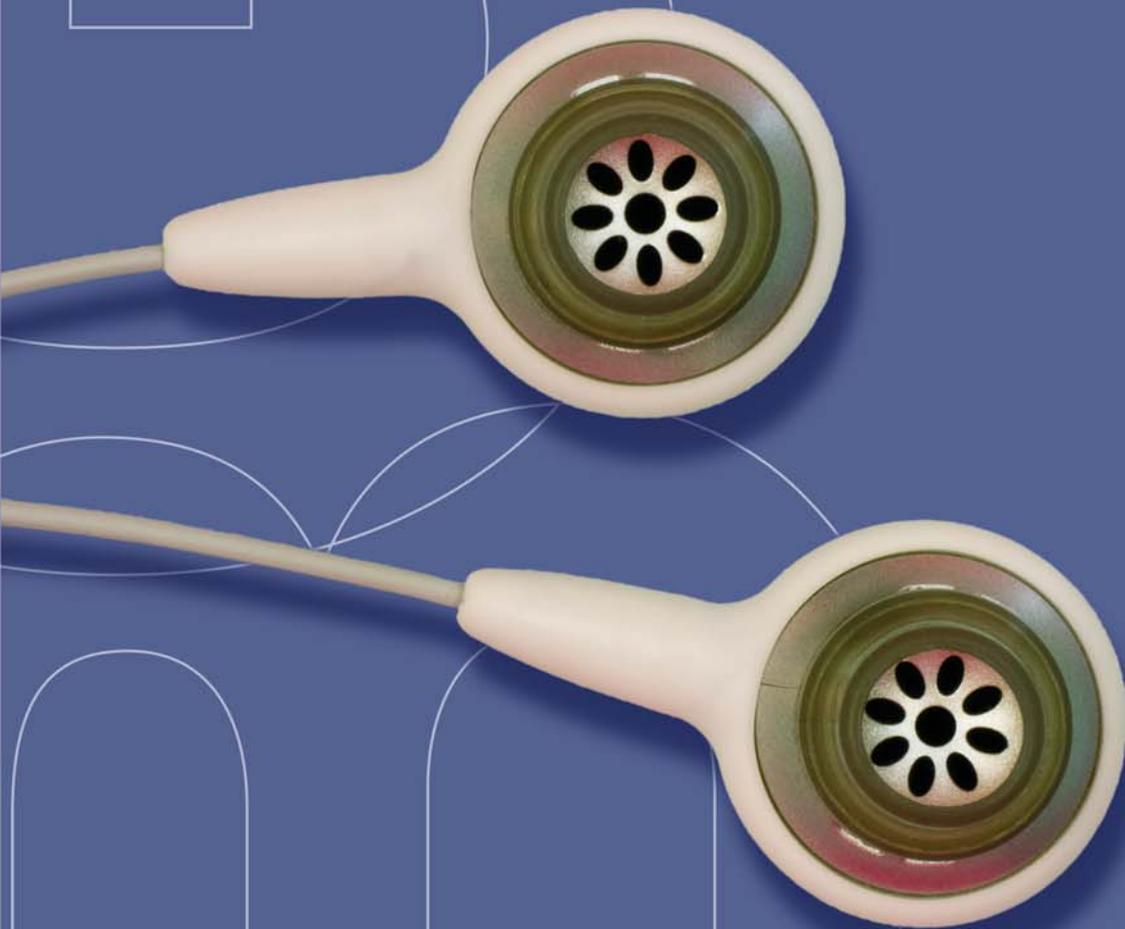


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ELECTRONIC  
COMMUNICATIONS  
AND BROADCASTING





## *historical overview of the regulation of the communications sector*

Prior to the advent of constitutional democracy in South Africa in 1994, the broadcasting and telecommunication sectors were regulated primarily by the provisions of the Radio Act, 1952 and the Broadcasting Act, 1976. These statutes facilitated control by government over telecommunications and broadcasting activities in South Africa during the apartheid era. The government exercised exclusive control over the formulation of broadcasting and telecommunications policy, over the regulation of the broadcasting and telecommunications industry and over the provision of broadcasting and telecommunications services. The apartheid government abused its position of power in this regard in order to promote its political agenda.

During the multi-party negotiation process which resulted in South Africa's transition to democracy, it was decided to set up various bodies that would facilitate that transition. These bodies included the Independent Media Commission, the Transitional Executive Council and, importantly, the Independent Broadcasting Authority (IBA). The IBA was established by the Independent Broadcasting Authority Act 153 of 1993 (the IBA Act). The IBA Act made the IBA responsible for the formulation of broadcasting policy and for the regulation of broadcasting activities. The IBA was also mandated to supervise the expansion and diversification of the broadcasting industry by means of the privatisation of some of the SABC's sound broadcasting services and the licensing of new sound and television broadcasting services.

The Constitution came into effect on 4 February 1997. It provides, in section 192, that national legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society. By enacting this provision, the Constitutional Assembly gave constitutional recognition to the IBA. It also entrenched the principle of the independence of the IBA.

The Broadcasting Act 4 of 1999 established a broad framework for the regulation of the broadcasting industry and supplemented the provisions of the IBA Act. A substantial part of the Broadcasting Act was devoted to the restructuring of the SABC and, in particular, its conversion from a statutory body into a public company of which the state is the sole shareholder. The Broadcasting Act also provided that the Minister of Communications was ultimately responsible for the development of broadcasting policy. By conferring this power on the Minister, the power of the regulatory authority to determine broadcasting policy was diluted although the Minister was required to adhere to certain general principles in developing policy and issuing policy directives to the IBA.

Telecommunications was recognised as a key sector requiring reform and the government set out its policy in this regard in the White Paper on Telecommunications Policy which was published in 1994. The White Paper recognised the need for liberalisation of the market in line with international trends and to facilitate the roll-out of networks and services in line with government's developmental goals. The first phase of reform to the sector saw the partial privatisation of the state-owned fixed line network and its incorporation as Telkom SA Limited, as well as the licensing of two mobile operators, MTN and Vodacom. The Radio Act, 1952, in terms of which telecommunications had been regulated, was then repealed by the Telecommunications Act 103 of 1996, which came into effect on 1 July 1997.

The Telecommunications Act established a sector regulator known as the South African Telecommunications Regulatory Authority (SATRA), which was responsible for regulating a range of telecommunications matters. Although the Telecommunications Act stated that SATRA was an independent regulatory body, it empowered the Minister to issue policy directions to SATRA and for the Minister to promulgate the regulations that gave content to many of the provisions of the Act.

The Telecommunications Act deemed Telkom to be the holder of a licence to provide a public switched telecommunications service comprising local access, long-distance and international services. Telkom was granted exclusive rights in relation to the provision of these services for a period of five years. Thereafter it was intended that a second national operator (SNO) would be licensed, which would have access to Telkom's facilities and resell Telkom services for a period of two years, after which it would be permitted to operate its own network and provide certain facilities itself. In terms of the Telecommunications Act, the exclusive rights of Telkom and the SNO were to expire in 2005. The Telecommunications Act introduced some competition in the value-added services sector (comprising such services as internet service

provision, e-mail and other data services) in relation to which Telkom did not have exclusive rights. However, providers of value-added network services (VANS) were required to obtain facilities from Telkom alone and were not permitted to carry voice until the Minister determined otherwise. Telkom was also permitted to provide VANS and, as such, operated in the competitive downstream sector of the market while holding the monopoly in the upstream sector. The Minister prompted further liberalisation of the sector when she lifted the restrictions on VANS and mobile operators with effect from 1 February 2005, allowing them to obtain their facilities from any source as opposed to from Telkom alone, and allowing them to carry voice.

Following delays in the licensing process, the SNO, Neotel (Pty) Ltd, was ultimately licensed only in 2005 and commenced with the provision of wholesale services in 2006.

The Independent Communications Authority of South Africa Act 13 of 2000 provided for the dissolution of the IBA and SATRA and for the creation, in their place, of a regulatory body known as the Independent Communications Authority of South Africa (ICASA). The ICASA Act recognised that technological and other developments in the fields of broadcasting and telecommunications had caused a rapid convergence of these fields and acknowledged a need to establish a single body to regulate broadcasting and telecommunications matters.

The Electronic Communications Act, 2005 (the EC Act) repealed and replaced the IBA Act and the Telecommunications Act with effect from 19 July 2006. At the same time the ICASA Act was amended to provide that, in addition to regulating electronic communications, ICASA would also assume responsibility for regulating the postal sector.



## *the current regulatory framework*

Electronic communications and broadcasting are now governed by the EC Act.

ICASA administers the EC Act and is primarily responsible for the regulation of the communications sector generally. The ICASA Act provides that the Minister of Communications is responsible for developing policy for the communications sector and may issue policy directives to ICASA in this regard. ICASA is required by the ICASA Act to function without any political or commercial interference. ICASA is an 'organ of state', and its conduct in considering licence applications and performing other regulatory functions constitutes administrative action. This means that ICASA must act in a lawful, rational and procedurally fair manner in exercising its statutory powers. Should it fail to do so, its actions and decisions may be set aside on review by the High Court.

The EC Act takes account of the convergence of telecommunications and broadcasting technology, which allows for a variety of different services to be provided over a single platform, and establishes a regulatory framework in line with new communications methods and technologies. The EC Act provides that electronic communications services and broadcasting services are required to be licensed, unless exempted from these licensing requirements. In addition, network operators providing electronic communications network services by making available physical network capacity for the conveyance of communications or the transmission of a broadcast signal, require licences to provide those services.

The EC Act provides that services and networks may be authorised in terms of either an individual or a class licence. The type of licence which is required depends on the scope of the service. Individual licences are generally required in respect of services which have a significant impact on socioeconomic development and will be granted pursuant to a relatively intensive adjudication process. Class licences, on the other hand, are required in respect of services which ICASA finds do not have a significant impact on socioeconomic development, necessitating less intensive regulation. Providers of services requiring class licence authorisation are only required to register with ICASA in respect of such services. ICASA has very limited power to refuse such registration.

Under the previous regulatory regime, operators were licensed as vertically integrated bodies to operate networks and provide services over those networks. The EC Act has replaced this system with a horizontal licensing framework which provides for the separate licensing of networks and services. To facilitate convergence in the sector, the EC Act provides for a single licensing framework in respect of all communications networks (regardless of the services provided across them) and communications services, although a distinction is retained between electronic communications services and broadcasting services. The EC Act provides for a range of measures which ICASA may introduce to facilitate further competition in the sector.

# broadcasting

**The EC Act provides that broadcasting services are required to be licensed unless exempted by ICASA. The Broadcasting Act distinguishes between three broad classes of broadcasting services: public broadcasting services, commercial broadcasting services and community broadcasting services. These three classes are divided into the following sub-categories:**

- free-to-air broadcasting services
- terrestrial subscription broadcasting services
- satellite subscription broadcasting services
- cable subscription broadcasting services
- low power sound broadcasting services, and
- any other class of licence prescribed by ICASA from time to time.

The electronic communications networks over which broadcasting services are provided are also required to be licensed in terms of the EC Act.

## **Broadcasting services**

The SABC currently holds a public free-to-air broadcasting service licence, authorising it to provide three television channels (SABC1, SABC2 and SABC3) and various national and regional sound broadcasting services including 5fm, Metro FM, Radio 2000 and SAFM.

Electronic Media Network Limited (M-Net) holds a private terrestrial subscription broadcasting service licence, authorising it to provide national pay television services. Midi TV (Pty) Ltd is the holder of a private free-to-air broadcasting service licence, and it operates a national service known as e-tv. Trinity Broadcasting Network holds a community television broadcasting service licence, in terms of which it provides a free-to-air religious service in parts of the Eastern Cape Province. MIH Holdings Limited, through MultiChoice Africa, provides a satellite subscription broadcasting service known as DStv. ICASA has recently

licensed further satellite and cable subscription broadcasting services.

There is a wide range of commercial sound broadcasting services operating in various parts of South Africa. These include Classic FM, Highveld Stereo, Jacaranda FM, KFM, Radio 702, Cape Talk, O-FM and East Coast Radio.

ICASA has issued approximately 90 four-year community sound broadcasting licences in nine provinces.

South Africa has committed to migrating all analogue broadcasting services to digital frequencies. The proposed date for the completion of the digital switchover is 1 November 2011.

Sentech Limited is the state-owned broadcasting distributor which operates a network for the provision of multi-media services and an international telecoms gateway service enabling it to operate as a carrier of carriers. In addition, certain broadcasting service licensees distribute their broadcast signal themselves.

## **Bowman Gilfillan's broadcasting experience**

Bowman Gilfillan has been advising ICASA (and its predecessor-in-law, the IBA) on all areas of broadcasting law since 1997. For example, we advised the IBA on all aspects of the process that culminated in the award of the first private free-to-air terrestrial television licence to e-tv. Through our experience in acting as attorneys to the IBA and ICASA, we have gained extensive knowledge and expertise in relation to all aspects of the broadcasting regulatory regime.

## **We have the following experience in respect of the drafting of licence conditions for broadcasting licensees:**

- We drafted the licence conditions for e-tv pursuant to the award of the first private free-to-air terrestrial television service licence to it in 1998. We also drafted its revised licence conditions after the amendment of its licence in 1999 and again in 2003.
- We advised ICASA on amendments to M-Net's licence

conditions pursuant to its application, considered by ICASA during 2002, for the renewal of its subscription television broadcasting licence.

## **Bowman Gilfillan has advised the IBA and ICASA on a number of applications for the amendment of broadcasting licences. These projects include the following:**

- the application, considered by the IBA during 1999, by Umoya Communications (Pty) Ltd for the amendment of its private sound broadcasting service licence in respect of Radio Algoa;
- the application, considered during 1999, by Radio Jacaranda (Pty) Ltd for the amendment of its private sound broadcasting service licence;
- the application, considered during 1999, by Kaya FM (Pty) Ltd for the amendment of its private sound broadcasting service licence insofar as it relates to its shareholding structure;
- the application, considered during 1999, by Midi TV for the amendment of its free-to-air terrestrial commercial television licence;
- the application, considered by ICASA during 2000, by KFM (Pty) Ltd for the amendment of the ownership and control provisions of its private sound broadcasting service licence;
- the application by P4 Radio Durban (Pty) Ltd and P4 Radio Cape Town (Pty) Ltd, considered in 2001, for changes to their shareholding structures which would have allowed New Africa Media (Pty) Ltd to acquire control of those commercial radio stations;
- the applications, considered during 2002, by East Coast Radio (Pty) Ltd, Jacaranda FM (Pty) Ltd and Radio Oranje (Pty) Ltd for the amendment of their shareholding structures;
- the application, considered during 2002, by Midi TV for the amendment of its free-to-air terrestrial commercial television service licence;

- the application submitted by Primedia Broadcasting (Pty) Ltd for the amendment of the commercial sound broadcasting licence held in respect of Radio 702, which was decided upon in 2006.

## **Bowman Gilfillan has advised ICASA on the following applications for the renewal of broadcasting licences:**

- the application by Primedia Broadcasting (Pty) Ltd for the renewal of its private sound broadcasting licence in respect of Radio 702, which was considered during 2000;
- the application by M-Net, considered by ICASA during 2002, for the renewal of its subscription television broadcasting licence; and
- the SABC's application for the renewal of its public sound and television broadcasting licences, which came before ICASA in 2003 and 2004.

## **Bowman Gilfillan has also advised ICASA on:**

- the four-year community sound broadcasting licensing process in Gauteng, which was finalised in 2004;
- the government's digital migration strategy;
- the Draft Electronic Communications Amendment Bill, 2007;
- the interpretation of section 67 of the ECA;
- the drafting of reasons for ICASA's decisions on the secondary market sound broadcasting licensing process;
- the licensing process for the award of commercial sound broadcasting licences in secondary markets which was completed in 2007.

## **Bowman Gilfillan has also represented the IBA and ICASA in High Court judicial review applications brought against them in respect of several of their decisions regarding licence applications and the imposition of licence conditions, including:**

- Radio Islam's unsuccessful application in 1997 to obtain an urgent interdict against the IBA and the Broadcasting Monitoring & Complaints Committee (BMCC);
- Voice of Soweto's unsuccessful application, in 1998, for an order reviewing and setting aside the IBA's decision to refuse its application for a temporary community sound broadcasting licence;
- Radio Islam's application, in 1998, for an order reviewing and setting aside the IBA's decision to refuse its application for a temporary community sound broadcasting licence, which application was settled on terms favourable to the IBA;
- Radio Islam's application, in 1998, for an urgent interim interdict against the IBA;
- Radio Hoogland's application, in 1999, for an urgent interim interdict against the IBA;
- Kingdom Radio's unsuccessful attempt, in 2000, to have ICASA's decision regarding the Capital Radio licence reviewed and set aside;
- Trinity Broadcasting Network's unsuccessful attempt, in 2002, to have ICASA's decision regarding the amendment of its licence conditions reviewed and set aside, as well as its subsequent appeal to the Supreme Court of Appeal;
- Radio Pretoria's unsuccessful attempt, in 2003, to have ICASA's decision regarding its application for a temporary community sound broadcasting licence reviewed and set aside, as well as its subsequent appeal to the Supreme Court of Appeal and application for leave to appeal to the Constitutional Court;
- Good News Community Radio's unsuccessful application to have ICASA's decision to refuse its application for a community sound broadcasting licence reviewed and set aside and its unsuccessful application for leave to appeal to the Supreme Court of Appeal in 2006;
- the Islamic Unity Convention's application, in 2007, to review and set aside the decisions by the BMCC and ICASA in respect of complaints lodged by the South African Jewish Board of Deputies;

- applications in 2008 by Caxton and Deukom to set aside aspects of ICASA's decisions in respect of the licensing of satellite subscription television broadcasting services;
- several other review applications (including applications by Radio Kingfisher, Link FM, Campus Bay FM and Radio Pretoria) in respect of the Authority's decisions regarding applications for community sound broadcasting licences.

**In addition, Bowman Gilfillan has been involved in the following other projects for and on behalf of ICASA in the broadcasting law arena:**

- representing ICASA at hearings by the BMCC in respect of broadcasting licencees' failure to comply with their licence conditions, including:
  - the hearing, held in September 2000, in respect of the alleged failure by Midi TV to comply with its licence conditions in respect of local productions; and
  - the hearing, held in October 2000, in respect of the failure by Midi TV to comply with its licence conditions relating to its control and empowerment structures;

**drafting regulations on:**

- the regulation of broadcasting activities during the course of local government elections;
- advertisements and infomercials;
- the procedures for applying for licenses in terms of the EC Act.

**Our experience also includes the following:**

- We advised Disney with regard to the proposed introduction of new satellite television channels in South Africa.
- We provided advice to Microsoft with regard to broadcasting in South Africa in light of technological convergence.



# electronic communications

**In terms of the EC Act, electronic communications services and the networks used to provide such services are licensed separately. A licence must be obtained in respect of any such service or network unless it is exempted by ICASA from the licensing requirements.**

## Electronic communications services and networks

Telkom and Neotel are licensed to provide fixed-line services. In terms of their licences, these operators are authorized to provide the local access, long distance and international services. At present, Telkom has exclusive access to the local loop and to the SAT-3 submarine cable, although it is contemplated that open access requirements will be imposed in relation to these facilities in the near future.

The South African government holds 38% of the shares in Telkom, with the

Public Investment Corporation (an investment management company wholly owned by the government) holding 15.7% of the shares. Elephant Consortium, a black economic empowerment (BEE) group has a 5.6% shareholding, 4.3% of shares are held by Telkom subsidiaries and 36.4% are listed on the Johannesburg and New York stock exchanges.

Neotel has three shareholders. These are SOE Company (Pty) Ltd, comprising the state-owned entities Eskom Holdings Limited and Transtel (the telecoms division of Transnet Limited), which holds 30% of the shares in Neotel; Nexus

Connexion (Pty) Ltd, which holds 19% of the shares; and SEPCO (Pty) Ltd, made up of the Tata Group incorporated in India, CommuniTel (Pty) Ltd and Two Consortium (Pty) Ltd, which holds 51% of the shares.

Three mobile operators, Vodacom, MTN and Cell C are licensed to provide mobile services, with Virgin Mobile operating a virtual network to provide such services. Telkom holds 50% of the shares in Vodacom. The remaining 50% is held by Vodaphone plc. MTN, Cell C and Virgin Mobile are privately owned in full.

Over 300 operators are licensed to provide VANS.

## Bowman Gilfillan's electronic communications experience

Bowman Gilfillan has, since 1999, advised ICASA (and its predecessor-in-law, SATRA) regarding a range of telecommunications matters. We have also acted for a wide variety of private clients in telecommunications matters.

In particular, we have assisted ICASA with the drafting of licence conditions in the following matters:

- the drafting of the licence conditions for Cell C after the third mobile cellular telecommunication service licence was awarded to it in 2000;
- the amendment and drafting of the conditions of licence of MTN and Vodacom in 2002.

Bowman Gilfillan advised SATRA and ICASA on certain aspects of the licensing process in respect of the third mobile cellular telecommunication service licence, including the High Court judicial review application by one of the unsuccessful applicants for that licence, NextCom.

In addition, Bowman Gilfillan has advised ICASA on the following other telecommunications matters:

- the proposed (but abortive) acquisition by Portugal Telecom of shares in M-Cell Limited, the holding company of MTN;
- the allocation of 1800MHz frequency spectrum to MTN and Vodacom;
- certain aspects of the development of a regulatory framework for VANS;
- the process for the development of regulations on competition matters in terms of section 67 of the EC Act;
- drafting the proposed regulations setting out the processes and procedures for licence applications in terms of the EC Act.

Bowman Gilfillan has also advised private-sector clients on a number of telecommunications matters, including the following:

- We are advising the FIFA-appointed host broadcasting company for the 2010 World Cup on the regulation of South African broadcasting law.
- We advised the French media group Vivendi on its proposed multi-billion dollar acquisition in 2007 of a stake in Oger Telecom Limited, the ultimate holding company of Cell C.
- We have advised Neotel on a range of matters, including the drafting of submissions on the Draft Electronic Communications Amendment Bill, as well as Neotel's contractual arrangements with Infracore.
- We drafted the legislation providing for the privatization of Botswana Telecommunications Corporation.
- We advised Nexus Connexion on its successful bid for the acquisition of the 19% BEE stake in Neotel, and represented it in litigation with the Minister of Communication arising from her decision to award shares in Neotel to bidders who had been rejected by ICASA.
- We advised MTN in relation to the draft Electronic Communications Bill and assisted it in making submissions to government on the draft Bill.
- We were involved in drafting a new Electronic Communications Act for Tanzania.
- We advised SBC and Telecom Malaysia on their acquisition of a 30% equity stake in Telkom, and also on certain aspects of the Telkom IPO.
- We advised an international consortium on the regulatory aspects of the proposed installation of a submarine fibre-optic cable

around the continent of Africa.

- We advised SES-Global, an international satellite operator, on telecommunications regulation in various southern African jurisdictions.
- We advised MTN on the payment of fees, in terms of section 30A of the Telecommunications Act for access to radio frequency spectrum in the 1800MHz frequency band.
- We advised VNU World Directories in respect of the legal aspects of the publication of telephone directories in South Africa.
- We advised Telecom Lesotho on various regulatory and licensing issues, including a tariff dispute with the Lesotho Telecommunications Authority and a judicial review application in the Lesotho High Court concerning encroachment by other licensees on its exclusivity rights under its fixed-line operator licence.
- We advised two foreign clients on the legality, in terms of the Telecommunications Act, of so-called "cellular firewall" mechanisms (devices that transmit modulated radio waves which prevent communication between mobile phones and cellular systems).
- We advised clients on applications for VANS licences and for the transfer of VANS licences, and on compliance with the VANS regulations.
- We have advised VANS and PTN licensees on their applications for the conversion of their licences under the ECA.

We have advised shareholders in telecommunication service licensees in Botswana, Namibia, Zimbabwe and Malawi on a range of regulatory and commercial matters.

# internet and e-commerce services

South Africa's electronic commerce legislation, in the form of the Electronic Communications & Transactions Act, 2002 (ECTA), became effective in August 2002. ECTA governs electronic commerce in the general sense. Its provisions deal with a range of matters, including security, protection of personal information and cyber crime.

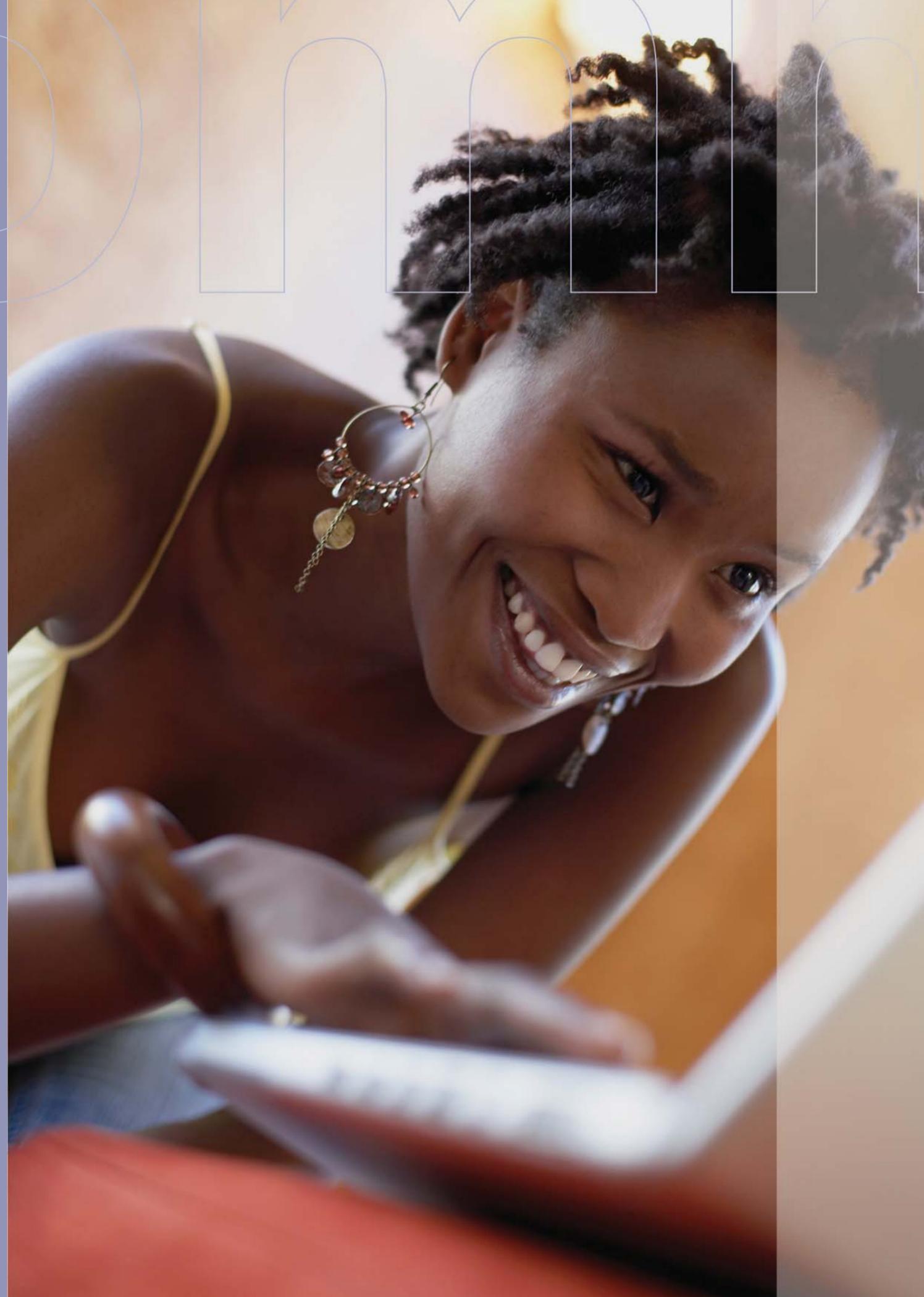
Bowman Gilfillan has acted in a number of matters in the context of electronic commerce developments and requirements. Relevant examples are:

- Bowman Gilfillan played an integral part, through its membership of the Information Technology Lawyers' Forum, in lobbying the government on certain provisions of ECTA, prior to its adoption;
- advising a number of clients, including Southern Sun Hotels, IBM, UBS Warburg, MTN, Bloomberg and AngloGold Ashanti on the interpretation of ECTA and their compliance with its provisions and the provisions of other relevant legislation governing their respective electronic commerce activities;
- advising listed companies, such as Standard Corporate & Merchant Bank (a division of Standard Bank) and Afrox, on the applicability of ECTA to company law and disclosure requirements.

## *Interception & monitoring of communications*

In general, the right to privacy, which is guaranteed in the Constitution and in the common law, requires that communications not be monitored or intercepted. The Regulation of Interception of Communication & Provision of Communication-Related Information Act, 2002 (RICA) provides that, generally, communications may only be intercepted under a direction issued by a judge. The Act does except certain types of communications from this restriction, including communications in the workplace where interception and monitoring is necessary for a business purpose or where permission is sought for employees' communications to be monitored. In terms of RICA, if a copy of an interception direction is handed to a communications service provider, the service provider must immediately route the duplicate signals of indirect

communications to which that direction applies to the designated interception centre concerned or make available the necessary assistance to achieve that object. Bowman Gilfillan has advised a number of clients, including AngloGold Ashanti, Bloomberg, UBS Warburg, IBM and Walt Disney on the implications of this legislation and on related issues, such as the violation of privacy rights.



## DANIEL PRETORIUS

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Daniel has been a partner of Bowman Gilfillan since 1998. He specializes in broadcasting and telecommunications law, and also works in other areas of constitutional, administrative and regulatory law. Daniel has been advising ICASA for some years in relation to several high profile projects, including the licensing of the first free-to-air terrestrial television service, the licensing of the third mobile cellular operator, several licence amend-ment and renewal applications, the drafting of licence conditions for broadcasting and telecommunication licensees, and the drafting of regulations. He has also acted for a number of international and domestic corporations in a wide variety of communi-cations matters. This includes advising the successful bidder for the 19% BEE stake in Neotel, South Africa's second national fixed-line operator, as well as advising the Lesotho fixed-line operator on various regulatory issues. In 2004 and 2005, Daniel was involved in the drafting of Tanzania's broadcasting and communications law. In 2006, he drafted legislation providing for the privatisation of Botswana Telecom-munications Corporation. In 2007, he advised Vivendi on its proposed acquisition of a stake in Oger Telecom, the holding company of Cell C. Daniel has extensive experience in representing regulatory bodies (including ICASA) and private corporations in High Court judicial review applications arising from administrative decision-making processes. He has published numerous articles in South Africa's leading law journals.

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Hlengiwe has been a partner of Bowman Gilfillan since 2006. Her principal areas of practice are information technology law, public sector procurement, general commercial and project finance. Hlengiwe has represented state-owned enterprises, government departments as well as international corporations and well known local companies in the information technology and communications sectors. She was a member of the task team that drafted the discussion paper on electronic commerce for the Department of Communications and recently reviewed the Home Affairs National Identification System on behalf of the Department of Home Affairs. Hlengiwe has also been extensively involved in the review of the CabEnet Document Management System and Batho Pele Gateway Project and Seat Management System.

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Craig has been a partner of Bowman Gilfillan since 2006. He previously worked as legal counsel for a global technology end-to-end solutions provider and was intimately involved in the creation and day-to-day support of a number of leading technology companies in the United Kingdom. He has a particular interest in advising clients looking to procure services, software and information technology solutions and clients looking to outsource services to third party service providers. Craig's recent experience includes advising General Motors on its lease of hardware in South Africa from a global information technology hardware supplier, advising PPS on the outsourcing of its information technology infrastructure and other significant projects, and advising IBM on the R1 billion outsourcing by Safmarine Container Lines of its IT infrastructure to IBM. In addition, Craig has advised numerous companies in diverse matters ranging from advice to MTN on its submissions to the Parliamentary

Portfolio Committee on Communications regarding the draft Electronic Communications Bill to regulatory advice to major banks concerning cross border data privacy issues.

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Claire has been a partner of Bowman Gilfillan since 2003. Her principal areas of practice are in public, regulatory and constitutional law. She has been involved in a broad range of telecommunications and internet technology matters, including High Court review applications in respect of decisions on regulatory matters, as well as the interpretation and application of telecommunications, internet technology, and interception and monitoring legislation. She regularly advises on the informational privacy and data protection issues that arise in the "new technology" arena.

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## LIVIA DYER

BA LLB (UCT) LLM (London), Senior Associate

Livia is a member of the public and regulatory law practice group, specialising in electronic communications and broadcasting and constitutional and administrative law. She joined Bowman Gilfillan as a candidate attorney in 2003 and was admitted as an attorney in 2005. Livia has advised a range of clients, including private entities and regulatory bodies, in judicial review and other proceedings in the High Court, Supreme Court of Appeal and Constitutional Court. Livia has advised the Independent Communications Authority of South Africa on its representations to the Department of Communications with regard to the digital migration strategy to be employed

in South Africa, licensing processes, the conversion of licences in terms of the Electronic Communications Act, the amendment of licences and the drafting of regulations. She has also advised numerous private bodies on the regulatory requirements which are applicable in the communications sector. Livia has been involved in advising clients in the banking sector, particularly in relation to the revised banking regulatory scheme which has recently been implemented in South Africa.

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