



30 January 2019

Independent Communications Authority of South Africa  
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By email: [LQabaka@icasa.org.za](mailto:LQabaka@icasa.org.za)

Att: Mr. Lumkile Qabaka

Number of pages: 10

Dear Mr Qabaka

## **MULTICHOICE'S COMMENTS ON DRAFT CONFORMITY ASSESSMENT FRAMEWORK FOR EQUIPMENT AUTHORIZATION**

### **INTRODUCTION**

- 1 MultiChoice thanks the Authority for the opportunity to comment on the Draft Conformity Assessment Framework for Equipment Authorization (“the Draft Framework”), gazetted by the Authority on 13 December 2018<sup>1</sup>.
- 2 MultiChoice is a video entertainment business whose electronic communications products are used by subscribers to receive audio-visual content which they are subscribed to. As our products are placed in the South African and the rest of the Sub-Saharan African market, some of these products are required, through

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<sup>1</sup> Published under Notice number 1381, Government Gazette number 42108, 13 December 2018

regulations, to undergo a conformity assessment process to ensure that they meet requirements and standards for safety, health, environmental impact, durability, compatibility and suitability for intended use.

- 3 Our submission to the Draft Framework is therefore based on our experience (both in the South African market and the rest of the Sub-Saharan African market) of the conformity assessment process and how we view the type of framework that the Authority should implement to ensure a robust and user friendly process, specifically in light of the fourth industrial revolution.
- 4 We commend the Authority for its initiative to improve the efficiency of the current framework, ensure that the conformity assessment is not compromised, ensure that the introduction of products in the market is not stifled<sup>2</sup>, and to propose a less invasive and more efficient conformity assessment regime<sup>3</sup>.
- 5 We set out our responses to the Authority's questions below.

## **GENERAL COMMENT**

- 6 Much of what is outlined in the discussion document is highly theoretical. Whilst the prospects of reduced regulatory burden, faster time to market and support to industry is welcomed, there is concern on the lack of detail on an actual implementation and if this would indeed deliver the intended results.

## **RESPONSE TO QUESTION 1:**

**In your view, what are the benefits of having conformity assessment to support the regulations?**

- 7 As highlighted in sub-section 1.1 of the Draft Framework, “*a conformity assessment scheme relates to the degree of risk associated with non-compliance considering aspects such as safety, health or environmental impact, durability, compatibility and suitability for intended use.*” In our view, a conformity assessment ensures that pre-and-post a product being placed in the market to

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<sup>2</sup> Page 56 of the Draft Framework

<sup>3</sup> Page 57 of the Draft Framework

which it is intended for use, it meets relevant minimum requirements and standards of a particular country or region, thereby complying with aspects of safety, health or environmental impact, durability, compatibility and suitability for intended use as stated in sub-section 1.1 of the Draft Framework.

**RESPONSE TO QUESTION 2:**

**Do you see any benefits in risk profiling and the categorization of equipment in carrying out the conformity assessment?**

8 The Authority is well aware that the world is currently undergoing the 4th Industrial Revolution (4IR), where technologies such as Artificial Intelligence, Autonomous Vehicles, Internet of Things, Augmented Reality and many others have become reality as opposed to science fiction. The advent of 4IR has made the ICT sector amongst the most important sectors of development, as all industries and sectors will soon be powered by and dependent on information and communications technologies. Statista forecasts that by 2025, there will be more than 75 Billion installed devices connected to the Internet<sup>4</sup>.

Year	Connected Devices (Billions)
2020	30.73
2021	35.82
2022	42.62
2023	51.11
2024	62.12
2025	75.44

*IoT connected devices installed base worldwide (Source: Statista)*

<sup>4</sup> Statista (2019) Internet of Things (IoT) connected devices installed base worldwide from 2015 to 2025 [online]. Available at: <https://www.statista.com/statistics/471264/iot-number-of-connected-devices-worldwide/> [Accessed 22 Jan 2019]

- 9 The Authority will agree that this magnitude of devices, which may come from thousands of suppliers both locally and internationally, will bring about capacity challenges to the conformance process. Sub-section 2.4 of the Draft Framework states that “*manufacturers, distributors and suppliers consider the turnaround time to place ICT equipment in the market to be too long ... largely because the same Approval Framework used is applied throughout all types of equipment and technologies.*” With the expected number of connected devices, the turnaround could be even longer than already considered by manufacturers, distributors and suppliers.
- 10 In view of the above, we see considerable benefits to risk profiling and categorization of equipment in carrying out conformity assessment. Not doing this could place the country on the back foot in terms of technological advancements, thereby slowing down growth of the ICT sector and other sectors that are and will be reliant on these devices and equipment.

**RESPONSE TO QUESTION 3:**

**With the recommended steps for using conformity assessment in support of the regulations (figure 10), which of the steps would you say are missing in the Approval Framework, and how can they help improve the Approval Framework efficiency?**

- 11 We are in agreement with the recommended steps for using conformity assessment in support of the regulations.

**RESPONSE TO QUESTION 4:**

**Can you suggest an appropriate conformity assessment approach that can address the current Approval Framework challenges?**

- 12 We are in support of the recommended dynamic conformity assessment scheme, which also includes a process of self-conformity assessment by the supplier through the SDoC. Our view is that this will create a far more user friendly and expedient process for suppliers to place ICT equipment in the market.

- 13 However, the recommended scheme does not emphasize enough conformity assessment processes performed and concluded by other ILAC MRA signatories. As a signatory, South Africa, through the Authority, should accept that certain ICT equipment that may have passed conformity assessments performed and concluded by other ILAC MRA signatories should be allowed to be placed in the South African market, without having to go through the Authority's own process. This should of course be dependent on the risk profile and categorization of the specific ICT equipment in question.
- 14 It is therefore recommended for the dynamic conformity assessment scheme to clearly emphasize conformity assessment processes performed and concluded by other ILAC MRA signatories. In order to ensure competitiveness and efficient conformance regimes, recognising and accepting conformity outcomes from other ILAC MRA signatories is especially relevant for harmonised systems and technologies.
- 15 A streamlined conformance regime needs to be supported by streamlined standardization and unique country specific requirements need to be avoided unless these are essential. In so doing, conformance of systems, products and solutions based on harmonized standards can be expedited and fully aligned to what happens in other territories.

#### **RESPONSE TO QUESTION 5:**

#### **In South African context, what are the benefits for the Authority collaborating with other regulatory institutions/organizations/states?**

- 16 As stated above, MultiChoice places its products in the South African market, and the rest of the Sub-Saharan African market, for reception of the content we broadcast and stream to our paying subscribers. The hurdle that we face, and faced by other multinational suppliers of electronic communications products, is the need to go through conformity assessment processes in every country which we operate in, including those that are signatories to the ILAC MRA. This is a

tedious and expensive process, which one would expect that due to the ILAC MRA, would be more fluid.

- 17 Conformité Européenne (“CE”) shows an efficient conformity assessment process where, regardless of where the assessment is performed within the European Union (“EU”), a supplier’s product is deemed acceptable anywhere within the EU.
- 18 Our view therefore is that the collaboration between the Authority and other regulators/institutions/organisations/states should seek to achieve what the EU has achieved through CE. With South Africa being a member of the Southern African Development Community (“SADC”) and further a member of the African Union (“AU”), it is our humble recommendation that the Authority and other regulators within South Africa should seek to, and lead a process of harmonizing conformity assessment processes, firstly within SADC, through the Communications Regulators Association of Southern Africa (“CRASA”) and then the AU, through the African Telecommunications Union (“ATU”).
- 19 The importance of the collaborations and the recommended harmonization process is in the interest of the development of South Africa and the African continent, specifically with regards to 4IR. South African, and African, ICT equipment manufacturers, distributors and suppliers will be able to reach the continental market more effectively and efficiently, knowing that there is a harmonized conformity assessment scheme within the continent.

#### **RESPONSE TO QUESTION 6:**

**Given table 3, which SDoC scheme/s would best suit the South African market, and why?**

- 20 As the proposed SDoC process is a newly proposed approach to the Authority’s conformity assessment scheme, we are in agreement with the Authority’s proposal of the “SDoC I” scheme, requiring all the three steps in the process:

20.1 Testing at an ISO/IEC 17025 compliant test facility;

- 20.2 Test reports be kept for a prescribed period; and
- 20.3 Supplier to register the declaration with the regulator).
- 21 In light of Section 2(a) and (b) of the Independent Communications Authority of South Africa Act No. 13 of 2000, which states “(a) regulate broadcasting in the public interest...” and “(b) regulate electronic communications in the public interest”, our view is that “SDoC I” ensures compliance with requirements and standards (through step 1) and ensures that the Authority is knowledgeable with all ICT equipment in the market (through step 3) and therefore able to communicate with the public.
- 22 The SDoC scheme may be reviewed at a later stage if found that “SDoC I” is not appropriate.

#### **RESPONSE TO QUESTION 7:**

**In your definition/understanding, what ICT equipment can be classified as low risk and may be considered for equipment authorization exemption?**

- 23 Table 4 of the Draft Framework provides a good basis for an exemption framework, which as the Draft Framework states, will be expanded through stakeholder consultations. In anticipation of the stakeholder consultation process, the Authority should note that there are instances where an ICT equipment in question does not require exemption in its entirety, but certain features and/or functionality of the equipment may require to be exempted to conforming to a portion or portions of a standard used to test the equipment’s conformity.
- 24 As an example, the SANS 862:2013 standard (Set-top box decoder for free-to-air digital terrestrial television) required an HDMI port as a mandatory requirement for Free-to-Air STBs. In the interest of reducing cost to the consumer, some manufacturers may have wanted to exclude HDMI from their STBs. Others may have wanted to include it (for competitive advantage), at a higher cost to the consumer. In this instance, a manufacturer may meet all

minimum requirements of the standard, except an HDMI port and therefore would apply for exemption from meeting the minimum requirement of an HDMI port.

- 25 With regards to the example stated above, the exemption framework should therefore be able to grant a manufacturer an exemption on meeting a portion or portions of a standard, with conditions attached to the exemption (labelling, amongst others, being an example of a condition). In this case, the exemption allows the consumer to be able to make a decision based on their own affordability.

### **RESPONSE TO QUESTION 8:**

#### **What are the risks associated with exempting ICT equipment from Approval Framework, and how can they be mitigated or eliminated?**

- 26 It must be kept in mind that consumers are awarded significant protection in terms of the Consumer Protection Act. It follows therefore that consumers are empowered to return non-working equipment. Normal market forces in conjunction with the Consumer Protection Act drive manufacturers and retailers to ensure that products are safe to use and work properly. Put differently: Products that do not work will be returned and the public refunded. Manufacturers and retailers are thus incentivized to ensure that their products are compliant to avoid reputational risks and direct costs of returns. The conformity assessment process should be considered in this context where consumers are significantly protected and retailers and manufacturers incentivized to comply.
- 27 The requirement for a conformity assessment process on ICT equipment is due to the need of regulators to ensure that equipment that is placed in the market does not pose any harm to the public with regards to health, safety or environmental conditions and that the equipment is durable, compatible and suitable for its intended use. With regulators regulating in the public interest, conformity assessments fall squarely within their ambit and they are therefore required to ensure that any product that is placed in their respective markets does not cause undue harm to their intended users. Exempting equipment does



pose a risk of health, safety, negative impact to the environment and not meeting the requirements of intended users.

- 28 In mitigating the risks associated with exempting ICT equipment from the Approval Framework, the Authority may see it fit to engage (on its own accord and/or in collaboration with international bodies, academia and other parties) with users of exempted equipment in the interest of educating/informing them of the risks associated with their use of exempted equipment.

#### **RESPONSE TO QUESTION 9:**

**What would you propose the Authority do to effectively execute its responsibilities on market surveillance considering the current fiscal challenges?**

- 29 In most instances, there is more than one interested regulator/parties with regards to any ICT equipment. Amongst some of the parties with interests are:
- 29.1 The South African Bureau of Standards (“SABS”), which publishes standards that ICT equipment must comply with;
  - 29.2 The National Regulator of Compulsory Standards (“NRCS”), which has interests in that it issues Letters of Authority (“LoA”) to manufacturers/suppliers to ensure compliance with compulsory standards;
  - 29.3 Private sector, which places equipment in the market and also has interest in ensuring that its equipment does not pose any harm to customers; and
  - 29.4 Other parties, which may include NGOs, Academia and others.
- 30 With the above interested parties, the Authority, through existing and potential MOUs, should collaborate with all other interested parties to lower the burden on the fiscus. Partnerships will certainly assist the Authority in its responsibilities of market surveillance. As operators in the ICT sector, we also have an interest in

ensuring that equipment that is placed in the market does not have a negative impact to the public.

#### **RESPONSE TO QUESTION 10:**

**What are the prevalent equipment authorization challenges that may be experienced by manufacturers, distributors, suppliers and retailers post- and pre-market surveillance?**

31 There is concern that the implementation may lack the required coordination and potentially result in additional regulatory burdens and administrative delays for the ICT sector (i.e. an MoU between ICASA and NRCS does not by the mere fact result in a less onerous conformity assessment process). New coordinated regulations would be required to avoid duplication of the same tests or conformity processes with the respective Authorities. An uncoordinated approach may see different entities applying different conformity assessment process which may result in duplication of efforts.

#### **CONCLUSION**

32 MultiChoice reiterates its support for this process and thanks the Authority, once again, for the opportunity to make this submission.

33 We also wish to submit our interest to making oral representations to the Authority when the time comes.

Yours sincerely



**Thabo Makenete**

**GM: Technical Regulatory**