



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL		
Date	06 December 2022	
Time:	09:00	
Venue:	EP- CF Thabo Mbeki (Council Boardroom)	
Present	██████████	Acting Chairperson
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
By Invitation	Adv. Nkheteleni Gidi	Acting CEO
	Josephine Meyer	CFO
	Tshiamo Maluleka-Disemelo	CAE
	Nicholous Mabilane	Corporate Secretary
	Tumisang Khabane	Secretariat Officer
Partial Attendees	██████████	Executive: Regions and Consumer Affairs
	██████████	Manager: Broadcasting Frequency Coordination
	██████████	SM: Communications and IR
	██████████	Manager: Communications and Reputation Manager
	██████████	SM: Type Approval and Numbering
	██████████	Manager: Consumer Complaints
	██████████	Manager: Library Records
	██████████	Information Security Officer
	██████████	CAP Chairperson
Apologies	██████████	Councillor



No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p><u>The following apology was noted:</u></p> <p>1.2. Cllr Kedama was on sick leave.</p> <p>The opening and apologies were noted.</p>	Chairperson
2.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
3.	<p>Ratification of the Agenda</p> <p>The agenda was ratified.</p>	All
4.1	<p>Minutes of Previous Council Meetings: Council minutes of 21 September 2022</p> <p>The minutes were adopted as presented.</p>	Council
4.2	<p>Council Minutes of 12 October 2022 (Retabling)</p> <p>The minutes were adopted as presented.</p>	Council
4.3	<p>Council minutes of 18 October 2022</p> <p>The minutes were deferred to the next meeting of Council.</p>	Council
4.4	<p>Council minutes of 31 October 2022</p>	Council



No.	Action Item	Person Responsible
	<p>The minutes were deferred to the next meeting of Council.</p>	
<p>4.5</p>	<p>Council minutes of 15 November 2022</p> <p>The minutes were deferred to the next meeting of Council.</p>	<p>Council</p>
<p>5.</p>	<p>Matters Arising</p> <p>The Acting CEO presented the Matters Arising Document.</p> <p><u>Resolutions and Comments by Council:</u></p> <p>5.1. Item 4 of the Matters Arising document (“MA”) Dormant Licences: Council resolved that an update on the CCC referral of the matter be provided at a subsequent meeting.</p> <p>5.2. Item 5 of the MA - Numbering Regulations: Council resolved that the settlement agreement process should be expedited.</p> <p>5.3. Item 8 Potential non-compliance with regulation 18 of RFS Regs, 2015 by Vodacom and Rain:</p> <p>5.3.1 Council expressed concern over the time that the vetting process is taking.</p> <p>5.3.2 Council resolved that a report should be tabled for noting.</p> <p>5.4. Item 14 ICASA Funding Model: Council resolved that the submission, to be tabled at the subsequent Council meeting, be circulated timeously.</p> <p>5.5. Item 18 IT and connectivity related matters: Council was of the view that the current status of the IT Unit is not acceptable and requested a report from the Chairperson of the ITRC. Council further requested that the Executive: Corporate Services should ensure that the meeting rooms / Boardrooms have devices that are in working condition.</p>	<p>CEO</p>



No.	Action Item	Person Responsible
	<p>5.6. Item 23 2020/21 FY Performance Rewards Payment: is to be removed from Matters Arising.</p> <p>5.7. Item 26 2022/23 FY COLA: is to be removed from Matters Arising.</p> <p>The update on Matters Arising was noted.</p>	
<p>6.</p>	<p>International Engagements</p> <p>The Delegation representative presented the item.</p> <p>6.1. The purpose of this submission was to request Council to note the report on the Plenipotentiary Conference ("the Conference") of the International Telecommunication Union ("ITU"), which took place from 26 September to 14 October 2022 in Bucharest, Romania, with the goal of setting the direction of digital transformation for all.</p> <p>6.2. The South African delegation was led by the Honourable Minister, Khumbudzo Ntshavheni, supported by the Acting Director General of the Department Ms Nonkqubela Jordan-Dyani, as well as officials from the DCDT. In addition, the delegation was comprised of South African entities such as the Council for Scientific and Industrial Research, .ZA Domain Name Authority, USAASA, Film and Publications Board, Multichoice and Vodacom.</p> <p>6.3. The ICASA delegation at the Conference was as follows:</p> <ul style="list-style-type: none"> (a) ██████████ – Acting Chairperson (HoD); (b) ██████████ – Councillor (Deputy HoD); (c) ██████████ – Acting CEO; (d) ██████████ - Executive Corporate Services; (e) ██████████ - Executive Regions; (f) ██████████ - Senior Manager: Communications and International Relations; (g) ██████████ - Manager: Radiocommunications; (h) ██████████ - Manager: Cybersecurity; (i) ██████████ – Researcher;(virtual) 	<p>CEO / Exec: Corporate Services</p>



No.	Action Item	Person Responsible
	<p>(j) [REDACTED] - Specialist: Legislative and Regulatory Drafting;</p> <p>(k) [REDACTED] – Senior Manager: Type Approval and Numbering (virtual);</p> <p>(l) [REDACTED] – Manager: Numbering (virtual); and</p> <p>(m) [REDACTED] – Lead Statistician (virtual).</p> <p>6.4. The ITU’s outgoing Secretary-General, Houlin Zhao, announced the major conferences to be held in the forthcoming years as follows:</p> <p>(a) WRC-23 in the United Arab Emirates;</p> <p>(b) WTSA-24 in India;</p> <p>(c) WTDC-25 in Thailand; and</p> <p>(d) Plenipotentiary-26 in Qatar.</p> <p>6.5. The Authority should prepare in time for these meetings by ensuring participation in the appropriate study groups.</p> <p>6.6. Minister, DCDT, ICASA and other South African entities (individually and/or collectively), met with their counterparts from other countries on the sidelines of the Conference. The purpose of the meetings included, inter alia, (a) lobbying for support for the South African candidatures to the ITU Council and RRB, and (a) sought to explore areas of common interest between the entities. Key bilateral meetings attended by the Minister and/or ICASA included the meetings with delegations from Malaysia, USA (as well as FCC), Lithuania, Algeria, Russia, Saudi Arabia, and Iran.</p> <p><u>It was recommended that Council:</u></p> <p>6.7. Notes the report of the Plenipotentiary Conference of the International Telecommunication Union which took place from 26 September to 14 October 2022 in Bucharest, Romania;</p> <p>6.8. Approves that ICASA management identify and prioritise the relevant Study Groups, major conferences, as well as relevant officials within the Authority with the view of contributing and participating meaningfully to the work of the ITU in order to</p>	



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	<p>influence the desired outcome, taking into account resource limitations;</p> <p>6.9. Approves the sharing of the report with the DCDT; and</p> <p>6.10. Encourages management to explore further engagements to identify possible areas of common cooperation with a view to enter into MoUs with some of the key regulators from countries where strong bilateral relations were forged at the PP-22 in pursuit of ICASA's strategic priorities.</p> <p><u>Comments and Resolutions</u></p> <p>6.11. Council requested clarity regarding the next steps of the report and requested an update about the preparations for the next meeting.</p> <p>6.12. The Committee informed Council that preparatory work was underway for the World Radio Conference. Council was further informed that work will be undertaken to ensure that the Authority attends the ATU working group.</p> <p>The submission was noted.</p>	
7.	<p>Licensing of IMT (“Standing Item”)</p> <p>The Project Manager presented the update.</p> <p><u>Comments:</u></p> <p>7.1. The Committee requested that there be a SteerCo to discuss matters pertaining to the unlicensed lot.</p> <p>7.2. Council inquired if there was an over-achievement regarding the Social Obligations and further sought clarity regarding who the Social Obligations were aimed at benefiting.</p> <p>7.3. The Committee informed Council that the Social Obligations were included, at the direction of the Government. Currently, the .gov.za websites will be zero rated, there will be a certain</p>	Cllr [REDACTED]



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	<p>allocation of data to public institutions and the Authority is currently working towards defining the connectivity agreements.</p> <p>7.4. The Committee further informed Council that the Social Obligations stemmed from the SA Connect Obligations.</p> <p>The update was noted.</p>	
8.	<p>Litigation Update</p> <p>The Executive: Legal Risk and CCC presented the item.</p> <p><u><i>Pretoria FM NPC v ICASA (Part B of the application)</i></u></p> <p>8.1. The Application seeks, the review, declaring unlawful and setting aside of the Authority's 18 November 2022 decision(s) disqualifying the Applicant's seventeen (17) pre-registration applications for prospective community sound broadcasting services.</p> <p>8.2. Further, the application seeks an order that the Applicant's aforementioned applications be remitted to the respondent for reconsideration pursuant to Government Notice 728 of 2021 dated 15 December 2021.</p> <p>8.3. The Authority obtained a legal opinion from Senior Counsel.</p> <p>8.4. Settlement proposal by Pretoria FM NPC:</p> <p>8.4.1 The basis for the proposal is that there are six districts that Pretoria applied for in which there are no other applicants, as such there will be no issue of prejudice or competition.</p> <p>8.4.2 ICASA agrees to accept Pretoria FM's applications in the mentioned 6 districts, to proceed to the next phase of pre-registration;</p> <p>8.4.3 Pretoria FM will in return abandons the remaining 11 applications where other parties also applied for pre-registration;</p>	CEO / Exec Legal Risk & CCC



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	<p>8.4.4 The Applicant is proposing that each party pay their own costs in the event that ICASA accept the settlement proposal. The general rule is that the successful party is entitled to costs.</p> <p><u>Recommendation to Council:</u></p> <p>8.5. It was recommended that the settlement proposal be rejected and that the matter proceed to be heard on the papers before Court.</p> <p>The recommendation was approved.</p>	
<p>9.</p>	<p>Status Report On Soweto TV</p> <p>The Executive: Licensing and Compliance presented the item.</p> <p>9.1. The purpose of this submission was to apprise Council of the complexities existent in Soweto Community TV (Soweto TV) and to recommend that Council notes the submission on the current status of Soweto TV.</p> <p>9.2. In September 2022, the Unit received correspondence from individuals from the geographic area of the licensee, alleging acts of corruption and mismanagement on the part of Soweto TV board of directors. The correspondence further alleged that the board was elected unprocedural.</p> <p>9.3. The individuals referred to above, were led by a certain Mr Mzimkhulu Hlalukana and he purported to be arranging an AGM of Soweto TV for the purpose of electing a board of governance. In the same correspondence, an invitation was extended to the Authority to attend and recognise the group of individuals as legitimate custodians of the Licensee.</p> <p>9.4. On 26 September 2022, the Unit with SM: Compliance, held a meeting with the group (Complainants) on their grievance against the Licensee. The Unit reiterated that while it acknowledged the complaint and committed to taking the matter up with the Licensee, the Unit would not endorse a parallel</p>	<p>CEO / Exec: Licensing and Compliance</p>



No.	Action Item	Person Responsible
	<p>structure that purported to act on behalf of the Licensee nor was it going to attend any meetings organised by the same group seeking to organise an AGM.</p> <p>9.5. In light of the various attempts from the Licensing and Compliance Division and now the office of the ACEO to resolve the impasse, the complainants remain dissatisfied with the Authority's measures, and it remains unknown what the exact course of action they will take. Despite the advice provided to the Complainants, they still hold the view that the Authority must implement the court order, recognise, and attend their AGM, regardless of the Authority's jurisdiction in the matter.</p> <p><u>Recommendation to Council</u></p> <p>9.6. It was recommended that Council notes the status report on Soweto TV</p> <p><u>Comments and Resolutions:</u></p> <p>9.7. Council expressed concern over the process that was taking place and inquired if the board adopted in October 2022 was voted for in accordance with the recommendation of the CCC.</p> <p>9.8. Management informed Council that there was a CCC ruling which was approved by Council and the ruling set-out the process to be followed by the Licensee when appointing the Board of Directors. However, pursuant to the CCC ruling there was a High Court Ruling which made reference to the CCC ruling, and as it stands the High Court ruling supersedes the CCC ruling.</p> <p>The update was noted.</p>	
10.	<p>Code for Persons with Disabilities Regulations</p> <p>The Executive: Regions and Consumer Affairs presented the item.</p> <p>10.1. The purpose of this submission was to request Council to consider issues raised by Vodacom, Association of Comms &</p>	<p>CEO / Executive Regions and Consumer Affairs</p>



No.	Action Item	Person Responsible
	<p>Technology (ACT), Cell C, MTN and the Legal Opinion in relation to the Code for Persons with Disabilities Regulations.</p> <p>10.2. The Regulations were supposed to have come into effect eighteen (18) months after publication in the Government Gazette. The implementation date of the regulations has now commenced.</p> <p><u>Recommendation to Council:</u></p> <p>10.3. It was recommended that Council should consider areas of concerns raised by Vodacom, the Association for Comms & Technology, Cell C, MTN and the legal opinion regarding the challenges arising pursuant to the implementation of the Code for Persons with Disabilities Regulations more especially on the difficulties they have raised in meeting the requirements of the Regulations.</p> <p>10.4. It was further recommended that Council should consider the option of engaging with the affected parties through a Council Committee that promulgated the regulations to deal with the issues raised by licensees and ACT.</p> <p>10.5. Further, it was recommended that Council should consider extending the compliance extension period on the NRS with either 12 months or 18 months to allow for sufficient time to engage with the affected parties.</p> <p>10.6. Lastly, it was recommended that Council should consider engaging with The Association for Comms & Technology as an association representing most licensees on the issue of interoperability of the NRS.</p> <p><u>Comments and Resolutions:</u></p> <p>10.7. Council inquired if there was evidence to support that an extension would result in the Licensees being able to comply with the Regulations.</p>	



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	<p>10.8. Legal advised Council that the decision should be deferred and further recommended that a Legal Opinion be sought to advise on whether the Authority could unilaterally alter the commencement date where the date is expressly state in the published final Regulations and where those Regulations are already in force.</p> <p>10.9. Following deliberations by Council on whether to grant the extension and if the extension would result in a need to amend the Regulations, Council resolved to defer the decision pending the sourcing of a Legal Opinion.</p> <p>10.10. Council further resolved that a status update letter be sent to interested parties.</p> <p>The decision was deferred and would be retabled at Council once a legal opinion has been obtained addressing the aforementioned legal questions.</p>	
<p>11.</p>	<p>CAP Quarter Two (Q2) Report 2022/2023</p> <p>The Chairperson of the Consumer Advisory Panel presented the item.</p> <p>11.1. The purpose of the submission was to submit the Consumer Advisory Panel (CAP) Q2 report (July-September 2022) to the Independent Communications Authority of South Africa (ICASA) Council.</p> <p>11.2. The activities undertaken and considered by CAP over a period of three months (July - September 2022) are as follows:</p> <p>11.2.1 Performance Information Report for Q2 2022/23;</p> <p>11.2.2 Mpumalanga stakeholder engagements;</p> <p>11.2.3 CAP Submission on notice for IMT Licensing Phase 2;</p> <p>11.2.4 Critical Consumer Concerns;</p> <p>11.2.5 Recommendations on relevant bodies for collaboration;</p> <p>11.2.6 Concept document for a proposed Regulatory Impact Assessment (RIA) on the Regulations for Access Services for Persons with Disabilities; and</p> <p>11.2.7 CAP Consumer Trends Report.</p>	<p>Cllr ██████████ / CAP Chairperson</p>



No.	Action Item	Person Responsible
	<p><u>Recommendation to Council:</u></p> <p>11.3. It was recommended that Council approve CAP Q2 report as undertaken during the reporting period.</p> <p><u>Comments and Resolutions:</u></p> <p>11.4. Council inquired if there were mechanisms in place to address the issues raised and the recommendations that are made by CAP.</p> <p>11.5. CAP informed Council that their quarterly reports give the Authority recommendations, however, the Committee expressed that it was not aware if the recommendations were being implemented by the Authority.</p> <p>11.6. Council resolved that the Management should ensure that the Recommendations made by CAP are shared with the relevant Divisions to ensure implementation of the recommendations that are within the Authority's mandate.</p> <p>The submission was noted.</p>	
12.	<p>Certification Bodies Qualification Criteria</p> <p>The Project Leader presented the submission.</p> <p>12.1. The purpose of this submission was to table the ICASA Designated Certification Bodies Programme (DCBP) for Council:</p> <p>(a) to approve for publication on the Independent Communications Authority of South Africa (ICASA) website; and</p> <p>(b) to approve its submission to the South African National Accreditation System (SANAS).</p> <p><u>Recommendation to Council:</u></p> <p>12.2. It was recommended that the Council:</p>	Cllr [REDACTED]



No.	Action Item	Person Responsible
	<p>(a) approve the ICASA Designated Certification Bodies Programme for its consideration for publication on the ICASA website; and</p> <p>(b) approve its submission to SANAS.</p> <p>The submission was approved.</p>	
13.	<p>Approval Information Security Policy</p> <p>The Information Security Officer presented the submission.</p> <p>13.1 The purpose of this submission was to request Council to approve the Information Security Policy.</p> <p>13.2 The Information Security Policy was last reviewed in 2019. It is due for review, as stipulated in ICASA's policy processes. Inputs were received from all relevant stakeholders, Management Forum, Internal Audit, and Legal. All stakeholder's inputs were considered and incorporated into the final draft policy.</p> <p>13.3 The main change was to remove the annexures detailing IT security from the policy and to move this to a new document called IT Security Guidelines. The guidelines have also been updated to reflect recommendations from the forensic investigation report as well as some findings raised by the AG on cybersecurity.</p> <p><u>Recommendation to Council:</u></p> <p>13.4 It was recommended that Council approve the revised Information Security Policy.</p> <p><u>Comments and Resolutions:</u></p> <p>13.5 Council sought confirmation that the Policy had been submitted to the ITRC as there was no signature by the Chairperson of ITRC on the memorandum.</p> <p>13.6 Management informed Council that the submission was submitted to ITRC and further that in future all submissions</p>	CEO / Exec: Corporate Services



No.	Action Item	Person Responsible
	<p>requesting approval would be signed by the Chairperson of the ITRC.</p> <p>13.7 Council resolved that a tracked version detailing the amendments should be shared with Councillors as well as the signed memorandum by the Chairperson of the ITRC.</p> <p>The submission was approved subject to written confirmation by the ITRC Chairperson.</p>	
14.	<p>File Naming Convention and File Reference Numbers Allocation</p> <p>The Manager: Library and Records presented the item.</p> <p>14.1. The purpose of the submission is for Council to approve the Standard Operating Procedures for File Naming Convention and the File Reference Number Allocation.</p> <p>14.2. Corporate Services developed the Standards Operating Procedures to ensure naming of files and documents is consistent across the organisation. The naming convention is important in managing file and document lifecycle during the creation, capturing, storing, retrieving, and disposal.</p> <p>14.3. The File Plan Reference Number Allocation Standard Operating Procedure was also developed to guide uniformity in dealing with file references in line with the Council's request. The File Naming Convention and the File Plan Reference Number Allocation SOPs were presented for Council's consideration.</p> <p><u>Recommendation to Council:</u></p> <p>14.4. It was recommended that Council approves Standard Operating Procedures for File Naming Convention and File Reference Numbers allocation.</p> <p><u>Resolution:</u></p> <p>14.5. Council resolved to approve the submission, subject to a review after six (6) months following the implementation.</p> <p>The submission was approved.</p>	CEO / Corporate Services



No.	Action Item	Person Responsible
15.	<p>Mthinte Payment Plan – Request for a Payment Plan with respect to 2022/23 Spectrum Licence Fees</p> <p>The Chief Financial Officer presented the item.</p> <p>15.1. The purpose of this submission was to request Council to approve the request by Mthinte Communications (Pty) Ltd for a payment plan of 2022/23 Spectrum licence fees and request the Chairperson to sign the letter (Annexure A) to Mthinte Communications (Pty) Ltd regarding the subject above.</p> <p>15.2. On 30th September 2022, the Authority received correspondence from Mthinte Communications (Pty) Ltd requesting approval of a payment plan in respect of their outstanding spectrum licence fees for 2022/23 financial year.</p> <p>15.3. Based on the reason advanced by Mthinte Communications (Pty) Ltd, for the request of the payment plan it is the Finance Division's view that Mthinte Communications (Pty) Ltd should be allowed to pay the R9,928,800.00 in three (3) equal tranches commencing 30 January 2023 (R3,309,600.00), 28 February 2023 (R3,309,600.00) and 30 March 2023 (R3,309,600.00).</p> <p>15.4. The indicative interest payable by Mthinte Communications (Pty) Ltd totalling R1,448,017.82 3 0 January 2023 (R680,366.95), 28 February 2023 (R496,846.92) and 30 March 2023 (R270,803.95) subject to interest rate changes as announced by National Treasury.</p> <p><u>Recommendation to Council:</u></p> <p>15.5. It was recommended that Council approve Mthinte Communications (Pty) Ltd's request as recommended by EXCO/OPCO and request the Chairperson to sign the letter to Mthinte Communications (Pty) Ltd regarding the subject above.</p> <p>The submission was approved.</p>	CFO
16.	ICASA Q2 Financial Statements 2022/23	CFO



No.	Action Item	Person Responsible
	The submission was deferred.	
17.	Updated Risk and Compliance Policies The submission was deferred to the next meeting of Council.	CEO / Exec: Legal Risk & CCC
18.	General Council Committees: 18.1. The Corporate Secretary is in the process of formulating a document detailing all the projects and the current Chairpersons and Deputy Chairpersons of the Committees. 18.2. Once the document has been drafted Councillors will have a Council Project Steering Committee meeting and discuss how the Committees should be allocated. 18.3. Secretariat advised that the aforementioned will be dealt with in two parts, namely the allocation of approved Project for the 2023/24FY, and allocation of current projects where the corresponding Committee of the project does not have a Deputy Chairperson. 18.4. The Council Projects Steering Committee meeting will be scheduled to take place towards the end of January 2023.	Acting Chairperson
19.	Closure The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 16:23 pm.	Chairperson

Signed: 

Date: 2023-03-16

Dr Charley Lewis
(Acting Chairperson)