of the sites from which the interference emanated. The High Court Application for a warrant was lodged in terms of section 99(1) of the Telecoms Act.
The judge declined to grant the application and held that such application should have been made after placing Megawan on notice.

ICASA/Telkom SA (Rate Regime)

Around June 2000, ICASA embarked on a consultative process to develop regulations on Fees and Charges ("Rate Regime Regulations") as required in terms of section 45 of the Telecoms Act. These regulations were supposed to replace the 7 May 1997 Ministerial determination on Fees and Charges, which lapsed on 7 May 2000. The effect of the new Rate Regime Regulations was the setting of new rules for fees and charges that a fixed line operator with market power could levy.

As part of the consultation process, ICASA put out a discussion document in the public domain for three months. Comments were received from stakeholders, including Telkom. Hearings were then held. On completion of the public participation process the new Rate Regime Regulations were submitted to the Minister on 10 September 2001 for approval and gazetting. The Minister signed and gazetted the Rate Regime Regulations on 26 November 2001.

On 14 November 2001, guided by the legal requirement that tariffs must be filed at least 30 business days before their implementation, Telkom filed its tariffs with ICASA for the year 2002. ICASA rejected the filing and insisted that Telkom, as it had been aware through its participation in the development of the new tariffs, should file its tariffs for 2002 in accordance with the Rate Regime Regulations gazetted by the Minister on 26 November 2001. Telkom refused to comply with ICASA's decision and made prounouncements in the media of its intention to implement tariffs based on the 1997 Ministerial Determination.

At this point, ICASA approached the Transvaal Provincial Division of the High Court seeking an urgent interdict to prevent Telkom from implementing its proposed tariffs without ICASA's approval and obliging Telkom to conform with the Rate Regime Regulations of 26 November 2001. Telkom responded with a counter-claim contesting that ICASA's new Rate Regime Regulations should be declared void for vagueness and set aside.

On the application for an urgent interdict, the Court ruled against ICASA on the grounds that: there was no possibility of irreparable harm being caused or suffered by consumers as a result of Telkom's new tariff given Telkom's offer to re-imburse consumers in the eventuality of a court finding against it; and further that the balance of convenience favoured Telkom, especially relating to the potential loss in revenue if the new tariff was not implemented.

In preparation for the return date, papers were supplemented but the matter had to be settled in consideration of the public interest. The terms of the settlement were:

> Telkom's rate increase would remain as per its tariff filing of 14 November 2001;
> ICASA would amend the Rate Regime Regulations on or before 15 September 2002 and Telkom will file its tariffs for 2003 in accordance with the amended regulations;
> From 1 January 2003 to 31 December 2004, Telkom would forfeit R320 million from the allowable tariff increase for the period.
> Telkom will provide a virtual telephony service in terms of which a telephone number will be allocated to under-serviced users to access voicemail.
> Subject to certain conditions, Telkom will offer a "lifeline" service to defaulting residential customers whereby such customers may make and receive calls to and from specific emergency telephone numbers.

Startrack Communications Africa (Pty) Ltd/ICASA

Startrack Communications Africa (Pty) Ltd ("Startrack") applied to ICASA for a Radio Frequency Spectrum Licence to provide a telecommunications service, comprising asset tracking and monitoring. In this application the signal to be transmitted emanated from South Africa and travelled to Perth in Australia where the data received would be processed and transmitted back to South Africa. ICASA refused the application on the following grounds:

> Startrack had to possess a telecommunications service licence as required by section 32(1) of the Telecoms Act.
> The service provided by Startrack was an international telecommunications service, and therefore the licence for such a service could only be considered after an ITA, issued by the Minister as contemplated in section 34(2) of the Telecoms Act.
> The service was a new category of telecommunications service, which required the development of regulations by ICASA as envisioned in section 34(2) of the Telecoms Act.

Startrack launched review proceedings in the Transvaal Provincial Division of the High Court, seeking to set aside ICASA's decision on the grounds that:

> The service it wished to provide was not a telecommunications service and was therefore not subject to the provisions of section 32(1) of the Telecoms Act; and
> It had invested large sums of money into its asset tracking business.

The Court granted an interim order setting aside ICASA's decision on the basis that the balance of convenience favoured Startrack given the large amounts of money invested by Startrack in anticipation of the spectrum licence.

The Court is now considering the merits of this case and ICASA is opposing Startrack's application.

Section 100 complaints adjudicated by ICASA

Telkom SA Ltd/AT&T Global Network Services SA (Pty) Ltd

Telkom filed a complaint with ICASA on 20 November 2000, in terms of section 100(1)(a) of the Telecoms Act against AT&T Global Network Services South Africa (Pty) Limited (“AT&T”), VANS licensee. Telkom's principal complaint was that AT&T was providing a PTN Service to IBM, which was not authorised by its licence. AT&T filed a counter complaint in terms of section 53 of the Telecoms Act, alleging that Telkom's failure or refusal to provide AT&T with telecommunications facilities violated sections 43(1) and 44 read with section 100 of the Telecoms Act and was inconsistent with section 53 of the Act because it was likely to have the effect of giving undue preference to Telkom's own VANS operations. After an analysis of the provisions in the Act and a study of the evidence and arguments by counsel for Telkom and AT&T, ICASA reached the following conclusions:

> Managed Data Network Service (“MDNS”) does not consist of managing PTNs which customers use for data communications;
> MDNS is a form of VANS to be licensed and regulated under section 40 and not section 41 of the Telecoms Act;
> AT&T was not operating PTN services;
> A PTN is not the same as a VPN, which is a form of technology that may be used to construct MDNS;
> Whether MDNS are marketed as a VPN Feature Service is irrelevant from a regulatory perspective;
> AT&T offers MDNS services to IBM and Telkom did not produce any convincing evidence to demonstrate that there was no value add or that the service provided by AT&T was a PSTS; and
> AT&T's MDNS fell within the scope of a VANS in terms of section 40 of the Telecoms Act.

ICASA further held that Telkom was competing with AT&T in the competitive VANS market. By withholding the provision of facilities from AT&T, Telkom had taken an uncompetitive stand in terms of section 53 of the Telecoms Act. This was likely to have the effect of giving undue preference in the VANS market to its own VANS supplier and had caused undue discrimination against AT&T by limiting its capacity to compete with Telkom in the VANS market.

ICASA, accordingly invoked the provisions of sections 43(1) and 44 of the Telecoms Act, and directed Telkom to provide AT&T with the telecommunications facilities it required.

Telkom SA/Internet Solutions (Pty) Ltd

Telkom SA Limited (“Telkom”), filed a complaint against Internet Solutions on 21 December 2000, in terms of section 100(1)(a) of the Telecoms Act. Internet Solutions (Pty) Ltd ("IS") is a VANS licensee, which provides Internet access services to its customers in terms of section 40 of the Telecoms Act. Telkom alleged in its complaint that IS was making its telecommunications facilities available to customers through a service called IP-Net for the purpose of a PTN. Telkom argued that the provision of a PTN is dependent on the use of facilities provided by a PSTS, which prior to 7 May 2002, only Telkom was licensed to provide. In the event that such a service (provision of telecommunications facilities) is provided by a VANS like IS, that practice conflicts with section 40(4) of the Telecoms Act. In its complaint, Telkom also alleged that IS was providing a private international link from the United Kingdom to KWV Ltd on the IS network. Telkom alleged that by doing this, IS was making telecommunications facilities available to KWV Ltd. In this manner, Telkom alleged that IS 'resold' the bandwidth it leased from Telkom in contravention of section 40(4)(a) of the Telecoms Act. Telkom further alleged that the service offered to KWV Ltd contravened section 32 and 36 of the Telecoms Act and is in contravention of IS's Licence.

In its response, IS stated that the IP-Net service is an enhanced Internet service, which, in addition to providing a customer with access to the Internet also provides security and performance through the utilisation of Multiprotocol Label Switching (“MPLS”) software. IS denied that it made telecommunications facilities available to a PTN or that it ceded or assigned or sublet or parted with control of, or otherwise disposes of facilities in violation of section 40(4) of the Telecoms Act. IS stated that it allowed its IP-Net customers to make 'due and proper use' of the telecommunications facilities leased from Telkom in accordance with section 40(4) of the Telecoms Act. IS also denied Telkom's allegation with respect to KWV Ltd. IS stated that it provided KWV Ltd with an Internet access service and not a 'private international link'. IS denied that this involved any resale of bandwidth in contravention of section 40(4)(a) of the Telecoms Act. IS alleged that both services offered to KWV Ltd and IP-Net services were VANS.

ICASA dismissed Telkom's complaint as unfounded and concluded that:

> IS offered a legitimate Internet access service as a VANS licensee in terms of section 40 of the Telecoms Act;
> IS is not in violation of s32 and s36 of the Telecoms Act;
> IS is not operating a PTN in terms of section 41 of the Telecoms Act;
> The service IS delivers to KWV Ltd is a VANS service and not a PSTS service;
> IS is not permitting the service provided to KWV Ltd to be utilised for the carrying of voice;
> The intended IP-Net service is a VANS service in terms of section 40 of the Telecoms Act.

Consumer Protection

The Consumer Protection Department continued to play an important role in the areas of consumer education, public awareness and consumer complaints. During the year under review, the Department intensified its public education of the disadvantaged communities of South Africa. It is important that the Authority informs and educates the public about their rights and the recourse available in cases where operators fail to meet their obligations. Resources by way of print and electronic media and other facilities such as transport remain a challenge for the achievement of these goals.

In the recent court case between ICASA and Telkom SA Ltd in which Telkom refused to file its tariffs in terms of the Rate Regime Regulations of 26 November 2001, ICASA decided to take action against Telkom in the interest of the consumer. In its decisive stand, ICASA's credibility was enhanced in the eyes of the general public. Support was received from members of the public, economists, lawyers and other major stakeholders. The settlement reached signalled to the industry and the consumer that the regulator was indeed committed to regulating in the public interest.

The Department continues to deal with complaints received from consumers. The complaints relate to billing, installation, line transfer, disconnection, faults, service, network coverage and migration. During the year under review this department received and processed a total of 258 complaints. Of these, 193 were registered against Telkom, 21 against Vodacom, 12 against MTN and two against Cell-C. It is interesting to note that the majority of complaints against these operators related to service.

Council Support, Secretariat and International Relations

The Council Support, Secretariat and International Relations Department performs the following functions: provision of secretarial support to Council and its subcommittees; co-ordination of Council public hearing schedules; co-ordination of the participation of ICASA in international events; and all logistical arrangements. During the year under review, a total of 23 hearings were held from 24 April 2001 through to 27 March 2002.

ICASA also participated in the following international meetings and events during this period:

ITU

- Africa Regional preparatory meeting for the World Telecommunications Development Conference ("WTDC-02"): Cameroon on May 29-31, 2001;
- Global Symposium for Regulators held in Geneva on December 3, 2001;
- The World Telecommunications Development Conference ("WTDC-02") held in Istanbul on March 18-27, 2002.

TRASA

- Type approval - ICASA hosted INCM (Regulator of Mozambique) telecoms regulator from Mozambique in July, 2001;
- SADC sharing study between the FWA and TV Broadcasting : Zambia on August 16, 2001;
- TRASA AGM: Zambia 4 to 5 September 2001;
- TRASA meetings on wholesale pricing: Zambia 3 to 4 September 2001;
- African Forum for Utility: Ghana - 1 to 4 May 2001;
- Human Resources And Empowerment Committee meeting: Arusha - 23 to 26 July 2001;
- Fair Competition and Wholesale Pricing meeting hosted by ICASA - 7 to 8 March 2002;
- Development of guidelines and model legislation for universal services access.

OFFICE FOR *finance & business support*

The Office for Finance and Business Support ("OFBS") provides support to the core business components of the organisation through the rendition of the following services: Financial Management and Accounting; Programme Planning and Administration. The OFBS is divided into four departments, notably, Administration, Procurement and Library Services; Finance; Human Resource Management and Development; and Information Technology and Services. Even though the Communications Department reports to the CEO with an open line to the Office of the Chairperson, their activities are reported under OFBS, for purposes of this report, since Communications is to all intents and purposes a business support activity.

Administration, Procurement and Library Services

Administration, Procurement and Library Services provides a vital support function to ICASA. During the year under review, this department assisted with the following initiatives:

> The management of the relocation to head office of all remote offices situated within a radius of 60 km from head office - a cost cutting endeavour;
> Production of a draft Procurement Governance Policy and Procedure for ICASA, replacing the old IBA and SATRA policies;
> Integration of the security access system of Blocks A, B, C and D at Pinmill Farm;
> Creation of an ideal work environment as a basis for worker satisfaction and increased productivity;
> The building of a department that is responsive and customer focused;
> Consolidation of information materials inherited from the IBA and SATRA into a common ICASA information Library Warehouse;
> Accommodation of increased use of the library database as public awareness on the role of ICASA grows;
> Daily electronic distribution of press clippings to all employees of the organisation; and
> Introduction of a corporate user scheme to enable ICASA's employees to have access to other libraries such as those of the University of the Witwatersrand, Johannesburg.

Finance

As was the case with the rest of the organisation, the finance staff was faced with uncertainty associated with the restructuring process. In an effort to merge the finance function, the finance departments of the IBA and SATRA were consolidated into one.

The company Datasoft, which supported the main IT system used by Finance, i.e, Compact was bought by Deloitte & Touche's Active Era and made a strategic decision not to continue with Compact as from 2003. Accordingly ICASA was forced to select an alternative and the Enterprise Resource Planning ("ERP") System known as JD Edwards was chosen.

A full fixed asset verification and labelling exercise was undertaken of all the assets. Despite the fact that this exercise had never been completed before, an amount of less than R500 thousand on a total asset value, at a cost of R62 million (before the adjustment), was identified for write off in the 2001-2002 financial year.

The Finance department continues to manage the financial affairs of ICASA and views this responsibility with the importance it deserves. The following projects will be undertaken in the ensuing year:

> Implementation of the ERP system, JD Edwards;
> Integration of licensing management systems with JD Edwards;
> Ongoing support to the Administration and Procurement and Human Resource departments with implementation and enforcement of various policies and procedures;
> Upgrading of management reporting systems to enable management to make decisions based on accurate and current information;
> Ongoing evaluation of internal processes and controls to ensure adequate segregation of duties and systems of internal control;
> Implementation of detailed policies and procedures for Finance and Administration, Procurement, and Human Resource departments; and
> Strategic risk assessment.

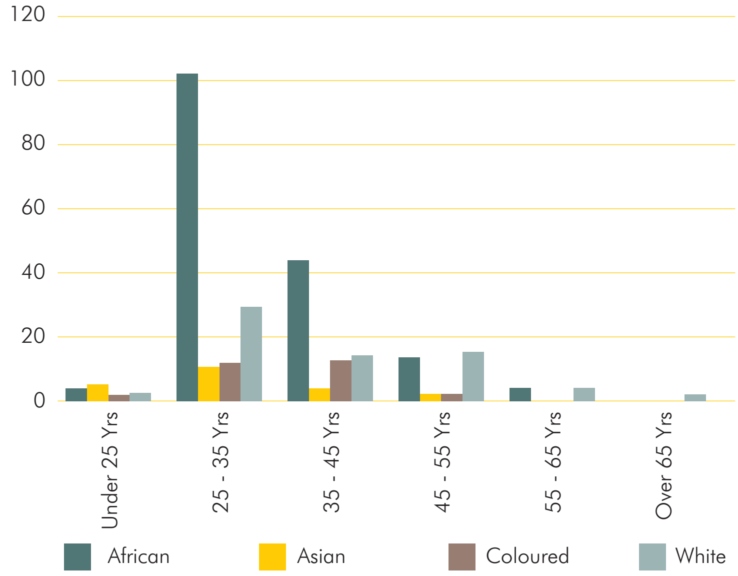
Human Resource Management and Development

One of ICASA's major inputs into its production processes is human and intellectual capital. This means that for ICASA, people are its most precious assets. In this regard ICASA has a Human Resource Plan, born from the restructuring process envisioning the creation of an organisational structure over the next three years consisting of the CEO; 5 General Managers; 14 Senior Managers and 37 Managers at Senior and Middle Management levels. In addition, there are 66 positions from the six regional offices together with

150 other positions for lower-middle and low ranking officers, giving a staff complement of 273, which is required to meet ICASA's production needs. The placement, particularly of middle and senior management, is represented graphically in Appendix C.

The structure as set out in Appendix C acknowledges that with a youthful workforce, aged on average between 25 and 35 as graphically illustrated in Figure 1, a sensible Human Resource Plan is one that seeks to strike a balance between the recruitment of a skilled and experienced labour force and investment in human capital in the form of mentoring and coaching.

Figure 1



Informed by the need to invest in staff by way of mentoring and coaching, ICASA conducted a skills audit. Most employees identified the skills categories set out in Appendix B as being essential for their personal growth and development as well as organisational progress and effectiveness. Management has decided to use these skills categories, within the limitations of the budget, as a basis for developing a comprehensive Human Resource Development Plan ("HRD Plan").

The development of a comprehensive HRD Plan does not mean that ICASA does not have a current plan. Approximately 40% of employees are already on further learning programmes financed by ICASA. The new HRD Plan will simply align all training initiatives to the strategic objectives of the organisation as set out in Appendix D. Some of the training programmes offered to employees during the year under review included: computer training; telecommunications policy regulation; telecommunications, water and electricity regulation; information and knowledge management; legal workshops; business writing; Public Finance Management Act ("PFMA"); and labour relations. Six employees participated in the USAID sponsored United States Telecommunications Training Institute ("USTTI") programmes. The courses were in the areas of telecommunications and broadcasting.

Given the emphasis on the transformation of all public sector institutions, the discussion on Human Capital cannnot and should not conclude without an anaylsis of the distribution of employees in decision making positions of the organisation by race and gender, as such distribution is a crucial indicator of the organisation's state of transformation. The information in Figures 2 and 3 sets out the demographics by rank and race and rank and gender, respectively, as at 31 December 2001.

Figure 2

Demographics: Rank and Race

Rank	African	Asian	Coloured	White	Total	% PDI
1. Senior Management	7	1	1	1	10	90,0
2. Middle Management	25	3	4	8	40	80,0
3. Professional	37	1	3	7	48	85,4
4. Technical	22	5	3	18	48	62,5
5. Administration & Other	77	7	12	31	127	75,6
Grand Total	168	17	23	65	273	76,2

Figure 3

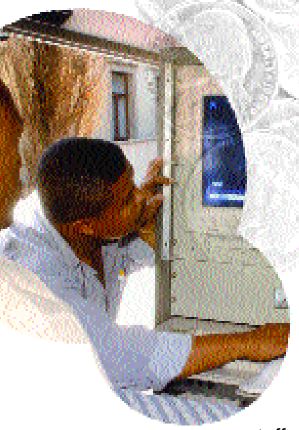
Demographics: Rank and Gender

Rank	Female	Male	Total	% Female
1. Senior Management	2	8	10	20,0
2. Middle Management	13	27	40	32,5
3. Professional	16	32	48	33,3
4. Technical	12	36	48	25,0
5. Administration & Other	77	50	127	60,6
Grand Total	120	153	273	44,0

The Human Resource Management and Development Department co-chairs the Human Resource Development Committee of the Telecommunicationss Regulators' Association of Southern Africa ("TRASA") with the Tanzanian Communication Commission. This committee was established to assist in the formation of a network that will cater for capacity building and knowledge exchange in the telecommunications sector. The objectives of the network as enshrined in the SADC Protocol are as follows:

> To develop and strengthen capacity to generate regulation policy, managerial and technical expertise to address the needs of the telecommunications sector in the SADC region and member states; and

> To enhance the capacity of key decision makers and human resources engaged in the implementation of the telecommunications policy to keep abreast of new developments in technology and global and regional standards and procedures and to maintain similar and adequate standards of performance in the telecommunications sector.



The Human Resource Development Committee of TRASA has secured participation of twelve African and American universities and institutions in the Network. Training needs and the course content have been identified, and the universities and training institutions have started to compile training modules that will be used to train, amongst others, the staff of regulators, policy makers, and any other interested persons.

Information technology

The Department has recently completed the consolidation of the information technology infrastructures of SATRA and the IBA. The consolidated infrastructure forms the platform upon which a solid technology-enabled business will be built. The consolidated infrastructure accomplished the following:

> A single Local Area Network ("LAN") at head office. The LAN equipment is multi-media capable for voice and video integration.
> A common Wide Area Network ("WAN"). Included in the WAN equipment are modern products capable of integrating the voice requirements of the regional offices with those of Head Office in order to reduce inter-office telephone and fax costs.
> The Microsoft and Novell environments of the IBA and SATRA have been consolidated into the latest NetWare version to provide a stable platform for networked computing and secure network access.
> GroupWise has been selected as the common e-mail system, upon which secure remote access is possible and which is the platform for workflow and the Electronic Document Management System ("EDMS") as a need of the future.
> New personal computers and notebook computers were deployed in order to provide a basis for desktop applications for the next three years.
> The ICASA web site was re-developed and portrays the unified SATRA/IBA message. It is the medium that ICASA will use to publish policies, procedures and forms for its business partners and the public at large to use. It is also the external front for electronic business into the future.
> The infrastructure as deployed enables ICASA to step into the future with the confidence that its internal systems and information are stable and secure. Business partners will shortly be able to do business with ICASA using Information Technology without being able to access ICASA's confidential or sensitive information.

Having a computing platform through which ICASA's business, which has technology as one of its key inputs, will be enabled - requires a technology plan covering:

> Support for personal and workgroup productivity applications such as Office Suite and e-mail.
> Support and development of three classes of business-oriented applications, notably:
- JD Edwards Financial Management System;
- Human Resource Management System; and
- A Spectrum Management and Monitoring System.

All three classes of applications have to be constantly reviewed and updated.
> A backup Computer Centre will be established in Block B to provide resilience to the primary centre in Block C of head office.
> Computer centres and network enclosures will be equipped with Uninterrupted Power Supplies ("UPS") to prevent the corruption of data in servers and applications.
> Document Management will be used to store all information about external clients, individuals and organisations. The workflow system will automatically generate documents to be sent to external entities at the appropriate phase and escalate non-response while managing the processes.
> The storage of public-consumption documents on EDMS and their automatic publication on the ICASA web site, ensuring that the public has access to current information and forms.

The applicable technologies that have been considered to accomplish the short and long term business objectives are:

> NetWare. This, in conjunction with Novell Directory Services ("NDS"), will provide the secure, resilient platform on which to base all data storage and management. It allows for secure access to information as well as protection from unauthorised access.
> GroupWise - the platform upon which workflow and EDMS systems are based integrates tightly with the applications and operating systems.
> Windows 2000 - the application operating system upon which the financial, EDMS, workflow and some decision support systems operate.
> UNIX - the application operating system upon which the Spectrum Management system operates.
> HP OpenView. This network management system also integrates asset management, change control, problem management and other management systems into a common platform.
> Zero Effort Networking ("Zen") - used to manage users and enforce IT policies electronically.
> JD Edwards - the financial application.
> LNS. The Spectrum Management application.

Communications

Communications serves a crucial support function for ICASA. The Communications Department, in its restructured form, will be headed up by a Senior Manager for Communications and Customer Relations. This Senior Manager, who has still to be appointed, will report to the CEO. During the year under review, the Communications Department fulfilled its function of communicating to both internal and external stakeholders through the following activities:

Industry and Media Briefings

A number of industry and media briefings were held to keep stakeholders and the public abreast of critical regulatory developments such as the development of regulations governing VANS, PTN; Supplementary Facilities Leasing Guidelines, Carrier Pre-Selection, Universal Service Fund Contributions and the South African Content Position Paper. Two stakeholder meetings were held to give briefs on plans and progress achieved by ICASA.

Public Awareness and the Media

ICASA continued to enjoy wide coverage of its activities in the local print and electronic media. Effective public awareness and media campaigns for the launch of position papers and regulations were also organised during the year under review. Several media releases were made. The department also responded to several interviews from print and electronic media. The Communications Department has co-ordinated editorial content for a number of industry publications. More importantly, though, the Department was responsible for the development and management of content for the new ICASA website.

Exhibitions

The Communications Department has developed print materials in support of core regulatory functions as a means of disseminating information about ICASA. Some of this material was put to good use during the ITU's Africa 2001 conference held at Gallagher Estate in Midrand in November 2001. ICASA was an exhibitor at this international event, which was visited by an estimated 20 000 people including local and foreign investors, representatives of various governments and regulators, industry and the public. The exhibition gave ICASA tremendous exposure and the opportunity to showcase itself for the first time since its inception. ICASA has also participated in many other industry specific exhibitions, one of these being at Parliament on 7 May 2002, during the Minister's budget vote speech.

One of the many challenges facing the Department, during this period, was to communicate the functions of ICASA with one voice. This has been achieved in part, but with the adoption of the Vision, Mission and Value statements of ICASA, the Department will be able to focus on its weaknesses and develop strategies for effective and efficient service delivery.

A Communications Strategy will be developed according to the three-year work plan and will include objectives for both internal and external markets. We are aware that a regulator is as strong as its communication and we intend to strengthen our capacity in meeting this demand.

FINANCIAL *statements*

Contents

The annual financial statements were approved by the Chief Executive Officer on 31 May 2002 and are signed by:

N. Nyoka
Chief Executive Officer

Audit Committee statement on ICASA's Financial Statements

The Audit Committee approved the Annual Financial Statements of ICASA, appearing on pages 30 to 42 of the annual report, on 15 July 2002. The Audit Committee is satisfied that these financial statements comply in all material respects with Generally Accepted Accounting Practice.

As the Audit Committee was only constituted on 26 November 2001, it met for the first time on 13 February 2002 and subsequently on 27 June and 15 July 2002. During the limited period since its formation, the Audit Committee has laid the foundation for it to comply in the future with all its obligations as set out in both its charter and the PFMA.

The initial deliberations of the Audit Committee have identified the need for it to concentrate its medium term efforts on ensuring that the ICASA Management devote the necessary attention to strengthening internal controls. Management is committed to this as demonstrated by its determination, *inter-alia*, to set up an effective Internal Audit Function and the finalisation of ICASA's Procurement Governance Policies and Procedures Manual, as well as other policies.

Graham Rosenthal
CHAIRPERSON, AUDIT COMMITTEE

Auditor General's report

Report of the Auditor-General to Parliament on the Financial Statements of the Independent Communications Authority of South Africa for the year ended 31 March 2002

1. Audit Assignment

The financial statements as set out on pages 30 to 42, for the year ended 31 March 2002, have been audited in terms of section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 3 and 5 of the Auditor-General Act, 1995 (Act No. 12 of 1995) and section 16(1)(b)(iii) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000). These financial statements, the maintenance of effective control measures and compliance with relevant laws and regulations are the responsibility of the accounting officer. My responsibility is to express an opinion on these financial statements, based on the audit.

2. Nature and Scope

The audit was conducted in accordance with Statements of South African Auditing Standards. Those standards require that I plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement.

An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements,
- assessing the accounting principles used and significant estimates made by management, and
- evaluating the overall financial statement presentation.

Furthermore, an audit includes an examination, on a test basis, of evidence supporting compliance in all material respects with the relevant laws and regulations which came to my attention and are applicable to financial matters.

I believe that the audit provides a reasonable basis for my opinion.

3. Audit Opinion

In my opinion, the financial statements fairly present, in all material respects, the financial position of the Independent Communications Authority of South Africa at 31 March 2002 and the results of its operations and cash flows for the year then ended in accordance with prescribed accepted accounting practice and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999).

4. Emphasis of Matter

Without qualifying the audit opinion expressed above, attention is drawn to the following matters:

Matters not affecting the financial statements

4.1 Internal Audit Function

According to section 38(1)(a)(ii) of the Public Finance Management Act, 1999, (Act No. 1 of 1999) (PFMA) an audit system must be established and perform the duties as prescribed in treasury regulations 3.2.7 and 3.2.8.

Soon after the establishment of the Independent Communications Authority of South Africa (ICASA) on 1 July 2000 a consulting firm was appointed to perform the duties of internal audit. Tender procedures have however not been followed due to extraordinary circumstances, although the Authority's Council approved the appointment.

The financial administration problems that ICASA inherited from the former entities forced the Authority to alter the firm's mandate to ensure better accountability and consequently the appointed firm performed accounting and consulting services that was not in line with those of an internal audit function.

4.2 Value Added Taxation

ICASA is registered for VAT on the invoice basis as described in section 15 of the Value Added Tax Act, 1991 (Act No. 89 of 1991) (VAT Act), but the broadcasting division's output VAT was accounted for on a cash basis.

Contrary to section 8 of the VAT Act output VAT was not declared on monies received for fixed assets sold or insurance claims.

4.3 Fraud Prevention Plan

Although ICASA is in the process of developing a fraud prevention plan it has not been implemented as required by treasury regulation 3.2.2.

5. Appreciation

The assistance rendered by the staff of ICASA during the audit is sincerely appreciated.

Doris L.T. Dondur
For Auditor-General
Johannesburg, 20 July 2002

Balance Sheet at 31 March 2002

Independent Communications Authority of South Africa

	Note	31 March 2002 R	Nine months ended 31 March 2001 R
Assets			
Non current assets		**12,226,934**	12,499,996
Fixed assets	7	**12,226,934**	12,499,996
Current assets		**61,425,772**	42,539,429
Licences and other receivables		**10,010,096**	14,237,121
Cash and cash equivalents		**51,415,676**	28,302,308
Total assets		**73,652,706**	55,039,425
Equity and liabilities			
		36,367,473	18,970,855
Reserves	4	**2,636,131**	(14,760,487)
Accumulated surplus/(deficit)	5	**33,731,342**	33,731,342
Start-up fund			
		37,285,233	36,068,570
Current liabilities	6	**10,528,689**	14,239,608
National revenue fund	8	**26,756,544**	21,828,962
Other payables			
		73,652,706	55,039,425
Total equity and liabilities			

Income Statement for the year ended 31 March 2002

Independent Communications Authority of South Africa

	Note	31 March 2002 R	Nine months ended 31 March 2001 R
Total revenue		**118,943,168**	74,488,434
Operating expenditure		**101,546,550**	81,064,916
Net operating surplus/(deficit)	3	**17,396,618**	(6,576,482)

Statement of changes in Equity

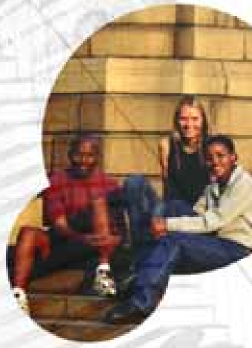
for the year ended 31 March 2002

Independent Communications Authority of South Africa

	Note	Accumulate Surplus / (Deficit) R
Balance at 1 July 2000		**(8,184,005)**
Deficit for the 9 months ended		(5,405,352)
Balance at 31 March 2001 - as previously reported		(13,589,357)
Change in estimate - depreciation rate change	1.2, 7	(1,171,130)
Balance at 31 March 2001 - as adjusted		**(14,760,487)**
Surplus for the year		17,396,618
Balance at 31 March 2002	4	**2,636,131**

Cash flow Statement for the year ended 31 March 2002

	Note	31 March 2002	Nine months ended 31 March 2001
		R	R
Cash generated by operating activities:		**21,952,254**	(7,647,788)
Cash received, being total income		**118,943,168**	74,488,434
Cash paid to employees and suppliers		**(96,145,521)**	74,543,172
Net cash generated / (used) by operating activities	9	**22,797,647**	(54,738)
Applied to the increase in working capital	10	**(845,393)**	(7,593,050)
Cash utilised in investing activities:		**(5,127,967)**	(609,900)
Aquisition of fixed assets	7	**(5,755,068)**	(609,900)
Proceeds on disposal of fixed assets		**627,101**	-
Net increase / (decrease) in cash and cash equivalents		**16,824,287**	(8,257,688)
Licence,application and annual fees collected and interest received	6	**772,061,044**	458,413,363
Licence,application, annual fees and interest paid to NRF	6	**(775,771,963)**	(628,812,565)
Receipt in advance from Department of Communications	8	**10,000,000**	-
Cash and cash equivalents at the beginning of the year		**28,302,308**	206,959,198
Cash and cash equivalents at the end of the year		**51,415,676**	28,302,308



1. Accounting policies

The annual financial statements of the Authority are prepared on the historical cost basis and incorporate the following principal accounting policies.

1.1 Income / Government grants

The Authority is financed from money appropriated by Parliament. All government grants are accounted for in the income statement in the year to which they relate.

1.2 Fixed assets and depreciation

Fixed assets are shown at cost less accumulated depreciation. Fixed assets are depreciated using the straight-line method at rates that are estimated to write off each asset over its useful life.

During the current financial year there was a change in the estimated useful life of the assets which resulted in a change in depreciation rates as follows:

	Old rate Telecommunications	Old rate Broadcasting	New rate ICASA
Cellular phones	20%	33%	100%
Computer equipment	20%	33%	33%
Computer software	50%	-	50%
Furniture and fittings	16.70%	10%	16.70%
Monitoring equipment	20%	33%	20%
Motor vehicles	20%	25%	20%
Office equipment	20%	33%	20%
PABX	20%	-	20%
Test equipment	20%	-	20%

1.3 Licence fees

All licence fees and related income are accounted for on the accrual basis. In terms of section 15(3) of the Independent Communications Authority Act No. 13 of 2000, the Authority is required to pay all licence application and annual fees received into the National Revenue Fund within 30 days after receipt of such revenue. Accordingly licence fees received are not accounted for as income of the Authority.

1.4 Interest received

All interest earned on surplus funds and licence fees received is paid across to the National Revenue Fund.

1.5 Taxation

No provision has been made for income tax as the Authority is exempted in terms of section 10 (1) (cA) (1) of the Income Tax Act, 1962 (Act No. 58 of 1962)

1.6 Retirement benefits

Pension benefits are provided for employees by means of separate pension funds to which contributions are made.

	31 March 2002	Nine months ended 31 March 2001
	R	R
2. Government grants		
Grants received based on original allocation from Department of Communications	**107,260,002**	74,122,171
Additional funds received from Department of Communications	**10,651,000**	-
	117,911,002	74,122,171

3. Net operating surplus / (deficit)

Included in the net operating surplus / (deficit) are the following:

	31 March 2002	Nine months ended 31 March 2001
Income		
Profit on disposal of fixed assets	**581,336**	-
Insurance recovery on fixed assets stolen	**125,856**	-
Fixed assets adjustments	**-**	366,263
Operating expenditure		
Auditors remuneration	**72,004**	576,811
Audit fees	**275,000**	576,811
Overprovision prior year	**(202,996)**	-
Councillors' remuneration - Refer note 11	**3,003,409**	3,657,374
Depreciation	**5,508,953**	6,521,744
Current year charge	**5,163,263**	5,350,614
Adjustment due to rate change	**345,690**	1,171,130
Fixed asset adjustments	**473,412**	-
Office accommodation	**14,795,872**	11,073,174
Professional fees	**8,897,801**	8,669,893

	31 March 2002 R	Nine months ended 31 March 2001 R

4. Accumulated surplus/(deficit)

Accumulated surplus/(deficit) brought forward from 30 June 2000		
IBA	**17,456,147**	17,456,147
SATRA	**(25,640,152)**	(25,640,152)
	(8,184,005)	(8,184,005)
Accumulated surplus/(deficit) for the nine months to 31 March 2001	**(6,576,482)**	(6,576,482)
	(14,760,487)	(14,760,487)
Surplus for the current year	**17,396,618**	-
Accumulated surplus/(deficit) at end of year	**2,636,131**	(14,760,487)

The surplus for the current year arises due to funds received during the financial year for projects in progress and/or commitments made before year end not yet spent eg. the implementation of the licencing and spectrum management system.

5. Start up fund

Transfer of assets to the SA Telecommunications Regulatory Authority by the Department of Communications with effect from 1 April 1997.	**33,731,342**	33,731,342

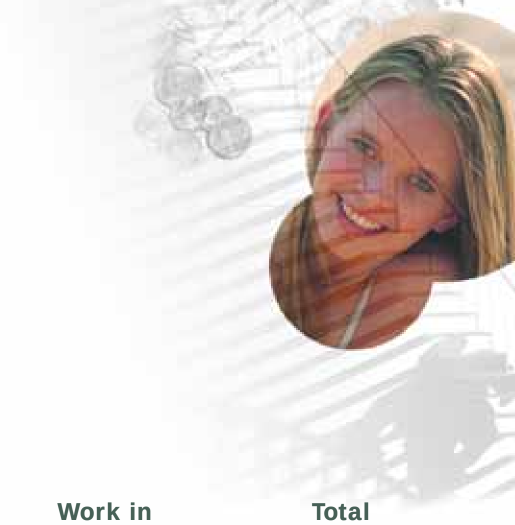
6. National Revenue Fund

Revenue collected for the National Revenue Fund (NRF) was as follows:

Balance outstanding at the beginning of the year	**14,239,608**	184,638,810
Licence application and annual fees collected and interest received	**772,061,044**	458,413,363
Total revenue collected for NRF	**786,300,652**	643,052,173
Paid to NRF	**775,771,963**	628,812,565
Outstanding revenue collected to be paid to NRF	**10,528,689**	14,239,608

7. Fixed assets

	Office equipment R	Computer equipment R	Monitoring equipment R	Furniture and fittings R	Motor vehicle R
31 March 2002					
Cost					
Balance at 1 April 2001	1,915,990	3,596,735	19,935,187	3,535,644	4,827,514
Additions	36,947	1,906,009	156,231	6,952	52,632
Asset write off	(209,786)	(33,777)	(230,495)	(1,024)	
Disposals	(64,873)	(378,450)	(195,280)	-	(260,624)
Balance at 31 March 2002	1,678,278	5,090,517	19,665,643	3,541,572	4,619,522
Accumulated Depreciation					
Balance at 1 April 2001	1,561,411	3,492,871	18,013,963	2,084,871	4,323,204
Charge for the year	197,271	551,787	1,193,714	544,983	264,182
Rate change	21,792	(16,024)	354,917	(53,151)	4,606
Asset write off	(187,620)	(20,737)	(230,389)	(1,022)	-
Disposals	(45,567)	(377,767)	(185,817)	-	(260,624)
Balance at 31 March 2002	1,547,287	3,630,130	19,146,388	2,575,681	4,331,368
NBV at 31 March 2002	130,991	1,460,387	519,255	965,891	288,154
31 March 2001					
Cost					
Balance at 1 July 2000	1,388,178	2,974,430	29,466,005	3,652,450	4,827,514
Reclassification of assets	510,112	290,939	(9,659,546)	(225,588)	-
Additions	17,700	331,366	128,728	108,782	-
Balance at 31 March 2001	1,915,990	3,596,735	19,935,187	3,535,644	4,827,514
Accumulated Depreciation					
Balance at 1 July 2000	896,243	1,798,220	25,358,860	1,426,862	3,998,915
Reclassification of assets	483,706	797,296	(9,419,508)	(134,982)	2
Charge for the year	172,122	472,694	2,063,876	415,325	321,541
Rate change	9,340	424,661	10,735	377,666	2,746
Balance at 31 March 2001	1,561,411	3,492,871	18,013,963	2,084,871	4,323,204
NBV at 31 March 2001	354,579	103,864	1,921,224	1,450,773	504,310



Test equipment R	PABX R	Computer software R	Other equipment R	Work in progress R	Total R
13,589,375	1,086,997	5,868,278	3,112,493	3,557,805	61,026,018
-	80,528	2,989,626	-	526,143	5,755,068
(1,822,022)			(2,914,703)	-	(5,211,807)
(38,222)	-	-	-	-	(937,449)
11,729,131	1,167,525	8,857,904	197,790	4,083,948	**60,631,830**
9,787,896	691,882	5,745,298	2,824,626	-	48,526,022
1,929,657	226,959	252,704	2,006	-	5,163,263
(234,560)	(317)	239,176	29,251	-	345,690
(1,564,977)	-		(2,733,650)	-	(4,738,395)
(21,909)	-	-	-	-	(891,684)
9,896,107	918,524	6,237,178	122,233	-	**48,404,896**
1,833,024	249,001	2,620,726	75,557	4,083,948	**12,226,934**
12,971,357	1,121,375	362,355	94,649	3,557,805	60,416,118
612,574	(34,378)	5,505,923	2,999,964	-	0
5,444	-	-	17,880		609,900
13,589,375	1,086,997	5,868,278	3,112,493	3,557,805	**61,026,018**
7,766,309	519,816	151,866	87,187	-	42,004,278
48,540	(684)	5,430,087	2,795,543	-	0
1,656,579	168,207	78,339	1,931	-	5,350,614
316,468	4,543	85,006	(60,035)	-	1,171,130
9,787,896	691,882	5,745,298	2,824,626	-	**48,526,022**
3,801,479	395,115	122,980	287,867	3,557,805	**12,499,996**

Notes to the annual financial statements for the year ended 31 March 2002

Independent Communications Authority of South Africa

	31 March 2002	Nine months ended 31 March 2001
	R	R
7. Fixed assets (continued)		
Capital Work in progress comprises:		
Monitoring equipment	**3,557,805**	3,557,805
IT Software & related project costs	**526,143**	-
	4,083,948	3,557,805

The Authority has classified certain direction-finding equipment as capital work in progress. This equipment is still to be commissioned and therefore has not been depreciated.

The amount of R 526 143 in respect of project and software costs relates to implementation of the JD Edwards Enterprise Resource Planning (ERP) system. This project is ongoing and it is anticipated that the system will be fully implemented during the 2002/2003 financial year.

8. Other payables

	31 March 2002	31 March 2001
Accounts payable		
Trade creditors and accruals	**2,940,817**	8,531,436
Value added tax accruals	**730,456**	-
Creditors other	**5,446,229**	5,547,841
Receipts in advance [1]		
Department of Communications	**10,000,000**	-
Provision for value added tax [2]		
Balance at 31 March 2001	**2,560,170**	1,033,041
Movement for the year	**460,087**	1,527,129
Balance at 31 March 2002	**3,020,257**	2,560,170
Provision for audit fees [3]		
Balance at 31 March 2001	**418,362**	185,768
Movement for the year	**(143,362)**	232,594
Balance at 31 March 2002	**275,000**	418,362
Provision for annual leave [4]		
Balance at 31 March 2001	**3,971,069**	3,484,212
Movement for the year	**(471,802)**	486,857
Balance at 31 March 2002	**3,499,267**	3,971,069
Provision for bonus [5]		
Balance at 31 March 2001	**800,084**	955,681
Movement for the year	**44,434**	(155,597)
Balance at 31 March 2002	**844,518**	800,084
	26,756,544	21,828,962

1. **Receipts in advance**

This amount represents funding for future expenditure on the licencing of the Second National Operator (SNO) transferred into the ICASA current account on 26 March 2002. As it relates to funding for future expenses still to be incurred, the receipt has not been accounted for as government grant income in the current financial year.

2. **Provision for value added tax**

ICASA is in the process of objecting to an assessment raised by SARS for outstanding VAT relating to the former IBA. A provision has been raised based on ICASA's calculations of the amount owing to SARS, including possible interest and penalties. This amount is the Authority's best estimate at this time. Refer note 12 for further information regarding a potential contingent liability.

3. **Provision for audit fees**

This amount represents the estimated costs of the external audit performed by the Auditor General.

4. **Provision for annual leave**

Employees accrue leave days on a monthly basis. This provision represents the total number of leave days accrued to employees at their current salary rate.

5. **Provision for bonus**

Employees are entitled to a guaranteed thirteenth cheque during the month in which their birthday falls. Provision has been made for this obligation on a pro-rata basis.

	31 March 2002 R	Nine months ended 31 March 2001 R

9. Net cash generated /(used) by operating activities

Net operating surplus/(deficit)	**17,396,618**	(6,576,482)
Adjustment for profit on sale of fixed assets	**(581,336)**	-
Adjustment for depreciation	**5,508,953**	6,521,744
Adjustment for asset write off	**473,412**	-
	22,797,647	(54,738)

10. Increase in working capital

Decrease/(Increase) in licences and other receivables	**4,227,025**	(7,208,832)
Increase / (Decrease) in current liabilities	**1,216,663**	(170,783,420)
Add / (Deduct) items shown separately on the face of the cash flow statement:		
Receipt in advance from Department of Communicationshas	**(10,000,000)**	-
Licence,application and annual fees collected and interest received	**(772,061,044)**	(458,413,363)
Licence,application, annual fees and interest paid to NRF	**775,771,963**	628,812,565
	(845,393)	(7,593,050)

11. Councillors' remuneration

During the financial year the annual salary packages earned by the Chief Executive Officer, Chairperson and Councillors were R 602 439, R 498 840 and R 411 066 respectively. The Chief Executive Officer's salary package was increased on 1 January 2002 to R 684 252.

12. Fixed asset adjustment - abnormal item

A complete count of assets was performed during the current financial year which has necessitated that adjustments be made to the financial records to accurately reflect physical assets on hand at year end. The following fixed asset adjustments have been made to correct the accounting records to the fixed asset register:

	31 March 2002 R	Nine months ended 31 March 2001 R
Cost	5,211,807	
Accumulated depreciation	(4,738,395)	
	473,412	

13. Other income

The Authority resulted from the merger of the former Independent Broadcasting Authority (IBA) and the SA Telecommunications Regulatory Authority (SATRA). The IBA was governed by the IBA Act and until 30 June 1999, the IBA was entitled to retain both licence fees and application fees. An amendment effective 1 July 1999 to the legislation made it compulsory to pay all licence fee revenue to the National Revenue Fund, whilst licence application fees could continue to be retained by the IBA.

During the course of 1998 numerous application fees from community radio stations for 4 year licences were received. Due to uncertainty as to pending amendments to legislation these receipts were allocated to deferred income and have been included in "Other payables" until now. It has now been decided to transfer these licence fees to income as they were received by the IBA before the amendment and should have been adjusted in prior years in the IBA financial statements.

14. Contingency

14.1 Until the 31 December 2001, the VAT registrations in respect of the former IBA and SATRA were still in place. With effect from 1 January 2002, the Authority requested deregistration of the IBA and SATRA as VAT vendors, and registered the merged organisation as a VAT vendor in the name of the Independent Communications Authority of South Africa.

Whilst there are no matters outstanding relating to the SATRA registration, there is a pending objection to an assessment of R 27 million raised on the former IBA. There is no consensus between the Authority and the SA Revenue Services (SARS) in ongoing discussions as to the final liability for VAT payable by the IBA. These financial statements include a provision for VAT owing of R3,7 million (refer note 8 above), however the final assessment from SARS has not been issued and ICASA reserves the right to appeal against revised assessments raised by SARS.

14.2 Pending receipt of a final assessment, ICASA has estimated that a further amount of R 16 592 821 in respect of VAT on government grants may be payable to SARS. ICASA is of the opinion that government grants should be vatable at zero percent and this matter is in the process of being referred to ministerial level.

15. Comparative figures

Comparative figures have been reclassified where considered necessary.

Detailed Income statement

for the year ended 31 March 2002

Independent Communications Authority of South Africa

	Note	31 March 2002 R	Nine months ended 31 March 2001 R
Income		**118,943,168**	74,488,434
Government grants	1.3, 2	**117,911,002**	74,122,171
Other income - application fees	13	**324,974**	-
Profit on disposal of fixed assets		**581,336**	-
Insurance recovery on fixed assets stolen		**125,856**	-
Fixed asset adjustments		**-**	366,263
Operating expenditure		**101,546,550**	81,064,916
Audit fees		**72,004**	576,811
Audit fees		**275,000**	576,811
Overprovision prior year		**(202,996)**	-
Bad debts		**-**	35,809
Bank charges		**96,174**	78,974
Depreciation	7	**5,508,953**	6,521,744
Equipment rental & maintenance		**1,932,168**	1,354,965
Fixed asset adjustments	3, 12	**473,412**	-
General expenses, stores & supplies		**182,259**	235,348
Information technology		**2,119,686**	1,314,265
Insurance		**1,168,930**	902,988
Interest paid		**16,009**	-
Motor vehicle expenses		**1,048,023**	679,957
Office accommodation		**14,795,872**	11,073,174
Office maintenance and repairs		**741,072**	119,750
Printing & stationery		**1,092,978**	1,025,016
Professional fees (Consultancy)		**8,897,801**	8,669,893
Publications		**481,756**	134,268
Publicity costs		**1,000,628**	567,618
Restructuring costs		**4,083,025**	471,518
Rsc levies		**147,644**	137,229
Salaries & related expenses	3	**51,173,953**	41,341,830
Telephones, postage & fax		**4,395,567**	3,417,737
Training & conferences		**839,940**	558,669
Travelling & subsistence		**1,278,696**	1,847,353
Net operating surplus/(deficit)		**17,396,618**	(6,576,482)
Accumulated deficit at beginning of year		**(14,760,487)**	(8,184,005)
Accumulated surplus/(deficit) at end of year		**2,636,131**	(14,760,487)