TO: MS CHANTELLE GLADWIN-WOOD: CHAIRPERSON OF THE GAUTENG ATTORNEYS' ASSOCIATION ("GAA")

FROM: MILLIE SHANTALL-LURIE: EXCO COMMITTEE MEMBER OF THE GAUTENG ATTORNEYS' ASSOCIATION ("GAA") AND LIAISON OFFICER WITH THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION ("CIPC")

RE: ANNUAL REPORT ON THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION ("CIPC") FOR 2020

REPORT

Dear Chair,

This year has been the most challenging yet, not only with respect to the Companies and Intellectual Property Commission ("CIPC"), but with every single Government Department.

With the announcement of a national lockdown on the 26th of March 2020 in the hope of surviving the COVID-19 pandemic and flattening the curve, this only exacerbated the problems experienced by the Department of Trade and Industry in South Africa and the CIPC.

The CIPC, did however, go the extra mile in relieving the stress of certain essential businesses by opening its Bizportal to allow customers to register as essential service providers.

Sadly, even after lockdown regulations have been relaxed, CIPC still faces system challenges and as a result of staff compliment deficiencies (or staff working from home or on a rotational basis) this only exacerbated the backlog with the processing of applications by the CIPC and in particular with the processing of manual submissions and the access to files in the Disclosure section of CIPC.

Another unforeseen result of the Pandemic is that members of the public have been denied access to the offices of the CIPC and even on Alert Level 1, CIPC is still not permitting access to its offices, which is problematic. The Pandemic also exacerbated the problem that there have been no Companies Liaison Committee ("CLC") meetings since March of 2020, although we anticipate the first meeting to take place on the 29th of October 2020.

Some of the challenges which CIPC faced in 2020 and which are highlighted below are:

1. Compliance checklist challenges and you will recall that the CIPC implemented a Compliance Checklist which is applicable to all companies including state-owned companies, non-profit companies, private companies, personal liability companies and public companies and this Checklist was introduced by CIPC to monitor compliance with the Companies Act 71 of 2008, as amended ("the Companies Act"). CIPC states that the objectives of the Compliance Checklist are: 1) to ensure compliance with the mandatory requirements of the Companies Act; 2) to serve as an educational tool for directors and company secretaries in guiding them with regard to their responsibilities in terms of the Companies Act and 3) to utilize the checklist to monitor and regulate proper compliance with the Companies Act and if trends of non-compliance appear, to act accordingly.

   Concerns, however, have been raised by the legal fraternity and the accounting fraternity as to what the CIPC will do with the information provided and how differences in the interpretation of the Companies Act will be dealt with. Members of the legal

and accounting fraternity are also concerned about the potential increasing cost incurred by clients. Although the legal fraternity and SAICA support CIPC in its efforts to ensure and monitor compliance with the Companies Act, the current format of the Compliance Checklist is both onerous and vague and although the questionnaire has been updated to provide a reasonable opportunity to furnish explanations for areas of non-compliance or interpretation, this is still a matter which is being taken up by the various stakeholders in their engagement with CIPC.

2. Technical issues with the website of the CIPC;

3. Tackling of iXBRL Annual Return filing challenges;

4. The introduction of a new E-services under the existing E-services portion of the CIPC's website which only permits natural persons to transact by way of debit or credit card, which the legal fraternity is currently taking up with the Legal Practice Council, due to the fact that attorneys operate with trust accounts and business accounts and do not ordinarily operate with debit or credit cards. CIPC will be doing away with the "declining method" of payment, so as to lessen the burden on their finance department. I am, however, communicating with CIPC to consider allowing customers to transact via electronic transfer. I have met with the IT Department of CIPC comprising the Acting Commissioner, Andre Kritzinger and Mr Deane Nkuna, being one of the software developers who has undertaken to take into consideration the concerns raised by the legal fraternity with respect to their website to accommodate our members as far as possible. Our members were requested by CLC to prepare a wish list to be implemented with respect to CIPC's system processes, which I collated and transmitted to CIPC during 2019 and which, slowly but surely CIPC is taking into consideration;

5. Call Centre deficiency – The CIPC's call centre which is an essential service for its customers also suffered serious problems as far as the lockdown crisis is concerned. Capacity building through the recruitment of experienced call agents coupled with continuous training, needs to be implemented to contribute to the improvement of the call centre;

6. Automation and digitization - CIPC has made drastic improvements to the level of automation and modernization within their organization and automation has led to CIPC's registration systems becoming fast and more cost effective promoting enhanced data integrity information, security registration system transparency and verification of business compliance, however it is also resulted in a lot of work being taken away from the legal practitioners who specialize in Company Law on account of the fact that such automated systems make it easier to meet public demand and eradicate the need for third party intervention.

7. Registration – While CIPC has successfully implemented a hybrid registration system, there are certain inefficiencies in the registration system including system instability, a lack of automation between steps in hybrid and manual processing systems and a slow rate of final de-registration for non-compliant companies and close corporations. as well as inefficient manual processing systems.

8. Document management – CIPC needs to ensure that its document management processes and systems retain relevant levels of security, as the current arrangement poses a security risk.

9. Stakeholders relations and management – Synergies must be maintained amongst various Government Departments and agencies that handle IP issues and between various stakeholders such as the accounting and legal fraternity to ensure constant engagement with CIPC.

As far as the Companies Amendment Bill is concerned, the latest draft of the Bill is still with Cabinet who will publish it for one final round of public comment and the date of submission for final comment has not as yet been announced.

It would be unfair of me not thank my sub-committee representative, Ms Elzaan Rabie, who was appointed to my sub-committee to liaise with the secretariat of the CLC and to attend CLC meetings.

I trust that the year ahead will be a smoother and more fruitful one for our members and I will continue to serve the best interests of the Association and our members as far the profession is concerned.