NRCS COMMENTS ON ICASA PROPOSED CONFORMITY ASSESSMENT FRAMEWORK

AS PER NOTICE NO. 1381

BACKGROUND

NRCS - Electrotechnical Business Unit scope, broadly covers the following sectors; **Electrical Transmission** (power transformers, power supplies ect.), **Electrical Distribution** (cables, circuit breakers ect.), **Domestic Appliances** (kettles, microwares, sockets ect.), **Heavy Industry** (electric cables, solid dielectic insulation ect.), **Electrical & Electronically Operated Devices** (Electrical and audio-visual equipment, TV's, music systems, DVD players ect.), **Lighting Industry** (fixed luminaries, compact fluorescent, incandescent lamps), **Light Industry** (transportable motors, air conditioners, equipment measurement ect.), **Energy Efficiency** (lighting products, hot water storage tanks, dishwashers, refrigerators ect.).

Domestic Appliances, Electrical & Electronically Operated Devices, Light Industry and products regulated for Energy Efficiency also fall under the Independent Communications Authority of SA Act, No. 13 of 2000. In October 2001, ICASA and SABS (Regulatory division which later became NRCS) agreed to minimize duplications in approval and surveillance activities on products that fall into both mandates. It was therefore decided that the administration of Type Approval and Surveillance of all Telecommunication devices was to be done only by ICASA. An MOU in this regard was sign off by both agencies unfortunately, such MOU cannot be located. To effect this agreement, ICASA issued Notice 2336 of 2001 (attached) and this remained status core since then. Over the years technology as evolve products such as Electronically Operated Devices, Laptops and Ipads are now used as communication devices and recently Domestic Appliances such as dishwashers, refrigerators, alarm systems etc. have an ability to communicate their status and to receive instructions. All communication products are tested and type approved for Electromagnetic Compatibility and Interference which is an ICASA mandate.

In 2016, ICASA reviewed the process of issuing EMC/EMI Certificates of Compliance (CoCs) and re-mandated SABS to issue CoCs on electronic equipment (non-telecommunication

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devices) that fall under their mandate in terms of EMC/EMI requirements. As it can be seen on the attached SABS EMC/CoC Product Guideline, most of the identified products also fall under the mandate of NRCS in terms of Safety and Energy Efficiency(EE). Effectively, there are two regulators with different mandates over these products, NRCS for Safety and EE (where applicable) and ICASA for EMC/EMI and its type approval outsourced to SABS.

Comments on the draft Conformity Assessment Framework Notice No. 1381

The said notice by ICASA intends to further review its CA framework for all regulated equipment and to apply a Risk Approach to the approval and surveillance activities. Technology and food regulators worldwide rely on multiple Type Approval Methods (product registration, self-declaration, third party certification, local testing, market surveillance etc.) to ensure compliance based on the risk associated with a particular product. These Type Approval Methods are generally accepted under WTO – TBT Agreement and done through ISO and IEC published standards and guidelines. In this country, the introduction of the new ICASA CA framework will further create duplication and confusion in the market when it comes to proving compliance for approval and surveillance purposes. This is caused by the fact that our regulation model is fragmented with un-synergized processes. NRCS attempts to establish a formalize cooperation has yielded no positive results over the years.

Type Approval:
- Even thou the two type approval processes can exist since the mandate is different, a clear synergize series process should be establish by the two agencies to avoid duplication and confusion in the market. Traders should not have option to choose which type approval to follow and use the issued certificate as compliant to both mandates.
- ICASA and NRCS Risk Models are not the same as the two agencies regulate different aspects of the same product. Products that may be regarded as high risk by NRCS may be regarded low risk by ICASA. Such product may be subjected to a rigorous approval process by NRCS while ICASA allows Supplier's Declaration of Conformity

documentation as a proof of complaint. This may cause confusion to the traders, border authorities (SARS and Border Police), consumers etc.

- Section 3.2 of the draft framework makes mention of the need to avoid monopoly and to promote competition between CAB. From this statement we can assume that ICASA intends to appoint more than one CAB for its certification process. Even thou this is a good practice, multiple organizations will be issuing CoC and NRCS issuing LOAs on the same product.

- Multiple proof of compliance documentation issued by multiple organization will be required. Products regulated by NRCS for safety and EE are issued with two LoA letters, one for safety and one for EE. The introduction of new CA framework will see an additional documents (CoC or Self Declaration doc) issued by ICASA appointed CABs or by suppliers.

Market Surveillance:

- It appears ICASA has not decided whether to use the same CABs who will be issuing CoC to conduct market surveillance or to do the surveillance themselves or other appointed bodies. Giving it to same CABs may have unintended negative consequences.

- Approved products found in the market, will be subjected to inspection and sampling by multiple organisations including NRCS.

- NRCS does not have its own Labs and the Legislation doesn't provide for this. Therefore, NRCS uses CABs to test sampled products and it is highly possible that the same CABs will be appointed by ICASA to issue CoC.

Mark:

- ICASA contemplate placing of a "mark of conformity" on compliance products. This mark will not mean compliance with LoA requirement thus creating a confusion when NRCS declares a product with this mark non-compliance. This remains a case with the SABS mark.

- NRCS is also looking at have a "mark of conformity" or is this still the case? The importance of the mark in case of ICASA is the same as in case of NRCS. Should

South Africa not have a single mark of conformity? To avoid too many marks for the same purpose on the same product.

Views to the comments on email from the dti:

- **Self declaration (no need for SABS)** – in case of both NRCS and ICASA declaration of compliance is done by the two agents themselves not SABS. Like any other CABs (including SABS) test reports from these institutions are used to evaluate the compliance of the regulated products and such test report are no a declaration of conformity. The only outsource declaration to SABS is only of EMC and EMI. It appears they now want to increase the number of CABs rather than SABS being the only designated CAB.

- **Marker surveillance (overlaps with NRCS)** – indeed there will be an overlap which may result into different outcome.

- **Type approval without NMISA** – indeed only when it comes to metrology matters. It should however be noted that type approval does not only refer or use in metrology. Even NRCS LoA approval process is a particular - type approval that was adopted from SABS. Therefore, they generally refer to any type of approval.

- **ICASA will approve some CAB** – section on "Recognition of CAB and their Results state that "Governments can recognise CABs…". ICASA intend to recognise specific CABs that will participate in their CoC. They further state that "Accreditation bodies assess the competence of CABs and accredit these bodies if they are compliant…" This therefore, recognises the accreditation schemes and accreditation bodies work however, it remains ICASA's prerogative to decide which accredited CABs participate (recognise) on their CoC.

Conclusion:

As part of the NRCS Risk Base Approach, in 2016, NRCS made an undertaking to the Portfolio Committee and the EU Chamber of Commerce to implement a CoC as a self-compliance measure by traders. The model that was proposed by the NRCS to **the dti**, the group of associations (SADA, IESSA, SAASA & Cable Association) and the EU last year has many similarities to what ICASA is proposing. As expected, there was mixed reaction from the industry with some sighting that the model will cost them more and others seeing it as a

solution. If ICASA goes on to implement its CoC framework, NRCS will be under a lot of pressure to follow suit. Currently, NRCS awaits for **the dti** to advice on the way forward. It should be remembered that SADA and other associations have been pushing **the dti** and NRCS to adopt a self-declaration to the products they trade. ICASA model appears to be adopting self-declaration to some group of regulated products bases on the associated risk.

Lack of coordination between the Department of Communication and **the dti** as well as between ICASA and NRCS has already resulted in duplicate regulation for the affected products and the involvement of SABS as the regulator and accreditation body, activities which outside their legislative mandate. If the regulation of these products is not synchronized and standardise, ambiguity and lack of clarity on the requirements to comply will increase making the process tedious and burdensome. When this happen, more and more regulated industries turn to avoid compliance making it difficult for the regulator to police compliance due to limited resources.

Lastly the proposal lacks content on the sanctioning mechanisms for non-compliances. Whilst ICASA propose to conduct market surveillances, it is not clear how it will deal with non-compliances on the market. In many jurisdictions wherein the self- declaration is applied, there are strong legislative support in terms of recalls and heavy penalties. This may further create a confusion in the market taking into account the overlaps of the respective mandates of the NRCS and ICASA.

The NRCS strongly believe that there can be stronger collaboration with ICASA as the regulators in this area.

The NRCS is available to engage ICASA and other stakeholders further on the above submissions.

Regards

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19 | 02 | 2019