

chairperson's review



MANDLA LANGA
Chairman

(1 July 2000 – 30 June 2005)

I hereby present to Parliament the annual report of the Independent Communications Authority of South Africa (ICASA) for the financial year 1 April 2004 – 31 March 2005.

I have had the privilege and responsibility of chairing the first Council of ICASA that has led the organisation during its formative years from 1 July 2000 until 30 June 2005. During this time we have tried to shape a credible, coherent and effective regulatory body that could deal with the immense challenges facing the communications sector.

At the time of preparing this Annual Report, the Convergence Bill of 2005 was being debated by the Parliamentary Portfolio Committee on Communications (PPCC). This Bill presents a substantial revision to the current telecommunications and broadcasting sectors and is without doubt the most important legislative development since the Telecommunications Act and the Independent Broadcasting Act.

Our regulation has evolved from a time when no framework was in place, to a system based on transparency, fairness and the public interest. On the whole, I believe we have done well to protect the public interest, whilst establishing stability, growth and development in strategic sectors of the economy.

We have a right to trumpet our own achievements, as ICASA has been instrumental in stabilising a rapidly developing industry, whilst operating on an inadequate budget.

I am proud to say that during the year under review, the broadcasting division has produced policies and licensing

proposals that could extensively reshape the broadcasting sector for years to come. These policies and proposals impact on the public broadcaster, regional television broadcasting, the commercial radio market, community television, community radio, pay television and subscription broadcasting generally. The amount of work generated during this time is a remarkable achievement and is dealt with in detail in this Report.

ICASA has continued the fundamental transformation of the broadcasting sector from the apartheid state's monopoly control and a censorship regime to a prosperous, competitive and increasingly black-owned and controlled sector. We now have a sector that plays a vital role in the promotion of indigenous content, diversity of views and opinions, and freedom of expression.

ICASA is confident that the regulation of subscription broadcasting and the introduction of new entrants into the subscription broadcasting market will dramatically change the way the market is structured, introduce competition, address niche market needs and provide consumers with choice and diversity in programming.

ICASA is required by law to promote investment in the South African broadcasting industry. Over the next few years, we could see the doubling of the number of commercial sound broadcasting licences in South Africa.

We are very excited about opening up new opportunities in North West, Mpumalanga, Limpopo and Northern Cape provinces. We are also confident that these commercial opportunities will stimulate investment and entrepreneurship in the so-called second

economy of broadcasting. No economic market is risk free, but we believe that private commercial radio is now a market that is far more attractive to investors and advertisers.

The amendment of the SABC's radio and television licences was indeed a historic moment for both the public broadcaster and the regulator. ICASA conducted the most comprehensive consultative process in our history which took the best part of 15 months to reach fruition. In making its decision on the licence conditions to be imposed on the SABC in respect of each of its broadcasting services, ICASA attempted to strike an appropriate balance between, on the one hand, protecting the viability of public broadcasting services and, on the other hand, ensuring that the SABC's licences properly reflect its reorganisation into the public service division and the commercial service division (and, especially, the status of the SABC's various services as public broadcasting services).

In granting regional television licences to SABC 4 and 5, ICASA decided to suspend the issuing of these licences until the SABC had secured appropriate and necessary funding.

In accordance with the spirit of the Constitution, we are committed to promoting the provision of television broadcasting services at regional level to cater for all language and cultural groups, especially those languages that have been marginalised.

We have also reserved frequencies for digital terrestrial broadcasting in anticipation of the finalisation of government policy on the migration from analogue to digital.

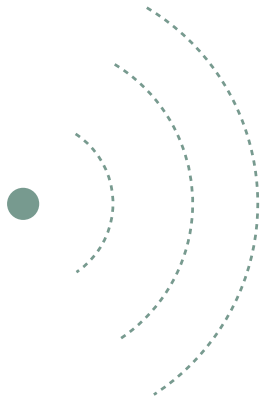
ICASA is confident about the development of this technology, while mindful of the need to protect consumers when migration becomes a reality.

South Africa stands at the beginning of a new digital era. In order to fully reap the benefits of the technology, we must have a supportive regulatory framework that encourages competition, diversity and universal access for all citizens. Regulatory solutions must be found to ensure that the digital revolution becomes an integral part of our developing economies.

South Africa has learned that delays in the opening up of our various communication sectors can have an adverse impact on the related policy goals of increased competition, greater choice in content and carriage as well as affordable communications.

We want to ensure that both local and foreign investors have confidence in our ability to open up markets and attend to regulatory bottlenecks without delay. In this spirit, we look forward to implementing the rapid liberalisation of our sector and promoting competition in all telecommunications and broadcasting markets.

One of the aims of further liberalisation must surely be the increased roll-out of different forms of broadband in South Africa. Every regulator takes pride in its capability to usher in competition. It was with a great sense of mission that ICASA welcomed this possibility, with the processes that flowed from the Telecommunications Amendment Act of 2001, which outlined the route that should be taken to license the Second Network



chairperson's review continued

Operator (SNO). However the disappointing delays in the licensing of the SNO have been well documented. I had always envisaged that by the time my term ended the SNO would have been not only licensed but openly competing for business.

It is likely that the SNO will be licensed during 2005. This is our main priority and we have a dedicated team of ICASA councillors, management and staff working on this important project.

From ICASA's side, there is much work to be done. While increased competition offers more choice, the duplication of certain network elements is neither financially nor practically sound, and our challenge will remain to ensure a fair and non-discriminatory access regime.

The importance of the Convergence Bill, in whatever form it finally eventuates, cannot be overstated. The legislation as it currently stands, we have seen, often cannot accommodate the demands of technological change. The Convergence Bill is aimed at addressing that structural flaw that current legislation presents.

The opportunity presented by the Convergence Bill provides the occasion to remedy possible past defects with sector legislation. A golden opportunity exists to correct problems that may have presented themselves in the past.

Regulation is an ongoing process. As markets evolve so must regulation. So while much has been done in terms of establishing a regulatory framework, ICASA still has several major tasks ahead of it.

During the last year ICASA reviewed and updated certain critical telecommunications regulations and guidelines, including:

- Chart of Accounts and Cost Allocation Manual (COA/CAM) for mobile operators
- Interconnection Guidelines
- Facilities Leasing Guidelines
- Review of Fees and Charges for PSTS Services (Rate Regime)
- The Numbering Plan; and
- Number Portability Guidelines.

These are dealt with in more detail in this Annual Report.

While we await the reformation promised by the Convergence Bill, it is important for ICASA to continue with the tasks required by the Telecommunications Act, including the Ministerial Determinations.

It is our mission that ICASA should continue to facilitate a world-class communications environment with accessible services at affordable prices and should promote competition at all levels and in all markets.

As my term as Chairperson comes to an end on 30 June 2005, I would like to thank the President and the Minister for giving me the opportunity to serve the country and to lead the organisation for the first five years of its existence. I am grateful for the confidence that has been shown in my abilities.

I would also like to thank the Parliamentary Portfolio Committee on Communications for the oversight role they have played and continue to play with respect to ICASA, its finances and the appointment of Councillors.

ICASA is an important constitutional institution that cannot afford to lose its role as a credible, fair and expert authority. I trust that the regulator will continue to chart new waters and reach new heights in the quest to open up markets, provide more choice in services and content and lastly, to protect the principles of our great Constitution.



ICASA 4th year Anniversary and Stakeholder meeting 2004