SOCIAL REGULATION IN SOUTH AFRICA: A CASE STUDY OF THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

by

RAMASELA BETTY RAMMUTLA

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Lekgapha Wee! La mmaserumula sa mollo. Ga ke kgaphe madi ke kgapha sethitho! Ke Modiadie ke tšwa lebekwane, ke tšo rema theledi yaka' šupa baloyi, nka go šupa ka yona o ka hwa, wa fena nkotwana!

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Agee, Lekgapha!

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LIST OF ACRONYMS

Abet	Adult Basic Education and training
ACMA	Australian Communications and Media Authority
Acotelci	Association des Consommateurs des Telecommunications de Cote d' Ivoire
ACTs	Advisory Committees on Telecommunications
ADA	Americans with Disabilities Act of 1990
ADR	Alternative Dispute Resolution
ATCI	Agence des Télécommunications de Côte d'Ivoire
AT&T	American Telephone and Telegraph
BCCSA	Broadcasting Complaints Commission of South Africa
BDT	Telecommunication Development Bureau
BMCC	Broadcasting Monitoring and Complaints Committee
BT	British Telecommunications
BTA	Botswana Telecommunications Authority
CCC	Complaints and Compliance Committee
CCP	Communications Consumer Panel
CRF	Consumer Representative Forum
CEO	Chief Executive Officer
CLI	Caller Line Identification
CSTs	Community Service Telephones
ComReg	Commission for Communications Regulation
Cosatu	Congress of South African Trade Unions
CPUC	California Public Utilities Commission
CRTC	Canadian Radio-television and Telecommunications Commission
DDA	Disability Discrimination Act 135 of 1992
DeafSA	Deaf Federation of South Africa
DIEL	Telecommunications for Disabled and Elderly People
DoC	Department of Communications
DTI	Department of Trade and Industry
ECA	Electronic Communications Act 36 of 2005
ECN	Electronic Communications Networks
ECS	Electronic Communications Services

EU	European Union
FCC	Federal Communications Commission
GCIS	Government Communication and Information System
GCT	General Consumer Treatment
GSR	Global Symposium for Regulators
IBA	Independent Broadcasting Authority
ICASA	Independent Communications Authority of South Africa
ICASA Act	Independent Communications Authority of South Africa Act 13 of 2000
ICASA-CAP	Independent Communications Authority of South Africa Consumer Advisory Panel
ICT	Information and Communication Technologies
IMEI	International Mobile Equipment Identity
ITU	International Telecommunications Union
LTA	Lesotho Telecommunications Authority
MASCA	Mamelodi Society for Care of the Aged
MOU	Memorandum of Understanding
MPC	Manpower Commission
MTN	Mobile Telephone Networks
NRS	National Relay Service
NCC	National Consumer Council
NCF	National Consumer Forum
NHH	National Telecommunications Supervision
NRS	National Relay Service
NTC	National Telecommunications Corporation
NTF	National Telecommunications Forum
NTRA	National Telecommunications Regulatory Authority
NTPP	National Telecommunications Policy Project
OECD	Organisation for Economic Cooperation and Development
Ofcom	Office of Communications
OFTA	Office of the Telecommunications Authority
Oftel	Office of Telecommunications
SADC	Southern African Development Community
SAPT	South African Posts and Telecommunications
SATRA	South African Telecommunications Regulatory Authority

SMS	Short Message Service
SSPD	Superintendency of Domestic Public Services
TCRC	Telecom Consumers' Rights Committee
TDSV	Telecommunications Data Protection Ordinance
TESPOK	Telecommunications Service Providers' Association of Kenya
TRAI	Telecommunications Regulatory Authority of India
TTY	Teletypewriter
UCC	Uganda Communications Commission
UK	United Kingdom
UN	United Nations
Unisa	University of South Africa
US	United States
USAASA	Universal Service and Access Agency of South Africa
WASPA	Wireless Application Service Providers' Association

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Summary

Social regulation, as applied specifically to the telecommunications sector, is a new phenomenon in most countries. It was only in the 1960s, with the establishment of regulatory agencies, that social regulation became important. The regulators are mandated by their country's legislative and regulatory frameworks to meet social objectives. This study examined the extent to which ICASA protects consumers as it is mandated to do by the Electronic Communications Act 36 of 2005.

The study found that ICASA has adopted mechanisms of protecting consumers, namely by conducting awareness campaigns, road shows and workshops in all the nine provinces of South Africa in order to educate and inform consumers about the procedures of lodging complaints and to make them aware of their rights. However, despite ICASA's endeavours to ensure consumer protection, most consumers are neither aware of their rights and how to efficiently exercise them nor the procedures of lodging complaints.

ICASA protects consumers to a reasonable extent but it can do more when the end-user and subscriber service charter regulations are finalised.

Key words

Social regulation, telecommunications, regulatory frameworks, social objectives, education awareness, campaigns, roadshows, consumer protection, consumer rights, complaints, service provider.

CHAPTER 1
PROBLEM AND AIM OF THE STUDY

1.1   Introduction

This study is an investigation into the extent to which the Independent Communications Authority of South Africa (ICASA) protects consumers as it is mandated to do by the Electronic Communications Act 36 of 2005 (ECA).

This chapter provides a detailed overview of the study. The discussion starts with a review of the traditional models of regulating the telecommunications industry and explains the telecommunications reform movements.[1] It then outlines the policy and social objectives of regulating the telecommunications industry and places the emphasis on consumer protection. The final part of this chapter outlines the principles that various countries have adopted to protect the rights of telecommunications consumers.

1.2   Background to the study

In the early and mid-twentieth century, countries sought to provide public utility services by forming state-owned monopolies (Jamison, Berg, Gasmi & Távara 2004:28). Telecommunications services were largely provided under monopoly conditions, either by state entities or (to a lesser extent) by private companies (ITU 2005a:36).

Examples of monopolies can be found in developed countries such as the United States (US) and in developing countries such as South Africa. To illustrate, in the US the telecommunications service provider American Telephone and Telegraph (AT&T) functioned as a monopoly that was aided and regulated by the state. Initially, British Telecommunications (BT), the telecommunications service provider in UK, functioned as state-owned enterprise. It was later privatised in 1984 (Schmideg 2006:5).

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[1] It is important to note that telecommunications reforms include the liberalisation, the introduction of competition and the privatisation of former state owned monopoly operators.

The monopoly of BT was broken only in 1982 with the granting of a license to Mercury Communications, which is now called Cable and Wireless Communications (Allen 2003:7).

In South Africa the South African Posts and Telecommunications (SAPT), previously known as the Post Office, was run as a government department under the supervision of a cabinet minister. It was also classified as a state-run business enterprise. (Horwitz 2001:77). Even after the Post Office Act of 85 was amended in 1991 to among others divide the SAPT into two distinct business units, namely the South African Postal Services and Telkom, both continued to exist as monopolies. The SAPT monopolised both telecommunications and the postal services, and telecommunications subsidised the postal services (Horwitz 2001:77).

Cross-subsidisation was rife during the early years of Telkom. International and national calls were significantly overpriced and this revenue was used to fund lower line rentals for both business and residential customers. Overall, business and residential consumers who did not make many national or international calls were able to obtain telecommunication services at rates far below international averages (Love 2005:14).

However, a study by Mody, Bauer and Straubhaar (1995:182) revealed that state-owned telecommunications monopolies in general have often provided little "quantitative expansion of coverage". These authors note that in most cases "neither equity nor efficiency has been achieved, while improvements in the quality of service remain low". My personal experience in the rural areas of the Limpopo Province in South Africa confirms this view. It should be noted that in terms of equity, the operations of telecommunications services in South Africa were skewed along racial and geographic lines. There were also disparities in service quality. Rural residents who had telephones installed in their homes experienced problems with quality and reliable service. Similarly, the speed and time taken for repairing faulty lines varied. It took longer than normal to get faulty lines in the rural areas repaired. New applications could take years to be processed.

One can argue that the monopoly model of supply served residential users, the majority of whom were white people and businesses. Service distribution was inequitable. The SAPT, as an organ of the apartheid government, focused on delivering telecommunication services to both rural and urban white people. The distribution of phone lines and access to telecommunication services remained inequitable. In 1989, there were 25 telephones per 100 white people, compared with just 2,4 telephones for black people. In 1987 there were 84 phones per 100 residences in white areas, while black areas had 14 phones per 100 households in rural areas and 38 phones per 100 households in urban areas (Coopers & Lybrand 1992:8).

From the above, it is clear that South Africa had to face the problems of state-owned monopolies' inefficient supply of services. Schmideg (2006:7) argues that this is reinforced by a country's political and bureaucratic dynamics. While there are some exceptions, the history of telecommunications service provision has shown that most telecommunications state-owned monopolies did not serve the interests of consumers satisfactorily (Jamison et al 2004:28). One can argue that the inefficiencies were caused by the lack of competition in the sector because the state-owned monopoly was the only provider of services.

Recognising the performance problems of monopolies, nearly all developed and many developing countries implemented institutional infrastructure reforms (Melody 2002:5–7). Countries gradually reformed[2] their telecommunications sectors. Throughout the 1990s many countries underwent gradual liberalisation that involved the privatisation of the national operator, the establishment of a national regulatory authority and the licensing of alternative operators. There was general consensus that regulatory intervention was needed to implement a successful transition from monopolies to competitive telecommunications markets (Intven, Oliver & Sepulveda 2000:1). Countries approached telecommunications reform differently. While some

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[2] "Regulatory reform", as used by the Organisation for Economic Cooperation and Development (OECD), refers to changes that improve regulatory quality by enhancing the performance and legal quality of regulations. "Reform" can mean the revision of a single regulation, the scrapping and rebuilding of an entire regulatory regime and its institutions, or the improvement of processes for making regulations and managing reform (OECD 1997:6).

opted for privatisation[3] of governmental communications entities before liberalisation, others liberalised the sector before privatisation. In the UK liberalisation started before the privatisation of BT. In the 1990s the rest of the European Union (EU) and other countries around the world underwent gradual liberalisation (Melody 2003:4). South Africa followed a trend of privatising the public telecommunications operator, Telkom, in 1996, and gradually liberalised the telecommunications market

The aim of liberalisation[4] was to open up the market and introduce competition and new services into the market (Infodev 2006). The reform movement started with some regulatory decisions by the US Federal Communications Commission (FCC) in the late 1960s, which allowed "foreign" attachments to the AT&T network. The US also empowered new operators in the market to supply long-distance services (Melody 2002:7). The markets were further expanded with the break-up of AT&T in 1984 and the new Telecommunications Act in 1996, which declared all telecommunications markets open to competition.

The liberalisation of the sector necessitated the establishment of effective regulatory bodies. Countries established regulators to meet the interests of consumers and maintain effective competition in the market place as well as foster the long-term development of the Information and Communication Technologies (ICTs) sector (Infodev 2006). As regulators were established, their functions were separated from those of government and service providers (Melody 1997:1). In line with global trends in the telecommunications reform process, South Africa established an independent regulatory body that was then called the South African Telecommunications Regulatory Authority (SATRA) to inter alia protect the rights of South African citizens in the field of telecommunications and ensure that the interests of consumers were met. Due to the convergence of technologies, broadcasting and computing, SATRA was later merged with the Independent

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[3] Petrazzini (1995:16) defines "privatisation" as "the transfer of commercially orientated SOEs [state-owned enterprises], activities, or productive assets of government to the total majority, or minority private ownership or to private control".
[4] Petrazzini (1995:16) defines "liberalisation" as "the lowering of entry barriers to all or part of a market, allowing third parties to compete with established generally monopoly providers of goods or services".

Broadcasting Authority (IBA) to form a new regulatory body that is called the Independent Communications Authority of South Africa (ICASA) in 2000.

Currently, the functions of ICASA are set out in the ICASA Act 13 of 2000 and the ECA, which was promulgated in July 2006.

1.3 Overview of the regulatory frameworks in South Africa

Before 1996, ICASA derived its mandate from four separate statutes: (1) the ICASA Act, (2) the Independent Broadcasting Authority Act 153 of 1993, (3) the Broadcasting Act 4 of 1999 and (4) the Telecommunications Act 103 of 1996 (as amended). Regulatory measures to protect consumers in relation to telecommunications were set out in the Telecommunications Act 103 of 1996. These include inter alia "protecting the interests of telecommunications users and consumers", "promoting the development of telecommunication services which are responsive to the needs of users and consumers" and "ensuring that the needs of the disabled are taken into consideration in the provision of telecommunications services" (South Africa 1996a:465).

Currently, ICASA regulates the industry in line with the objectives of the ECA, which makes provision for consumer protection. The stipulations about consumer protection issues are contained in Sections 69, 70 and 71 of Chapter 12 of the ECA. Section 69 of the ECA requires that ICASA

- prescribes regulations for a code of conduct for licensees
- develops different codes of conduct for different types of services, with which licensees must comply
- prescribes regulations that set out the minimum standards for an end-user and subscriber service charter for different types of services

Chapter 12, together with Section 2(n) on the objectives of the ECA, mandates ICASA to promote the interests of consumers with regard to the price, quality and variety of electronic communications services (ECS).

ICASA is also required, in terms of Section 70 of the ECA, to prescribe regulations for a code of conduct with regard to people with disabilities that will be applicable to all categories of licensees. Section 71 of the ECA requires ICASA to establish a consumer advisory panel that will advise the Authority about consumer issues in South Africa (South Africa 2005a:92).

1.4   Policy and social objectives of regulation

1.4.1 Consumer protection in the telecommunications sector

In the post-communist world, there is general consensus that telecommunications policy should be designed to achieve social objectives where market forces alone are ineffective in achieving these objectives. Many governments have established legal frameworks to limit profiteering practices and advance social objectives (Intven et al 2000:1–3).

In general, although regulatory measures vary from country to country, the main objectives of telecommunications regulation are the same. Intven et al (2000:1 & 2) mention the following as the most widely accepted objectives of regulation in the telecommunications sector:

(1) Promote universal access to basic telecommunications services.
(2) Foster competitive markets that promote the efficient supply, the widening choice, the quality improvement and the price decrease of telecommunications services.
(3) Prevent abuses of market power where competitive markets do not exist or fail.
(4) Create a favourable climate to promote investment to expand telecommunications networks.
(5) Raise public confidence in telecommunications markets through transparent regulatory and licensing processes.
(6) Protect consumer rights.

(7) Promote increased telecommunications connectivity for all users through efficient interconnection arrangements.

(8) Optimise the use of scarce resources (frequency, numbers and right of way).

Telecommunications regulation can be divided into three broad categories: economic regulation, technical regulation and social regulation. Economic regulation can include points (2) and (3) above; technical regulation can include points (7) and (8) above; and social regulation can include points (1), (4), (5) and (6) above. This study focuses on social regulation as it is defined on ICASA's website: "to protect consumers within the communications environment" (Welcome to ICASA 2008).

Consumer protection is central to social regulation. The UN formulated and adopted guidelines for consumer protection as far back as 1985. These guidelines were later amended in 1999 to further enable member states to develop, strengthen and maintain a strong consumer protection policy. Each government is encouraged to set its own priorities for the protection of consumers in accordance with the economic, social and environmental circumstances of the country and the needs of the population (United Nations 1999:2). The UN guidelines recommend that regulators should conduct consumer awareness campaigns to inform consumers about protection policies.

Various countries have responded to this call. The Office of Communications (Ofcom) in the UK has reviewed its regulations to make provision for consumer protection. Its consumer protection policy includes actions to protect consumers irrespective of the level of competition in the market place. In the UK, consumer protection policies comprise:

- handling consumer complaints, dispute resolution and consumer rights (including the right to information)
- consumer information initiatives, for example providing information on quality of service
- ensuring the privacy of consumer information across electronic communications networks (ECN), for example caller line identification (CLI).

(Oftel 2002a:4 & 5)

Oftel has realised the importance of regulating CLI based on the fact that an individual's telephone number is a personal data within the meaning of data protection legislations. On that note, Oftel had in 2007, issued the Guidelines for Customer Line Identification with the aim of establishing a consistent approach to CLI data from call origination to call termination. The guidelines are to ensure that the privacy choices that consumers make about their CLI

data are respected by all ECNs that participate in the origination, transmission and termination of a Call (Oftel 2007:1). The directives set out privacy rights for consumers in terms of making and receiving calls. Such privacy rights are outlined in the right to privacy in subsection 1.5.5**.**

In 2005 the Canadian Minister of Industry appointed the Telecommunications Policy Review Panel to conduct a review of Canada's telecommunications industry and regulatory framework. The panel was asked to make recommendations on how to move the country towards a modern telecommunications framework in a manner that would benefit the Canadian industry and consumers (Telecommunications Policy Review Consultation Paper 2005:i). Subsequent to the review, the Canadian regulator (the Canadian Radio-television and Telecommunications Commission – CRTC) imposed obligations to accommodate the needs of people with disabilities, the emergency services and the privacy of telecommunications users (Telecommunications Policy Review Consultation Paper 2005:19 & 20).

Africa also responded to the UN's call. In 2001 the Southern African Development Community (SADC) employed William Schulte, a telecommunications specialist, to evaluate the state of and the need for additional efforts in consumer protection. Evaluations were done in South Africa, Lesotho, Tanzania and Botswana. Schulte's (2001:3 & 4) recommendations revolve around reviewing to determine if regulators and countries

- have the authority, independence and processes to protect consumers
- can develop the ability to create and execute education and outreach programmes

- can adopt, promote, monitor and enforce service quality standards

The consumer protection issues that are addressed in this study are limited to the following:

- Consumer complaints
  - (i)　the nature and number of complaints ICASA receives
  - (ii)　the number of complaints that are addressed or resolved
  - (iii)　 Protecting the rights of consumers
  - (iv)　formulating a code of conduct for licensees describing the rights of consumers in the code of conduct
  - (v)　imposing penalties if network providers ignore consumer rights
- Information provision
  - (i)　provision of information and consumer awareness
  - (ii)　mechanisms for providing information
  - (iii)　the kind of information that has to be provided
  - (iv)　target areas and audience
- Disability issues
  - (i)　Formulating regulations in the code for people with disabilities
  - (ii)　protecting the needs and interests of people with disabilities

1.4.2　*Disability issues*

Consumers can be categorised into different groups and the groups differ with regard to their needs, interests and requirements. One of the groups consists of people with disabilities who require specific equipment and products. Regulation should consequently consider the kind of disabilities consumers have.

Accessibility for people with disabilities has been neglected in the development of ICTs (Goggin & Newell 2000:129). As a result, ICTs have been developed without regard to "accessibility which left many individuals with disabilities excluded from using the technologies" (Stephanidis & Savidis 2001:48).

Newell (1994:73–75) conducted a survey on behalf of Telecom Australia (later Telstra) as part of its consultation with consumers about future services. The survey looked at the needs of people with hearing and speech disabilities who had just been granted belated access to telecommunications by policy makers. Newell also discusses the way in which people's needs and expectations emerge and develop as they use new technology. The survey revealed that people who are deaf or have speech or multiple disabilities have a great need for basic access to telecommunications services. Newell recommends that policy makers should be encouraged to involve communities in their policy-making processes so that they themselves can indicate their telecommunications needs.

The results of the survey motivated Australia to establish consumer protection measures for people who are deaf or have other hearing or speech impairments. In 1992 the Parliament of Australia passed the Disability Discrimination Act 135 of 1992 (DDA) to promote the rights of people with disabilities. The objectives of the Act are "to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community" (Australia 1992). In addition, the Australian Communications and Media Authority (ACMA) encourages telecommunications service providers to introduce national relay services (NRSs) to enable people who cannot use ordinary telephones to access the telephone service (Horton [Sa]:4). NRSs enable people who are deaf, deaf-blind or have a hearing or speech impairment to communicate with other people over the telephone network via operator-assisted and voice telephony (Disability services fact sheet 2009).

In the US the FCC began to explore issues about the accessibility of telecommunications services as far back as the 1970s (Lang 2000:22). The US is regarded as a leader in providing legal protection to individuals with disabilities in various areas of society (Jaeger & Bowman 2005). Various laws that focus on people with disabilities, including the Americans with Disabilities Act of 1990 (ADA), were passed. The ADA stipulates that providers of telephone services must provide relay systems to customers with hearing and speech impairments at no additional cost.

Compliance with this stipulation is viewed as widespread and successful by people with disabilities (Hinton 2003:213). The following contributed to the high level of compliance with this stipulation:

- the existence of readily available technologies that complied with the Act and which were not expensive
- many telephone systems complied with the requirement prior to the passage of the ADA

(Hinton 2003; Strauss 1991)

In 2004 in the UK, Ofcom established the Communications Consumer Panel (CCP) under Section 16(2) of the Communications Act of 2003. The CCP was established as the independent body to advise Ofcom about consumer interests in the communications market (with the exception of content issues) (Ofcom 2008:1).

The Panel has a responsibility to understand consumer issues and helps to inform Ofcom's decision making by raising specific issues about consumer interest. These include issues that affect rural consumers, older people, people with disabilities, people with low incomes and people who are otherwise disadvantaged. To ensure that its recommendations to Ofcom are based on sound evidence, the Panel funds and commission its own research (Ofcom [Sa]:1).

Ofcom conducted research on deaf and hearing-impaired consumers in 2004. The aim of the research was to develop an understanding about these consumers' usage, attitudes towards, and perceived benefits of text phone services. The main findings of the research were that although text phone services are regarded as convenient, technical problems affect the usability of the services. Technical problems are that text phones do not have call steering and answer services. Text phones also lacked emotional flexibility in that messages are often long and do not give the deaf person an opportunity to pause (Ofcom 2004:17). Despite the negative findings, there was no need to replace the text phone services because the service providers demonstrated that they valued the deaf community. In the researcher's view, Ofcom has taken the lead in considering the needs of people with disabilities.

Ofcom conducted a study to assess the effectiveness of text phone services and its findings can help service providers to improve their services for the benefit of consumers.

Although several pieces of legislation have been passed that benefit people with disabilities, there is a concern whether these laws are being implemented properly. Regulators can follow Ofcom's example and conduct research to establish whether legislation is effective.

1.5   Principles of protecting consumer rights

Any study on consumer protection is incomplete unless it discusses the basic principles of protecting consumer rights. Countries have taken action to protect consumers by recognising basic consumer rights. Depending on their unique socio-economic and geographical situation, countries approach the principles of protecting consumer rights differently. There is therefore no universally agreed upon set of principles because countries address local issues in accordance with their socio-economic environment. The researcher visited the websites of the regulators of different countries to compare how they apply the principles of protecting consumer rights. Below is a description of the different principles that are applied in different countries.

California is regarded as the hub of the oldest and most progressive telecommunications regulatory policies in the US. The California Public Utilities Commission (CPUC) is responsible for regulating the privately owned electric, natural gas, telecommunications and water companies. The CPUC is at the forefront of communications issues and has developed a Consumer Protection Initiative that is aimed at empowering consumers (CPUC 2007:1). The CPUC operates differently from the FCC, which is an independent agency in the US that regulates all non-federal government use of the radio and all interstate telecommunications (CPUC 2007:1). The CPUC developed "basic consumer rights rules that are aligned with a set of approved principles.

The latter include the consumers' rights to disclosure; choice; privacy; public participation and enforcement, accurate bills and redress; non-discrimination and safety" (Schulte 2001:6). The Egyptian the regulator (the National Telecommunications Regulatory Authority (NTRA) has the same rights as California but added the right to withhold payment. The right to withhold payment means that the customer must pay the undisputed amount of a bill, but must not be required to pay any reasonably disputed amounts pending the resolution of the dispute (NTRA 2004: 5).

In the UK, Oftel (which is now Ofcom) set criteria to protect consumer interest on a widely recognised basis. Ofcom's consumer protection strategy rests on the two objectives of a well-informed consumer and an adequately protected consumer. In order to pursue these objectives, Ofcom has developed regulatory principles that are based on "accessibility, choice, safety, information, equity and fairness, redress, representation, privacy and value for money" (Oftel 2002a:10).

Basic consumer rights that have been considered by the member countries of SADC include disclosure, choice, privacy, high quality, reliable service, accurate bills and redress, protection against market abuse and responsive regulatory authority (Schulte 2001:6). While the basic principles differ according to the socio-economic background of countries, all of them address similar rights. The principles question whether consumers get the services that they need or want from service providers; state that consumers have the right to select the service providers of their choice; question whether information is available to help consumers to make the best choice; introduce redress mechanisms when services are not met; and ensure proper representation of consumers' views. Below is a brief description of the basic consumer rights and how different countries address them.

1.5.1 The right to information disclosure

Not every consumer is aware of the activities that take place in the telecommunications sector or the duties of regulators. Consumers deserve to receive constant information about the services that are offered and their charges, how to choose between competing operators and how to request assistance if they

encounter problems. Information should, for example, be disseminated to educate consumers about the regulator's duties and to make them aware of their rights as consumers. Most regulators disseminate information on their websites and through flyers and posters.

Regulators in Asia-Pacific countries such as Singapore, Australia and Thailand have developed consumer education programme to disseminate information about quality of service (Horton 2003:2). The Nigerian Communications Commission has established a Consumer Affairs Bureau to serve as the industry watchdog for educating, informing and protecting consumers. The Commission has also instituted a Consumer Parliament which brings all stakeholders, consumers, operators and the regulator together and provides a live broadcast and public forum where the regulator can educate the public and consumers can ask questions and voice their grievances (Nigerian Communications Commission 2001).

Cannock (2002:3) conducted a survey on consumer protection issues among regulators and consumer organisations. The consumer organisations that participated in the study were from the US, the Asia-Pacific region and Europe. Only regulators in the US were sampled to participate in the survey. Cannock found that 16% of the consumers believed that they were informed about their rights while 74% of the regulators believed that consumers were properly informed. There was a gap between the regulators' perception and the consumers' perception of the provision of information, which indicated that there was poor information dissemination and consumers were not adequately informed about their rights. With or without rapid technological developments, it is important to keep consumers informed about new products. Without accurate provision of information, consumers cannot be expected to make choices that will meet their needs.

1.5.2 The right to choose

In the era of competition, new telecommunications services and providers have emerged. Consumers should be able to exercise their right to choose between competing providers and the kind of services and products/equipment that are provided.

The regulator has to ensure that consumers have a variety of choices in terms of the nature and quality of services. The FCC provides online guidelines to empower consumers to make informed choices when they shop around in the telecommunications market place to find the best deal for the services they want to use. One of the guidelines on consumer choice is that a change in service providers or services that are rendered should be acknowledged in a bill (FCC 1999).

The consumer's right to choose service providers and services is linked to the provision of information that allows them to make well-informed choices. Unless regulators have conducted awareness campaigns to disseminate information, not all consumers will be aware of their right to choose. Lack of information about consumers' right to choose persuaded Oftel to review its consumer protection guidelines. The aim was to encourage greater awareness of consumers' choice of services and suppliers in order to ensure effective competition (Oftel 2002b:1).

The Telecommunications Regulatory Authority of India (TRAI) has adopted a unique way of ensuring that consumers are aware of their right to choose. The regulator publicises information that is supplied by operators to create performance indicators. Criteria to measure faults, the mean time of repairs and call completion rates are provided to consumers. The regulator then widely publicises information about operators' performances against the standard performance indicators and the names of the operators that failed to meet the required indicators are listed (TRAI 2005a). By doing this, the regulator assists consumers in choosing between competing operators.

1.5.3 The right to representation

As part of telecommunications reform and to achieve better regulation, regulators are mandated to represent consumers. Consumer voices have to be heard and consumers deserve the right to representation. Countries appoint representatives, usually in a form of advisory committees or organisations, to ensure that the voice of the consumer is heard during the regulators' decision-making processes (Southwood, Nguo, Sagna & Lewis 2006:15).

To ensure representation of consumer interests, countries in the Asia-Pacific region have established "consumer advisory committees" to provide advice on consumer protection issues (Horton 2003:2). The UK has established Advisory Committees on Telecommunications (ACTs) to ensure representation of the interests, needs and views of consumers (Edmonds 2003:1).

Matters that relate to consumer protection and consumer representation have gained increasing significance in the EU's legislative and policy framework. The Consumer Committee was established in May 2000 to represent consumers in all the member states. The Consumer Committee gives its opinions about problems that relate to the conception and implementation of policy and action regarding consumer protection and information to the regulator (Simmonds 2002:33).

It is not always easy for individual consumers to get involved in public forums which address consumer issues that affect them. Regulators are required by their country's regulatory legislation to form consumer organisations that specifically focus on telecommunications. Such organisations can help in ensuring that the voices of consumers are heard in public forums and represent the views of the consumers as a group. Australia has established the Consumer Consultative Forum under the Australian Communications Authority Act of 1997, which continues to exist under the Australian Communications and Media Authority Act 44 of 2005 (Section 59 of the Act).

Egypt approaches consumer representation differently. The country has established an administrative body that is called the Telecom Consumers' Rights Committee (TCRC), which represents consumers who fall outside the authority of the Egyptian regulator NTRA. The duties of the TCRC in representing consumers include conducting consumer awareness campaigns, conducting market research, checking quality of service, and gathering and disseminating relevant information. The TCRC meets regularly to discuss consumers' concerns, set policies and make strategic plans (National Telecommunications Regulatory Authority 2004:1).

1.5.4 The right to accurate bills and redress

The right to receive accurate bills and seek redress, as defined by the Egyptian regulator NTRA, refers to "the right of consumers to accurate and understandable bills for products and services they purchase, and to fair, prompt and courteous redress for problems they encounter" (Customer Care and Consumer Awareness 2004). Consumers often receive bills that do not accurately reflect the services that were rendered. If consumers have problems with the tariffs that are charged, they have the right to complain and have their grievance settled. Consumers whose problems are not solved have the right to "fair and prompt redress" (Schulte 2001:6). The responsibility to make available accurate telephone bills that reflect exactly the services rendered lies with the company that provides the services.

The FCC has adopted truth-in-billing rules to improve consumers' understanding of their telephone bills. These rules require that telephone bills have to be clearly organised and the name of the service provider has to appear on the bill. The bill should disclose any information that the consumer needs to make inquiries about or contest charges on the bill. The guidelines require service providers to supply a contact number on bills where customers can inquire about or dispute charges on the bill (FCC: truth-in-billing update 2005).

The consumer protection guidelines that have been adopted by SADC indicate that telephone bills should describe services which have been rendered in a brief, clear and understandable manner. It is important to provide consumers with information on how to "comprehend" the nature of the service for which they are being billed (SADC 2004:7).

Ofcom has a statutory duty to consider any complaints that they receive about telecommunications services, including complaints about the accuracy of bills. Depending on the nature of the complaint and whether the complaint is outside the regulator's scope of authority, consumers have recourse to the courts or other consumer organisations.

In Ireland, for example, consumers can address complaints to the Small Claims Court, the European Consumer Centre, the Office of the Data Protection Commissioner, the Advertising Standards Authority for Ireland and the Office of the Director of Consumer Affairs (Commission for Communications Regulation (ComReg) 2003). The intervention of an attorney is not required for consumer complaints because this will oblige the consumer to incur further expenses and will discourage complaints. The consumer has the discretion to use an attorney if this is desired (Infodev 2007).

In Colombia disputes between telecommunications operators and customers are handled by the Superintendency of Domestic Public Services (SSPD). This is a multi-sectoral administrative body that is independent from the telecommunications regulator which has been established to supervise and inspect public utilities such as energy, gas and telecommunications services. The SSPD receives appeals from users and subscribers who have filed their complaints directly with the telecommunications operators concerned but whose grievances have not been resolved. The SSPD can impose sanctions on public service providers (Infodev 2006).

1.5.5 The right to privacy

In the face of new technologies, consumers have the right to protect the privacy of their personal data. In the telecommunications industry – with the use of advanced communication systems that ranges from fixed-line telephones and mobile phones to the Internet (e-mails) – privacy remains a major concern for every consumer. Regulatory legislation makes provision for the protection of consumer's personal data and privacy.

In South Africa, the right to privacy is addressed in the constitution of the country. Privacy provisions are outlined in Section 14 of the Constitution of the Republic of South Africa (South Africa 1996b:5) as follows:

Everyone has the right to privacy, which includes the right not to have –

    (a) their person or home searched;

    (b) their property searched;

    (c) their possessions seized; or

    (d) the privacy of their communications infringed.

France Telecom has obligations regarding the confidentiality of the content of communications and of information. These obligations are set out in Law 96-659, Articles 33-1 and 33-4, of the French Telecommunications Act of 1996. Article 33-4 states that the publication of lists of subscribers or users of telecommunications networks and services shall be unrestricted, subject to the protection of the rights of the persons concerned. Any consumer has the right to refuse to be included in telephone directories, to forbid the inscription of his or her full address in the directory, or to forbid the commercialisation of his or her personal data (Pontiggia 1998:87).

Section 1 of the German Telecommunications Data Protection Ordinance (TDSV) contains regulations on caller identification. The caller is entitled to decide whether his or her telephone number should be displayed to the person whom he or she is calling. Furthermore, the service provider is obliged to offer telephone connections that exclude CLI. This also applies to advisory services that receive anonymous calls. It is stated in Section 2 of the TDSV that the telephone number of a caller who has objected to being listed in the public directory should not displayed unless he or she has explicitly asked that his or her number should be displayed (TDSV 2000). In the same vein, service providers in SADC may not disclose confidential consumer information except with the written consent of the consumer or as permitted by national law (SADC 2004:6).

Ofcom undertook a public consultation exercise prior to the introduction of CLI services in the UK to fully examine the consumer issues concerned. After the public consultation, a voluntary industry code of practice was introduced that contain consumer protection and interconnection rules to regulate CLI. These rules ensure that a customer can stop the transmission of CLI information to the person whom he or she is calling (Pontiggia 1998:89).

Oftel's Guidelines for Customer Line Identification (2007:3) makes provision for the privacy rights of the calling and called consumer as follows:

- The calling End-Users must be able, using a simple means and free of charge, to prevent the display of their number at the point where their call terminates
- The called End Users must be able, using a simple means and free of charge for reasonable use, to prevent the display of CLI information relating to incoming calls (so that help-lines are able to offer an assurance of anonymity to people who call them).

1.5.6 The right to reliable and high-quality service

It is assumed that in the same way that consumers have the right to choose the operator from which they will buy telecommunications services, they also have the right to receive reliable and high-quality service. Normally, consumers find it easy to compare the prices of different operators but it is difficult to compare the service quality of operators. To address this problem, the regulator should exercise accountability in monitoring quality of service on behalf of consumers.

In the UK Ofcom has been working on a voluntary basis with telecommunications operators and consumer representatives to publish statistics on the quality of service of fixed link telecommunications companies that are comparable across companies. Ofcom produces statistics (which include inter alia the call success rate, network reliability, service provision, repair service, directory assistance, operator service and public pay phone availability) on a regular basis. Ofcom is working with the four mobile operators in the UK to develop indicators to measure and compare the quality of service of mobile networks. Two consumer-focused indicators that are being considered are blocked calls and dropped calls (Pontiggia 1998:80).

Milne (1997:182) maintains that before regulatory reforms, the performance of service providers was measured by five objective indicators: (1) service provision; (2) customer reported faults per 100 customer lines; (3) fault repairs; (4) complaint handling; and (5) bill accuracy complaints per 1000 bills issued.

Other subjective performance indicators such as those that were developed by SADC (2004:7) relate to

- consumer awareness of information and responsiveness to consumer complaints
- processing time for regulatory decisions
- consumer satisfaction

The Indian regulator TRAI has established the following requirements for measuring quality of service:

- The faults per month per 100 telephones should be less than five faults.
- The percentage of faults repaired by the next working day should be 90%.
- The mean time to repair faults should be eight hours.
- For metering and billing credibility, not more than 0,1% of bills should be disputed over a billing cycle.

(TRAI 2005b).

1.6   Motivation for the choice of the research topic

The motivation for this study stems from the realisation that there is a need to investigate whether South Africa's telecommunications policy, as reflected in the ECA, has led to the increased protection of consumer rights through effective regulation.

In 2003 the ITU reported (on the basis of research that was conducted by Cannock, Mangadi and Horton) that consumer protection issues in telecommunications services are generally not given sufficient consideration. The report indicated that consumer protection issues are rarely included on the agendas of international telecommunication meetings. Furthermore, few seminars have been held to enable operators and consumer organisations to share their views and experiences. Far more common are meetings between operators and regulators.

A review of websites and policy documents also showed that little attention is being given to consumer protection issues. The literature review indicated that textbooks on regulation primarily focus on market structure, incentive regulation, tariff regimes, deregulation and competition. Issues such as regulating and addressing consumer policies, consumer protection and public interest receive inadequate attention (ITU 2003:1).

In 2003 Dr Rob Horton, the deputy chairman of the ACMA, conducted a survey on telecommunications consumer protection in the Asia-Pacific region. He found that "new telecommunications technologies and services continue to raise new consumer protection issues. In light of technological developments the adequacy of consumer protection measures must continuously be reassessed". He maintains that "public education programmes serve as an important part of consumer protection. The emergence of new telecommunications technologies will continue to increase demand for concise information" (Horton 2003:4).

In the findings of her study in Botswana, Mangadi (2005:4) noted that "a great number of consumers seem not to know much about the regulator". A question she raised was: "[H]ow would such consumers become aware of the benefits they could get from the regulator?" She noted further that "telecommunications operators mostly publicise their compliant procedures for resolving consumer queries, but most of the consumers are not aware of the development" (Mangadi 2005:6).

This current study was also motivated by the findings of Southwood et al (2006) who conducted a study in 30 African countries. They posit that consumers in Africa are unfamiliar with their rights and therefore need "consumer education programmes" (Southwood et al 2006:16). Mangadi (2005:4) concedes that "consumer education is still lacking in Botswana". Southwood et al (2006:16) caution that because consumers are unaware of their rights, it is likely that they are less aware of the existing channels to lodge their complaints.

1.7   Research problem

The main research problem of this study is:

To what extent does ICASA protect consumers as it is mandated to do in the ECA?

1.8   Assumptions

The four assumptions of this study are:

(1) ICASA has complied with all the regulations that are stipulated in Chapter 12 of the ECA.

(2) ICASA's Consumer Affairs Division educates consumers about the channels that they have to use to lodge complaints.

(3) The Consumer Affairs Division embarks on education awareness campaigns to educate consumers about consumer-related issues.

(4) Many consumers are still unaware of their rights.

1.9   Research questions

The research problem is directed by research questions. De Vos (1998:115) posits that research often starts with one or more questions or hypotheses. He states that: "A good research question is one that can be answered by collecting data and whose answer cannot be foreseen prior to the collection of the data" (1998:116). On the basis of the qualitative objective of this study, the following three research questions were identified:

(1) Which regulations has ICASA prescribed to protect consumers?

(2) What measures does ICASA's Consumer Affairs Division use to handle consumer complaints?

(3) What mechanisms does ICASA's Consumer Affairs Division use to ensure consumer awareness?

1.10   Goal and objective of the study

The concepts "purpose", "goal", "aim" or "objective" have a collective meaning in research, which Bloom, Fischer and Orme (1999:70) define as "what the researcher would like to happen" at the conclusion of the study or the "ultimate outcomes of the research". Bloom et al (1999:70) state that it is generally not possible to go directly from a problem to the ultimate aim of a study. Rather, it is necessary to first follow a sequence of manageable steps or sub-goals. According to Fouché (2002:109), the steps or sub-goals "encapsulate research objectives which are categorised into explorative, descriptive, explanatory, correlative and evaluative".

In order to address the research questions of this study, the researcher explored the extent to which consumers are protected by regulation by conducting research in ICASA's Consumer Affairs Division and among the residents of Mamelodi township. The exploratory objective was based on the four assumptions that are listed in section 1.8 above.

1.11   Research approach

This study followed a qualitative research approach, which Patton (2001:39) describes as a "kind of research that produces findings derived from real-world settings where the phenomenon of interest unfolds naturally". Because of the exploratory nature of this study, a qualitative method of data collection was used (Creswell 1998). Neuman (1997:19) remarks that exploratory researchers frequently conduct qualitative research. Consequently, semi-structured individual and focus group interviews were conducted to obtain data for this study. Kvale (1996:1 & 2) defines qualitative interviews as "attempts to understand the world from the participant's point of view, to unfold the meaning of people's experiences, [and] to uncover their lived world prior to scientific explanations". Enlightened by Greeff (2005:296), the researcher used semi-structured interviews to gather detailed information on how ICASA addresses consumer protection issues and focus group interviews to explore the perceptions of the consumers regarding the protection of their rights.

Interview guides were used as measuring instruments for both the semi-structured and the focus group interviews (Du Plooy 1995:112).

1.12 Research population, sampling and sampling method

Seaberg (1998:240) defines a population as the "totality of persons, events, organisational units, case records or other sampling units with which the research problem is concerned". A sample is therefore part of the population of a study (Strydom & De Vos 1998:191).

1.12.1 Semi-structured interviews

At the time of the data collection for this study, ICASA's Consumer Affairs Division comprised 25 staff members (including education officers who represented nine regional offices). All the staff members in the Consumer Affairs Division served as the target population of this study. The 12 staff members who were based at ICASA's head office and five education officers who represented five regional offices (namely in Bloemfontein, North West, Nelspruit, the Western Cape and Limpopo Province) were the accessible population. The 17 staff members who participated in the study comprised two councillors, three senior managers (from the Consumer Affairs Division, Public Education and Awareness Unit and the Complaints Handling Unit), one departmental secretary, one researcher, five complaints officers and five regional education officers.

The general manager of the Consumer Affairs Division and the education officers in the Durban, Port Elizabeth, Western Cape and Gauteng regional offices were not available to participate in the study. The researcher scheduled appointments with the general manager and the education officers in Port Elizabeth and the Western Cape, but these appointments were not kept. The appointments with the education officers were postponed several times because of their work commitments. Several attempts were made to contact the education officer in Durban telephonically, but the officer was not available until the researcher gave up. Telephonic messages were left for the education officer to contact the researcher, but these calls were not returned.

The researcher realised that she would miss the deadline to complete the study and therefore stopped to get hold of the education officer. The Gauteng education officer, who was based at the head office, informed the researcher that she was not interested in participating in the study. One complaint officer declined to participate while another did not turn up for two consecutive appointments. The researcher therefore concluded that the officer had no interest to participate in the study.

Creswell (1994:148) mentions that qualitative research involves purposefully selecting informants who will best answer the research questions. Fossey, Harvey, McDermott and Davidson (2002:726) express the same view when they mention that qualitative sampling requires the identification of appropriate participants (that is, participants who can best inform the study). In the same vein, Popay, Rogers and Williams (1998:345) say that qualitative sampling requires the adequate sampling of information sources (people and places) in order to address the research question and to give a full description of the phenomenon that is being studied. The participants in this study were selected by means of non-probability purposive sampling. The staff members of the Consumer Affairs Division were regarded as the most appropriate to provide data on consumer protection issues.

1.12.2 Focus group interviews

As indicated earlier, focus group interviews were used to understand consumer's perspectives. On that note the participants were chosen to meet a specific purpose, that is explore the participants perceptions regarding protection of their rights. In light of the above, the focus group interviews were conducted by using a purposive sample. Purposive sampling is defined as a type of non-probability sampling in which the units are selected on the basis of the researcher's judgement about which ones will be most useful. The judgement is based on the knowledge of the sample, its elements and the purpose of the study (Babbie 2004:183). Population Census 2001 figures indicates that Mamelodi had a population of 186 366 residents aged between 20 and 85 years (Statistics South Africa 2001). The sample frame of 186 366 is too large to interview and therefore necessitated sampling. In this study, a purposive sample of 100 residents of Mamelodi was selected based on the researcher's judgement and the objective of the study.

A non-probability purposive sampling was appropriate because it was neither intended to represent the total population (Du Plooy 2001:113) nor generalising the findings to the total population (Patton 1990:182). Sufficient data was collected from the purposefully selected sample of small sub-groups which was drawn from the larger population. In creating the purposeful sample, the researcher divided the target population of the study which is residents of Mamelodi aged 20 to 85 years into sub-groups. The sub-groups of this study were grouped according to whether the residents were men, women, educated, less educated, employed, unemployed, aged, youth and people with disabilities. Sub-groups were determined by variables of gender, education level, occupation, age group and disability. Cases from each sub-group were then selected in a purposive manner, for example a sub-group of men was represented by Ditaola Jazz Club while a sub-group of women was represented by Sizakala Burial Society. The number of focus group interviews was limited to nine.

1.13   Overview of key concepts

Because this study explores the extent to which ICASA protects consumers, the following concepts that relate to consumer protection are defined in relation to the research problem, the research objective and the research questions (De Vos 1998:112): consumer, consumer protection, consumer awareness, consumer rights, public, complaint and social regulation. The definitions of these concepts are provided in section 2.2 of chapter 2 of this study.

1.14   Conclusion

This chapter explained the problem and stated the aim of the research. It outlined the background to this study, gave an overview of regulatory frameworks and the principles of protecting consumer rights, and elaborated on the policy and social objectives of regulation. It showed that many countries have adopted basic principles of protecting the rights and interests of consumers. These general principles that have been established can serve as a framework to ascertain whether consumers in South Africa receive the necessary services, are able to exercise their rights and are provided with relevant information to make informed choices about telecommunications.

This chapter also described the research design (the research problem, assumptions, questions, goals and objectives) and the data collection and sampling methods that were used in this study.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

This chapter reviews the literature on the regulation of the telecommunications industry. It explains the key concepts that are used in this study and discusses the theoretical approaches to regulation, which provide an understanding of the different interests that impinge on regulation. This chapter also gives an overview of the history of regulation. The review of previous research on consumer protection issues in the final section of this chapter is aimed at identifying existing data and the most widely accepted empirical findings on the research topic of this study.

2.2 Definitions of concepts

The following interrelated concepts were identified as critical to discussions on social regulation: consumer, consumer protection, consumer awareness, consumer rights, public, complaint and social regulation.

Literature on social regulation that applies specifically to modern telecommunications is rare. The focus is largely on universal service and access rather than on consumer rights or protection interventions. Cannock (2002), Badler (2007) and other Internet sources are used to explain some of the concepts that are used in this study. It is important to note that discussions relating to the telecommunications sector are concerned with both the operators (who provide the services) and the consumers (who use the services). It is the responsibility of the regulators to ensure a fair relationship between telecommunications users and operators. Tyler and Bednarczyk (1993:65) argue that it is the duty of regulators to protect the interests of consumers.

(1) Consumer

The ITU (2006:5) defines "consumer" as "an individual acquiring, consuming or using a good or service available from either a public or private sector source, for personal use (individual or household)". Oxford English Dictionary Online (2010a**)** defines a consumer as "a person who uses a commodity; a purchaser of goods or services, a customer". In this study a consumer is a person who uses telecommunications goods such as a mobile phone or cellphone that has been purchased from a service provider such as Vodacom.

(2) Consumer protection

Most definitions of "consumer protection" are embedded in the industries that serve consumers. The Oxford English Dictionary Online (2010b) defines protection as "the action of protecting someone or something; the fact or condition of being protected; shelter, defence, or preservation from harm, danger, damage, guardianship, care; patronage. Cannock (2002:11) defines "consumer protection" as "the creation of necessary conditions that guarantee transparency and fairness in consumer relationships". In this study consumer protection includes the establishment of regulatory legislations or policies to protect consumers against the unfair practices of service providers. Service providers are compelled to comply with the legislation; failure to do so is regarded as non-compliance, which can result in penalties. Basic consumer protection measures (as defined by the Telecommunications Policy Review Panel 2006:19) include clarity in billing, reasonable terms of payment and prior consent to transfer a service.

(3) Consumer awareness

"Consumer awareness" means "making the consumer aware of the products and services being purchased by them" (Cannock 2002:11). In telecommunications, consumer awareness involves campaigns, education programmes and road shows that regulators undertake to make consumers aware of services, products, service providers and developments in the sector. The campaigns and road shows therefore

serve as a means of informing and updating consumers on the activities that are taking place in the sector so that they can make informed choices. The Oxford English Dictionary Online (2010c) defines information as "the action of informing; formation or molding of the mind or character, training, instruction, teaching; communication of instructive knowledge".

(4) Consumer rights

Badler (2007:1) defines "consumer rights" as "being in agreement with what is just, good or proper when dealing with consumers as well as ensuring that the consumer is protected from harm or wrongdoing when dealing with a provider of a service or a distributor of a product". Cannock (2002:12) states that consumer rights usually come into play "when new services are introduced or to compensate for the lack of regulation of incumbent operators, or opportunistic behaviour exhibited by new entrants". The online Oxford English dictionary (1989a) defines a "right" as "a legal, equitable, or moral title or claim to the possession of property or authority, the enjoyment of privileges or immunities". In telecommunications, the rights to information, disclosure, representation, privacy, quality of service, redress and accurate bills constitute basic consumer rights.

(5) Public

The Oxford English Dictionary Online (2010d) defines public as something that is "open or available to all members of a community, or all who are legally or properly qualified (as by payment); not restricted to the private use of a particular person or group; (of a service, amenity, etc.) provided by local or central government for the community and supported by rates or taxes". The concept "public" in this study is used interchangeably with the concept "public interest". ICASA is mandated by the ECA to regulate in the public interest. This duty to regulate in the public interest is directly linked to consumer protection. ICASA's endeavours to invite the public to comment and make oral presentations on the proposed regulations are another means of regulating in the public interest.

(6) Complaint

The Oxford English Dictionary Online (1989) defines complaint as a "a statement of injury or grievance laid before a court or judicial authority (esp. and properly a Court of Equity) for purposes of prosecution or of redress; a formal accusation or charge". In this study a complaint means a grievance that is expressed by the consumer against the services provider about a service or product that was purchased from the service provider. A complaint in the telecommunications sector starts at the dissatisfaction level of the consumer and is followed by the consumer lodging a grievance against the service provider. The main grievances regarding telecommunications services include wrong billing, poor network coverage, failed calls, faulty handsets, charges for SMSs that were not delivered and network congestion.

(7) Social regulation

"Regulation" refers to the "promulgation of an authoritative set of rules, accompanied by some mechanism, typically a public agency, for monitoring and promoting compliance with these rules" (Baldwin, Scott & Hood 1998:3). Many of the above-mentioned concepts are central to the idea of social regulation. In the Telecommunications Policy Review Panel's final report (2006:19), "social regulation" is defined as "regulatory policies and practices designed to achieve social policy objectives that may not be met through competitive market forces or economic regulation alone". The aim of social regulation is to address issues that are related to social values such as the protection of privacy, access by disabled consumers, public safety and basic consumer protection measures. According to the Organisation for Economic Cooperation and Development (OECD 1997:11), social regulation seeks to protect public interests such as health, safety, the environment and social cohesion. The economic effects of social regulation might be secondary concerns or even unexpected, but can be substantial.

2.3   Theoretical perspectives

Social regulation can be linked to several theories, including public interest and interest group theories. The pluralist theory is a version of interest group theories that can be used to explain social regulation. Horwitz (1989:22 & 23) maintains that studies on regulation (particularly regulatory origin and development) are inclined to differentiate between public interest, private (or economic) and interest group regulation theories. This study followed Horwitz's pluralist approach to regulation.

There are two other theoretical frameworks of interest group theories that can be used to analyse telecommunications policy formulation, including the corporatist and elitist theories. However, these theories focus on issues that are not relevant to this study. For example, corporatist theory embraces the idea that power and authority in the policy formulation processes are vested in particular groups, namely government business and labour (Braman 1995:8). The elitist theory focuses on power and its distribution among groups and elites, and the way in which they shape policy making (Parsons 1995:39). The elitist theory is based on the argument that even in a democratic society, "control over crucial resources like property, political influence and scientific knowledge is concentrated in the hands of a few" (Harding 1995:35).

2.3.1 Public interest theories

Public interest theories are regarded as the oldest theories on the government regulation of business. It emerged as a result of the people's struggle with private corporate interests and was the reason why regulatory agencies were created (Horwitz 1989:26). Some scholars argue that public interest theories centre on the idea that those who seek to institute or develop regulation do so in the "pursuit" of public interest and objectives rather than group, sector, or individual self-interest (Baldwin & Cave 1999:19). Horwitz (1989:24 & 25) identifies two phases of public interest theory, namely: the 'Granger' referred to the anti-monopoly activism of the agrarian social movements and the 'progressive phase'. The "progressive" public interest theory, which is regarded as the second phase, shifted from the conception of regulation as protecting the individual as "producer" to regulation as protecting the individual as "consumer".

There are scholars who argue that the theory of regulation originated from welfare economics and political theory. Horwitz (1989:22), for example, identifies welfare economics as regulation that enhances state intervention to secure both "socially desirable economic redistributions and general economic efficiency". In his view, political theory is "embedded within models of political dynamics that claims to explain the origin of regulation and the behaviour of regulatory agencies" (Horwitz 1989:22). He mentions that theories of regulation revolve around the concept of "public interest", which is rooted in welfare economics.

Like Horwitz, Bernstein (1995) believes that there is a relationship between politics and regulation as "regulation begins as a political call to protect the public from undesirable activity" (in Cave 1999:25). The public interest theorists regard regulation as protecting and benefiting the public at large. Hantke-Domas (2003) also focuses on this relationship but adds that the regulator represents the interests of the public.

Like all other theories, the public interest theory has some drawbacks. Horwitz (1989:26) identifies one of its problems as being that some regulatory agencies were "established not in response to the democratic demands of an abused public, but in response to the pleas of particular industries for protection and subsidy". He believes that the public interest theories pay much attention to the origin of regulatory agencies but are silent about the actual consequences of regulatory practise (Horwitz 1989:43).

2.3.2 Interest group theories

The proponents of interest group theories, such as Baldwin and Cave, see regulatory developments as "the products of relationships between different groups and between such groups and the state" (Baldwin & Cave 1999:21). Bernstein (1955:76) states that the role of regulators is "to carry out objectives that legislators have negotiated between interests groups, consumers, businesses and other affected

parties". Interest group theories include pluralism and corporatism.

Interest group theory has evolved into different schools of thought, namely the pluralist, elitist and corporatist theories. For the purpose of this study, corporatist theory is not useful to understand and explain social regulation.

Corporatism as an interest group theory is limited to a cooperative relationship between government and certain interest groups (Thomas 1993:9). These groups consist of three sectors of society: government, business and labour (Braman 1995:8). Lehmbruch and Schmitter (1982) argue that the pattern of interaction between government, business and labour in European countries was corporatist in style. They regard corporatist forms of decision making as different from pluralist forms in that the state seeks to make decisions by managing the key groups and elites in society. Corporatist theory has been criticised for not taking into account the different interests of different groups, particularly trade unions (Baccaro 2003:685)

The pluralist theoretical framework has been selected for this study because apart from the involvement of the state, it emphasises the relations between different groups in society (Baldwin & Cave 1999:21).

2.3.2.1   *The pluralist theory*

The pluralist theory is primarily associated with the work of Robert Dahl and Charles Lindblom. Dunleavy and O'Leary (1987:23) point out that the pluralist assumption holds that "citizens do not and cannot directly control policy making in polyarchies". The concept "distribution of power" recognises the different roles of states and provides insight into the factors that influence the decisions of the state when they formulate policies (Dahl 1957)[5]. Mosco (1988:107) concedes that research on policy in telecommunications identifies the major participants in the policy arena (that is equipment manufacturers, service providers, regulators and users).

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[5] Dahl (1957:202) defines "power" as that which A has over B, to the extent that A can get B to do something that B would not otherwise do.

Research suggests that after the 1994 democratic elections in South Africa, telecommunications policy formulation followed a pluralistic approach whereby government invited all stakeholders to participate in the policy-making process. The policy-making process in South Africa started with the establishment of the National Telecommunications Forum (NTF) in late 1993. This forum brought together stakeholders from business, potential foreign investors, civic society, black economic empowerment groups, civic organisations, labour and relevant government departments to discuss the future of telecommunications policy in South Africa (Horwitz 1997:68 & 69). In 1994 the Minister of Posts, Telecommunications and Broadcasting started the Green/White Paper process to draw up the government policy on telecommunications. The National Telecommunications Policy Project (NTPP) was initiated outside the ministry. The NTPP was both a project and a body of individuals. The members of the NTPP were experts in telecommunications who were directly appointed by the minister. Their purpose was to consult with the various stakeholders about their opinions on the future direction of telecommunications policy. After this, the NTPP was to draw up a Green Paper that was representative of the stakeholders' opinions and outlined the various policy options (International Development Research Centre (IDRC)/Development Bank of Southern Africa 2001).

In July 1995, the government published the Green Paper on Telecommunications and called for suggestions and input from stakeholders (including ordinary citizens/consumers) about the future structure of the industry (Horwitz 1992:22). The Green Paper consultation process was commendable for the following reasons:

- It was a genuinely collaborative and consultative process.
- The Green Paper was written in such a way that even those who had no understanding of the sector could understand it. The Green Paper was accessible – a rarity for government policy documents – and was put on the World Wide Web.
- It was praiseworthy because it explained the trade-offs involved in each potential policy decision. It described what would be gained and what would be lost under each scenario/course of action.

The Telecommunications Act 103 of 1996 was passed in November 2006. The consultation processes for the Green and White Papers are evidence that the South African policy formulation process was again not entirely a corporatist system but followed a more pluralistic approach. Telecommunications reform in South Africa was conducted in a democratising context and was a unique and participatory process (Horwitz 1992:23).

Pluralist processes that involve several stakeholders have been criticised for causing delays in the decision-making processes. A good example is the lengthy White Paper process, which starts even before the publication of the Green Paper. During the process, policy task teams have to analyse, plan, research and consult to be able to come up with a discussion document. After the publication of the Green Paper, the various inputs of the stakeholders are collected, analysed and evaluated, and consultation is initiated before a White Paper can go through the various draft stages to become a draft bill. The president can only approve and sign a bill if it does not conflict with the constitution of the country. Then the bill is published in the Government Gazette as an Act of Parliament and it is readied for implementation (Swanepoel 2002).

Dahl (1961) criticises pluralism and concluded that the pluralist political system in New Haven was one of "dispersed inequalities, with extensive inequalities in resources which are unequally distributed". His study revealed that the inequalities were caused by the fact that certain business interests and pressure groups were "much more powerful than others" (Dahl 1961:228). Other critique of the pluralist theory maintains that not all stakeholders have equal access to the decision-making forum. Sometimes stakeholders find it difficult to reach the venue, participation fees are often high and late invitations through media releases can often restrict accessibility (Unisa 2008:36).

Lindblom (1979:532) argues that "an objection to pluralism might be that not all interests are represented in the process". He admits that no one can deny this obvious point and states that it does not mean that every group has an equal control over the outcome. Like Lindblom, Dahl believes that "control over decisions is

unevenly distributed; neither individuals nor groups are political equals" (Dahl 1956:145).

Nevertheless, this study is based on the theory of pluralism because it explains why there are multiple interests groups (including consumers) whose interests need to be addressed through regulation.

2.4   History of regulation

The history of regulation is important if one wants to understand regulation as an approach to addressing consumer interests. The scholars of regulation that are mentioned in this study who have commented on the origin of regulation include Meier (1985), Stigler (1971), Berk (1981) and Drouin (2005). Meier and Stigler have written about the history of regulation in the US, Berk's contribution is about Europe and Drouin concentrates on Africa. Regulation started 49 years ago in the US and was viewed as a minor function of the federal government. It was very rare to find regulation on the national agenda and "little was being done to study the impact of regulation on society" (Meier 1985:22). According to the Centre for the Study of American Business (in Penoyer 1981:3) "regulation became a major growth industry in the 1960s and 1970s, and most regulatory agencies were established during those times. The number of federal regulatory agencies increased from 28 in 1960 to 56 in 1980". "It was in the mid-1980s that governance through regulation ceased to be a peculiarity of the American administrative state and became a central feature of reforms in the EU, Latin America, East-Asia and developing countries in general" (Jordana & Levi-Faur 2004:1). Meier (1985:3) argues that regulation did not only grow, but the form of regulation also changed.

The history of regulation in different countries shows that the motives for regulation varied. Unfortunately, in the US, regulatory agencies undertook economic tasks that were incorporated into "the ownership and operation of nationalised industries, in particular the utilities sector" (Drouin 2005:13). Regulation in the early days was generally called "economic regulation" and became unpopular because it appeared to be serving the interests of the regulated industry (Meier 1985:3). Regulation assumed the meaning of economic regulation because "a regulatory agency mostly regulated the price, entry and service of an industry" (Stigler 1971:11).

According to Baldwin (1998:328–330), some of the justifications for economic regulation are:

- the need to control monopoly power
- the need to eliminate excessive competition that leads to unreasonably low prices
- interests groups compete by offering political support in exchange for favourable legislation.

In response to the failure of economic regulation, a new kind of regulation that was termed "social regulation" was introduced in the 1960s and 1970s (Meier 1985:3). Social regulation was introduced at the request of non-industry groups and was rarely demanded by the regulated industry (Meier 1985:3). Consumers and public interest groups pressurised the government for social regulation, while businesses opposed their efforts. It was only after severe pressure from consumers that social regulation was placed on the political agenda (Meier 1985:3). Businesses had a pessimistic view of social regulation because their interests could no longer be considered. This period highlights the degree to which the pluralist approach, as opposed to the corporatist approach, dominated social regulation in the US.

After the 1980 presidential election in the US, the Reagan administration made changes to the regulatory policy. The rapid increase in the volume of regulation was slowed down and no new regulatory agencies were created. Although the Reagan administration stopped the growth of regulation, it did not make any significant "cutbacks" in the regulatory structure. For the most part, laws were left unchanged (Meier 1985:3).

Berk (1981) commented on the origin of regulation in Europe. He posits that Europeans accepted the evolution of regulation only after "the pursuit of nationalisation, industrial organisation, planning and other forms of corporate intervention" (Berk 1981:196). Furthermore, rather than assigning regulatory activities to specialised, single purpose agencies, European countries resorted to traditional ministries or inter-ministerial committees. Traditional ministries are said to have "enmeshed rather than separated operation from regulatory activities,

entertained corporatist arrangements of self regulation and encouraged informal procedures for rule making" (Berk 1981:196).

Berk argues (1981:196) that regulation was introduced in Europe to ensure "fair and effective competition". This was done when Europeans permitted the liberalisation of services and decided to end monopoly and introduce protection policies.

The word "regulation" has different connotations and is used in two distinct senses in both the US and the UK literature. Europeans associate regulation with "governance legislation and social control". In the American literature, regulation is often thought of as "focused control; exercised by a public agency over the desired activities that the community values the most" (Majone 1990:2).

While regulation was established earlier in developed countries, it is new in Africa. The first African country to develop separate telecommunication operations from regulatory functions did so in 1995 (Drouin 2005:13). Drouin (2005:13) argues that this can be attributed to the fact that several countries in Africa had opted, like their European allies, to allow operators to both provide services and fulfil regulatory functions. It was only from the mid-1990s that countries separated operations from regulatory functions. Social regulation is still advancing slower than economic regulation (Jordana & Levi-Faur 2004:2).

The main concern in this section is that in the past century, social regulation was not considered an important issue until consumers in the US pressured their government to take it seriously. Countries in Europe, including the UK, did not consider it necessary to regulate the sector because telecommunications service providers were publicly owned and were controlled by government departments. History suggests that public ownership of services has restrained the development of independent regulation.

2.5 Review of previous research on consumer protection

More recently, consumer issues (or social regulation) have gained importance in the international arena. In order to give consumer issues greater priority and launch a global dialogue between consumers and regulators, participants in the 2001 ITU

Global Symposium for Regulators (GSR) requested the ITU's Telecommunication Development Bureau (BDT) to commission a case study to provide feedback from consumers to regulators.

According to the report subsequently developed by the ITU, entitled Regulatory Challenges: Feedback to Regulators from Consumers (Cannock 2002), consumer protection issues in telecommunication services do not generally receive sufficient attention. More specifically, the report identifies what regulators can do to raise consumer awareness and increase consumer involvement in the regulatory process. The report also revealed that consumers seek improvement IN issues such as consumer participation and the representation of consumer interests, both in regulatory processes and dispute resolutions (ITU 2003:1).

Geoffrey Cannock (the project's director), Apoyo Consultoria and Tebogo Mangadi were among the experts who conducted the research on consumer issues (ITU 2003:9). Cannock (2002:3) sought to

- determine consumers' views on how they were affected by the rules that had been adopted by regulators
- identify what regulators could do to raise consumer awareness and involvement in the regulatory process

Cannock conducted two different surveys, one of residential consumer associations and the other of national regulatory authorities. The findings of the research indicated a gap between the perceptions of the regulators and that of consumer organisations with regard to consumer issues: 16% of the consumers believed that they were appropriately informed of their rights while 74% of the regulators believed that the consumers were properly informed (Cannock 2002:13). The gap was enormous and proved that the consumers were not well informed even though the regulators claimed that they were informed.

In another study, Mangadi (2005) conducted a survey on how consumers perceived the quality of telecommunications services that were offered by fixed line and mobile operators in Botswana. The results of the survey revealed that there was poor

information dissemination on all the aspects of consumer protection policies. Although the operators had publicised their compliant procedures for resolving queries, a high percentage of the participants were unaware of these procedures. This showed that in Botswana education about consumer rights was still lacking. Consumers indicated their dissatisfaction regarding consumer participation and representation. The predominant view was that consumers were not permitted to participate in the regulatory process. There are no strong consumer organisations in Botswana and this contributed to the lack of attention to consumer protection (Mangadi 2005:3–6).

Botswana is a particularly interesting case because the ITU had previously praised the regulator and advocated that the regulatory model be used in Botswana. Interestingly, both Cannock and Mangadi confirm the view that regulators worldwide do not pay sufficient attention to consumer protection issues.

Southwood et al (2006:98) conducted a survey in 30 African countries with the aim of assessing consumer activities in their telecommunications industries. They found that "consumers in Africa are not aware of their rights in general or their particular rights as users of telecommunications services". The researchers comment that if African consumers are unaware of their rights, "they are even less aware of the channels for complaints that exist". The research indicated that the speed of growth in Africa's telecommunications markets has had a negative impact on the quality of service. However, it is the responsibility of policy makers, regulators and consumer organisations together to focus on improving the quality of service. The researchers recommend that "as operators become more established, regulators need to shift their emphasis from the industry part of their mandate to addressing the consumer interest" (Southwood et al 2006:95).

2.6   Conclusion

This chapter started by giving the definitions of the key concepts that are used throughout this study. The concepts were defined in terms of their relationship to the origin and development of social regulation. The theoretical perspectives on

regulation were clarified and the pluralist theory was identified as a suitable theory to explain the importance of involving consumers in the policy-making processes.

A discussion on the history of regulation, which holds that the early evolution of regulation was characterised by economic factors, was provided. In the past regulation was undertaken for economic reasons while social reasons were ignored. In the twentieth century the economic tasks of regulatory agencies were incorporated into the ownership and operation of industries through price control. It was only in the 1960s and 1970s, with the establishment of new regulatory agencies, that social regulation became important.

Lastly, this chapter gave an overview of previous research studies and their findings on consumer protection issues. The studies revealed that consumers feel excluded from the decision-making processes and that most regulators do not involve consumers either as individuals or organisations in their policy-making processes. It was also found that consumers in Africa are often unaware of their rights.

The validity of using the pluralist theory for this study will be tested against the findings in the next few chapters.

CHAPTER 3
RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction

The previous chapter outlined the research problem by means of a review of the literature. This chapter describes in detail the research design and methods that were used to collect the data.

Furthermore, this chapter outlines the procedures that were followed to conduct interviews at ICASA. Ethical issues, data analysis procedures and the criteria that were used to establish the validity of the data are discussed. The limitations of the study and how they were addressed are highlighted at the end of this chapter.

3.2 Conceptualisation of research design and method

This chapter focuses on the research design and methods that were used to address the aim of this study. However, before discussing the design and methods, it is imperative to draw a distinction between research design and research methodology. Mouton (2001:55) contends that researchers often confuse the two concepts of research design and research methodology. To explain the difference between the two concepts, Mouton (2001:55 & 56) likens the building of a house with the research design and the construction process and tools that are used to complete the house with the research method. He says that the point of departure in the research design is the research problem and the focus is on the logic of the research. The logic of research refers to the kind of evidence that is required to address the research questions adequately.

3.3 Research design

From the discussion above, it is clear that the choice of the research design depends on the researcher's acceptable definition of the research design (problem formulation, purpose and objectives), the type of research (basic or applied) that will be conducted, and the research method that is used (qualitative or quantitative, or a

combination of both). For the purposes of this research, Huysamen's (1993:10) definition that research design is "a plan according to which data are collected to investigate the research hypothesis or question" is used. This definition is broadened by Du Plooy (2001:81) who says that the research design includes "who or what is involved in the research and when and where the study will take place".

3.4 Research methodology

The research method for this study was adopted from Mouton (2001:56) who says that the research methodology focuses on the "research process and the kind of tools and procedures to be used in a study".

3.4.1 Interview method

Interviews are an important part of any action research project because they give the researcher an opportunity to investigate further, to solve problems and to gather data that cannot be obtained in other ways (Cunningham 1993:93). In order to address the explorative objective of this study, data was collected through qualitative individual semi-structured interviews (De Vos 2002:365) and focus group interviews. According to Greeff (2005:296), semi-structured interviews are aimed at gaining "a detailed picture of a participant's beliefs about, or perceptions or accounts of a particular topic". The interviews with staff members at ICASA's head office were conducted individually and on a face-to-face basis in the departmental boardroom and offices; the interviews with the education officers of the regional offices were conducted telephonically. The participants in the focus group interviews were interviewed in their most convenient environments. Detailed information on the interview settings is provided in section 3.5 of this study.

Conducting group interviews is a qualitative data gathering technique whereby the interviewer/moderator directs the interaction and inquiry in a very structured or unstructured manner, depending on the purpose of the interview (Denzin & Lincoln 1994:365). The researcher took the explorative purpose of focus group interviews into consideration and moderated the interviews by asking the participants very specific questions in an unstructured manner.

Merton, Fiske and Kendall (1990:135) suggest that a focused interview with a group of people "will yield a more diversified array of responses and afford a more extended basis both for designing systematic research on the situation in hand". An array of responses is obtained because people are encouraged to talk to one another: asking questions, exchanging ideas and anecdotes, and commenting on one another's experiences and points of view (Kritzinger 1994:106).

Merriam (1998:19 & 20) emphasises methodological assumptions that motivated the researcher to undertake qualitative research. This author points out that qualitative research occurs in a natural setting, is descriptive, the researcher is the primary instrument for data collection and meaning is negotiated with human data sources. In this study:

- The researcher was the primary instrument for data collection and analysis. The researcher requested and followed protocol to gain entry to ICASA's premises and conducted interviews and analysed data herself.
- The researcher physically interviewed the participants in their place of work to obtain first-hand information from the participants. The researcher also collected first-hand data telephonically from the regional education officers during office hours.
- This qualitative approach allowed the participants to describe their perceptions on and understanding of how ICASA addresses consumer protection issues.

3.4.2 Interview guides

To prepare for the semi-structured face-to-face and focus group interviews, interview guides were developed as data gathering tools or instruments (appendices A and C). Lindlof and Taylor (2002:195) regard the interview guide as a more informal, flexible approach that consists of a topic and questions which the researcher asks. These authors say that there can be a preferred order of asking the questions, but the interview guide should not dictate the order of the questions or how they will be asked. The researcher followed this guideline and the sequence of the questions in the interview guide was not followed.

The education officers could not provide adequate information on the handling of complaints, while the complaints officers referred the researcher to the Public Education and Awareness Unit for the questions about complaints. For example, the education officers referred the researcher to the Complaints Handling Unit for question 1(iii): How many complaints does ICASA receive in a year and how many of these complaints have been addressed or resolved? The complaint officers referred the researcher to the Public Education and Awareness Unit for question 2 (vi): Does ICASA inform and educate consumers about their rights to information disclosure, choice, representation, accurate bills and redress, privacy and reliability, and high-quality service? All the questions in the interview guides were in English (see appendices A and B). During the interviews, the researcher explained the questions in Sepedi to accommodate those who are not conversant with English. The questions in the interview guide for the focus group interviews were open-ended questions.

3.4.3 Population, sample and sampling method

The data for this study was collected by means of two qualitative research methods, namely semi-structured individual interviews and focus group interviews.

(1) Semi-structured individual interviews

At the time when the data was collected, the Consumer Affairs Division comprised 25 staff members, including the education officers of the nine regional offices. The regional offices were in the Western Cape, the Northern Cape, Durban, Bloemfontein, Port Elizabeth, North West, Limpopo Province, Gauteng and Nelspruit. All 25 staff members served as the target population.

As was indicated in chapter 1, the population included most of the relevant staff of ICASA. However, two complaints officers declined to participate in the study. In addition, the general manager of the Consumer Affairs Division and four regional education officers were unavailable to participate.

One complaint officer was on leave at the time when the data was collected. Because of the above reasons, the interviews were conducted with a sample of 17 staff members instead of the total of 25.

Leedy and Ormrod (2005:145) caution that qualitative researchers have to use non-random selection of data sources and their sampling should be purposeful. Qualitative sampling is regarded as purposive when it is aimed at selecting appropriate information sources to explore meanings (Rice & Ezzy 1999). The interviews for this study were conducted individually with a non-probability sample of 17 staff members, the selection of which was based on the researcher's judgement and the purpose of the study (Babbie 1995). By taking into consideration the purpose of the study, the researcher determined that staff members from ICASA's Consumer Affairs Division would yield the most appropriate information about the research topic (Leedy & Ormrod 2005:145). In order to get detailed information on the topic, two councillors and a senior manager were interviewed because their seniority provided an additional point of view.

Fossey et al. (2002) recommend that qualitative sampling should involve a small number of participants, while the amount of data that is gathered can be large. They advise that "no fixed minimum number of participants is necessary to conduct sound qualitative research, however, sufficient depth of information needs to be gathered to fully describe the phenomenon being studied" (Fossey et al 2002:726). Based on the sampling nature of the qualitative research for this study, data was collected from 17 participants during an approximate time of one hour per interview.

In non-probability sampling "there is no guarantee that every unit of the population has an equal chance of being selected" (Deacon, Pickering, Golding & Murdock 1999:41). The participants in qualitative research are selected on the basis of their knowledge base or relevance to the research topic rather than their representativeness (Flick 1998:41). The Consumer Affairs Division was chosen out of all the divisions of ICASA because of its responsibilities, which entail "protecting consumers from unfair business practises, ensuring access to safe and good quality products, and protecting the interests of people with disabilities in relation to the provision of communications and postal services" (ICASA 2007/2008:36).

With this in mind, the researcher believes that the staff members were suitable because they could provide valid data on account of their experience in the division. The breakdown of the accessible population for this study appears in appendices C and D.

(2) Focus group interviews

Focus group interviews are "more directed at and designed to explore specific topics or issues" (Greeff 2005:307) that are determined by the researcher (Morgan 1997:6) in a "non-threatening environment" (Kingry, Tiedje & Friedman 1990:124). Schurink, Schurink and Poggenpoel (1998:314) describe focus group interviews as "a purposive discussion of a specific topic or related topics taking place between eight to ten individuals with similar background and common interests". With this description in mind, focus group interviews as a research method was considered as ideal because the aim of the researcher was to get the opinions, feelings and perceptions of consumers regarding the protection of their rights. The focus group interviews were used to validate the semi-structured interviews, which in this study served as a primary method (Morgan 1997:2).

The focal point of this research was all the residents of Mamelodi who were aged between 20 and 85 years. Mamelodi had a total population of approximately 186 366 people, aged from 20 and 85 years (Statistics South Africa 2001). Due to time limitations, budget constraints and the fact that the research study is a dissertation of limited scope, the researcher used her judgement to purposefully sample 100 participants who are drawn from the total population. The researcher's judgment is aligned with Du Plooy's definition of purposive sampling. According to Du Plooy (2001:113-114) purposive sampling is a type of non-probability sampling which is also referred to as judgemental since the researcher controls the choice of the unit of analysis. In addition, Welman and Kruger (2000: 201) describe purposive sampling as a technique in which the investigators choose the participants on a judgement of the extent to which the potential participants meet the selection criteria.

Based on the latter description of purposive sampling, the researcher recruited participants who met the following selection criteria:

- Aged between 20 and 85 years

- Have some level of education

- either employed or unemployed

- either men or women

- limited in terms of functional activities because of sight, hearing communication, physical, intellectual and emotional impairment

Purposive sampling allows investigators to choose a case because it illustrates some feature or process in which the investigators are interested (Silverman 2000:104). In this study it was not feasible to sample all the identified sub-groups. However the specific cases of interest were purposefully selected from each sub-group. For example, Mamelodi Association for People with disabilities was selected from a sub-group of people with disabilities.

The participants in the different categories shared common characteristics and the groups were therefore homogeneous. For example, the gender category consisted of 10 men and 10 women. The selection of participants according to their homogeneity was motivated by the fact that similar participants spend less time in explaining themselves to each other (Greeff 2005:304).

As shown in the table below, the number of participants in the various categories of the sample was not fixed. The category of people with disabilities included those people who were limited in terms of their functional activities because of sight, hearing, communication, physical, intellectual and emotional impairment.

Table 1: Demographic profile of the focus group

Variables/Categories	Sub groups	Organisations/Cases	Participants
Gender	Men	1. Ditaola Jazz Club	10
	Women	2. Sizakala Burial Society	10
Education level	Educated	3. FF Ribeiro Primary School	10
	Less educated	4. Sabinet Abet Project	10
Occupation	Employed	5. Milnex Contract	10
	Unemployed	6. Fafi gamblers	10
Age group	Youth	7. Nellmapius Youth Community Policing Forum	10
	Elderly	8. Mamelodi Society for Care of the Aged (MASCA)	10
People with disabilities	Disabled people	9. Mamelodi Association for People with Disabilities	20
		N=9	**N=100**

The categories used in this study are based on the actual population composition of Mamelodi residents as per Census 2001 in table 2 below. The age brackets used in this study are defined as follows:

- Youth refers to persons in the age group 20 to 34 years
- Middle- aged refers to persons in the age of 35 to 59 years
- Elderly refers to persons in the age of 60 years to 85+

Interviews for the category of gender were conducted with middle-aged men and women.

Table 2: Actual Population Composition of Mamelodi residents

Distribution of Mamelodi population by Sex and Age group				
Category	**Age group**	**Male**	**Female**	**Total**
	20-24	16892	14653	31545
	25-29	18329	15244	33573
Youth	30-34	14359	11758	26117
		49580	**41655**	**91235**
	35-39	11586	10318	21904
	40-44	9509	8513	18022
	45-49	6871	6168	13039
	50-54	4507	3814	8321
Middle-Aged	55-59	2659	2724	5383
		35132	**31537**	**66669**
	60-64	17198	2400	19598
	65-69	1152	1955	3107
	70-74	861	1609	2470
	75-79	599	983	1582
	80-84	450	702	1152
Elderly	85+	177	376	553
		20437	**8025**	**28462**
	Grand Total	**105149**	**81217**	**186366**

Distribution of Mamelodi population by Employment Status			
Category	**Male**	**Female**	**Total**
Employed	44378	29137	**73515**
Unemployed	29785	28023	**57808**
	74163	**57160**	**131323**

Distribution of Mamelodi population by Disability			
Category	**Male**	**Female**	**Total**
Sight	826	987	1813
Hearing	396	356	752
Communication	160	78	238
Physical	1052	800	1852
Intellectual	447	376	823
Emotional	546	347	893
Multiple	230	213	443
	3657	**3157**	**6814**

Distribution of Mamelodi population by Education Level			
Category	**Male**	**Female**	**Total**
Some Primary	26916	23828	50744
Complete Primary	8073	7489	15562
Some Secondary	40335	37501	77836
Std 10/Grade 12	29019	25793	54812
Higher	5563	6465	12028
	109906	**101076**	**210982**

Source: Statistics South Africa 2001.

Often, in purposive sampling, the sample size is very small. Out of the total population of Mamelodi 0, 1% of residents were interviewed as broken down below:

BY SUB-GROUPS								
DISABILITY	**AGE GROUP**		**OCCUPATION**		**EDUCATION LEVEL**		**GENDER**	
PWD	YOUTH	ELDERLY	EMPLOYED	UNEMPLOYED	LESS EDUCATED	EDUCATED	MALE	FEMALE
20	10	10	10	10	10	10	10	10
6814	91235	28462	73515	57808	50744	12028	35132	31537
0.29%	**0.01%**	**0.04%**	**0.01%**	**0.02%**	**0.02%**	0.08%	0.03%	0.03%

BY TOTAL POPULATION								
DISABILITY	**AGE GROUP**		**OCCUPATION**		**EDUCATION LEVEL**		**GENDER**	
PWD	YOUTH	ELDERLY	EMPLOYED	UNEMPLOYED	LESS EDUCATED	EDUCATED	MALE	FEMALE
20	10	10	10	10	10	10	10	10
186366	186366	186366	186366	186366	186366	186366	186366	186366
0.01%	**0.01%**	**0.01%**	**0.01%**	**0.01%**	**0.01%**	0.01%	0.01%	0.01%

BY SAMPLE SIZE								
DISABILITY	**AGE GROUP**		**OCCUPATION**		**EDUCATION LEVEL**		**GENDER**	
PWD	YOUTH	ELDERLY	EMPLOYED	UNEMPLOYED	LESS EDUCATED	EDUCATED	MALE	FEMALE
20	10	10	10	10	10	10	10	10
100	100	100	100	100	100	100	100	100
20%	**10%**	**10%**	**10%**	**10%**	**10%**	10%	10%	10%

The participating sub-groups are described below.

(1) Gender

Men – Ditaola Jazz Club

The Ditaola Jazz Club is a group of 10 men who entertain people by playing Jazz music. The group meets fortnightly on Sunday evenings in one of the group members' houses. The venues of the meetings are rotated according to the club's yearly itinerary. The sample of men was selected as follows: Out of the total population of Mamelodi (186366), men/males were 35132. Ditaola Jazz Club which was the selected case consists of 10 men who were all sampled for interviews.

Women – Sizakala Burial Society

The Sizakala Burial Society consists of 10 women who formed a burial society. The members of the club assist each other with financial contributions and catering during funerals. The group meets once a month in one of the members' houses. The venues of their gatherings are rotated according to a drafted programme.

The sample of women was selected as follows: Out of the total population of Mamelodi (186366), women/females were 35132. Sizakala Burial Society which was the selected case consists of 10 women who were all sampled for interviews.

(2) Education level

Teachers – FF Ribeiro Primary School

The FF Ribeiro Primary School had 23 teachers. At this school, junior and senior phase teachers do not knock-off at the same time. The most convenient time for the interviews was at the end of the junior phase classes since it was the only time when the teachers were available for interviews.

The sample of educated people was selected as follows: Out of the total population of Mamelodi (186366), the educated people were 12028 FF Ribeiro Primary School

which was the selected case consists of 23 teachers. With the help of the head of department, 10 teachers from the foundation phase were randomly selected to participate in the study.

<u>Learners – Sabinet Adult Basic Education and Training (Abet) Project</u>

The Sabinet Abet Project is a centre that is sponsored by Sabinet to provide Abet classes. The centre operates from the Stanza Bopape Community Hall. The project catered for 20 adult learners who were studying levels 1 to 3. The sample of less educated people was selected as follows: Out of the total population of Mamelodi (186366), the less educated people were 50744. Sabinet Adult Basic Education and Training was the selected case and consists of 20 adult learners. 10 learners were randomly selected to participate in the study. This was done with the help of the project leader.

(3)   Occupation

<u>Employed – Milnex Contract</u>

Milnex Contract is a company that is contracted by the Mamelodi City Council to provide cleaning services in Mamelodi. The sample of employed people was selected as follows: Out of the total population of Mamelodi (186366), 73515 people were employed. Milnex Contract which was the selected case employed 30 workers. With the help of the supervisor, 10 workers were randomly selected for interviews.

<u>Unemployed – Fafi gamblers</u>

The category of unemployed people was represented by people who were Fafi gamblers. Fafi is a betting or gambling activity that is based on translating dreams into numbers, which are then bet upon. Anything one dreams of has an associated number. The game requires a runner who carries the bag of bets (with the names of the betters and their money) to the Chinese person who will visit the station or house of the runner who is in charge of the betting session. The Chinese person will pull up outside the house in a car, take the bag from the runner and then whisper the winning number to him or her. The runner uses her hands to indicate to the betters the symbol of the number that has won and the money will be paid out.

The sample of unemployed people was selected as follows: Out of the total population of Mamelodi (186366), 57808 people were unemployed. A group of 25 fafi gamblers at Transnet hostel was the selected case. With the help of the runner at the Transnet hostel, 10 gamblers were randomly selected to participate in the study.

(4) Age group

The elderly – Mamelodi Society for Care of the Aged (MASCA)
MASCA is a non-profit making organisation that depends on the public and the business sector for its survival. The aim of the organisation is to care, serve, advocate for and protect adults and the aged.

The sample of the elderly was selected as follows: Out of the total population of Mamelodi (186366), the elderly were 28462 MASCA was the selected case and comprises 55 elderly people. With the help of the manager at the organisation, 10 people were randomly selected to participate in the study.

Youth – Nellmapius Youth Community Policing Forum
This youth forum was established under the leadership of Reverend Nkwana who wanted to create and maintain a safe and secure environment for the people who are living in the Nellmapius area. It operates from the Green House Community Centre. The youth forum was established in terms of Section 19(1) of the South African Police Service Act 68 of 1995.

The sample of youth was selected as follows: Out of the total population of Mamelodi (186366), the youth were 91235. Nellmapius Youth Community Policing Forum was the selected case and comprises 25 members. With the help of the youth advisor, 10 people were randomly selected to participate in the study.

(5) People with disabilities

The Mamelodi Association for People with Disabilities represented people with disabilities. The group included people whose sight, hearing, communication,

physical, intellectual and emotional abilities were limited.

The sample of People with disabilities was selected as follows: Out of the total population of Mamelodi (186366), people with disabilities were 6814. The Mamelodi Association for People with Disabilities was the selected case and comprises 50 people. With the help of the teacher, 20 people were randomly selected to participate in the study. The randomly selected people were not categorised according to type of disability.

3.5   Data collection procedures

The data for this study was collected in two places: at ICASA's head office and in different locations of organisations according to the different categories of the participants.

3.5.1 Semi-structured interviews

Data was collected qualitatively by means of face-to-face individual interviews with the staff members of ICASA at their head office. Since telephonic interviews were conducted with the regional education officers, it was not necessary for the researcher to visit them at the regional offices.

Due to bureaucratic delays in obtaining permission to conduct the interviews, the data was only collected after the permission was granted. The data was collected over a period of 17 months from May 2007 to October 2008. From the interviews that were conducted in October 2007, two issues emerged that influenced the provisional period for the data collection:

(1) Due to the substantial amount of money that was needed to cover the travelling and accommodation costs for conducting the individual interviews with the regional education officers, the researcher opted to conduct telephonic interviews instead.

(2) During the data collection, the Consumer Affairs Division employed new complaints officers who assumed duty in September 2007. An agreement

was reached with the manager of the Complaints Handling Unit that the newly employed complaints officers would be excluded from the interviews because they could not provide detailed data.

Most fortunately, the researcher was privileged to obtain employment at ICASA and reported for duty at the head office on 1 July 2008. The researcher then used the opportunity to obtain permission to interview the complaints officers earlier and to interview the regional education officers telephonically.

The telephone interviews with the regional education officers and the interviews with the complaints officers were conducted between 1 August 2008 and 23 October 2008.

Because the researcher was an employee of ICASA who was at the same time conducting research on ICASA, it was important to guard against subjectivity. The researcher concurs with Mehra (2002:7) who says that "a qualitative research paradigm believes that [the] researcher is an important part of the process. The researcher can't separate himself or herself from the topic/people he/she is studying". With this in mind, the researcher acknowledges that throughout the process, she was aware of the possibility of bias in the primary data collection instrument. However, the following measures were taken to guard against bias or subjectivity:

- The interviews were recorded with a tape recorder.
- The open-ended interview questions enabled the participants to express their perspectives freely.
- The participants who believed that the researcher was knowledgeable about the topic tended not to explain their responses further. The researcher then asked more probing questions to provide room for further explanation.
- The participants were treated as individuals who had more knowledge about the central topic than the researcher and from whom the researcher wanted to learn.
- When the data was analysed, the researcher stayed as true to the words of

the participants as possible.

The following procedures were followed to collect the data at ICASA:

In June 2005 the researcher had telephonic conversations with Ms Diane Ngoasheng, the then senior manager of ICASA's Consumer Protection Division. The researcher's intention was to obtain permission to conduct research on the study in the division and to formally gain entry to ICASA's premises in Sandton, Johannesburg. An e-mail message with copies of the research proposal for this study and Unisa's authorisation letter were sent via the manager of the Public Education and Awareness Unit to the general manager of Legal, Consumer Protection and International Relations. At the time, the general manager was Mr Stanley Mamaregane. After a substantial amount of time, the request was considered in November 2006. (A copy of the concession letter is attached as appendix E.)

In December 2006 the researcher made an appointment to meet the general manager of the Consumer Affairs Division, the manager of the Public Education and Awareness Unit and the manager of the Complaints Handling Unit. The meeting was held in the absence of the general manager and was an introductory meeting. The researcher introduced herself, discussed the purpose of the study with the managers and obtained official permission to conduct the research.

After the discussions and agreements that were reached in the meeting in December 2006, the office of the then chief executive officer (CEO) granted the researcher permission to conduct the interviews. With the permission of the CEO, an agreement was reached with the two managers to commence the interviews in January 2007. The deployment of the general manager as acting CEO delayed the commencement of the interviews. The then newly appointed acting general manager, Mr Mpilo Ngxingo, indicated that he had not been involved in the initial process and advised that the researcher should start all over again to obtain permission for the research. So again, the researcher had to start the lengthy procedure of requesting permission. The protocol procedure took four months and the first interviews could only commence on 25 May 2007. These delays indicate the extent of the red tape and bureaucratic hurdles that affect ICASA's responsiveness to stakeholders.

Nevertheless, 16 face-to-face individual interviews were conducted with the participants at the head office and two telephonic interviews were conducted with the regional education officers. The 16 face-to-face interviews included interviews with education officers who reported to regional managers at the head office. Both the face-to-face interviews and the telephonic interviews lasted approximately one hour per interview.

Before the main investigation commenced, an electronic version of the interview guide (appendix A) that contains open-ended questions was sent to the participants (appendix B is a list of the participants). The aim was to allow the participants to familiarise themselves with the questions that the researcher would ask during the main investigation (Greeff 2005:297). The questions in the interview guide did not restrict the researcher in any way, but ensured that the relevant information was obtained. Rather than dictating the course of the interviews, the questions served as a guideline (Greeff 2005:296).

Before the researcher could commence with the interviews, the ethical issues that have to be considered when conducting research were explained to the participants. These issues were outlined and discussed in relation to informed consent, privacy, anonymity, confidentiality and deception of the subjects. (A detailed discussion on the ethical issues that were considered in this study follows below on pages 58-59.)

Once the purpose and the ethical principles of the research were explained to the participants, the researcher asked the participants' permission to record the interviews. What transpired during the interviews was therefore captured on tape recorder and provided complete data for analysis. Each interview was assigned a code, for example "Participant 1, 25 May 2007", and was recorded on a separate cassette. Each cassette was labelled with the assigned interview code. After showing their willingness to participate in the research, the participants were asked to sign an informed consent form. All the potential participants signed the form and those who did not were not pressurised to participate in the study. The researcher commenced the interviews by asking the participants questions from the interview guide.

At the end of the interviews, the researcher thanked the participants for their cooperation.

3.5.2 Focus group interviews

The data that was collected during the semi-structured interviews was used to develop the questions that were asked in the focus group interviews. The semi-structured interviews were used to establish some of the points that were considered important for the focus group interviews.

A considerable amount of time was spent trying to set up appointments with the participants, who were interviewed in October 2007 at ICASA. The first focus group interview was conducted on 10 October 2007 with the category of people with disabilities.

The researcher conducted Internet searches on organisations such as the Mamelodi Association for People with Disabilities, MASCA and the Sabinet Abet Project to find out where they were located and their contact details. The researcher made inquiries through informal discussions with residents of Mamelodi to find participants for other categories of this study, such as employed and unemployed people, men, women and youth. Telephonic inquiries and personal appointments were made with all the organisations to meet with their relevant representatives. The aim was to obtain permission to conduct interviews in their respective organisations. Once the representatives agreed to participate in the focus group interviews, they were provided with information about the topic of the research. The participants' contact information was also requested to schedule the location, dates and time for the main investigation (Morgan & Krueger 1998:96). Upon agreement, copies of Unisa's letter of authorisation were handed to the leaders of the organisations.

The places or environments for conducting interviews were dictated by both the researcher and the participants' needs. The researcher was careful that the environmental conditions did not threaten the research process and ensured that interviews could be tape recorded. The tape recorder was in good condition and the researcher always carried spare batteries and cassettes along. In all the interview settings, the interviews were held freely without any background noise and

interruptions.

Upon showing their interest in taking part in the research, the ethical aspects of the research were explained to the participants. The researcher circulated a consent letter, which explained the purpose of the study. The letter also explained the ethical principles of voluntary and informed participation and anonymity. All the participants signed a letter of consent.

As in the individual interviews, each group interview was assigned a code and was recorded on a separate cassette. The cassettes were classified into categories and each cassette was labelled with the assigned interview code, for example "Women: Sizakala Burial Society, 04 November 2007".

Because of the researcher's background knowledge on the topic, she served as group facilitator. The interview guide with its set of focused questions guided the facilitator. In order to create a warm and friendly atmosphere for the participants, the researcher explained that there were no right or wrong answers and that they should not hesitate to speak since the discussion was an informal gathering (Wimmer & Dominick 1994:454). The table below contains information on the interview settings.

Table 3: Focus groups interview settings

Group	Organisation	Place of interviews
Men	1. Ditaola Jazz Club	1181 Section D, Ndebele Street
Women	2. Sizakala Burial Society	22827 Ext 4
Educated	3. FF Ribeiro Primary School	26585 Shabangu Street
Less educated	4. Sabinet Abet Project	Stanza Bopape Community Centre, Ramapudu Street, Mamelodi East Ext 5
Employed	5. Milnex Contract	Mamelodi City Council Offices, 1 Makhubela Street

Unemployed	6. Fafi gamblers	20314 Ext3, BufferZone
Youth	7. Nellmapius Youth Community Policing Forum	Greenhouse Community Center, Love-Drive Street
Elderly	8. Mamelodi Society for Care of the Aged (MASCA)	21883 Tshamahansi Street, Ikageng
Disabled people	9. Mamelodi Association for People with Disabilities	6957 Kubone Drive, Mamelodi West

3.6   Ethical considerations

Neuman (1997:443) defines ethics as "what are or what are not legitimate, or moral research procedures". Whenever the focus of investigations is human beings, the ethical implications of what is proposed should be carefully considered (Leedy & Ormrod 2001:107). Any individual who is involved in research should be knowledgeable about the general agreements of what is proper and improper in scientific research (Babbie 2001:470). The following ethical issues were considered in this study.

3.6.1 Informed consent

Neuman (2006:135) defines informed consent as a "statement, usually written that explains aspects of the study to participants and asks for their voluntary agreement to participate before the study begins". Informed consent suggests that the "people being researched should both know about the research and be willing to take part in it" (Deacon et al 1999:143). In addition to informing the participants about the nature of the study that will be conducted, the research subjects should be given a choice to either participate or not participate in the research (Leedy & Ormrod 2001:107).

To address the issue of informed consent in this study, the researcher verbally informed the participants about their voluntary agreement to participate. She made it clear that they were not being coerced to take part in the research. The participants

were also made aware that if, at any time during the study, they wished to withdraw their participation, they were free do so. To supplement the verbal explanation, the details of the consent letter were read and copies were given to the participants who confirmed their participation by signing it.

3.6.2 Privacy, anonymity and confidentiality

Since research often requires people to reveal personal information about themselves (Babbie 2007:62), it is important to respect the participants' right to privacy (Leedy & Ormrod 2001:106).

The right to privacy refers to "individuals' choice either to disclose or not to disclose certain information about him/herself" (Vermeulen 1998:17). In this study the participants' privacy was protected by ensuring them of the confidentiality and anonymity in the consent form and through verbal communication. The participants were, however, made aware that in a qualitative study it is not possible for them to remain anonymous because their names and/or positions would be listed in written form (appendices B and D). The researcher assured the participants that their personal information would be kept confidential. Confidentiality was practised by not mentioning the names of the participants when quoting their responses.

3.6.3 Deception of subjects

Deception involves "withholding information or offering incorrect information in order to ensure participation of subjects when they could otherwise possibly have refused it" (Corey, Corey & Callanan 1993:230). Neuman (2000:229) considers deception to be something that "occurs when the researcher intentionally misleads subjects by way of written or verbal instructions, the actions of other people or certain aspects of the setting".

To avoid deceiving or lying to the participants in this study, the interviewees were informed and reassured that the study was conducted as a university research programme and that no incentives should be expected. The researcher asked the participants' permission to collect data from them and gave them Unisa's formal

authorisation letter (appendix F). Permission to conduct the semi-structured interviews had been obtained from the office of the CEO through ICASA's Consumer Affairs Division. To take the participants' commitments into consideration, the researcher explained to them that an interview would last approximately one hour. Permission to collect data from the focus groups was obtained from the representatives of the organisations concerned.

3.7 Data analysis procedures

Qualitative analysis can be defined as a "process of reviewing, synthesising and interpreting data to describe and explain the phenomena or social worlds being studied" (Fossey et al 2002:728). The purpose of the analysis is to reduce the data to an intelligible and interpretative form so that the relations between the research problems can be studied and tested and conclusions can be drawn (Kruger, De Vos, Fouché & Venter 2005:218). Interpretation means that the results of the analysis are taken, inferences that are pertinent to the research relations that have been studied are drawn and conclusions about the relations are made.

As was outlined previously, the data for this study was collected and recorded on a tape recorder. When the interviews were completed, all the recorded data was transcribed. The researcher made the transcriptions by listening to the tape recordings of each interview with the aim of familiarising herself with the participant's words. The tape recorded interview was then transcribed into written text and a verbatim account of everything that was said during the interview was written down (Hycner 1999:150). Instead of using a computer, the data was transcribed manually with the aim of identifying the most important themes and concepts. Computer software was not the preferred means to analyse the data because it could not replace the conceptual processes that are required of the researcher (Fossey et al 2002:729).

Poggenpoel (1998:337) states that "there is no right or wrong approach to data analysis in qualitative research. There are general guidelines a researcher can adhere to as well as strategies for analysis that has been utilised by qualitative researchers".

The data in this study was analysed in a transparent way through inductive analysis. Patton (1990:390) defines inductive analysis as follows: "… the patterns, themes, and categories of analysis emerge out of the data rather than being imposed on them prior to data collection and analysis."

The data was inductively analysed by using the discovery-focused analytical approach. According to Fossey et al (2002:728), the aim of the discovery-focused analytical approach is to establish patterns and connections between elements of data. Tesch (1990:728) adds to this by saying that "the unit of analysis is usually segments of texts that contain some particular meaning, rather than individual words or phrases". The researcher followed a process of coding, sorting and organising segments of texts to look for patterns or connections between them. This was done to formulate a theory by means of the thematic analytical procedure. Tesch (1990:729) explains that this procedure means "classifying, comparing, grouping and refining groupings of text segments to create and then clarify the definition of categories, or themes within the data". In this sense, the thematic analytic procedure focuses on "developing categories, derived inductively from data itself, rather than from a priori theory to enable systematic description".

The researcher coded the data herself by using open coding, which is described by Strauss and Corbin (1990) as the process of identifying themes that emerge from the raw data. All the themes in the coding scheme were straightforward and could be easily identified, which resulted in sub-themes emerging on their own. The open coding process for the semi-structured interviews resulted in a coding scheme with six major themes: (1) the establishment of the Consumer Affairs Division, (2) the functions of the Public Education and Awareness Unit and the Complaints Handling Unit, (3) the handling of complaints, (4) the protection of the rights and interests of consumers, (5) information provision and education, and (6) the involvement of consumer organisations in decision making.

As shown in chapter 4, the data from the interviews were identified into themes and sub-themes.

3.8 Trustworthiness of the research

Taking into consideration the nature of qualitative data collection that was applied in this study, validity and reliability are reflected in terms of trustworthiness. It should be noted that the terms "reliability" and "validity" are essential criteria for testing quality in quantitative paradigms (Lincoln & Guba 1985).

Qualitative research is aimed at placing the perspectives of the participants in a privileged position and to "illuminate the subjective meaning, actions and context to those being researched" (Popay et al 1998:345). The following two factors are central to the quality of qualitative research: (1) whether participants' perspectives have been "authentically represented in the research process and the interpretations made from information gathered" and (2) whether the "findings are coherent in the sense that they 'fit' the data and social context from which they were derived" (Fossey et al 2002:723).

Lincoln and Guba (1985) outline the four quality criteria that should be used to establish the trustworthiness of qualitative data. They are "credibility, conformability, dependability and transferability and are parallel with internal and external validity" (Lincoln & Guba 1985:290). Strategies to establish trustworthiness in the current study were based on the four criteria of Lincoln and Guba. The strategies that were used to confirm the qualitative findings of the current research are discussed next.

3.8.1 Ensuring credibility

The credibility of qualitative research depends on the ability and effort of the researcher (Patton 2001:14). Credibility corresponds with internal validity in quantitative research. The goal is to demonstrate that the inquiry was conducted in a manner which ensures that the subject was accurately identified and described (Lincoln & Guba 1985:290). To ensure credibility, the following techniques were applied in this study:

- The aim and objectives of the study were clearly constructed (Reid & Gough 2000:65).

- After the data were analysed, the interpretations were coded by the researcher herself.

3.8.2 *Ensuring transferability*

Transferability is regarded as "an alternative to external validity or generalisability in quantitative research" (Lincoln & Guba 1985:290). The intention of qualitative research is not to generalise the findings (Merriam 1988). Transferability is also referred to as the "applicability which is the degree to which the results of a study can be applied in similar context, on different participants" (Lincoln & Guba 1985:290). To enhance the transferability of this study, the following techniques were applied.

The data that was collected through individual interviews was cross-checked against policy documents such as the regulations in the Code of Conduct for Licensees in the Electronic Communications Industry (Code of Conduct for Licensees) and the Code on People with Disabilities. The data that was collected about the draft regulations on an end-user and subscriber service charter could not be cross-checked against documents because this document is still in draft form and cannot be used as a legal document. It was established that the Code of Conduct for Licensees contains general standards that licensees have to adhere to. Even if the participants in this study could not mention all the standards, most of them are stated in the code. The standards that the participants overlooked included promotional marketing and operational and evaluation arrangements. Promotional marketing means that service providers have to ensure that all their advertising and promotional material is not misleading; operational and evaluation arrangements refer to a situation where operators have to ensure that licensees are familiar with the contents of the code (ICASA 2007c:7)

Regarding the Code on People with Disabilities, the participants indicated that licensees are required to provide services that cater for people in wheelchairs and people who have hearing problems. To cater for people in wheelchairs, licensees have to provide access ramps at their premises. To cater for those who are hard of hearing, licensees have to provide telephones with built-in amplification to increase the volume of the handset.

Data was provided that ICASA has a memorandum of understanding (MOU) with the community radio stations with regard to free-to-air service. The data was verified with the license document that ICASA issues to the community radio stations broadcasters. Section 16.1 of the General Licence Conditions of Community Radio Stations states:

"When requested by the authority the licensee shall, without charge, broadcast such particulars at such intervals as the authority may reasonable request for the purpose of publishing its regulatory functions and activities under the Act, as well as any applications, inquiries or headings concerning the licensee".

3.8.3 Ensuring dependability

Lincoln and Guba (1985:300) use "dependability" in qualitative research in a sense that closely corresponds to "reliability" in quantitative research. In the same vein, Seale (1999) links the concept of dependability to the concept of consistency or reliability in qualitative research. Campbell (1996:133) notes that the consistency of data is achieved "when the steps of the research are verified through examination of such items as raw data, data reduction products, and process notes".

Dependability refers to the extent to which the research findings are consistent if the inquiry was replicated with the same participants or in a similar context (Krefting 1991:216). In this study

- a full description of the data collection, recording, analysis and interpretation techniques are provided to ensure accurate and justifiable judgement regarding dependability (Krefting 1991:220)
- an extensive semi-structured and focus group qualitative methodology ensured a high degree of dependability

3.8.4 Ensuring confirmability

The term "confirmability" has the same meaning as the traditional concept of objectivity. Its goal is to demonstrate that the findings of the study can be confirmed by another study (De Vos 2005:347). To satisfy the confirmability criteria in terms of this study:

- The researcher was careful to ensure an unbiased approach in the data collection procedure and the inference of conclusions (Reid & Gough 2000:71).
- The appropriate steps were taken and procedures were followed in requesting permission to collect the data.
- Sensible ethical factors such as confidentiality, anonymity and research purposes were clearly explained to the participants before the data was collected.
- Permission to record the interviews was obtained before the interviews commenced.

3.9 Limitations of the study

This study had limitations that should be taken into account when considering its contributions. Before the results of the study are discussed and recommendations are made, it is useful to highlight some of the limitations that the researcher faced in conducting this research.

3.9.1 Limitations linked to individual interviews

- The researcher had to wait for a long time before the participants from ICASA could be interviewed. This was largely due to delays in ICASA's institutional protocol and strategic planning process, which resulted in the transformation of positions. On several occasions when interviews had been scheduled, they had to be postponed at the last moment. It took 17 months to conduct 18 interviews with staff members at both the head office and the regional offices.

The constant delays in obtaining permission to collect the data resulted in the reporting of results towards the end of a four-year study period.

- The study was conducted with limited financial resources and this necessitated the researcher to conduct telephonic interviews instead of face-to-face interviews with the regional education officers.

- Not being able to interview education officers at other regional offices and some staff members who could not make themselves available for the study make it difficult to say with certainty whether the data would have been different if all the staff members participated.

- The absence of a pilot study to pre-test the measuring instrument (interview guides) made it impossible to identify key issues from which the interview guide could be developed.

- The most important limitation of qualitative research is that the findings in the individual interviews cannot be directly generalised to the larger population. The reasons for this in terms of the current study are:
  - Participants are often not selected randomly. Individuals who participated in the individual interviews were selected purposefully because they were regarded as suitable to provide reliable data.
  - The number of the participants in the individual interviews was too small to be representative of the population.
  - Qualitative research does not collect numerical data from a representative sample of the population. As a result, this research could not be subjected to statistical analysis to estimate to what extent the opinions of the participants reflected the opinions of the population of this study.

3.9.2 Limitations linked to focus group interviews

- Although the researcher allowed the participants to talk to one another, ask questions and express their feelings, she had very little control over their interaction other than keeping the participants focused on the topic.

- It was difficult for the researcher to clearly identify an individual message because the participants in a focus group do not express their own definite

individual views regardless of the fact that they talk about the same topic.

- Individuals who lacked confidence were too shy to share their experiences with other members of the group.
- The data is not fully confidential because information is shared with the other members of the group.

3.10 Addressing the limitations of the study

The limitations of this study led to some interesting possible themes for future research.

3.10.1 Individual interviews

- Despite the researcher being unable to interview the other regional education officers, the participation of senior officials (such as the councillors and senior manager) to an extent made up for the officers whose views were not expressed.
- Questions in the interview guides were addressed to all the participants in the study. The researcher noticed that the staff members in the Public Education and Awareness Unit were uncertain about their answers to the questions on (i) the number of complaints received in a year, (ii) the number of claims that are resolved and (iii) the time it takes to resolve a complaint. The staff members in the Public Education and Awareness Unit referred the researcher to the complaints officers for these questions. This reflected the absence of a pilot study. To address the absence of a pilot study, the researcher left out the complaints-related questions to be responded to by the complaints officers.

3.10.2 Focus group interviews

- The groups were homogeneous with regard to similar characteristics (such as gender, education level and occupation) to make the participants feel comfortable and avoid expressing diverse opinions and experiences that are not applicable to this study.

- The researcher listened carefully to respondents and tried as far as possible to be non-judgemental.
- The researcher promoted debate by asking open-ended and probing questions, and at the same time ensured that everyone participated in the discussions.

3.11 Conclusion

This chapter provided a detailed description of the procedures (research methodologies) that were followed to acquire data to address the research objective of this study. The research design was described and this was followed by a description of the research methods that were used to acquire the data. The data was collected qualitatively by means of semi-structured individual interviews and focus group interviews. Face-to-face interviews were used to gather data from staff members at ICASA's head office, while telephone interviews were conducted with the education officers at some of the regional offices. Focus group interviews were conducted to explore the perceptions of consumers regarding the protection of their rights. The ethical issues of this study were then discussed and this was followed by an overview of the data analysis techniques that were followed.

The validity of the findings was confirmed by applying the criteria of credibility, conformability, dependability and transferability. The last part of the discussion highlighted the limitations of the study and explained how they were addressed.

It is important to recognise that this study is not a comprehensive exploration of the extent to which ICASA protects consumers. This study is therefore not intended to provide detailed information on consumer protection issues. Instead, it serves as a kind of pilot study that should be seen as a first step – a cross-sectional field study – in exploring the extent to which ICASA protects consumers.

CHAPTER 4
RESEARCH FINDINGS

4.1   Introduction

The aim of this chapter is to report on the findings of the research. The findings are based on the literature review and the interviews that were conducted. For analytical purposes, a coding procedure (described in chapter 3) was used to classify the qualitative data into themes and sub-themes. In order to determine and assess the extent to which ICASA protects consumers, this chapter looks at the themes and sub-themes that were identified during the data collection process.

4.2   Research findings

4.2.1 Individual interviews

This section presents the research findings on the basis of the data that was gathered qualitatively from the members of staff in ICASA's Consumer Affairs Division. Before the findings can be outlined, it is necessary to give a summary of the objective and assumptions of this study and the research methodology that was applied.

As stated in the previous chapters, this study was aimed at exploring the extent to which ICASA protects consumers as it is mandated to do by the ECA. The data was collected by means of qualitative semi-structured interviews (face to face and telephonic individual interviews) and focus group interviews on the basis of the following four assumptions:

(1) ICASA has complied with all the regulations that are stipulated in Chapter 12 of the ECA.
(2) ICASA's Consumer Affairs Division educates consumers about the channels that they have to use to lodge complaints.
(3) The Consumer Affairs Division embarks on education awareness campaigns to educate consumers about consumer-related issues.

(4) Many consumers are still unaware of their rights. From the questions that were asked and are reflected in the interview guide (appendix A), the following themes and sub-themes emerged.

4.2.1 Theme 1: Establishment of the Consumer Affairs Division

It was considered worthwhile to ask the participants whether ICASA had established a department to address consumer protection issues. The data from the study revealed that in accordance with the Telecommunications Act 103 of 1996, ICASA had established a Consumer Protection Department that was responsible for addressing issues that affect consumers of telecommunications services. With the enactment of the ECA, the name of the department was changed to the Consumer Affairs Division.

In order to obtain details about the division, the participants were asked to explain why they thought it was necessary for ICASA to establish the division. The responses were almost similar. Two of the responses (from the complaints officer and the councillor) were:

The establishment of the Consumer Affairs Division was based on the fact that the public has issues that they don't know where to take. Those issues emanate from the telecommunications, postal and broadcast problems or with regard to the interaction with the licensees.

ICASA has realised that service providers are giving consumers less information and come up with creative ways of making profit at the expense of consumer welfare.

The Consumer Affairs Division is located at ICASA's head office in Sandton (Johannesburg). The interviewees gave a thorough explanation of the division and its report chain. From the data, it became clear that the Consumer Affairs Division has nine regional officers and each officer represents a province and offers support in the region. At the time of the study, there were regional offices in Gauteng (covering Johannesburg and Pretoria), Bloemfontein, Port Elizabeth, Durban and the Western Cape.

The Gauteng regional office operated from the head office, while the Northern Cape regional office was based in the Western Cape. ICASA management was planning a realignment process to capacitate all the regions. The plan was to establish regional offices in Limpopo Province, Mpumalanga and the North West, and a Gauteng office outside the head office. The offices for Polokwane, Mpumalanga and the North West were also based at the head office. The education officers for Limpopo Province and Mpumalanga reported to the regional manager for Pretoria and the education officer for the North West reported to the regional manager for Gauteng.

In terms of the report chain, the participants mentioned that the Consumer Affairs Division reported via the managers, senior managers and general manager to the CEO. The CEO reported to the Councillor: Consumer Affairs and the councillor reported to the chairperson. This was in accordance with the key performance areas of these positions.

The report chain for the regional education officers differed slightly from that of the staff members at the head office. It was mentioned that before the regional offices existed, the education officers were based at the head office and reported to the manager of the Public Education and Awareness Unit, who then reported to the senior manager of the Consumer Affairs Division. The senior manager reported to the general manager who, in turn, reported to the CEO. The CEO reported to the council and the council reported to the chairperson.

When the regional offices were established, the line of reporting changed. The regional education officers now reported to the regional managers for the specific regions. With the exception of the educational officer in Bloemfontein, all the education officers described the current reporting system as complex. When the education officers were asked whom they reported to, the education officer for the Northern Cape indicated that the question was difficult and said:

Before July 2008, I reported to the Manager: Public Awareness and Education. Subsequent to ICASA's restructuring, there is a plan that all regional education officers report to regional managers.

The education officer in Nelspruit responded as follows:

For the fact that regional offices are historically engineering driven, the regional managers who are from the engineering background are not conversant with my job description.

The education officer in Bloemfontein was comfortable with the dual reporting line. He said:

I report to the regional manager when it comes to resources and control because I am based in the regional office. The regional manager is there to foresee that I report to work. I also report to my line manager (Consumer Education and Awareness) for strategic reasons, such as monthly reports. My line manager controls the budget for events and it is essential that I report to her in the planning of events.

Sub-theme 1: Functions of the Consumer Affairs Division

In relation to consumer issues, the Consumer Affairs Division derives its mandate from the ECA, the ICASA Amendment Act 3 of 2006 and the Postal Services Act 22 of 2006. The functions of the Consumer Affairs Division are dictated by these three regulatory Acts. The responsibility of the Consumer Affairs Portfolio (which is headed by a councillor) is to develop, draft, prescribe and publish regulations regarding the protection of consumers. One of the councillors who were interviewed described the functions of the Consumer Affairs Division as follows:

The Consumer Affairs Division looks at whether operators attend to the type of consumer complaints, be it service, roll out of infrastructure and dropped calls.

With regard to the regulatory powers of the Consumer Affairs Division, all the participants proudly mentioned that ICASA was granted powers to draft regulations. One of the responses was:

Unlike in the previous Telecommunications Act (Act 103 of 1996), the Consumer Affairs Department now has more powers to deal with issues of consumers. Under the Telecommunications Act (Act 103 of 1996), the authority was not part of the drafting of regulations and was fairly limited in terms of its role.

The participant supported this response by proudly telling how the division has progressed with the drafting of regulations as is mandated by the ECA:

As mandated by Chapter 12 of the EC Act, the Consumer Affairs Division has set up the Code of Conduct for Licensees in the Electronic Communications Industry, regulations on the Code on People with Disabilities, and has established the Consumer Advisory Panel. We are currently busy with the draft regulations on setting the minimum standards for an end-user and subscriber charter.

(Detailed information about the Code of Conduct for Licensees, the Code on People with Disabilities and the Consumer Advisory Panel will be given later when theme 4 is discussed.)

4.2.2   Theme 2: Functions of the Public Education and Awareness Unit and the Complaints Handling Unit

The data on the functions of the Consumer Affairs Division made the researcher aware that the division consists of two units: the Public Education and Awareness Unit and the Complaints Handling Unit. It was therefore essential to ask the participants about the specific roles of these two units.

The role of the Public Education and Awareness Unit, described by the manager of the unit, is to *"make or conduct public awareness and education of the public. Basically, the awareness is about making the public aware of the functions of ICASA and empowers consumers to make informed decisions when using communications and postal services"*.

All the education officers mentioned that the unit conducts consumer awareness programmes to educate consumers about their rights, their ability to exercise their rights whenever they purchase communication products, the services that are available for people with disabilities and current developments in the sector. The role of the Complaints Handling Unit is to receive and address complaints from consumers regarding communication services and products.

Each of the units was headed by a manager who reported to the senior manager of the Consumer Affairs Division who, in turn, reported to the general manager of the Consumer Affairs Division.

The participants also mentioned that the work of the two units overlapped and that they acted reactively and proactively. A probing question was asked to provide more information on the proactive and reactive functions of the two units. The participants described the proactive function as the process whereby the Public Education and Awareness Unit educates consumers through awareness campaigns, provide them with information about developments in the sector, listen to consumer complaints and refer the complaints to the Complaints Handing Unit, which then follow up on the complaints. In the reactive process, the Complaints Handing Unit receives complaints from consumers and starts to identify complaint trends. The complaint trends often pointed to an education issue because most outreaches were motivated by the complaints which the Complaints Handling Unit received. The Public Education and Awareness Unit reacted to the concerns by conducting education campaigns and road shows about the matters that were identified in the complaint trends. In turn, when the Public Education and Awareness Unit identified an issue as a result of the education campaigns, it brought the issue to the attention of the Complaints Handling Unit.

One of the participants praised the Consumer Affairs Division for moving from its historically reactive role, which was mainly to respond to consumer queries. The participant commented on the division's progress in adopting a proactive approach as follows:

We can now deal with customer queries and in the meantime embark on proactive interventions.

The Consumer Affairs Division conducted public awareness campaigns to make the public aware of the virtual airtime contract which was regarded as a burning issue. The education officer who represented Limpopo Province confirmed that the public's awareness about virtual airtime was increased by the campaign:

In most cases ICASA *makes use of the public radio stations to make awareness campaigns. We have already conducted several awareness campaigns on the virtual airtime contract with commercial radio stations such as Thobela, PhalaPhala, Motsweding and Lesedi FM.*

Participants were requested to explain what virtual airtime is. The participants enlightened the researcher by describing a virtual airtime contract as a type of fraud whereby a consumer received a call or short message service (SMS) from an unknown caller or service provider. The SMS read: "You have won airtime." The cost of the airtime would be disclosed. In most cases, consumers accepted the free airtime. Once the consumer accepted the offer, he or she entered into a contract. At a later stage, the consumer discovered that the amount of the airtime that was offered for free had been deducted from his or her bank account.

One of the participants gave a more elaborative explanation of the virtual airtime contract as follows:

A virtual airtime contract is an agreement entered into between the prepaid customer and the service provider where a prepaid customer gives the service provider the consent to debit his or her bank account in exchange for airtime. The loading of airtime is done on a month to month basis. This service is said to be the one option where prepaid customers are offered contract rates without having to enter into a contract. The prepaid customers get to choose the date on which the phone should be loaded with airtime. The airtime can only be loaded once the service provider has deducted money from the customer's account for the purchase of such airtime. The

agreements are concluded telephonically, without the customer having to read the terms and conditions of such a service.

In trying to explain further what virtual airtime is, the participants said that the Consumer Affairs Division had conducted an investigation after receiving complaints about virtual airtime. The Consumer Affairs Division had identified organisations or companies such as Cell2Cell, Flexicell and Platinum Africa as businesses that buy bulk airtime from mobile network operators and sell the airtime to prepaid subscribers. These virtual airtime service providers or companies buy bulk airtime from the licensed service providers with whom they have links and sell it for a profit. Platinum Africa has links with the service provider Altech Autopage, which is contracted to Cell C, Vodacom and Mobile Telephone Networks (MTN). Flexicell purchases bulk airtime and SMSs from Cell C, Vodacom and MTN.

When asked how ICASA can regulate this fraudulent behaviour, the response from the participants was that ICASA does not have full authority to take steps against how the virtual airtime services are being provided, especially since the virtual airtime service providers are not licensed by the Authority. ICASA could conduct an extensive public awareness campaign to warn and advise consumers not to support such business practices.

This kind of practice can be considered misleading advertising, which is always a basis for lodging a complaint. However, it is not stated in the Code of Conduct for Licensees that a contract can be entered into by SMS. The code only makes provision for a telephonic contract and the licensee has to provide the consumer with a copy of the terms and conditions of the contract within seven working days after the contract was entered into (ICASA 2007c:5).

After the roles of the two units were explained, it was important to obtain information about the specific roles of both the complaints officers and the education officers.

(1) Specific roles of the complaints officers

The response of one of the complaints officers was captured as follows:

As a complaint officer, my role is mainly to handle consumer complaints. I get a complaint allocated to me from my manager, go through it and see if issues raised fall within the Consumer Affairs Division's mandate. Issues that fall within the division's role include, for example, billing complaints – when the consumer is not happy with the manner in which the service provider billed the complainant. We don't deal mainly with intensive contract terms and conditions because those fall outside our jurisdiction. The division cannot tell whether the contract is moral or immoral.

(2)   Specific roles of the regional education officers

All the regional education officers indicated that their role involved more than public education and awareness. The following comments capture the role of the education officers in the different regions:

Nelspruit: *I am not sure whether I am an education officer, a manager, a complaints officer or an administrator. My work is more than expected as I handle complaints, conduct workshops, road shows and public consultation meetings on new regulations.*

Bloemfontein: *As an officer I do public awareness campaigns, conduct research, do inquiries and receive complaints as there are no complaints officers in the regions.*

North West: *What I am doing is more than the job itself. In addition to what I am supposed to do, say, creating strong stakeholder relations and preparing promotional material, I facilitate logistical issues and do events management.*

Northern Cape: *My role is more complex. I don't have administrative supporters as head office does. I engage myself with a lot of administration work. In my mind regional education officers are responsible for all the activities.*

Limpopo Province: *As an education officer, I address any question that comes including handling of complaints. I am used to the type of work I am doing and find it normal.*

4.2.3 Theme 3: The handling of complaints

In order to make appropriate recommendations from this study, it was imperative to find out the number of complaints which the Complaints Handling Unit received, how many were resolved and the time it took to resolve a complaint. Two sub-themes emerged from the interviews.

Sub-theme 1: Complaints-handling procedures

All the participants indicated that every service provider is obliged by the Code of Conduct for Licensees to inform consumers that they can lodge complaints with them. Service providers also have to advise consumers to refer unresolved complaints to ICASA or when the consumer is not unhappy with the way in which the service provider resolved the complaint.

The following extracts from the responses relate to the complaints handling procedures:

First and foremost, the Complaints Handling Unit utilises alternative dispute resolution (ADR) to mediate a settlement between the service provider and the consumers within a period of 14 days.

The consumers are advised to first attempt [to resolve] the complaint with the operator. If not resolved within 14 days, it is taken to ICASA for mediation. If not, the CCC [Complaints and Compliance Committee] comes in to convene a hearing whereby the consumer and the operator are invited.

Consumers who experience problems with communication services and products are notified to involve ICASA only when the service provider fails to solve their complaints or when they feel dissatisfied with the way the complaint has been

handled. Service providers whose complaints have been lodged against are also compelled by the Code of Conduct for Licensees to provide the complainant with the reference number.

The researcher asked the participants whether the Consumer Affairs Division has procedures in place for lodging of complaints. All the participants said that the division had procedures, but complainants who want to lodge a complaint with ICASA are asked to quote the reference number from the service provider.

One of the participants indicated that there are steps in place to attend to complaints. He said:

The first step is that complaints received are sent to the office of the Manager: Complaints Handling who will enter all received complaints into a register book. The complaints are registered by case number; date received and closed; the name of the complainant; and the complaint category.

A thorough explanation is that upon receiving the complaint (irrespective of whether it has been lodged by e-mail, fax or telephone), the complaint officer requests that the complaint be lodged in writing and later contact the complainant telephonically to follow-up and to get the full details of the complaint. The details include the area and province where the complainant lives. Then the complaint is filed as indicated in the complaints register below. Complaints officers can detect from faxed, e-mailed and/or telephonic follow-up or complaints the area and province where the complainant resides. If the complaint is (for example) about a faulty Telkom line, the complaint officer can request the complainant to provide the number of the line that is faulty. Below is the table that shows how complaints are filed.

Table 4: Complaints register

Case number	Complainant	Respondent	Nature of complaint	Date received	Date closed	Pending cases	Closed cases
CT/G857/07	PIETER CHRISTIAN	CELL C	BILLING	03/08/2007		1	
CT/WC858/07	SANDRA KARELE	CELL C	BILLING	03/08/2007		1	
CTKZN/859/07	JOHN NASH	MTN	NETWORK COVERAGE	03/08/2007	24/08/2007		1
CT/NW860/07	WANDI MCUBE	AUTOPAGE	GENERAL CUSTOMER TREATMENT	03/08/2007	25/08/2007		1
CT/WC861/07	MOHAMMED ADAMS	TELKOM	FAULTY HANDSET	03/08/2007		1	

When asked how ICASA categorises complaints, one participant said:

Complaints are categorised in terms of main categories like billing; line installations; major service providers, for example Vodacom, Cell C and Telkom; and across provinces.

It was established that the manager of the Complaints Handling Unit allocates complaints equally amongst complaints handling officers within two working days from receiving them. The officer who is allocated a complaint then writes a letter of acknowledgement and sends it to the complainant within two working days. The service provider is invited to comment on the case and to forward any relevant information about the complaint to the complainant.

A probing question was asked to ascertain what happens if the complainant is still dissatisfied with the information the service provider provides. The response was that the matter is forwarded to the manager who will act on it by liaising with the service provider concerned. If the matter is still not resolved, it goes to the general manager and the council, and then to the Complaints and Compliance Committee (CCC) for arbitration.

The participants indicated that the Consumer Affairs Division uses publicity material to publicise guidelines that set out the procedures for lodging complaints. The publicity material is distributed in public places. The website also sets out the procedures for lodging complaints.

After outlining the complaints procedures, the participants were asked whether or not consumers are aware of the processes for lodging complaints. All the participants thought that consumers are neither aware of ICASA nor the procedures for lodging complaints. They found that instead of first lodging a complaint with the service provider, the consumer approached ICASA directly.

One of problems officers pointed out was that consumers lacked the facilities to lodge complaints and emphasised:

Consumers have complaints; it is just that they don't have facilities of sending a complaint. It is a regulation that complaints should be put in writing and people, especially those staying in rural areas; have to go to town to fax a complaint. Because faxes are charged at R5 per page, people end up losing interest in lodging complaints.

When the participants were asked about the time it takes ICASA to resolve a complaint, the responses reflected what happened when the Telecommunications Act was in place:

During the Telecommunications Act 103 of 1996 era, ICASA and the operators had the MOU that harmoniously requested operators to respond to ICASA via the Complaints Handling Department within 14 days. The MOU was not a binding regulation and therefore operators could take more than 14 days to respond to complaints. The operators were aware that the MOU did not give the Complaints Handling Department the powers of compelling the operator to give redress. Operators were said to be passive and uncooperative over the complaint brought against them.

The participants were concerned that in the era of the MOU, the nature of complaints determined the time that it took the division to resolve a complaint. This concern is evident in the following comment:

A fault report against Telkom and clearance thereof could take three to five days. A bill complaint would take up to one month. Faulty handset complaints against mobile network operators could go up to three months. The reason for prolonged faulty handset complaints is that licensees or operators are not the ones who manufacture the equipment. The mobile network operators send the equipment to their service providers who have in-house repair shops.

Another participant raised his concern about the time it took to resolve complaints by saying:

The prolonged resolution of complaints was caused by the reluctance on the part of service providers to stick to proper turnaround times.

All the participants had confidence that, with the endorsement of the Code of Conduct for Licensees, the prescribed regulations applied strict rules in terms of the turnaround time of complaints. One participant said:

Currently, the MOU is nullified by the new system of complaints handling procedure. Licensees are bound to comply with the turnaround time of 14 days, which is set out in the complaints handling procedure. Failure to comply with the 14 days period will lead us to escalate complaints to CCC.

The researcher asked the participants to explain what the CCC is. The responses dated back to the period of the Broadcasting Monitoring and Complaints Committee (BMCC), which was established in terms of the Independent Broadcasting Authority Act 153 of 1993 to deal with broadcasting complaints. In July 2006, when the ECA and the ICASA Amendment Act came into effect, the BMCC was substituted by the CCC. The CCC was established in terms of the ICASA Act to adjudicate on complaints against any licensed entity in the sector.

A probing question was asked about how ICASA resolves complaints about faulty handsets that consumers buy from cell phone vendors such as Foschini, Edgars and Markham's. The responses outlined a distribution chain of cell phone services. Licensees/mobile operators such as Vodacom, Cell C and MTN have service

providers such as VodaWorld, Glocell, I-Talk Cellular, Nashua Mobile and Virgin Mobile. These service providers have their own in-house repair shops.

The participants said that consumer should buy phones directly from service providers because they have in-house repair shops to speed up the repair process.

The manager for complaints handling emphasised this by saying:

ICASA does not have a mandate over the mentioned cell phone vendors because they are neither licensees nor recognised dealers in terms of regulation. However, people who buy cellphones from these vendors are actually disadvantaged in terms of the prolonged repair chain.

Sub-theme 2: The number of complaints received and their resolution

Before the number of complaints that was received could be obtained, it was necessary to ask the participants about the nature of consumer complaints. All the participants explained that because of the ECA, ICASA had to take the postal services under its wings and became responsible for the regulation of broadcasting, postal and telecommunications services. The nature of the complaints that were received could be categorised under the three sectors as follows:

(1) *Broadcasting*: advertising, pornography, programming and technical problems
(2) *Postal*: lost or missing parcels, parcels that have been tampered with, post bank accounts, insurance on sent items and payments for post boxes
(3) *Telecommunications*: billing, faulty handsets, faulty reports, ADSL contract terms and conditions and loss of airtime

The nature of the complaints that were received could be categorised further according to the network operators as follows:

- *Telkom*: installations, faults, billing and not responding to ADSL complaints

- *Mobile operators*: faulty handsets (regarded as the most popular complaint), terms and conditions of virtual airtime contracts, network coverage and mobile Internet access
- *Telkom and mobile operators*: dropped calls

In response to the questions on the number of complaints that ICASA receives in a year and how many of the complaints had been addressed, the participants referred the researcher to ICASA's 2007/2008 Annual Report. The complaints that were received from April 2007 to March 2008 were 1 038: 637 complaints were resolved while 401 were still pending. For the financial year April 2007 to March 2008, ICASA resolved 61% of the complaints while 39% were outstanding (ICASA Annual Report 2007/2008:38). The number of the complaints that were resolved for the financial year April 2007 to March 2008 decreased from the number of complaints that had been received for the financial year April 2006 to March 2007. For the 2006/2007 review period, ICASA had managed to resolve 74% of the complaints while 26% was pending (ICASA Annual Report 2006/2007:42).

The number of complaints received was broken down into different categories, namely distribution across main categories, distribution among major stakeholders and distribution across provinces.

Table 5: Distribution of complaints across main categories

Complaints categories	No of complaints	%
Billing	168	16
Faulty handset	116	11
(All) ADSL	66	6
Telkom fault reports	117	11
Contract terms and conditions	87	8
Mobile number portability	36	3
Virtual airtime contracts	108	10
Network coverage	14	1
3G access	20	2
Blacklisting	32	3
Line installation	36	3
Community service telephones (CSTs)	16	2
General consumer treatment (GCT)	18	2
Loss of airtime	20	2
Unsolicited merchandise	14	1
Beyond jurisdictions	32	3

Source: ICASA Annual Report 2007/2008:3

Table 6: Distribution of complaints among major respondents

Major respondents	No of complaints	%
Telkom	265	26
MTN	222	21
Vodacom	203	20
Cell C	191	18
ICASA	24	2
Network coverage	7	1
Resellers	60	6
Other (fraud, Telkom, Internet, tariffs, etc)	60	6

Source: ICASA Annual Report 2007/2008:38

Table 7: Distribution of complaints across provinces

Province	No of complaints	%
Gauteng	627	60
Western Cape	166	16
KwaZulu-Natal	67	6
Eastern Cape	52	5
Limpopo Province	41	4
Free State	21	2
Mpumalanga	19	2
North West	35	3
Northern Cape	10	1

Source: ICASA Annual Report 2007/2008:38

Table 7 shows that the highest number of complaints was received in Gauteng. This was reflected in the following response of one of the participants:

Most complaints received are from urban areas, where facilities are available.

Another participant remarked about the availability of facilities in urban areas:

We receive most complaints via e-mail. Out of this point, one can tell that the person lodging the complaint has access to an Internet facility.

4.2.4 Theme 4: Protection of the rights and interests of consumers

To meet the aims of this study, it was crucial to ask the participants how ICASA protects the rights and interests of consumers. Their responses are given under three sub-themes.

All the participants were proud to mention that ICASA prescribes a Code of Conduct for Licensees as a way to demonstrate concern about the protection of consumers. A major response was:

Yes, ICASA has prescribed a Code of Conduct for Licensees in the Electronic Communications Industry. The code has been developed to fulfil the mandate of Chapter 12, Section 69 (1), of the EC Act.

The participants were asked to specify what the contents of the Code of Conduct for Licensees are. The data revealed that the code established general standards to which licensees have to adhere. There were different responses to the question and the participants touched on a number of general standards that are contained in the code. The following key standards were identified:

- provide consumers with information about services and pricing
- keep consumers' personal information confidential
- non-discrimination against people with disabilities in the provision of services

Some participants also mentioned that licensees have to display their complaints handling procedures and advise consumers to refer complaints to ICASA. One of them said:

We often come across consumers who are not happy with the way the service providers responded to their complaints. It is indicated in the code that the licensees should advise consumers to refer the complaint to the authority if they feel dissatisfied with the way the service providers handled their complaints.

One of the participants touched on the issue of the terms and conditions of contracts and said:

Service providers are obliged to provide consumers with a copy of the contract. We often experience problems with people who don't understand the contents of the contracts. The code stipulates that operators should use easy and understandable English language in the contract.

The definition of the rights of consumers in the code was mentioned the most by the participants. All the participants stressed that the code stipulates that consumers are entitled to be informed about their rights to choose, to be informed, to change to another service provider, to lodge a complaint and to seek redress.

The participants were asked whether or not operators are committed to the standards that are prescribed in the Code of Conduct for Licensees. One of the participants doubted the commitment of operators and said:

Like I said earlier, consumers are not aware that they can refer the complaints to ICASA should they feel uncomfortable with the way the service providers resolved their complaints. This is one example of showing that service providers are not committed to the standards as set in the code of conduct.

Responses to the questions about the definition of "consumer rights" in the code of conduct, operators' awareness of consumer rights and penalties if operators ignore consumer rights were obtained. The participants mentioned that licensees are obliged in terms of Section 3.4 of the code to "inform consumers about their rights in terms of the services they provide". The consumer rights that were mentioned by most of the participants were the right to receive information, the right to receive services, the right to choose, the right to lodge complaints and the right to seek redress.

Before the participants responded to the question about whether or not network operators are aware of consumer rights, they explained to the researcher what "the service provider" is. One of the participants said that MTN, Vodacom, Cell C and Telkom were examples of network operators and explained that these network operators can also be service providers.

The participants explained further that network operators are sometimes given two licences: one for operating the network and the other for providing services. Other service providers like Autopage, Nashua Mobile and Virgin Mobile operate separately from network operators. Sometimes the service providers sign contracts with network operators to provide services.

The responses regarding whether or not network operators are aware of consumer rights were based on the fact that all the licensees were given copies of the code of conduct. The code serves as the network operator's first point of reference when addressing consumer rights. One of the participants said:

Yes, operators are aware of consumer rights but ignore them. We experience problems with service providers who fail to treat consumers with respect.

In response to the question regarding penalties if operators ignore the rights of consumers, all the participants confirmed that there were penalties for non-compliance with the code. One of the participants said:

Unlike with the MOU, which was just a nice mutual agreement between ICASA and the operators, the code of conduct provides room for penalty in terms of non-compliance.

In their responses, all the participants emphasised that failure to comply with the provisions of the regulations is an offence and can result in the CCC imposing a penalty.

Sub-theme 2: Code on People with Disabilities

The participants confirmed that ICASA has established regulations for providing services to people with disabilities. It was necessary to make a follow-up about the established regulations. The responses showed that ICASA set out to protect the rights of people with disabilities even before the enactment of the ECA. In terms of Section 17 of the ICASA Act, ICASA had established a special advisory committee for people with disabilities in May 2003.

The advisory committee was established to advise the communications sector on how to address the special needs of people with disabilities. To ensure that the needs of people with disabilities are taken into account, a draft Code of Good Practice for People with Disabilities was developed for the telecommunications and broadcasting industries.

Before the draft Code of Good Practice for People with Disabilities could be finalised, the ECA came into effect and mandated ICASA to establish regulations on people with disabilities. In accordance with the mandate in Section 70 of the ECA, ICASA prescribed regulations in a Code on People with Disabilities, which is applicable to all licensees. One councillor mentioned the loopholes of the code and said:

The Code on People with Disabilities replaces the Code of Good Practice, which dealt only with ICASA and operators and excluded the consumers.

As was done with the Code of Conduct for Licensees, a probing question was asked about what the contents of the Code on People with Disabilities are. The data revealed that the Code on People with Disabilities sets out the basic standards that broadcasting service licensees, ECS licensees and ECN licensees have to adhere to in terms of providing services and products to people with disabilities. The participants focused only on the standards for ECS and ECNS licensees because the Consumer Affairs Division dealt mostly with them. The major objective of the basic standards is that licensees have to ensure that their services are accessible and available to people with disabilities. A probing question was asked about how the licensees ensure that services are indeed available to people with disabilities. In response, one of the councillors raised his concern about this and said:

The use of a mere telephone handset is one of the earliest technologies that deprived individuals with disabilities of accessibility. People with speech, sight and physical impairments have difficulty when using telephone equipments. A regulation on people with disabilities tries to accommodate the needs of people with disabilities and provides options for making services available and accessible.

In explaining the options, the councillor mentioned that licensees should make available telephones with Braille markings for people who are blind. He highlighted the needs of deaf individuals to have text rather than voice. Because of their unique kind of communication, deaf people use a teletypewriter (TTY).

The researcher asked what a teletypewriter is. The councillor explained that a teletypewriter is a device that consists of a keyboard, a display screen and a modem that operates over telephone lines. If a deaf person communicates with another person who uses TTY, both of them can send and receive text.

Most of the participants' responses focused on the accessibility of public pay phones and community service telephones. One of them pointed out:

Licensees are required in the regulations to install public and community service telephones that cater for people who use wheelchairs. At most times, people on wheelchairs cannot access community service telephones. However, licensees must provide ramps to facilitate wheelchair access.

The provision of telephones for individuals who are hard of hearing was also mentioned. One of the participants said that operators are required to install telephones with amplification. She commented that amplification enables someone to increase the volume while he or she is speaking over the phone.

Sub-theme 3: End-user and subscriber service charter

All the participants mentioned that ICASA was working on regulations to set out standards for an end-user and subscriber service charter. One of the responses was as follows:

Adding to the Code of Conduct for Licensees, we also have regulations for people with disabilities. We are currently working on regulations that are going to look at an end-user service charter that is supposed to be used by licensees.

The researcher asked the participants how far ICASA was in finalising the regulations. The response was that the regulations was still being drafted and had to be finalised.

Before the researcher could ask about the processes that were followed in prescribing regulations, it was essential to get an idea of what an end-user and subscriber service charter is. One of the participants defined the charter as follows:

The service charter is the charter that looks at the billing system, fault repairs, gadgets, equipments and other issues that pertain to the consumer.

Another participant added that the service charter sets out complaint procedures and how consumers have to submit their complaints to ICASA.

The participants were then asked about ICASA's policy-making processes for prescribing regulations that are adopted as legal documents. The responses made reference to an end-user and subscriber service charter. Before the participants explained the process, one of them pointed out that there was internal and external consultation. Consultation about the charter started internally with the Service Charter Committee and then moved to the council. The Service Charter Committee did research, conducted an investigation and did international benchmarking on what other countries were doing. The committee drew up appropriate findings and made decisions. The decisions were submitted to the council for consideration before they were announced to members of the public. Once the council approved the draft regulation, it was published.

The external consultation process was explained as follows:

The draft regulation is published 30 calendar days in terms of the EC Act of 2005. Public notice is posted on the website, media, library and stakeholders database, with the closing date for submissions. Members of the public, stakeholders, interested parties and organisations make written submissions to the authority no later than 60 days from the date of notice. Members of the public indicate in their submissions whether they would like to have oral presentations or written

presentations. The authority publishes a notice giving 21 working days and a schedule, including who is doing oral presentation and the time. A public hearing is called wherein the public make comments or presentations in favour of or against the draft regulations. The authority does the transcript of recordings to assess written or oral presentations. All arguments are incorporated and considered. The regulation is reviewed and if there are substantial changes, the authority republishes the final or revised regulation. The regulations are then sent to the government printer to be gazetted.

The researcher asked the participants how ICASA invites the public to submit their written comments on the draft regulations. The response was that ICASA uses its website and places copies of the draft regulations in ICASA's library, at the government printer and in the press.

4.2.5 Theme 5: Information provision and education

The participants were asked whether or not ICASA disseminates information to consumers. The responses of all the participants were positive and confirmed that ICASA disseminates information to consumers. In response to questions about the kind of information that is disseminated and how it is disseminated, one of the education officers said:

We go out to communities and give them information about the workings of ICASA, for example what ICASA is and what its functions are and how consumers benefit from the workings of ICASA. We also inform the consumers about any new regulations that has been published such as the Code on People with Disabilities.

The manager of the Public Education and Awareness Unit added:

Once the regulations on the end-user and subscriber charter are finalised, we will develop material for consumers informing them about the regulations and how they can benefit from them.

The responses to the question about how ICASA disseminates information to consumers were as follows:

When regulations are promulgated, we develop promotional materials in the language spoken in that particular area, organise workshops and road shows to inform consumers about the regulations.

When a regulation (for example the Code on People with Disabilities) is promulgated, we make people with disabilities aware of their rights that the regulation promotes. For example: if a person is blind and has a contract with MTN, he or she has a right to ask the contract to be in Braille.

The consumers are invited to the road shows through distribution of promotional material in all public spots such as community phone shops, public libraries, post offices, schools, local municipalities and community offices.

When there is a burning issue, such as number portability, road shows are announced on community radio stations. This is another tool of making consumers aware of what is happening in the ICT industry.

A follow-up question was asked about how ICASA announces and conducts interviews on community radio stations. One of the responses was:

ICASA has a MOU with the community radio stations. There is a clause on the general licence conditions of community radio stations which oblige them to offer ICASA free-to-air service if there is a public interest issue. Education officers meet with station managers of the community radio stations to arrange the time and date of broadcasting the particular issue.

The regional education officers were asked who their first point of contact is when they organise road shows in the communities. The responses differed from one province to another. All of the education officers' responses were similar to the following:

Firstly, they have to establish the language spoken in that area and create pamphlets in the spoken language. Secondly, establish whether residents get notification through tribal authority or municipalities.

If the residents get notification through a tribal authority, the education officers consult the tribal authority to get accessibility. If it is through municipalities, they contact the particular municipality to gain access to the community. However, the education officer in Nelspruit said:

I have noticed that road shows in Gauteng cannot be conducted the same way as in Mpumalanga because provinces have totally different dynamics and their own ways of doing things.

The education officer who represented the North West acknowledged that even though one can go through a municipality, one still has to contact the tribal authority. She indicated that 70% of access to the community is done through the tribal authorities.

The education officer in Bloemfontein said that organising road shows in the province was difficult because most parts of the Free State are owned by farmers who do not release their employees to attend the road shows. He said:

It is very difficult to get audience in Bloemfontein. Most parts of Bloemfontein is owned by farmers and the only areas that have villages are QwaQwa and Thaba-Nchu. Getting access to the farm, one has to convince the farmer that the workshop is not for political reasons. The farmer cannot compromise his time and stop his or her workers for me to address.

The education officers informed the researcher that if residents get notification through municipalities or civil society organisations, they have to build strong stakeholder relations and maintain the relationships.

The education officer for the Northern Cape added that after the education officers build stakeholder relations, they draw up a stakeholder database that has to be downloaded and captured.

The researcher asked the education officers what the term "stakeholders" refers to. The education officers said that stakeholders include the Government Communication and Information System (GCIS), municipalities in a province and the premier's office because they have more information about the area. Other organisations with which the education officers build relationships include the Universal Service and Access Agency of South Africa (USAASA), the National Consumer Council (NCC), the South African Human Rights Commission, the South African National Council for the Blind, the National Consumer Forum (NCF) and the Deaf Federation of South Africa (DeafSA).

A probing question was asked about how the education officers made arrangements with municipalities to have road shows. All the education officers said that they teamed up with the GCIS, which they believed did a similar job as that of ICASA. At the beginning of the year, the education officers and the officials of the GCIS compare their annual calendar of events to identify activities that they can perform together. One of these activities is the International Consumer Awareness Day.

The responses on how ICASA organises road shows with the premier's offices in the different provinces is captured by the following response:

Premier's offices have certain programmes in certain departments that focus to assist in exactly the kind of objective that ICASA has, that is the Public Awareness and Education Division. Apart from the department the premier's office also has a Special Projects Division, which focuses a lot more on the social responsibility side of activities and has themes allocated. If a theme is around "people with disabilities", the unit that deals with people with disabilities in the premier's office will provincially coordinate such event and support ICASA's event.

The regional education officers were asked whether or not they aligned ICASA's plans with those of the stakeholders. Their responses were positive, with the exception of the education officer for the Northern Cape. The education officer for the Northern Cape expressed his experience as follows:

It is difficult in the Northern Cape province because of geographical locations. I have to travel to Kimberley and spend basically a couple of weeks there just to try and set up proper links and relations. From there, it is a question of slotting in programmes but depends on timing as well. Simply because in government there are always strategic planning processes, if you missed the cycle, then you have to wait another year to get it at the right time.

ICASA targets people of all ages and covers both urban and rural areas. One of the participants said:

Sometimes we go hand in hand with the national calendar. In June we educate youth about career opportunities in the ICT sector. The month of August is meant for women.

When a road show targets youth, the education offices contact youth through provincial youth commissions or Umsovombu. If the target is school learners, the education officers work through the provincial education department to access the learners in the area.

Because the researcher was aware of the effort that ICASA makes in terms of information provision, she asked whether or not consumers were really aware of ICASA's role. One of the responses was:

Most people in the country are not aware of ICASA and its functions.

Another participant expressed his opinion about people's unawareness of ICASA as follows:

How can consumers know ICASA when they take ICASA campaigns lightly?

The participant referred to one of the awareness campaigns that was conducted in Limpopo Province with a small number of people and said:

Large number of people flocked to the hall at the time of providing free gifts like T-shirts and pens to those who attended the campaign.

In contrast to the above, the education officer who represented the North West reported that she had conducted an awareness campaign in Morokweng with the maximum participation of audiences. She indicated that the Morokweng campaign was the most successful campaign ever in which the CEO participated. (See appendices E and F for pictures of the awareness campaign in Morokweng, North West province.)

Although the target audience of a campaign is the public at large, people in rural areas are especially targeted. One of the participants validated this by saying:

Out of our experiences and the high number of complaints received from urban areas, our priority is rural areas. The objective is to ensure that previously disadvantaged areas which did not have access benefit from the road show.

The researcher asked a question about the kind of information that ICASA disseminates. The majority of the participants stated that the Public Education and Awareness Unit informs and educates consumers about their rights and how to exercise them. Some of the participants mentioned that the education officers inform people about ICASA and developments in the sector. Mobile number portability was mentioned as one of the regulatory developments that ICASA made the public aware of. The participants felt that even if a consumer guide on mobile number portability is established by the Markets and Competition Division, it concerns consumers who have to be informed about it. The participants defined "mobile number portability" as the ability to change the mobile network operator – be it Cell C, MTN or Vodacom – without having to change the cell phone number.

The participants confirmed that ICASA educates consumers about their rights. The following brief descriptions of the different consumer rights were given.

(1)   The right to information disclosure

The participants indicated that they raised awareness and alerted consumers that licensees are obligated in their license documents to provide consumers with specific clauses in their contracts. Consumers have the right to know the written terms and conditions of their contracts within seven days after entering into the contract. The consumer has the right to be notified about changes to the terms and conditions of the contract. One of the participants said:

Every package of equipment that the consumer uses must have all instructions and contract obligations clearly explained to the consumer.

It was emphasised that if the operator fails to disclose information about equipment, it cannot hold consumers liable to abide by it**.**

(2)   The right to choose

The participants stressed that in the era of competition, consumers have the right to select the network operators, products and services that they prefer. This point was linked to mobile number portability, whereby the consumer can change from one network operator to another without changing his or her cell phone number. One participant said:

Once the consumer is not happy with the service provider he subscribed with, that consumer has the right to move to another provider and retain the original number.

(3)   The right to representation

The participants explained that consumers have to be represented in the making and execution of policies and regulations. They linked the right to representation to the established of the Independent Communications Authority of South Africa Consumer Advisory Panel (ICASA-CAP). The ICASA-CAP was established in September 2007 and membership of the panel is drawn from a range of consumer organisations in all the provinces.

(4)   The right to redress

Service providers have a duty, as outlined in the Code of Conduct for Licensees, to give consumers fair hearing and settlement in cases where there are poor services and faulty equipment. The data shows that ICASA educates consumers about their right to complain and to get their complaints resolved. The participants indicated that they educate consumers about the complaints handling procedures that consumers have to follow when lodging complaints.

(5)   The right to privacy

Every consumer has the right to have his or her information kept confidential. In terms of Subsections 4.9 (a), (b) and (c) of the regulations for setting up the minimum standards for an end-user and subscriber service charter, the licensee has to protect the confidentiality of consumer information. One participant reiterated that licensees are not permitted to release the confidential information of the consumer without first consulting him or her.

(6)   The right to reliable, high-quality service

The participants revealed that in their public awareness efforts, they emphasise the consumer's right to quality service irrespective of the geographic region – be it urban or rural.

One participant commented on inferior equipment as follows:

As part of consumer awareness, we inform consumers about the communications equipments that have to be type-approved. Type-approved equipment are marked by an ICASA sticky label pasted on side of the equipment.

4.2.6 Theme 6: Involvement of consumer organisations in decision making

It is indicated under sub-theme 3 (see 4.2.4 above) that every regulation that is passed by ICASA is done in consultation with the public. ICASA has always involved

consumer organisations in the consultation process, from the time when they comment on the proposed regulations and the public hearing to when the regulations are incorporated in a final document.

In response to the question about the involvement of consumer organisations, the participants used the drafting of the Code of Good Practice for People with Disabilities in 2005 as an example of ICASA's commitment to involve the consumer in decision making. Before the draft of this document was developed, a stakeholder meeting was held in November 2003. The meeting involved organisations for people with disabilities, broadcasters and operators in the communications sector. The aim of the meeting was to discuss and come up with proposals to address the needs of various groups with disabilities.

After the discussions, the Committee for People with Disabilities produced draft codes of practice for the broadcasting and telecommunications sectors. The draft codes were circulated to the stakeholders who had attended the meeting so that they could comment on them. A second stakeholder meeting was held where it was agreed that the draft codes could be implemented on the basis of the principle of self-regulation until a clear legal framework was put in place.

The data therefore confirms the involvement of consumer organisations in ICASA's development of regulations. One participant remarked:

Before a regulation on a Code on People with Disabilities could be promulgated, workshops were held in Limpopo, KZN, Eastern Cape and Free State provinces with people with disabilities. Workshops were done in a form of consultations with organisations for people with disabilities to comment on the draft regulation.

The involvement of consumer organisations in the establishment of the ICASA-CAP was also explained. When the ICASA-CAP was established in September 2007, ICASA followed a consultative process during which interested individuals were invited to submit written comments and representations about the proposed regulations for ICASA-CAP.

The participants were asked to explain what kind of people ICASA-CAP represents. One of the councillors mentioned proudly that ICASA represents consumers in general.

The ICASA-CAP consists of representatives of the NCF and organisations that represent the youth, people with disabilities, different service providers and women. It was officially launched on 26 November 2007 and the researcher was present at its launch. When the participants were asked about how effective the ICASA-CAP has been since its inception, one of the responses was:

Up to so far, I would not say the CAP has been very effective. Since its inception, they have not submitted any advisory document to the authority. However, the situation may have to do with the teething problems which the CAP is going through. The teething problems may be related to the fact that the advisory panel is a new concept in the country and perhaps the benchmarks across the country are very few and far between.

Adding to this, the education officers for Nelspruit and the Northern Cape reported on the Consumer Representative Forum (CRF) which, at the time of the study, was still to be launched in Nelspruit. The education officer for Mpumalanga, who was also the organiser of the launch, explained what the CRF is. He said that the CRF would be an informal structure that would be responsible for and based in a particular community. It would operate at ward level and work hand in hand with local councillors, youth and home-based care structures. In addition, it would liaise with ICASA to help the community with issues such as network coverage and application for community broadcasting licences.

4.2.7 Focus group interviews

From the questions that were asked and are reflected in the interview guide (appendix C), three themes emerged from data that was analysed in terms of the focus group interviews.

(1)   Theme 1: Awareness of consumer rights

Two important questions were asked to explore consumers' opinions about the awareness of their rights. The participants were asked to mention any consumer rights that they could think of. No probing question was used and the question had to be answered spontaneously. The majority of the participants could not think of any consumer rights. Those who did respond mentioned the following ambiguous consumer rights: "the customer is always right", "the right to ask for a discount", "the right to be treated fairly/with respect/with care", "the right to compare prices" and "the right to be heard". Others mentioned their expectations: "we expect to be treated with respect", "we deserve to be treated in a friendly way".

Most often, the following rights were mentioned spontaneously: "the right to return products/get refunds/exchange products" and "the right to receive a bill for the product the customer buys".

After giving the participants the opportunity to mention consumer rights they could think of immediately, the participants were asked to indicate the ones they were aware of. The following consumer rights were read to the participants, who were later asked to explain how they understood them.

- Obtain information on products/equipment you want to use/buy.
- Choose the service provider from which to buy products.
- Choose the kind and quality of products you would like to use.
- Lodge a complaint if you experience problems with the services/products you use.
- Fair settlement in case complaints are not resolved.
- Receive understandable bills for the services you use.
- Receive and make calls in a private place.
- Have your opinions/views represented in policy making.

The data revealed that few participants were familiar with the right to obtain information on the products/equipment they wanted to use/buy. The participants' understanding of this right was that consumers have the right to find out a disparity in

prices for goods on shelves. Other said the right concerns obtaining information from the workers in the store about the items they want to buy.

The majority in this focus group were familiar with the right to choose the service provider from which you can buy products. The participants indicated that they have the right to choose any service provider from Vodacom, Cell C, MTN and Telkom.

One of the participants described the right to choose the service provider as follows:

This right is informed by the service provided and the prices charged. If MTN provides poor services and bad products, obviously I cannot choose it. I'd rather choose from Vodacom and Cell C.

Many participants were familiar with the right to choose the kind and quality of products they would like to use. In explaining this right the participants indicated that it refers to the right to choose between Nokia, Motorola, Samsung and LG. Others indicated that this right means consumers must feel free to choose the service provider according to the services and rates charged. To emphasise this, one of the participants said:

This right goes hand in hand with the price, quality and affordability. I may like the most recently manufactured cellular phone but if the price is high, I cannot buy.

Another participant said:

Cellular phones have different features. Some have cameras and radios while others do not have

Most of the participants were familiar with the right to lodge a complaint if they experienced problems with the services or products they used. Despite their knowledge on this right, the participants highlighted that the process of lodging a compliant can take longer than expected. When explaining this right, the participants indicated that they had the right to return a product to the service provider or the store that sells products. One of the participants stated:

In an event when the providers provide poor service or sells poor products I have the right to complain to the supervisor.

A couple of participants, who were familiar with the right to a fair settlement or redress in case complaints that are not resolved, expressed two options: leave the matter alone or take it to the police. One of the participants said:

I firstly contact the manager. If I am not satisfied with the response, I simply leave the matter.

The participants who were against reporting the matter to the police argued that the police do not sell the products and should therefore not be involved in the matter. One of the participants who were aware of this right indicated that the right is well known but consumers do not get any help even if they do lodge a complaint. He reported that he had bought a product that had a technical fault. He informed the branch manager who referred him to the head office. The head office then referred him to their technical service outside the head office. He was kept waiting until he was later informed that the person he was waiting for was not available. He was given another appointment, which he could not keep because of travelling costs.

The greater part of participants indicated their awareness of the right to receive understandable bills for the services they used. The participants explained that the bill serves as proof of payment in case a consumer has to exchange the goods. Most of the participants based their responses on the fact that one cannot return a product if he or she cannot produce a receipt. It is the responsibility of the seller to issue the receipt as proof of purchase and the consumer should retain it until the guarantee for the product has ended. The participants pointed out that the invoice reflects the date, number of items purchased and their prices, details of the seller (the name, address and telephone number), the cashier's name and the VAT registration number.

Most of the participants indicated that they were aware of the right to receive and make calls in a private place. This right was explained from the understanding that people should not listen to others' private conversations. One of the participants proclaimed that privacy is exercised more on cellular phones than on landlines. Another participant mentioned that the right to privacy is linked to Section 14 of the Constitution of South Africa, which states: "Everyone has the right to privacy." The women had a different understanding of the right to privacy as it is described in the constitution of the country. They felt that when it came to cellphones, they could not exercise their rights to receive and make calls in a private place effectively. The women argued that once they moved away to receive calls privately, their husbands assumed that their wives were having affairs outside of the marriage.

The small number of participants was aware of the right to have their opinions or views represented in policy making. The participants indicated that consumers should be informed when prices for pay phone charges increased. Information on price increases should be announced on television, radio or noticeboards. Some participants said that the right to have their opinions represented existed but was not practised because policies or regulations were implemented without their inputs. To support this idea, some participants pointed out that their views are never represented even if they put them in writing. Those who were against the idea that the right is not practised said:

We might not be aware of the procedures of submitting comments when policies are amended or before they are published. My understanding is that invitations are advertised in newspapers and not everyone reads newspapers.

The participants who were unaware of the above right said that they were not invited for public comments to ascertain their views. The researcher asked whether or not the participants were aware of the procedures of submitting comments to substantiate their claim. One of the participants said:

Mayors and ward councillors should announce in the community about the date of submitting the comments. Then we can submit our views.

(2)   *Theme 2: Awareness of consumer protection bodies*

The participants were asked to name any consumer bodies that protect consumer rights. As with their awareness of consumer rights, their spontaneous awareness of consumer rights bodies was low. A relatively small number of participants could name consumer rights bodies. Some of the participants named bodies that are not, strictly speaking, consumer protection bodies. The consumer protection bodies that they named were:

- Consumer Rights
- Competition Commission
- Small Claims Court
- Justice for All
- Independent Complaints Directorate
- Department of Trade and Industry (DTI)

The participants were later questioned on their knowledge of specific organisations that were listed in the questionnaire. The participants who claimed to know the consumer protection bodies could not recall their exact names. One participant said:

I don't remember the name, but the body is available to protect us when our rights are violated.

Besides the spontaneous awareness question, the participants were given a list of consumer protection bodies and asked to indicate the ones they were aware of. Less than half of the participants in the focus group were aware of the listed consumer protection bodies. Few participants were aware of the Broadcasting Complaints Commission of South Africa (BCCSA); the DTI as well as ICASA. The bodies that were least known were the Competition Commission, the National Consumer Forum of South Africa and the South African Consumer Association. The participants were asked to disclose where they heard about the consumer protection bodies that they were aware of. The common answer was radio and television.

When asked about the roles of the mentioned consumer protection bodies, the responses were as follows:

The BCCSA

The BCCSA deals with complaints on broadcasting services and if we are not satisfied with television programmes we have to complain.

The BCCSA provides address on how to lodge broadcasting complaints.

I can only see the BCCSA on television but don't check its functions.

The BCCSA is the organisation we can complain to in case SABC broadcasts an adult programme while children are watching. SABC should notify the viewers on the screen that the programme has strong language and age restriction is 18 years and above.

The DTI

The DTI provides guidance on business registration and is headed by Ms Ivy Matsepe-Casaburri, who serves as the Minister. This was surprising because at the time of conducting the interviews Minister Matsepe-Casaburi headed the Department of Communications (DoC).

ICASA

The few participants who indicated that they knew about ICASA said that they had read about the Authority in newspapers, saw it on television and heard about it on the radio. When asked whether they had an idea of what ICASA is all about, the majority of responses revolved around lack of details in terms of ICASA and its functions.

We hear about it on media, but we cannot tell exactly what it does.

I have heard about it on radio, but don't have the full details on its specific role.

The participants who knew about the Competition Commission, the National Consumer Forum and the South African Consumer Association could not name the bodies' exact roles . Some participants indicated that they heard about the bodies on radio and television, but they did not consider their specific roles. One participant indicated that the Competition Commission is a section of the DTI. Other participants claimed that the roles of the consumer protection bodies were not mentioned either on radio or television.

(3)   Theme 3: Actions taken to overcome problems experienced with the products or services

It was important to ask the participants what actions they would take if they experienced problems with the products they had bought or the services that were provided by the service providers. Some participants narrated their stories about the problems they had encountered with regard to services and products from service providers. Some of the problems did not specifically involve the service providers but resellers who purchased products from the service providers. Their narrations included the period and the manner in which the service providers attended to their problems. The participants experienced significant number of problems with mobile operators and the problems revolved around handsets and broken handsets, breaks during telephonic conversations, blocked phoned, poor network coverage, inaudible speakers and unclear screens.

A participant with eyesight problems explained that he could not clearly see the letters and numbers on the handset and relied on other people for help. One day he had requested his niece to recharge prepaid airtime on his cell phone, but the niece recharged the airtime on her own cell phone. The participant had made an appeal to government to consider increasing and broadening the numbers and letters on the handsets. Another participant who was in a wheelchair had experienced the same problem when his brother had deliberately recharged airtime on his own phone.

One participant reported he had experienced problems with the charger of his cell phone which always failed to recharge his battery completely. The indicator that the battery was being recharged appeared on the screen, but the battery itself was never recharged. He reported that he returned the cell phone to Foschini, where he had bought it. Foschini referred him to the Vodacom offices in Menlyn so that technicians could attend to the problem. The participant reported that he had been surprised when Foschini referred him to Vodacom because the cell phone was not purchased from Vodacom. The problem was solved after two weeks, but he had to pay for the service of Vodacom.

Another participant reported that the screen of her cell phone was not clear. She had taken the cell phone back to Foschini and it was returned to her after two weeks. The problem recurred until she decided to get rid of the cell phone.

Another problem involved poor network coverage with Cell C when the participant had visited Limpopo Province during vacation leave. The participant had informed Cell C telephonically about the problem, which was until the time of this study not resolved.

Another participant could hardly hear the caller on his phone. The phone was bought at Edgars, which referred the participant to MTN in Brooklyn. The participant had to wait in a long queue at MTN and never used the service provider again thereafter.

One of the participants who worked as a customer complaints officer at the OK Bazaars supermarket narrated his experience of customer problems. As a complaints officer, he dealt mainly with customers who experienced problems with cellphones they had purchased from the OK Bazaars. The OK Bazaars is a reseller that buys cellphones from one of the service providers and then resells them at a profit. The procedure for lodging a complaint is that the customer has to put his or her complaint in writing. The reseller is not allowed to exchange the product without the authority of the service provider's representative, no matter how urgent the customer's request is.

The participant mentioned a situation in which the customer who encountered a problem with cellphone reported the problem to the reseller on a Friday at 16h00 and expected the phone to be exchanged immediately. The customer was not aware that the service provider's representative does not work on weekends and that the product had to be taken to a laboratory for testing before it could be exchanged.

The participant related how lengthy the process is. He explained that when the customers are no longer interested in a cell phone because of problems they encountered, the complaints officer faxes the job card number to the service provider. The problems that are encountered are described and the representative of the service provider scans the international mobile equipment identity (IMEI) number and releases the job card number which outlines that the cell phone will be ready after 21 working days. When the cell phone has another problem after this period or the same problem recurs, another job card number is issued. Only after three job card numbers have been issued will the service provider be convinced that the cell phone has a technical fault and the customer qualifies for a refund or exchange. The participant advised members of the group to purchase cellphones directly from the service provider because the service provider has the technical services to sort out the problem quickly.

It is necessary to mention that not all the consumers had encountered problems. However, there were participants who experienced notable problems with the mobile operators, which included faulty handsets and poor network coverage. The problems that were experienced with Telkom were related to reporting faulty lines and incorrect billing.

(4) Theme 4: Making ICASA aware of the problems experienced with the service providers

The participants were asked whether or not they made ICASA aware of the problems they experienced with the service providers. In response, the participants indicated that they have not notified ICASA about their problems. The negative response was based on the fact few participants who were aware of the existence of ICASA do not know its functions.

When asked which complaint they would like to raise with ICASA, the participants mentioned network coverage, stolen and damaged handsets.

Having realised that a large number of participants were not aware of the existence of ICASA, the researcher explained and outlined the functions of ICASA; primarily consumer related matters.

4.3   Conclusion

This chapter set out the findings of the research study. The individual interviews with the ICASA officials produced a large amount of data which resulted in six themes with sub-themes. It was ascertained that ICASA established the Consumer Affairs Division to address consumer-related issues. The division is based at ICASA's head office in Johannesburg and has education offices in nine regional offices. The Consumer Affairs Division has two units: the Public Education and Awareness Unit and the Complaints Handling Unit. These two units work together and use reactive and proactive approaches. The Public Education and Awareness Unit identifies issues and brings them to the attention of the Complaints Handling Unit, which follows up on the issues. The Public Education and Awareness Unit embarks on education campaigns to inform consumers about the complaints handling procedures. The participants' responses indicated that despite the fact that consumers are informed about these procedures, many of them are neither aware of ICASA nor the channels for lodging complaints. This was evident in responses that highlighted the fact that consumers lodged their complaints directly with ICASA instead of first trying to have them addressed by the service providers concerned.

The responses indicated that in terms of fulfilling the mandate of the ECA, ICASA has shown concern for consumer issues. ICASA has established a Code of Conduct for Licensees and a Code on People with Disabilities and has sent out an invitation to the public to submit their written comments about regulations for an end-user and subscriber service charter. ICASA has also established the ICASA-CAP to ensure that consumers are represented in the decision-making processes. It is evident that

ICASA demonstrates a commitment or tendency towards a pluralist approach in its strategy.

The data from the focus group interviews with consumers highlights four themes. It revealed that the majority of consumers were unaware of consumer rights. The participants mentioned ambiguous consumer rights such as "the customer is always right", "the right to ask for a discount", "the right to be treated fairly/with respect/with care", "the right to compare prices" and "the right to be heard". In some instances participants mentioned their expectations: "we expect to be treated with respect", "we deserve to be treated in a friendly way".

The majority of participants were aware of the right to choose the service provider from which to buy products (the highest awareness), while the fewest were aware of their right to have their opinions/views represented in policy making (very low awareness).

The participants were asked to name the consumer protection bodies that they knew about and the least participants could identify all the functional consumer protection bodies. It is interesting that some consumers believed that the Small Claims Court, Justice for All and the Independent Complaints Directorate had consumer protection functions. Few participants were aware of the existence of ICASA and were unable to name its specific role.

It is clear that the participants experienced problems with faulty handsets, poor network coverage, reporting of faults and incorrect billing, but failed to make ICASA aware of their problems. The few participants who were aware of the existence of ICASA were unaware of its functions.

The two data collection methods, namely semi-structured individual interviews and focus group interviews, provided similar results in some instances.
The data from the individual interviews revealed that despite ICASA's education awareness campaigns throughout the country, consumers are not aware of the functions of the Authority; the data from the focus group interviews confirmed that the consumers lacked knowledge of ICASA. The participants could not inform ICASA

of their problems when the service providers failed to resolve their complaints because they were unaware of the complaints handing procedures.

The data that was collected from the focus group interviews yielded significant answers because it showed that despite the fact that ICASA embarks on education awareness campaigns to educate consumers about consumer-related issues, consumers are still not aware of their rights and how to exercise them.

CHAPTER 5
CONCLUSIONS AND RECOMMENDATIONS

5.1   Introduction

The purpose of this chapter is to draw conclusions and make recommendations on the basis of the data from the semi-structured interviews that explored the extent to which ICASA protects consumers as it is mandated to do by the ECA. This chapter shows how the objective of the study has been achieved. The key findings are outlined and this is followed by the conclusions of the study. The final section of this chapter outlines recommendations on the outcomes of the study.

5.2   Goal and objective of the study

In chapter 1 of this dissertation the goal of this study was outlined as conducting "applied research" because the study investigated social regulation, while its objective was described as being "exploratory" because the study explored the extent to which ICASA protects consumers as it is mandated to do by the ECA.

The objective was firstly achieved by means of semi-structured individual interviews that were conducted with the participants of the study. The individual interviews consisted of both face-to-face interviews and telephonic interviews. The participants were asked questions that are reflected in the interview guide (see appendix A). The interview guide had three key questions that comprised a number of sub-questions. The first key question was about whether ICASA has established a department that addresses consumer protection issues. The responses were positive because ICASA has established the Consumer Affairs Division to protect consumers. The division consists of two units: the Public Education and Awareness Unit and the Complaints Handling Unit. These units work together and follow reactive and proactive approaches.

The second key question was about how ICASA protects consumer rights. The participants indicated that ICASA has established regulations in a Code of Conduct for Licensees in which the rights of consumers are addressed.

The Code on People with Disabilities sets out the basic standards for broadcasting, ECS and ECN with regard to providing services to people with disabilities. At the time of conducting interviews, the regulations on setting minimum standards for an end-user and subscriber service charter are still drafts and have not been finalised.

In response to the third key question on whether ICASA provides information and educates consumers about their rights, the data revealed that ICASA conducts awareness campaigns and road shows to educate consumers about consumer-related issues and developments in the sector. ICASA also embarks on publicity drives to augment its public education and awareness programmes.

The research confirmed assumptions 2 and 3 of this study. Assumption 2 read: ICASA's Consumer Affairs Division educates consumers about the channels for lodging complaints; assumption 3 read: the Consumer Affairs Division embarks on education awareness campaigns to educate consumers about consumer-related issues. Assumption 1 read: ICASA has complied with all the regulations that are stipulated in Chapter 12 of the ECA. This assumption has not been confirmed, especially with regard to regulating to promote competition.

The objective of the study was also achieved by means of focus group interviews during which the participants were asked questions from the interview guide (appendix C). The interview guide comprised six general open-ended probing and non-probing questions.

The first non-probing question asked the participants to mention any rights of consumers that they could think of. It was evident that the participants did not clearly understand their rights because they mentioned ambiguous consumer rights such as "the customer is always right", "the right to ask for a discount" and "the right to be treated fairly".

Out of the eight consumer rights that were read to the participants, the right to have their opinions represented in policy making received the least awareness. The right to choose the service provider from which consumers can buy products was understood by most of the participants (the highest awareness) and the right to

receive understandable bills for the products they buy was the second highest awareness.

The participants were asked to name any consumer protection bodies that protect the rights of consumers. They named bodies such as Consumer Rights, the Small Claims Court, the Independent Complaints Directorate and Justice for All – which are not actually consumer rights bodies.

A list of the consumer protection bodies was read to the participants and they were asked to indicate the ones that they were aware of. Only few participants knew of ICASA (the lowest awareness).

An additional question was asked to find out what the participants thought they could do if they experienced problems with the services that are provided by service providers. While some participants preferred to return the products to the service provider concerned others opted to take the case to the police. Some participants opposed the idea of opening a case with the police on the grounds that the police force does not sell the products.

The last question that was asked was whether participants had made ICASA aware of the problems they experienced with the service providers. Because the participants were unaware of ICASA's functions, they could not lodge their complaints with the Authority.

With data from the focus group interviews enabled the researcher to confirm assumption 4 of this study, which reads: Most consumers are still unaware of their rights.

5.3   Conclusions of the study

The conclusions of the study are based on the responses to the research questions that guided the study.

5.3.1 Regulations that are prescribed to protect consumers

ICASA is mandated by Sections 69, 70 and 71 of the ECA to protect consumers. Section 69 of the ECA mandates ICASA to prescribe regulations that set out

(1) a code of conduct for licensees
(2) the minimum standards for an end-user and subscriber service charter

Section 70 of the ECA mandates ICASA to prescribe regulations for a code on people with disabilities.

Section 71 of the ECA mandates ICASA to establish a consumer advisory panel to advise the authority about consumer issues.

The data showed that ICASA has managed to fulfil the requirements of Sections 70 and 71 of the ECA. With regard to Section 69, ICASA has only succeeded in prescribing regulations for a code of conduct for licensees.

The regulations that set out the minimum standards for an end user and subscriber service charter is still a draft document. At this stage, ICASA has published the draft regulations in Government Gazette No 30792, dated 25 February 2008. ICASA has also published a notice that invites the public to submit written comments on the draft regulations. The notice was published in Government Gazette No 31807 of 2009, dated 13 January 2009. The Authority will conduct a proper public consultation process until the regulations are announced in the Government Gazette.

5.3.2 Measures to handle consumer complaints

The data revealed that ICASA had measures in place to deal with complaints even before the enactment of the ECA. The participants pointed out that when the Telecommunications Act 103 of 1996 was in force, there was no legislation that compelled ICASA to take the necessary measures to ensure that complaints were handled properly. The only measure ICASA could use was the MOU, which operators did not honour because they did not comply with the stipulated time of 14

days to respond to complaints that had been lodged against them. The MOU was not a binding regulation but merely a harmonious agreement between the regulator and the operators. It did not give ICASA the power to impose penalties for non-compliance. The resolution of complaints was often prolonged due to delays by the operators whose reluctance was strengthened by their knowledge that ICASA had no regulations that enabled the Authority to take legal steps against them for their non-compliance. ICASA must have gone through a difficult time because consumers relied on the Authority for the speedy resolution of complaints that they had brought against the operators.

The enactment of the ECA brought about changes because it gives ICASA the power to impose penalties for non-compliance. ICASA has established the CCC to investigate, make recommendations about and adjudicate on complaints. Consumers are advised to first lodge a complaint with the service provider concerned and to demand a reference number for the complaint. If consumers are dissatisfied with the way in which the service provider resolved the complaint or if the complaint is not resolved, they can then contact ICASA.

ICASA has prescribed procedures for handling complaints, which education officers educate consumers about. The complaints officers also inform consumers about the prescribed procedures when they find that consumers did not follow the correct procedures. The correct procedure for lodging a complaint with ICASA is that the consumer should put the complaint in writing and quote the reference number he or she received from the service provider. The Consumer Affairs Division acknowledges receipt of the complaint in writing through a communication method that the consumer can access, be it by facsimile, ordinary post or e-mail. When the complaint is acknowledged, the division includes the contact information of the officer who is dealing with the complaint. The Consumer Affairs Division examines the information (provided by the complainant) to assess whether it falls within the scope of the services that the operator provides. If it does not fall within the operator's scope of services, the officer who is dealing with the complaint informs the complainant and provides him or her with the contact information of the relevant agency that has to deal with the complaint.

If the complaint falls within ICASA's jurisdiction, a letter is written to inform the operator about the complaint. The operator is given a reasonable opportunity to respond to the allegations in writing. The complainant is also given an opportunity to respond to what the operator wrote. The operator is then invited to comment on the case, provide information that is relevant to the complaint and advise the Authority about the outcome.

Despite ICASA's indisputable initiatives to educate consumers about the procedures for lodging complaints, the data showed that consumers often do not follow the correct procedures – withstanding few who know about ICASA.. ICASA received complaints from consumers who did not first take up the matter with the service provider concerned.

ICASA regulates the telecommunications, broadcasting and postal services. The complaints that are received are categorised according to these sectors. The data revealed that telecommunications complaints include complaints about billing, faulty handsets, ADSL contract terms and conditions, and loss of airtime; broadcasting complaints revolve around advertising, pornography, programming and technical problems. Postal complaints revolve around parcels that have been lost, were missing or were tampered with; post bank accounts; insurance for sent items and payments for post boxes. Complaints are also classified according to network operators. Faulty handsets from mobile operators are the most popular complaints, while consumers experience dropped calls from both Telkom and the mobile operators.

During the financial year 2007/2008, ICASA resolved 61% of the complaints that were received while 39% still had to be resolved. The number of complaints that were resolved decreased from the previous financial year (2006/2007) in which ICASA managed to resolve 74% of the complaints and had 26% of the complaints was pending. According to ICASA's 2007/2008 Annual Report, the largest number of complaints was received in the Gauteng province. One can therefore conclude that consumers in Gauteng use a variety of facilities, including e-mails, to lodge complaints.

The fact that complaints can be lodged by e-mail makes it clear that communication services are available. Unfortunately the education officer for Gauteng did not participate in the study and she therefore could not share her experiences of the participation of consumers in awareness campaigns and road shows.

While the majority of complaints were received in Gauteng, Mpumalanga and the Northern Cape had the least complaints. Compared to Gauteng's 627 complaints, ICASA received 19 complaints in Mpumalanga and 10 complaints in the Northern Cape. This is an indication that consumers in these two provinces do not have the facilities to lodge complaints. The data revealed that consumers often travel long distances to get to communication services in order to lodge complaints. ICASA should therefore promote the widespread provision of ECN, ECS and connectivity to all. This objective is reflected in Chapter 1 of the ECA.

Consumers often enter into virtual airtime contracts without realising the danger thereof because of a lack of information provision. ICASA and the service providers should work together to investigate this criminal activity and consumers should report it so that legal steps can be taken against those who are guilty. Virtual airtime contracts are often done through independent agencies. ICASA should advise consumers to lodge a complaint about misleading advertising with the Wireless Application Service Providers' Association (WASPA), the umbrella body of mobile operators.

5.3.3 Mechanisms to ensure consumer awareness

ICASA shows its commitment to ensuring consumer awareness by conducting education awareness campaigns, road shows and workshops to disseminate information to consumers. Through regional education officers, ICASA educates consumers about all its activities, namely its functions, how it benefits consumers, and information on consumer rights and new regulations that have been published. In addition to education awareness campaigns and workshops, ICASA disseminates information through promotional material that is written in the languages that are spoken in the relevant areas.

Consumers are invited to road shows by distributing promotional material in public places such as libraries, post offices, schools and municipalities. Road shows are also announced on community radio stations with which ICASA has signed a MOU.

For ICASA to be able to conduct road shows in a particular community, education officers have to find out how residents can be notified about activities in the community. Notification is either done through local municipalities or a tribal authority that ICASA uses to get access to the community. The data revealed that 70% of the access to communities is obtained through tribal authorities. In contrast to the other provinces, organising road shows in Bloemfontein was difficult because most parts of the Free State are owned by farmers.

The education officers indicated that ICASA builds stakeholder relations with the GCIS, the premier's offices and municipalities. Stakeholder relations are also maintained with organisations like USAASA, DeafSA, the South African National Council for the Blind and the South African Human Rights Commission. Education officers compare their annual calendar of events with that of the officials at the GCIS in order to perform activities together. The premier's offices have certain programmes that are conducted by departments with the same objectives as ICASA. The premier's offices also have special project divisions that arrange projects with themes that are related to ICASA's project themes and support the Authority's events in the provinces. The regional education officers stated that they aligned ICASA's plans with those of other stakeholders, except in the Northern Cape. The education officer for the Northern Cape found it difficult to align his plans with those of other stakeholders because of the diverse geographical locations. He indicated that he had to travel to Kimberley and spend some weeks trying to set up proper links and relations.

When conducting road shows, ICASA targets people of all ages and covers both urban and rural areas (although the rural areas are a priority). The rural areas are prioritised because the higher number of complaints comes from the urban areas. This could partially explain why those in Pretoria, where focus group interviews were conducted, had little knowledge of ICASA. Road shows are aligned with the national calendar and June is the month in which to educate the youth about career

opportunities, while the activities in August focus on women. Despite these mechanisms that are used to ensure consumer awareness, the majority of consumers are still unaware of ICASA, its functions and the procedures for lodging complaints. ICASA finds itself in a difficult position because it organises awareness campaigns which consumers possibly take lightly.

The road shows are used to make consumers aware of their rights and how to exercise them. These rights are discussed below.

(1)   The right to information disclosure

The consumer has the right to know the written terms and conditions of his or her contract within a period of seven days after entering into the contract. He or she has the right to be notified about any changes to the terms and conditions of the contract.

(2)   The right to choose

Consumers have the right to select their network operators, products and services according to their own preferences.

(3)   The right to representation

Consumers have to be represented in the decision-making processes and the execution of policies and regulations. ICASA-CAP has been established to represent the voice of the consumer.

(4)   The right to redress

In terms of the Code of Conduct for Licensees, service providers have a duty to give consumers a fair hearing and to settle disputes about poor services and faulty equipment. The data showed that ICASA educates consumers about their right to complain and their right to get the complaint resolved.

(5)   The right to privacy

With the use of telecommunications services such as cellphones, every consumer has the right to receive information privately. Licensees are not permitted to release the confidential information about the consumer without first consulting him or her.

(6)   The right to reliable, high-quality service

Consumers are entitled to receive quality service irrespective of their geographic location, be it urban or rural.

The ICASA-CAP was launched on 20 November 2007 and the researcher met the chairperson, Ms Loren Braithwaite-Kobosha, at its launch. It came as a surprise to learn during the interviews that it does not seem to be very effective. Since its inception, ICASA-CAP has not submitted advisory documents to prove its efficiency. The CRF was launched on 20 November 2008 at White River in Mpumalanga province. It is regarded as the first of its kind and the expectation is that similar initiatives will be launched in the other provinces (Sekgoela 2008:17).

The data suggests that protection of consumers is at infancy stage and is still evolving and improving with some legislative provisions to support ICASA's work.

5.3.4 Awareness of consumer rights

As mentioned previously, when they were requested to mention any consumer rights, the majority of the participants could not think of any consumer rights and mentioned ambiguous consumer rights or their expectations about consumer rights. Not all the participants were aware of the eight consumer rights that were read to them. This can also be attributed to an absence of a strong pro-consumer culture generally in the country.

5.3.5 Awareness of consumer protection bodies

Most of the participants thought organisations such as the Competition Commissionwere consumer protection bodies. Only few participants indicated that they were aware of ICASA after the name of the Authority was read to them. Even after a list of the consumer protection bodies were read out to the participants, they did not have a clear understanding of the functions of the bodies. The participants indicated that they had heard about some of the consumer protection bodies on the radio and had read about them in newspapers. This suggests that the communication campaigns are targeting literate people. Wider and informal mediums such as church groups should also be used to disseminate information.

5.3.6 Actions taken to overcome problems experienced with products or services

The participants had opposing views about the actions they would take if they experience problems with the service providers. Some participants said that they would return faulty handsets to the service provider and open a case against them with the police. The participants who were not in favour of this idea argued that consumers should not involve the police because the police did not sell them the products.

5.3.7 Making ICASA aware of the problems experienced with the service providers

The participants who had experienced problems with the service providers did not notify or inform ICASA about their problems because they were not fully aware of the functions of ICASA. This could be linked to a poor communication strategy of ICASA.

5.4   Recommendations

The recommendations of this study are based on the challenges that ICASA faces.

5.4.1   Recommendation 1: Address the lack of assessment or follow-up

With respect of the effort that ICASA makes in providing information through awareness campaigns, it became evident that the Authority fails to go back to the public to check on the implementation of the information that was provided. Implementation can take place by establishing a well-resourced research unit to work in conjunction with the Consumer Affairs Division. As follow-up, the research unit can conduct research on issues that the Public Education and Awareness Unit becomes aware of. Furthermore, the research unit can carry out a consumer survey. The findings and recommendations of a survey would help ICASA to address consumers' lack of awareness.

5.4.2   Recommendation 2: Improve attendance

In order to obtain detailed information about the services that ICASA provides to the public, the researcher attended some of ICASA's awareness campaigns. The number of people who attended the campaigns was disappointing.

It is recommended that ICASA should involve all the authorities – ward committees, ward councillors and district municipalities – to ensure that there is maximum participation at ICASA events. The involvement of these authorities will supplement the involvement of tribal authorities and local municipalities. With the launch of CRFs, ICASA can use the opportunity and build a strong relationship with the forums to enhance maximum participation. The researcher is of the view that CRFs are closer to the communities and can easily notify the community about the events that are taking place. As mandated by the Municipal Structures Act 117 of 1998, local municipalities have to establish ward committees in their areas of jurisdiction. A ward committee consists of 10 members plus a ward councillor who serves as the chairperson.

The ward committees are usually closer to the communities than the municipalities and can provide the municipality with appropriate information about the activities in the community. The researcher recommends that ICASA makes use of ward committees as its first point of contact with the community in order to improve public attendance at its campaigns and therefore the effectiveness of events.

5.4.3 Recommendation 3: Publicise ICASA on community radio stations

Section 16.1 of the General Licence Conditions of Community Radio Stations states:

> "When requested by the authority the licensee shall, without charge, broadcast such particulars at such intervals as the authority may reasonable request for the purpose of publishing its regulatory functions and activities under the Act, as well as any applications, inquiries or headings concerning the licensee".

In terms of the above license condition, ICASA can use its powers to mandate community radio stations to publicise and announce the procedures of lodging complaints. The data has revealed that consumers are educated about the complaints handling procedures only during education awareness campaigns. It is recommended that an announcement of complaints handling procedures should be a licence condition for community radio stations. ICASA can therefore mandate community radio stations to flight a complaint announcement within a specified time frame of the performance period. The frequent mention of ICASA's name by the community radio stations will help to publicise the Authority and its functions. The public will then be able to make informed decisions because they will know where to take their complaints if the operators fail to address it.

Apart from the above recommendations, the researcher has to point out that ICASA should take note of the importance of conducting research. Specific attention is drawn to staff members who kept on postponing appointments with the research until their participation was withdrawn. Although the participants were not coerced to participate in the research project, the researcher established that some of the people who were invited to participate in the study considered the research to be

something that was done for academic gain only. Although the researcher has to acknowledge that this research study was conducted for academic fulfilment, this was not the primary focus or aim of the study. Ultimately, the study resulted in recommendations for the improvement of ICASA's services so that it can regulate effectively in the public interest.

5.5   Future research priorities

ICASA can use the findings of this research to improve its services and to develop strategies to adequately address consumer awareness issues. The findings of the focus groups can be used to generate research hypotheses that can be submitted for further research and testing by using more quantitative approaches. It is therefore recommended that a comparative study that focuses on an urban and rural population should be undertaken. Such a study can result in more interesting results and perhaps provide direct evidence of the disproportionate access to assistance from institutions like ICASA or the operators that is experienced by consumers in rural areas.

Further research can also be conducted to establish the effectiveness of the regulations, namely the Code of Conduct for Licensees, the Code on People with Disabilities and the Consumer Advisory Panel.

5.6   Conclusion

The aim of this study was to assess the extent to which ICASA protects consumers. ICASA does this to some reasonable extent, but the Authority can do more to protect consumers when the end-user and subscriber service charter is finalised. The findings of this research indicate that although ICASA believes it has exhausted all its efforts to make consumers aware of its functions, most consumers are neither aware of ICASA nor of their rights and how to exercise them.

This study followed the pluralistic approach, which promotes the participation of all stakeholders in the policy-making process. The equipment manufacturers, service providers, regulators and users are identified as the major participants in the policy-

making process (Mosco 1988:107). While ICASA shows commitment to ensuring consumer awareness by embarking on education campaigns, consumers have a low level of their rights. The pluralist theory was chosen because it explains the involvement of consumers in policy-making processes. The data from the semi-structured individual interviews showed that when new regulations are proposed, the public is invited to a public hearing to comment on the proposed regulations. The results of the study question the application of the pluralist approach in the policy-making process. Consumers are not sufficiently involved in the drafting of regulations, hence their limited awareness of ICASA and its functions.

Both the semi-structured individual interviews and the focus group interviews were useful methods to collect data about the extent to which ICASA protects consumers. These two methods yielded important information and new insights. Specifically, the individual interviews confirmed that ICASA is in the process of ensuring that regional offices are established in each province to address consumer-related issues at all the regional levels. Unlike during the time when the Telecommunications Act 103 of 1996 was effective, ICASA has more powers under the ECA to address consumer issues.

The Consumer Affairs Division has moved from a historically reactive role of mainly responding to consumer issues to a more proactive role through the work of its two units: the Public Education and Awareness Unit and the Complaints Handling Unit. The Public Education and Awareness Unit educates consumers through awareness campaigns, listen to consumer complaints and refer them to the Complaints Handling Unit, which then follows it up with the consumers.

The data from the focus group interviews showed that a minority of the consumers in Mamelodi are aware of their rights or the relevant consumer rights bodies. Organisations such as Competition Commission, the Small Claims Court, Justice for All and the Independent Complaints Directorate were regarded as more popular consumer rights bodies.

It was established that consumers sit with frustrations concerning faulty handsets, poor network coverage and incorrect billing problems – which are not addressed by

the service providers. The data revealed that the consumers do not know where to lodge their complaints. ICASA's consumer awareness campaigns tend not to address consumer-related issues effectively.

In order to improve the effectiveness of the awareness campaigns, ICASA will have to continue launching the CRFs in all the provinces and build a relationship with them. Consumer-related issues can be addressed at a CRF level instead of a municipal level as is currently the case. Instead of gaining access to the community through local municipalities or tribal authorities (which is sometimes difficult), notification can be done through the CRF. ICASA can use the opportunity to increase participation in its campaigns.

Although ICASA-CAP was established, its services are not visible. It is recommended that ICASA-CAP works together with the CRFs. When the CRF encounter consumer issues at a local municipality level, they can report them to a panel that will advise ICASA and come up with solutions. In conclusion, ICASA is not fulfilling its mandate optimally.

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APPENDIX A

INTERVIEW GUIDE: SEMI-STRUCTURED INTERVIEWS

EXPLORING THE EXTENT TO WHICH ICASA PROTECTS CONSUMERS

1   Has ICASA established a department which addresses consumer protection issues?

  i.   Where is it placed in ICASA and to whom does it report?

  ii.   What are the specific roles and functions of the department?

  iii.   How many complaints does it receive in a year and how many of the complaints have been addressed or resolved?

  iv.   How long does it take to resolve a complaint?

2   How does ICASA protect the rights of consumers?

  i.   Has ICASA set up a code of conduct for licensees?

  ii.   Are the rights of consumers defined in the code?

  iii.   Are operators informed or aware of consumer rights?

  iv.   Are there penalties if they ignore consumer rights?

  v.   Does ICASA inform and educate consumers about the following rights? If yes, how do you describe these rights to the consumers?

    o   the right to information disclosure

    o   the right to choose

    o   the right to representation

    o   the right to redress

    o   the right to privacy

    o   the right to reliable, high-quality service

vi.   Are consumer organisations involved or consulted to present their views in decision-making processes that affect them?

vii.   If yes, how? If no, why not?

viii. Does ICASA protect the rights of people with disabilities?

ix.   If yes, how? If no, why not?

3 How does ICASA provide information to inform and educate consumers and to increase awareness of consumer rights?

i.   Does ICASA disseminate information to consumers? If yes, what kind of information and how? If no, why not?

ii.   Which areas do ICASA target?

iii.   Who is your target audience?

APPENDIX B

LIST OF PARTICIPANTS: SEMI-STRUCTURED INTERVIEWS

Consumer Affairs Division		
Name	**Position**	**Date**
1. Brenda Ntombela	Councillor: Consumer Affairs	15 June 2007
2. Zolisa Masiza	Councillor: Consumer Affairs	23 July 2007
3. Dinkie Dube	Senior Manager: Consumer Affairs	23 July 2007
4. Palesa Mompe	Secretary: Consumer Affairs	28 May 207
Complaints Handling Unit		
5. Obakeng Tlhabi	Manager: Complaints Handling	20 October 2007
6. Gumane Malebusha	Complaints Officer	28 May 2007
7. Tshepo Ralebepa	Complaints Officer	19 September 2008
8. Nditsheni Hangwani	Complaints Officer	05 August 2008
9. Ramagoma Mahape	Complaints Officer	05 August 2008
10. Victor Nkwane	Complaints Officer	28 May 2007
11. Letty Masilo	Researcher: Consumer Protection	28 May 2007
Public Awareness and Education Unit		
12. Thenjiwe Dube	Manager: Public Awareness and Education	25 May 2007
13. Richard Makatu	Education Officer: Limpopo Province	18 October 2007
14. Torong Ramela	Education Officer: Nelspruit	15 September 2008
15. Winnie Tlale	Education Officer: North West	22 July 2008

| 16. Kekeletso Mulutsi | Education Officer: Bloemfontein | 01 August 2008 |
| 17. Brennan Marais | Education Officer: Northern Cape | 24 October 2008 |

APPENDIX C

INTERVIEW GUIDE: FOCUS GROUP INTERVIEWS

EXPLORE THE PERCEPTIONS OF THE CONSUMERS REGARDING THE PROTECTION OF THEIR RIGHTS.

1   Mention any rights of consumers that you can think of. (No probe)
2   Which of the following consumer rights are you aware of? (Mentioned)
   - Right to obtain information on products/equipment that you want to use/buy
   - Right to choose the service provider from which you can buy products
   - Right to choose the kind and quality of products you would like to use
   - Right to lodge a complaint in case you experience problems with the services/products you use
   - Right to a fair settlement in case your complaints are not resolved
   - Right to receive understandable bills for the services you use
   - Right to receive and make calls in a private place
   - Right to have your opinions/views represented in policy making
3   Mention any consumer bodies which protect the rights of consumers. (No probe)
4   Which of the following consumer protection bodies are you aware of? (Mentioned)
   - Department of Trade and Industry (DTI)
   - ICASA
   - Competition Commission

- National Consumer Forum of South Africa
- Broadcasting Complaints Commission of South Africa (BCCSA)
- South African Consumer Association

5   What can you do if you experience problems with the services of providers such as Cell C, MTN, Vodacom and Telkom? (Probe)

6   Have you made ICASA aware of any problems you experienced with the above-mentioned service providers? If yes, what was your complaint and how long did ICASA take to resolve it? Will you turn to ICASA again when you have a complaint? If not, which complaint would you like to raise with ICASA?

APPENDIX D

LIST OF PARTICIPANTS: FOCUS GROUP INTERVIEWS

(1) Mamelodi Association for People with Disabilities (10 October 2007)	
1. Betty Sibanyoni	11. Anna Zwane
2. Gladys Masango	12. Ntombi Ngobeni
3. Salome Sizane	13. Sonia Matjeli
4. Patrick Mashimbye	14. Alfred Maphuthuma
5. Kedibone Lepota	15. Millicent Khubai
6. Ouma Malapile	16. Sarah Mofokeng
7. Sakhile Mahlangu	17. Johannes Ntuli
8. Nicholas Mandla	18. Regina Sibande
9. Johannes Ntuli	19. Malebo Leballo
10. Tebogo Ngobeni	20. Themba Ncube

(2) Mamelodi Society for Care of the Aged (10 October 2007)	(3) Sabinet Abet Project (16 October 2007)
1. Shadrack Kgase	1. Nanky Mashabela
2. David Selala	2. Monicca Mabena
3. Piet Lebese	3. Rosina Malatji
4. Amos Mdluli	4. Monicca Dladla
5. Rose Makinta	5. Sophie Malefo
6. Johannes Mabona	6. Maria Mashiane
7. Sinah Mabapa	7. Merita Mboyane
8. Michael Mpofu	8. Jane Moswana
9. Hildah Matlho	9. Christinah Maboya
10. Lucas Monakedi	10. Florah Moshatana
(4) Milnex Contract (17 October 2007)	(5) Nellmapius Youth Community Policing Forum (20 October 2007)
1. Paulina Phogole	1. Mongezi Ntuli
2. Elizabeth Rakhumako	2. Tyson Mokase
3. Simon Morulane	3. Hendrick Somo

4. Johanna Monyebodu	4. Themba Mashele
5. Salome Mabje	5. Lunga Lefifi
6. Frans Tshego	6. Didintle Masola
7. Thomas Paledi	7. Sharly Kgarea
8. Lillian Manabile	8. Patience Phasha
9. Phillemon Mokau	9. Lesego Baloyi
10. Josephine Moremi	10. Lebogang Leballo
(6) Ditaola Jazz Club (21 October 2007)	**(7) FF Ribeiro Primary School (23 October 2007)**
1. Richard Mthimunye	1. Mary-Jane Kuzwayo
2. Amos Malebe	2. Lilly Langa
3. Abbey Hlongwa	3. Veronica Tjale
4. Jabu Gama	4. Elizabeth Schultz
5. David Sono	5. Mahlodi Thamana
6. Mentoor Mpangane	6. Martha Masemola
7. Diba Felane	7. Nono Mashigo
8. Kenneth Sono	8. Betty Masele
9. Zodwa Sibande	9. Rachel Mabusela
10. Phillip Ndhlovu	10. Mirriam Mokore
(8) Fafi gamblers (29 October 2007)	**(9) Sizakala Burial Society (04 November 2007)**
1. Joyce Molala	1. Malethabo Msimang
2. Sannah Ngwenya	2. Fridah Ngwetsana
3. Mary Sethole	3. Joyce Mbatha
4. Annah Mahlaba	4. Sylvia Vane
5. Johanna Maringa	5. Mange Sello
6. Nancy Chavalala	6. Jane Hlongwane
7. Vully Sithole	7. Christina Kgaladi
8. Paulinah Rambau	8. Kate Leshaba
9. Dipolelo Seerane	9. Mabel Kola
10. Julia Mashele	10. Sylvia Modise

APPENDIX E

CONCESSION LETTER FROM ICASA

I C A·S A

Independent Communications Authority of South Africa
Pinmill Farm 164 Katherine Street Sandton
Private Bag X10002, Sandton 2146

Office of Councillor Ntombela
Tel +2711 566-3045
Fax +2711 566-3046
BNtombela@icasa.org.za

Ms. Betty Rammutla
University of South Africa
Department of Communication Science
College of Human Sciences

04-12-2006

Dear Madam

In response to your request, Independent Communications Authority of South Africa (ICASA) hereby allows you to collect data for academic purposes in the Consumer Affairs Division. The Authority anticipates that the findings of the research study can contribute to the development of the Division.

Best wishes for your studies.

Regards,

B NTOMBELA
COUNCILLOR

APPENDIX F

CONCESSION LETTER FROM UNISA

UNISA | university of south africa

M-H Bataille

Tel 012 429 6423
Fax 012 429 3346
E-mail bataimha@unisa.ac.za

Mrs Diane Ngoasheng
Senior Manager: Consumer Affairs
ICASA
Private Bag x1002
Sandton
2146

2006-07-19

Dear Madam

Ms Rammutla Ramasela Betty is a registered student in the Department of Communication Science. Ms Rammutla is registered for the degree of Master of Arts in International Communication.

As part of the fulfilment of the requirements for the degree, the student must submit a dissertation of limited scope. The research topic approved by the Department and College reads *Social regulation in South Africa: the case study of ICASA*.

The Department of Communication Science will appreciate it if Ms Rammutla could be allowed to access/collect data available in your department.

Kind regards

Marie-Hélène Bataille (Mrs)
Coordinator Postgraduate Studies
Department of Communication Science
College of Human Sciences

University of South Africa
Preller Street, Muckleneuk Ridge, City of Tshwane
PO Box 392 UNISA 0003 South Africa
Telephone: +27 12 429 3111 Facsimile: +27 12 429 4150
www.unisa.ac.za

APPENDIX G

PICTURE 1 OF THE MOROKWENG AWARENESS CAMPAIGN (AUDIENCE)

APPENDIX H

PICTURE 2 OF THE MOROKWENG AWARENESS CAMPAIGN (CEO ADDRESSING THE AUDIENCE)

Summary

Social regulation, as applied specifically to the telecommunications sector, is a new phenomenon in most countries. It was only in the 1960s, with the establishment of regulatory agencies, that social regulation became important. The regulators are mandated by their country's legislative and regulatory frameworks to meet social objectives. This study examined the extent to which ICASA protects consumers as it is mandated to do by the Electronic Communications Act 36 of 2005.

The study found that ICASA has adopted mechanisms of protecting consumers, namely by conducting awareness campaigns and workshops in order to educate consumers about the procedures of lodging complaints and to make them aware of their rights. However, despite ICASA's endeavours to ensure consumer protection, most consumers are neither aware of their rights nor the procedures of lodging complaints. ICASA protects consumers to a reasonable extent but it can do more when the service charter regulations are finalised.

Key words

Social regulation, telecommunications, regulatory frameworks, social objectives, education awareness, campaigns, roadshows, consumer protection, consumer rights, complaints, service provider.

Stud no/nr: 30581389
Navrae/Enq: M+D Eksamenkoördineerder
M+D Examination Coordinator
Tel: (012)441-5499/5500/5501/5498
Faks/Fax: (012)429-8119

2010-10-21

Mrs R B Rammutla
492 Lekaneng Extention
TEMBISA
1632

Dear Mrs Rammutla

I have pleasure in informing you that your dissertation of limited scope **SOCIAL REGULATION IN SOUTH AFRICA: A CASE STUDY OF INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)** has been accepted for the degree of **MA in International Communication**. You obtained a mark of 57% for the dissertation of limited scope. The average for your degree is 56%.

The degree will be awarded to you, provided you comply with the following requirement(s):-

* Submit the text of the dissertation of limited scope in electronic format and the same text in a further two printed spine-glued hard cover copies, reflecting the full title of the dissertation of limited scope and your name on both the cover and spine of the bound copies.

When posted, the parcel containing the additional copies as well as the electronic format (preferably PDF, Word or WordPerfect) of the dissertation of limited scope, must please be marked for the attention of The Registrar, Record Management Division, M & D section, [Tel (012)429-3057, (012)429-3506, (012)429-3150 or (012)429-3486], or they may be handed in personally at the counter, Level 2 in Block B, Theo van Wijk Building (use the Gold Fields entrance);

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* you must please sign the enclosed statement (with the correct title) indicating that the dissertation of limited scope is your own work, and return it to the University with the final copies;

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Yours faithfully

for REGISTRAR

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RAMASELA BETTY RAMMUTLA

HAS IN THE ACADEMIC YEAR 2010 COMPLIED
WITH THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS IN INTERNATIONAL COMMUNICATION

WHICH IS TO BE AWARDED

TITLE OF DISSERTATION OF LIMITED SCOPE:

SOCIAL REGULATION IN SOUTH AFRICA: A CASE STUDY OF INDEPENDENT
COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

DISSERTATION OF LIMITED SCOPE ACCEPTED ON: 18 OCTOBER 2010

MARK FOR DISSERTATION OF LIMITED SCOPE: 57%

PAPERS PASSED:

MAK501R	THEORY AND ISSUES	53%
MAK502S	TECHNOLOGY & INFRASTRUCTURE	54%
MAK503T	CONTENT AND REGULATION	63%
MAK504U	METHODOLOGY AND TECHNIQUES	51%

FINAL MARK: PASSED WITH   56%

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REGISTRAR

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Sleutelterme:

Mathematics achievement; Academic performance; Psychometric measuring instruments; Diagnostic tests; First-year university students; Cognitive factors; Intelligence; Aptitude; Previous performance; Study methods; Attitudes; Interest; Anxiety; Personality; Adjustment

Student number: 30581389

I declare that **SOCIAL REGULATION IN SOUTH AFRICA: A CASE STUDY OF INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)** is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

....
SIGNATURE
(MRS R B RAMMUTLA)

....
DATE

SOCIAL REGULATION IN SOUTH AFRICA: A CASE STUDY OF INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

by

RAMASELA BETTY RAMMUTLA

submitted in accordance with the requirements
for the degree of

MASTER OF ARTS IN INTERNATIONAL COMMUNICATION

at the

UNIVERSITY OF SOUTH AFRICA

SUPERVISOR: DR M M SOCIKWA

JUNE 2009