



**Independent Communications Authority of South Africa**

<b>MINUTES OF AN ORDINARY MEETING OF COUNCIL</b>		
<b>Date</b>	<b>02 February 2023</b>	
<b>Time:</b>	<b>08:00</b>	
<b>Venue:</b>	<b>Virtual- Microsoft Teams</b>	
<b>Present</b>	██████████	Acting Chairperson
	██████████	Member
	██████████	Member
	██████████████████	Member
	██████████	Member
	██████████	Member
	██████████	Member
	██████████████████	Member
<b>By Invitation</b>	██████████████████	CEO
	██████████	CFO
	██████████	Acting CAE
	██████████	Executive Policy Research and Analysis
	██████████	Acting Exec: Legal Risk and CCC
	██████████████	Secretariat Officer
	██████████	Secretariat Officer
	██████████	Secretariat Intern
<b>Partial Attendees</b>	██████████	Corporate Secretary
<b>Apologies</b>	██████████	Corporate Secretary



No.	Action Item	Person Responsible
1.	<p><b>Opening and apologies</b></p> <p>1.1. The Chairperson opened the meeting at 08:00 and welcomed all present. Council welcomed the newly appointed CEO and conveyed well wishes. The acting CAE was also welcomed by Council.</p> <p>1.2. The following apology was noted:</p> <p>1.2.1 The Corporate Secretary left the meeting early due to illness.</p> <p><b>The opening and apologies were noted.</b></p>	Chairperson
2.	<p><b>Ratification of the Agenda</b></p> <p>2.1. Under General: to include - Update on IoDSA training.</p> <p>2.2. Under General: to include the PMS assessments update.</p> <p>2.3. Response to the Eskom Crisis and the imminent National State of Disaster.</p> <p>2.4. Meet and greet with the Minister and the Parliamentary Portfolio Committee on Communications.</p> <p><b>The agenda was ratified.</b></p>	All
3.	<p><b>Declaration of interest</b></p> <p><b>No conflict of interest was noted.</b></p>	Council
4.	<p><b>Minutes of Council</b></p>	
4.1	<p><b>Minutes of Council: 29 November 2022</b></p> <p>4.1. Council resolved that the date on which the memorandums were signed should be included in the set of minutes.</p>	Council



No.	Action Item	Person Responsible
	<p>4.2. The spelling of implementation in paragraph 11.2 was corrected.</p> <p><b>The minutes were adopted with the above amendments.</b></p>	
4.2	<p><b>Minutes of Council: 6 December 2022</b></p> <p><b>The minutes were adopted as presented.</b></p>	Council
4.3	<p><b>Minutes of Council: 13 December 2022</b></p> <p>4.3.1 The spelling of “archived” was corrected.</p> <p>4.3.2 The phrase “back payment” was corrected and replaced with “back pay”.</p> <p><b>The minutes were adopted subject to the amendment made.</b></p>	Council
5.	<p><b>Matters Arising</b></p> <p>The Executive: Policy Research and Analysis presented the item.</p> <p>5.1. Item 3 - Council expressed a view that Management should assess a need for the establishment of a Committee to address the matter, and that a recommendation should be brought before Council.</p> <p>5.2. Item 8 - Council resolved that the Radio Pretoria matter should be moved from the Matters Arising and discussed as part of the Litigation Report.</p> <p>5.3. Item 10:</p> <p>5.3.1 Council resolved that the closing date for the PMS should be confirmed.</p> <p>5.3.2 Council resolved that a submission on PMS should be tabled at the next meeting of Council.</p>	CEO



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	<p>5.3.3 Council resolved that Management should ascertain the current recruitment status and provide an update at the next meeting of Council under Matters Arising.</p> <p>5.4. Item 23 - Council resolved that a follow-up letter, which is inclusive of the timelines envisaged for engagements and the proposed engagement date with SAPO, be written. Council further resolved that the CEO should ensure the letter is sent timeously.</p> <p>5.5. Item 24 - Council resolved that Council Decisions must be published on the website within 30 days after the Council resolution.</p> <p><b>The update on Matters Arising was noted.</b></p>	
6.	<p><b>International Engagements</b></p> <p>6.1. There was no formal submission tabled before Council in relation to International Engagements. However, a verbal report was given, followed by the below comments.</p> <p><u>Comment made:</u></p> <p>6.2. Council expressed a view that the CRASA preparatory meetings should be attended by Councillors who are able to do so, as the discussions held during the preparatory meetings guide the decisions that are taken at the AGM.</p> <p><u>Resolutions of Council:</u></p> <p>6.3. Council resolved that there should be a session set up to deliberate on International Engagements, which will include a guideline on how Councillors are allocated the various engagements that are on the Authority's calendar.</p> <p>6.4. Council resolved that the Councillors nominated to participate at CRASA should attend the preparatory meetings and have sight of all the reports from the Committees.</p>	<p><b>CEO / Exec: Corporate Services</b></p>



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	<p>6.5. Council resolved that an update on and the structure of CRASA should be included in the Matters Arising going forward.</p> <p><b>The update was noted by Council.</b></p>	
7.	<p><b>Litigation Update (“Standing Item”)</b></p> <p>The Senior Manager: Litigation, Contracts and General Legal Support presented the item.</p> <p>7.1. The Authority currently has thirteen (13) active cases. The Authority has successfully defended two (2) urgent applications, while for the two (2) other review applications, rulings were in favour of the Authority.</p> <p><u>Comments made:</u></p> <p>7.2. Council enquired with regards to the Vaal FM matter whether the LRCCC Division was comfortable with the legal papers being exchanged. Council further inquired if LRCCC was receiving sufficient support from the divisions.</p> <p>7.3. Council inquired if the same firm was representing the Authority on all the Community Radio court matters.</p> <p>7.4. Management informed Council that LRCCC Division works closely with the internal divisions, as well as the Committee representatives. Management further informed Council that all the available information within the Divisions and Committees is shared to assist in drafting the legal papers. Management further informed Council that the challenges faced by the LRCCC Division are of a legal of nature and they are not caused by the internal divisions.</p> <p>7.5. Management informed Council that the litigation matters are currently not grouped and handled by the same law firm. Management further reported that there is an existing panel of attorneys that are briefed in terms of SCM prescripts. Management however informed Council that the recommendation of grouping Community Radio matters and briefing the same firm would be advantageous, and that the</p>	<p><b>CEO / Executive: LRCCC</b></p>



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	<p>implementation of the recommendation will be explored subject to adherence to SCM rules and prescripts.</p> <p><u>Resolutions:</u></p> <p>7.6. Council resolved that the legal opinion in the NCDP v ICASA should be resubmitted to Council.</p> <p>7.7. Council resolved that there should be a closed session set up to discuss the NEHAWU v ICASA matter. During the closed session Council will further deliberate on how other staff matters should be tabled at Council.</p> <p>7.8. Council resolved that affidavits requiring the signature of the Chairperson should be submitted to the Chairperson a day or two in advance and that exception to the latter be only with regard to urgent applications.</p> <p><b>The update was noted.</b></p>	
8.	<p><b>Recommendation by the CCC to Council in the matter between Juri Busek and Rose Courtz Trading CC T/A BITCO</b></p> <p>The Council CCC representative presented the item.</p> <p>8.1. The purpose of the memorandum dated 26 January 2023 was to table the recommendation of the CCC in the matter between Juri Busek, (the Complainant”) and Rose Courtz Trading CC (“Bitco”), (“the Respondent”).</p> <p><u>Recommendation to Council:</u></p> <p>8.2. In terms of Section 17E (2) of the ICASA Act, the CCC recommends that the following orders be issued by the Authority namely:</p> <p>a) direct the Licensee to desist from any further contravention of the terms of its licence.</p>	Cllr [REDACTED]



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	<p>b) direct the Licensee to pay a fine of R50 000, half of which is suspended for a period of three years on condition that the Respondent is not found to have contravened Clause 4 of the terms of its licence during the period of suspension.</p> <p><u>Comments made:</u></p> <p>8.3. Council inquired if the CCC finding should specify the exact amount of the fine recommended to Council. Council further inquired how the amount is determined by the CCC.</p> <p>8.4. Council sought further clarity on what is meant by a “non-aggregation line”.</p> <p>8.5. Council inquired if there is on-going monitoring to ensure compliance to Regulations.</p> <p>8.6. Council inquired if the Authority will be pursuing the two other potentially guilty parties implicated in the CCC case.</p> <p>8.7. The Committee expressed a view that Council has previously requested that the CCC should always determine the amount of the fine for inclusion in the recommendation to Council. The Committee further informed Council that the CCC has formulated criteria to be used for determining a fine including the weight of the contravention, the number of times the contravention was committed, the applicable Regulations, and that these are some of the factors considered in the determination of the fine amount.</p> <p>8.8. The Committee informed Council that a non-aggregation line is a non-commercial line, and in the current matter it was non-commercial line meant to be used for security purposes.</p> <p>8.9. Management informed Council that there are monitors who are responsible for monitoring the adherence to Regulations. However, due to capacity constraints it would be difficult for the monitors to pick up such matters.</p>	



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	<p><u>Resolution:</u></p> <p>8.10. Council resolved to approve the finding of the CCC, and further resolved that a letter stating such should be written to the complainant.</p> <p><b>The submission was approved.</b></p>	
9.	<p><b>Recommendation by the CCC to Council in the matter between PRIMEDIA (Pty) Ltd and Hot FM</b></p> <p>The Council CCC representative presented the item.</p> <p>9.1. The purpose of the memorandum dated 26 January 2023 was to table the recommendation of the Complaints and Compliance Committee (“CCC”) in the matter between PRIMEDIA (Pty) Ltd (“Complainant”) and Hot FM (“Respondent”).</p> <p><u>Recommendation to Council:</u></p> <p>9.2. The CCC recommended to the Authority that the following order be issued to the Respondent:</p> <p>9.2.1 direct that the Licensee desist from any further contravention;</p> <p>9.2.2 direct the Licensee to pay a fine in the amount of R10 000, half of which amount is suspended for a period of three years on condition that a finding of same non-compliance is not made against the Licensee during the period of suspension;</p> <p>9.2.3 The amount of R50 000 is to be paid as follows:            (i) R10 000 per month until the full amount is settled.</p> <p><u>Comments made:</u></p> <p>9.3. Council inquired why the matter was brought to the CCC by PRIMEDIA. Council further expressed concern, and inquired if PRIMEDIA was using the CCC to gain competitive advantage over Hot FM.</p>	Cllr [REDACTED]





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	<p>9.4. The Committee informed Council that the complaint was heard by the CCC, and the respondent is a repeat offender.</p> <p>9.5. Council expressed concern over a payment plan being included in the finding and inquired why the CCC was of the opinion that the option should be included in the finding.</p> <p>9.6. The CCC representative informed Council that the financial statements of the Respondent were considered, and further that the station is in a dire financial situation, which is the reason for the inclusion of the payment plan.</p> <p><u>Resolutions of Council:</u></p> <p>9.7. Council resolved that paragraph 75.3 of the CCC recommendations should be removed and expressed that the request for a payment plan by the Respondent should be entertained subsequent to the publishing of the finding.</p> <p>9.8. Council resolved to approve the finding of the CCC, with the removal of paragraph 75.3 from the finding.</p> <p><b>The submission was approved.</b></p>	
10.	<b>General</b>	
10.1	<p><b>General</b></p> <p><b>Council Meeting Days and Frequencies</b></p> <p>10.1.1 Council was of the view that a year planner should be formulated for the new financial year.</p> <p>10.1.2 Council resolved that the Corporate Secretary should formulate a year plan and table it to Council for approval.</p>	<b>Acting Chairperson</b>



No.	Action Item	Person Responsible
	<p>10.1.3 Council resolved that the year planner should specify which Council meetings should be virtual and which meetings should be in person.</p> <p>10.1.4 Council resolved that Secretariat should avoid indulgence regarding late submission of documents to mitigate against the late circulation of the meeting pack to Council.</p> <p>10.1.5 Council resolved that there should be more than one meeting a month, to avoid long meetings with a heavily packed agenda.</p> <p>10.1.6 Council resolved that the operating model of the Authority should be assessed.</p>	
<p><b>10.2</b></p>	<p><b>Adoption of the Allocations of Projects / Council Committees / Governance Committees to Councillors</b></p> <p>10.2.1 Council resolved that Cllr [REDACTED] should Chair the 5G Committee, deputised by Cllr [REDACTED]</p> <p>10.2.2 Council resolved that Cllr [REDACTED] Chair the Review of the Call Terminations Regulations, deputised by Cllr [REDACTED].</p> <p>10.2.3 Council resolved that Councillor [REDACTED] should be included as a second deputy Chairperson in the Universal Access &amp; Service Obligations Committee.</p> <p>10.2.4 Council resolved that Cllr [REDACTED] should be included as a deputy Chairperson to the HDI Committee.</p> <p>10.2.5 Council resolved that Cllr [REDACTED] should Chair the Signal Distribution Market Inquiry Committee, deputised by Cllr [REDACTED]</p> <p>10.2.6 Council resolved that Cllr [REDACTED] should Chair the Digital Television Content Advisory Group, deputised by Cllr [REDACTED].</p> <p>10.2.7 Council resolved that Cllr [REDACTED] should Chair the Spectrum Resource Committee, deputised by Cllrs [REDACTED]</p>	<p><b>Council</b></p>



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	<p>and [REDACTED]. Council further resolved that the Committee is not to be included in the total number of Committees.</p> <p>10.2.8 Council resolved that Cllr [REDACTED] should Chair the Licensing of Digital Community Television Broadcasting Services on Mux 1 Committee, deputised by Cllr [REDACTED].</p> <p>10.2.9 Council resolved that Cllr [REDACTED] should Chair the Review/Amendment of the Digital Migration Regulations Committee, deputised by Cllr [REDACTED].</p> <p>10.2.10 Council Resolved that the final list should be approved via Round Robin Resolution.</p>	
10.3	<p><b>Update the training with the IoDSA.</b></p> <p>10.3.1 The names for the three Councillors that have not received training have been submitted to the IoDSA. A quote has been issued to the Authority, but deliberations will be held with the CEO as the quote is inclusive of 15 people.</p> <p><b>The update was noted by Council.</b></p>	Cllr [REDACTED]
10.4	<p><b>The update on PMS</b></p> <p>10.4.1 Management [REDACTED] [REDACTED] [REDACTED]</p> <p><b>The update was noted by Council.</b></p>	CEO / Exec HR
10.5	<p><b>The Eskom Crisis and the possible declaration of National State of Disaster</b></p> <p>10.5.1 Council indicated that the Authority should reach out to service providers to ascertain how load shedding will affect service provision, which exercise should be done on a “without prejudice” basis.</p> <p>10.5.2 Council resolved that there should be a Disaster Management Task Team on the energy matter.</p>	Council



No.	Action Item	Person Responsible
	10.5.3 Council resolved that the Committee should have Cllr [REDACTED] as the Chairperson, deputised by Cllr [REDACTED].  10.5.4 Council resolved that the Committee should convene and bring back a formulated report to Council.	
10.6	<b>Council meet and greet with the Minister and Parliament Portfolio Committee and Staff</b>  10.6.1 Council resolved that the office of the CEO should arrange a meet and greet with ICASA staff.  10.6.2 Council resolved that meetings with the Minister and with the Portfolio Committee should be arranged.	
11.	<b>Closure</b>  <b>The Chairperson thanked all who were present at the meeting and closed it at 14:34 pm.</b>	Council

Signed: [REDACTED]  
 Dr [REDACTED]  
 (Acting Chairperson)

Date: 2023-03-16