COMPLAINTS AND COMPLIANCE COMMITTEE[1]

Dates of hearing: 30 April 2009
30 July 2009

Case number: 26 /2009

MONITORING AND COMPLAINTS UNIT OF THE INDEPENDENT COMMUNICATION AUTHORITY OF SOUTH AFRICA **COMPLAINANT**

VS

SOUTH AFRICAN POST OFFICE LTD **RESPONDENT**

COMPLAINTS AND COMPLIANCE COMMITTEE PANEL

IWB de Villiers	**(Acting Chairperson)**
S. Thakur	**(CCC Member)**
N. Ntanjana	**(CCC Member)**
JCW van Rooyen	**(Councillor)**

FOR THE MONITORING COMPLAINTS UNIT:

on 30 April 2009: Ms M Morgan, with her Mr B Nkhoma and Mr C Mabena

on 30 July 2009: Mr Makhapa, with him Mr C Mabena and Ms F Naidu.

FOR THE RESPONDENT

on 30 April 2009: Ms M Arthur of SAPO, with her Mr J Naude, Mr P Fouche and Mr R Skippers

on 30 July 2009: Mr Knight of Molefe Knights Attorneys

[1] **In terms of s 17C of the ICASA Act 13 of 2000 as amended**

JUDGMENT

IWB de Villiers J

(1) Two charges were brought by the Monitoring and Complaints Unit of ICASA against the South African Post Office Ltd (SAPO). The first concerned a complaint of Mr Quenton Venter and the other a complaint of Eagle Auction Sales CC.

(2) The matters first came before the Complaints and Compliance Committee (CCC) on 30 April 2009. At that stage SAPO was charged with contravening certain customer care standards and complaint handling procedures which the Postal Regulator had, in terms of clause 10 of the licence issued to SAPO, determined in consultation with SAPO to be adhered to by SAPO in rendering the reserved postal service during the period 1 July 2004 to 31 March 2005. It appeared, however, from Mr Venter's complaint, that the events of which he complained about, took place during November 2007, while in the case of Eagle Auction Sales such events arose during October 2007. At the hearing before the CCC on 30 April 2009 it was common cause between Ms M Morgan, on behalf of the Monitoring Unit, and Ms M Arthur, on behalf of SAPO, that the charges could accordingly not be based on an alleged contravention of the said customer care standards or complaint handling procedures. The matter was accordingly postponed to enable the Monitoring Unit to amend the charges in order to base them on the applicable customer care standards and complaint handling procedures.

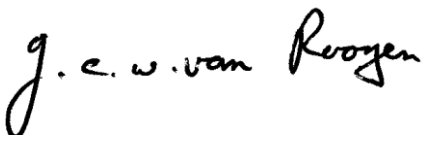
(3) New charges were prepared by the Monitoring Unit and furnished to SAPO and the CCC. Such new charges against SAPO pertained to contraventions of the Code of Practice for the South African Postal Industry published in the Government Gazette No 29740 of 30 March 2007.

(4) A few days before the second hearing, on 30 July 2009, the members of the CCC were informed that, following upon a meeting between members of the Monitoring Unit and SAPO's legal representatives, the Monitoring Unit had, after careful consideration, decided to withdraw both complaints against SAPO. However, the members of the CCC were of the view that since the CCC was already seized with the matter, the complaints could not simply be withdrawn without the matter being aired before the CCC. This view was conveyed to the Monitoring Unit and SAPO before the hearing.

(5) At the hearing on 30 July 3009 Mr Makhapa, who appeared for the Monitoring Unit, informed the CCC that the Unit did not have a case with which it could proceed. Members of the CCC asked him why this was so but Mr Makhapa was hesitant to inform the CCC why the Unit could not proceed. However, Mr Knight, who appeared for SAPO informed the CCC that promulgation of the Code of Practice referred to in the said Government Gazette would, in terms of par 2 thereof, "follow only after an intensive consultation process with the various stakeholders has been completed" and that such process had not yet been completed before the events occurred on which the charges are based. Mr Makhapa confirmed that this was the position.

(6) Mr Knight accordingly requested the CCC to dismiss the charges against SAPO. However, SAPO had not yet pleaded to the charges. Accordingly it is sufficient to record that the said charges against SAPO have been withdrawn.

IWB de Villiers
Acting Chairman of the CCC
24 August 2009



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JCW van Rooyen

For: ACTING CHAIRPERSON OF THE CCC