

**IN THE GAUTENG LOCAL DIVISION OF THE HIGH COURT OF
SOUTH AFRICA, JOHANNESBURG**

Case No: 2018/20057

In the matter between:

CELL C LTD Applicant

And

ICASA First Respondent

CHAIRPERSON OF ICASA Second Respondent

AMANDLA.MOBI Third Respondent

**CRYSTAL WEB MOBILE AND LEASP
(PTY) LTD** Fourth Respondent

FREE MARKET FOUNDATION Fifth Respondent

**INTERNET SERVICE PROVIDERS
ASSOCIATION NPC** Sixth Respondent

**LIQUID TELECOMMUNICATIONS SA
(PTY) LTD** Seventh Respondent

MARK P LISTER Eighth Respondent

MTN (PTY) LTD

Ninth Respondent

MWEB

Tenth Respondent

NATIONAL CONSUMER COMMISSION

Eleventh Respondent

WIRELESS ACCESS PROVIDERS

Twelfth Respondent

ASSOCIATION NPO

TELKOM SOC SA LTD

Thirteenth Respondent

VODACOM (PTY) LTD

Fourteenth Respondent

INDEX – PLEADINGS

DATE COMPLETED: 5 October 2018

ITEM	DESCRIPTION	PAGE
VOLUME 1 OF 8		
1.	Cell C's Notice of Motion (6 June 2018) <i>(ALSO CONTAINED AND REFERRED TO IN THE ADDITIONAL DOCUMENTS BUNDLE, PAGES 1 - 9)</i>	A - I
2.	Cell C's Founding Affidavit – Graham Neil Mackinnon (6 June 2018)	1 - 23
2.1.	Annexure "FA1" – ICASA Reasons Document for the End-User and Subscriber Services Charter Amendment Regulations, 2018	24 - 58
2.2.	Annexure "FA2" – Letter to ICASA (4 May 2018)	59 - 60
2.3.	Annexure "FA3" – ICASA End-user and Subscriber Service Charter Amendment Regulations in terms of Section 4 read with Section 69(3) of the Electronic Communications Act No. 36 of 2005, as amended	61 - 104

2.4.	Annexure “ FA4 ” – Letter to ICASA (28 May 2018)	105 - 109
2.5.	Confirmatory Affidavit – Themba Phiri (6 June 2018)	110 - 112
2.6.	Confirmatory Affidavit – Alistair Maclean (6 June 2018)	113 - 115
2.7.	Confirmatory Affidavit – Bjorn Flormann (6 June 2018)	116 - 118
2.8.	Confirmatory Affidavit – Blue Hadlow (6 June 2018)	119 - 121
2.9.	Confirmatory Affidavit – Jim Weijing (6 June 2018)	122 - 124
2.10.	Confirmatory Affidavit – Thinus Schoeman (6 June 2018)	125 - 127
2.11.	Letter to ICASA (5 June 2018)	128 - 129
2.12.	Affidavit – Heather Pamela Mary Irvine (7 June 2018)	130 - 132
VOLUME 2 OF 8		
3.	ICASA and the Chairperson of ICASA’S Answering Affidavit (21 June 2018)	133 - 180
3.1.	Annexure “ AA1 ” – ICASA Electronic Communications Act No. 36 of 2005 Regulations (17 August 2017)	181 – 192
3.2.	Annexure “ AA2 ” – ICASA Electronic Communications Act No. 36 of 2005 Regulations (17 November 2017)	193 - 232
3.3.	Annexure “ AA3 ” – Letter to ICASA (3 January 2018)	233 - 248
VOLUME 3 OF 8		
3.4.	Annexure “ AA4 ” – Cell C Response to Proposed Amendments to End User & Subscriber Service Charter Regulations	249 - 274
3.5.	Annexure “ AA5 ” – Public Hearing on the Draft End-User and Subscriber Service Charter Regulations (2 March 2018)	275 - 300
3.6.	Annexure “ AA6 ” – Letter to ICASA (13 March 2018)	301 - 303
4.	MTN’s Answering Affidavit in the Main Application (21 June 2018)	304 - 309
5.	Telkom’s Answering Affidavit in the Main Application (21 June)	310 - 326
5.1.	Annexure “ AD1 ” – Delegation of Authority (7 June 2018)	327 - 330
5.2.	Annexure “ AD2 ” – Telkom’s Submission to ICASA (18 September 2017)	331 - 347
5.3.	Annexure “ AD3 ” – Telkom’s Submission to ICASA (3 January 2018)	348 - 365
VOLUME 4 OF 8		
5.4.	Annexure “ AD4 ” – Telkom’s Comments on Proposed Amendments to the Draft End-User and Subscriber Service Charter Regulations	366 - 383

5.5.	Annexure “ AD5 ” – Letter to ICASA (25 May 2018)	384 - 385
6.	MTN's Notice of Counter-Application (21 June 2018) <i>(ALSO CONTAINED AND REFERRED TO IN THE ADDITIONAL DOCUMENTS BUNDLE, PAGES 40 – 52)</i>	385A - 385M
7.	MTN's Founding Affidavit in its Counter-Application (21 June 2018)	386 - 393
7.1.	Annexure " GDV 1 " - End-User and Subscriber Service Charter Regulations, 2016	440 - 453
7.2.	Annexure " GDV 2 " - MTN's Response to ICASA's Notice of Intention to Amend the Regulations (18 September 2017)	454 - 472
7.3.	Annexure " GDV 3 " - MTN's Response to ICASA's Notice of Intention to Amend the Regulations (2 January 2018)	473 - 495
VOLUME 5 OF 8		
7.4.	Annexure " GDV 4 " - End-User and Subscriber Service Charter Amendment Regulations (7 May 2018)	496 - 501
7.5.	Annexure " GDV 5 " - Reasons Document for the End-User and Subscriber Service Charter Amendment Regulations, 2018 (7 May 2018)	502 - 535
7.6.	Annexure " GDV 6 " - Letter to the Chairperson of ICASA (21 May 2018)	536 - 540
7.7.	Annexure " GDV 7 " - Letter to the Chairperson of ICASA (6 June 2018)	541 - 547
7.8.	Annexure " GDV 8 " - Letter to the Chairperson of ICASA (6 June 2018)	548 - 549
7.9.	Annexure " GDV 9 " - Order Part A of the Main Application (7 June 2018)	550 - 552
7.10.	Annexure " GDV 10 " - General Notice - Suspension of the Effective Date of the End-User and Subscriber Service Charter Amendment Regulations, 2018, (7 June 2018)	553 - 555
8.	Confirmatory Affidavit of Adrian Nelson (21 June 2018)	556 - 558
9.	Confirmatory Affidavit of Cheryl Dinkelmann (21 June 2018)	559 - 561
10.	Confirmatory Affidavit of Wellington Sibande (21 June 2018)	562 - 564
11.	Cell C's Replying Affidavit – Graham Neil Mackinnon (28 June 2018)	565 - 587
11.1.	Annexure “ RA1 ” – Email from ICASA's attorneys (7 June 2018)	588 - 589
11.2.	Annexure “ RA2 ” – ICASA's Suspension of the Effective Date of the End-User and Subscriber Services Charter Amendment Regulations, 2018	590 - 592
11.3.	Annexure “ RA3A ” – Number Porting Regulations of 2005	593 - 616
VOLUME 6 OF 8		

11.4.	Annexure " RA3B " – Call Termination Regulations of 2010	617 - 648
11.5.	Annexure " RA3C " – Numbering Plan Regulations	649 - 699
11.6.	Annexure " RA4 " – Letter to ICASA (19 June 2018)	700 - 701
12.	Cell C's Answering Affidavit in relation to MTN's Counter-Application (11 July 2018)	702 - 704
13.	First and Second Respondents' Answering Affidavit: Telkom (19 July 2018)	705 - 718
13.1.	Annexure " AA1 " – SMS/MMS (13 and 30 June 2018)	719 - 720
14.	ICASA and the Chairperson of ICASA's Answering Affidavit in MTN's Counter Application (19 July 2018)	721 - 757
VOLUME 7 OF 8		
14.1.	Annexure " AA1 " – Media Article (5 December 2017)	758 - 759
14.2.	Annexure " AA2 " - Vodacom Conference Call Transcript (14 May 2018)	760 - 769
14.3.	Annexure " AA3 " – Media Article (6 July 2018)	770 - 771
14.4.	Annexure " AA4 " – Cell C SMSs to customers (13 and 30 June 2018)	772 - 773
14.5.	Annexure " AA5 " - Letter to the Minister of Communications (2 August 2018)	774 - 786
15.	Replying Affidavit of William Graham De Vries in Part A of MTN's Counter-Application (2 August 2018)	787 - 812
16.	Supplementary Founding Affidavit of William Graham De Vries in Part B of MTN's Counter-Application (23 August 2018)	813 - 831
16.1.	Annexure " GDV 11 " - ICASA's Notice to the Minister of Communications (2 August 2017)	832 - 844
16.2.	Annexure " GDV 12 " - Extracts from Mweb's submission to ICASA entitled (11 November 2016)	845
16.3.	Annexure " GDV 13 " - Extracts from Cell C's submission to ICASA (18 September 2017)	846
16.4.	Annexure " GDV 14 " - Extracts from Telkom's submission to ICASA (18 September 2017)	847 - 849
16.5.	Annexure " GDV 15 " - Extracts from Vodacom's submission to ICASA (18 September 2017)	850 - 852
16.6.	Annexure " GDV 16 " - Extracts from the South African Communication Forum's submission to ICASA (18 September 2017)	853 - 854
16.7.	Annexure " GDV 17 " - Extracts from Cell C's submission to ICASA (3 January 2018)	855 - 857

16.8.	Annexure " GDV 18 " - Extracts from Telkom's submission to ICASA (3 January 2018)	858 - 864
16.9.	Annexure " GDV 19 " - Extracts from Vodacom's submission to ICASA (3 January 2018)	865 - 868
16.10.	Annexure " GDV 20 " - Extracts from the Wireless Access Providers' Association of South Africa's submission to ICASA (3 January 2018)	869
16.11.	Annexure " GDV 21 " - Extracts from Vodacom's presentation to ICASA (1 March 2018)	870 - 871
16.12.	Annexure " GDV 22 " - Extracts from Telkom's presentation to ICASA (2 March 2018)	872 - 874
16.13.	Annexure " GDV 23 " - Extracts of Telkom's presentation to ICASA (13 March 2018)	875 - 876
16.14.	Annexure " GDV 24 " - Extracts from Cell C's submission to ICASA (13 March 2018)	877 - 878
16.15.	Annexure " GDV 25 " - Minutes of ICASA's Special Council Meeting (26 April 2018)	879 - 881
VOLUME 8 OF 8		
17.	Cell C's Answering Affidavit in relation to MTN's Supplementary Founding Affidavit in Part B of MTN's Counter-Application (6 September 2018)	882 - 884
18.	Cell C's Part B Affidavit – Graham Nail Mackinnon (25 September 2018)	885 - 912
18.1.	Annexure " GNM1 " – Court Order (7 June 2018)	913 - 916
19.	Telkom's Amended Supplementary Answering Affidavit (3 October 2018)	917 - 926
20.	ICASA and the Chairperson of ICASA's Answering Affidavit to Cell C's Founding Affidavit in Part B (4 October 2018)	927 - 943
21.	ICASA and the Chairperson of ICASA's Answering Affidavit in relation to MTN's Supplementary Founding Affidavit in Part B of MTN's Counter-Application (5 October 2018)	944 - 959
22.	Cell C's Replying Affidavit in relation to its Supplementary Founding Affidavit in Part B	960 - 969
23.	MTN's Replying Affidavit in relation to its Supplementary Founding Affidavit in Part B of MTN's Counter-Application	970 - 984