



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL		
Date	12 October 2022	
Time:	08:00	
Venue:	Microsoft Teams	
Present	██████████	Acting Chairperson
	██████████	Councillor
	██████████████████	Councillor
	██████████	Councillor
By Invitation	██████████████████	Acting CEO
	██████████	CFO
	██████████████████	CAE
	██████████████	Corporate Secretary
	██████████████	Secretariat Officer
	██████████████████	Secretariat Officer
	██████████	Secretariat Officer
Partial Attendees	██████████████	Executive: Licensing and Compliance
	██████████	Executive: Legal Risk & CCC
	██████████	Executive: Corporate Services
	██████████████	Executive: Engineering and Technology
	██████████	SM: Talent and Performance Management
	██████████	External Legal Advisor
	██████████████████	Manager: Broadcasting Frequency Coordination
	██████████	Chairperson of AREDC
	██████████████	Chairperson of HR & REMCO
	██████████████████	SM: Facilities Management
Apologies		



No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson declared the meeting opened at 08:00 and welcomed all present.</p> <p><u>The following apology was noted:</u></p> <p>1.2. Cllr ██████████ was having connectivity issues and the IT Technicians were assisting him connect.</p> <p>1.3. Cllr ██████████ was to join Virtual Hearings at 10:00 am for 10 minutes and return to Council after offering the welcoming.</p> <p>The opening and apologies were noted.</p>	Chairperson
2.	<p>Ratification of the Agenda</p> <p>2.1. Council resolved to table Item E3.3 and Item D3 simultaneously, given the identical salient facts.</p> <p>2.2. Council further resolved that the Cell C matter regarding spectrum auction fees be dealt with expeditiously under Item 7, given the looming deadlines. Council requested that external legal counsel be requested to join the matter when this matter is being discussed.</p> <p>The agenda was ratified.</p>	
3.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
4.	<p>Minutes of Council: 30 May 2022</p> <p>The minutes were deferred to the next meeting of Council.</p>	Council



No.	Action Item	Person Responsible
5.	<p>Matters Arising</p> <p>The update was noted.</p>	CEO
6.	<p>International Engagements</p> <p>The update on International Engagements was noted.</p>	CEO / Exec: Corporate Services
7.	<p>Licensing of IMT (“Standing Item”)</p> <p>7.1. There will be an IMT SteerCo meeting in relation to Social Obligations. Thereafter the Committee will bring a submission to Council in relation to Social Obligations sometime today.</p> <p>7.2. Telkom 2300 MHz – The Committee has written to Telkom and is currently awaiting a response.</p> <p><u>Response letter to Cell C</u></p> <p>7.3. A letter was received from Cell C. External legal Counsel took Council through the letter and expressed the view that this letter may be indicative that Cell C is gearing up for litigation, given that their letter has been sent from their attorneys and that they are making assertions that would ordinarily have to be alleged pursuant to a review application.</p> <p>7.4. The Authority’s proposed response letter reminds Cell C that the ITA was clear regarding payment of spectrum auction fees, that the Authority has consistently communicated with Cell, whilst Cell C has consistently been on breach and that they have no grounds to stand on, further that the Authority has taken into account the adverse impact that Cell C’s breach will have on competition (i.e. prejudice caused to other players who may have otherwise utilised the spectrum).</p> <p>7.5. Council highlighted the comments made by the Auditor-General South Africa (AGSA relating to payments, which stated as follows:</p>	Cllr [REDACTED]



No.	Action Item	Person Responsible
	<p><i>“Management should implement adequate controls to ensure that submitted annual financial statements are free from material misstatement, payments are made within the required 30 days and implement adequate controls to prevent non-compliance with laws and regulations which resulted in occurrence of irregular expenditure”</i></p> <p>7.6. Council approved that the proposed letter be sent to Cell C, subject to the tightening of the wording.</p> <p>The proposed response letter to Cell C was approved, subject to the inputs made.</p>	
8.	<p>Progress on the preparations for the Sub-Sahara Spectrum Management Conference in South Africa</p> <p>8.1. The purpose of this submission was to provide Council with the progress report on preparations to host a Workshop on ITU Spectrum Monitoring and the 7th Sub-Sahara Spectrum Management Conference in South Africa.</p> <p>8.2. Council approved the request to host the Workshop on ITU Spectrum Monitoring which is taking place from 01 - 02 November 2022 and the 7th Sub-Sahara Spectrum Management Conference taking place from 03 - 04 November 2022 in Cape Town.</p> <p>8.3. The First Inaugural Sub-Sahara Spectrum Management Conference was held from 18-19 February 2015 in Johannesburg, co-hosted by ICASA. The key objective of the conference was to bring together key policymakers, national regulators, and top industry representatives from the Sub-Saharan region and beyond to come together and discuss topical issues relating to the management and coordination of spectrum policy across the region.</p>	CEO / Exec: Corporate Services



No.	Action Item	Person Responsible
	<p>8.4. The ITU Spectrum Monitoring Workshop:</p> <p>(a) The workshop will take place from 01 - 02 November 2022. The workshop will focus on spectrum monitoring, activities related to spectrum; techniques for spectrum monitoring; measurement tools and equipment; and sharing of countries' experiences.</p> <p>(b) The agenda contributions were received from the Engineering and Technology Division, the Licensing & Compliance Division and the Spectrum Resources Management Committee. It is proposed that –</p> <p>(i) Councillor ██████ should open the first session of the Workshop on 01 November 2022; and</p> <p>(ii) ████████████████████ Manager: National Central Monitoring, should present ICASA's Monitoring Systems.</p> <p>8.5. 7th Sub-Sahara Spectrum Management Conference</p> <p>(a) The Minister of Communications and Digital Technologies is invited to deliver a keynote address at the Conference on 03 November 2022. It is proposed that the acting Chairperson should also deliver a keynote address.</p> <p>(b) Under the topic: '360 Degree' Case Study – It is proposed that ICASA should present on the recent spectrum auction in South Africa.</p> <p>8.6. A steering committee has been established, led by the Acting CEO, to deal with day-to-day logistics of the Workshop and Conference.</p> <p>8.7. The budget for the Conference and Workshop is R1 149 800,00. An amount of R352 800,00 will be sourced from sponsorships referred to above.</p>	



No.	Action Item	Person Responsible
	<p>It was recommended that Council –</p> <p>8.8. notes the progress report on preparations to host the Workshop on ITU Spectrum Monitoring from 01 - 02 November 2022 and the 7th Sub-Sahara Spectrum Management Conference from 03 – 04 November 2022 in Cape Town; and</p> <p>8.9. approves the proposed Councillors indicated above to make presentations on behalf of ICASA and/or make further suggestions in this regard.</p> <p><u>The following comments were made:</u></p> <p>8.10. Council requested that as many employees as possible attend the conference.</p> <p>The submission was noted by Council.</p>	
9.	<p>Proposal To Revise Office Accommodation Model</p> <p>The Executive: Corporate Services presented the submission.</p> <p>9.1 The purpose of the submission was to propose the review of the current office accommodation model that is currently being implemented by the Authority.</p> <p>9.2 The Authority has presence in all nine (9) provinces to ensure easy access, by the public, clients and any other stakeholders, to services rendered by ICASA. Prior to 26 March 2020, ICASA's employees were expected to be working in the office five days a week. Since the declaration of the National State of Disaster by the South African government on 15 March 2020, ICASA had to comply with the national lockdown legal prescripts, which started on 26 March 2020. The lockdown was aimed at minimizing the spread of COVID-19 in the workplace.</p>	<p>CEO / Exec: Corporate Services</p>



No.	Action Item	Person Responsible
	<p>9.3 The National State of Disaster was extended at one-month intervals until 4 April 2022, when the State President announced that Cabinet has decided to terminate the National State of Disaster. This meant that all regulations and directives made in terms of the Disaster Management Act following the declaration of the National State of Disaster in response to COVID-19 were repealed. However, this was with the exception of a few transitional measures, these being the wearing of masks indoors, limitation on gatherings and vaccination proof or PCR negative tests at ports of entry. These remaining measures were eventually repealed as well on 22 June 2022.</p> <p>9.4 The Occupational Health and Safety Act requires employers to provide and maintain as far as is reasonably practicably possible, a safe working environment and without risks to the health of its employees. The employer must take steps as reasonably as practicable to limit or mitigate any hazards or potential hazards in the workplace. The identifiable hazard in this instance is COVID-19, and the employer is expected to put special measures in place to limit infection and transmission of COVID-19, as well as mitigate the risk of serious illness or death.</p> <p>9.5 The Risk & Compliance unit in LRCCC recently conducted a risk assessment to determine the risk of exposure and the control measures in place to limit infection, transmission and mitigate the risk of serious illness or death on employees and other persons who may be directly affected by the activities of the workplace. Following the risk assessment, a plan must be developed by the employer, and that plan may include “social distancing measures including minimising the number of workers in the workplace through rotation, staggered working hours, shift and remote working arrangements” (refer to section 6 (2)(a) of the Code).</p> <p>9.6 The Authority has already tested and adjusted to the staff rotation and remote working arrangements over the past two (2) years.</p>	



No.	Action Item	Person Responsible
	<p>9.7 Despite having to adapt to new ways of working, which included staff rotation and remote working arrangements, the Authority was able to increase its overall organisational performance to 87.5% in the 2020/21 financial year, from 86.8% in the 2019/20 financial year. In the 2021/22 financial year, the Authority achieved an overall organisational performance of 86.8%.</p> <p>9.8 Several organisations are adopting and implementing a new way of working called hybrid working model, where employees work at the office on certain days and work remotely/from home on other days of the week. A hybrid working model is in line with section 6 (2)(a) of the Code of Code of Practice issued by the Department of Employment & Labour. There are a number of benefits that can be derived from implementing a hybrid working model.</p> <p>9.9 The working life of the future, following the COVID-19 pandemic, is characterized by an increased demand for flexible solutions. The working from home, in the form of staff rotation and remote working arrangements has clearly unveiled the vast number of organizations, including ICASA, who have the capabilities to implement staff rotation and remote work arrangements, and indications are that employees highly regard the opportunity to do so.</p> <p><u>Recommendation to Council:</u></p> <p>9.10 The adoption of the hybrid working model for the entire organisation, in line with Section 6 (2)(a) of the Code of Practice, issued by the Department of Employment and Labour.</p> <p>9.11 Working from home should not be more than three (3) days per week, in order to support team engagement and collaborations.</p> <p>9.12 Establishment of a Hybrid Working Model Committee to oversee the initiation, roll-out and change management processes. Proposed Committee members, as nominated by respective divisions.</p>	



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	<p>9.13 Divisions to determine which employees fall in the different employee types/categories.</p> <p>9.14 Consideration, adoption and implementing a workplace scheduling software, which will enable employees to book/reserve a desk, boardroom, collaboration spaces, as well as the appointments booking system to enable clients to make/book appointments in advance.</p> <p>9.15 The Authority to determine the percentage/average number of employees to be in the office on any given day to ensure efficient service delivery.</p> <p>9.16 The Authority to decide on whether there are employees, who based on the nature of their work, must report to work daily.</p> <p>9.17 As changes are being made, the Authority to decide on whether employees at senior management level and above, or any other employees must still be allocated closed offices.</p> <p>9.18 ICASA to consider the contents of Annexure C when making a decision on the proposed hybrid working model.</p> <p>9.19 Upon adoption of the recommendations:</p> <p style="padding-left: 40px;">9.19.1 the proposed Committee to convene and initiate Committee work; and</p> <p style="padding-left: 40px;">9.19.2 consultations with relevant stakeholders (e.g., union, employees) to be initiated</p> <p><u>The following comments were made:</u></p> <p>9.20 Council raised concern about the Hybrid Working Model and inquired about how the safety of employees working from home would be ensured going forward.</p> <p>9.21 Council inquired how performance would be monitored in the Hybrid working model.</p>	



No.	Action Item	Person Responsible
	<p>9.22 Council expressed that the COVID-19 pandemic has provided lessons and a new manner of conducting business and that moving forward some of the lessons should be incorporated to ensure business continuity should there be another pandemic in the future.</p> <p>9.23 Management informed Council that there is a proposal for the establishment of a Committee that will be headed by the HR Division aimed at formulating a proposal for a relevant Performance Management System if the hybrid model is to be implemented.</p> <p>9.24 Council requested Management to perform a Benchmark study on institutions that have adopted the Hybrid Working Model to properly formulate a better understanding and assessment of the implications.</p> <p>9.25 Council resolved that the Model cannot be adopted at this stage and further that a Committee be established to perform the Benchmark study, to properly formulate a clearer way forward regarding the implementation of the Hybrid Working Model and to subsequently retable the submission to Council.</p> <p>The submission was not approved.</p>	
10.	<p>Proposed 2022/23 Cost Of Living Adjustment</p> <p>The Senior Manager: Talent and Performance Management presented the submission.</p> <p>10.1. The purpose of this submission is for Council [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>10.2. Management has requested that [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	CEO / Exec: Human Resources



No.	Action Item	Person Responsible
	<p>10.2.1 Since 2016 the [REDACTED] [REDACTED] [REDACTED] [REDACTED].</p> <p>10.2.2 Medical aid [REDACTED] [REDACTED]</p> <p>10.2.3 Following consultation [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>10.3. Subsequently, a [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p><u>Proposed Scenarios</u></p> <p>10.4. Scenario One</p> <p>10.4.1 [REDACTED] [REDACTED];</p> <p>10.4.2 [REDACTED] [REDACTED];</p> <p>10.4.3 The proposed [REDACTED]</p> <p>10.4.4 The proposed [REDACTED]</p> <p>10.4.5 New [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>10.4.6 COLA [REDACTED] [REDACTED]</p> <p>10.4.7 The financial [REDACTED] [REDACTED]</p>	



No.	Action Item	Person Responsible
	<p data-bbox="389 479 1262 555">[Redacted]</p> <p data-bbox="389 555 1262 712">10.4.8 In-light of the [Redacted]</p> <p data-bbox="268 757 587 792">10.5. Scenario Two</p> <p data-bbox="389 792 1262 869">10.5.1 [Redacted];</p> <p data-bbox="389 869 1262 945">10.5.2 Proposal [Redacted];</p> <p data-bbox="389 945 1262 990">10.5.3 The proposed [Redacted];</p> <p data-bbox="389 990 1262 1034">10.5.4 The proposed [Redacted];</p> <p data-bbox="389 1034 1262 1191">10.5.5 New [Redacted]</p> <p data-bbox="389 1236 1262 1312">10.5.6 COLA [Redacted]</p> <p data-bbox="389 1357 1262 1514">10.5.7 The financial [Redacted]</p> <p data-bbox="389 1559 1262 1715">10.5.8 This scenario [Redacted]</p> <p data-bbox="389 1760 1262 1939">10.5.9. It should be noted [Redacted]</p>	



No.	Action Item	Person Responsible
	<p>10.5.10. The proposed [REDACTED] [REDACTED] [REDACTED]</p> <p>10.5.11. The Authority's [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>10.5.12 Based on the [REDACTED] [REDACTED] [REDACTED]</p> <p>10.5.13. It should be noted [REDACTED] [REDACTED] [REDACTED]</p> <p>10.5.14. This poses [REDACTED] [REDACTED]</p> <p><u>Recommendation to Council:</u></p> <p>10.6. It was recommended that Council [REDACTED] [REDACTED] [REDACTED]</p> <p><u>The following comments were made:</u></p> <p>10.7. Council expressed [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>10.8. Council expressed that [REDACTED] [REDACTED]</p>	



No.	Action Item	Person Responsible
	[Redacted]	
10.9.	Council raised [Redacted] [Redacted] [Redacted] [Redacted]	
10.10.	Management informed Council [Redacted] [Redacted] [Redacted]	
10.11.	Management further informed [Redacted] [Redacted] [Redacted]	
10.12.	Management relayed to Council [Redacted] [Redacted] [Redacted] [Redacted]	
10.13.	Management informed Council [Redacted] [Redacted] [Redacted]	
10.14.	Council resolved to [Redacted] [Redacted] [Redacted]	
10.15.	Following deliberations Council [Redacted] [Redacted] [Redacted]	



No.	Action Item	Person Responsible
	<p>[REDACTED]</p> <p>The submission was approved by Council.</p>	
11.	<p>Proposed 2020/21 Performance Rewards Payment</p> <p>The Senior Manager: Talent and Performance Management presented the submission.</p> <p>11.1. The purpose of this submission was for Council to consider and exercise discretion whether to pay 2020/21FY performance rewards.</p> <p>11.2. The Authority [REDACTED]</p> <p>11.3. The Authority's performance [REDACTED]</p> <p>11.4. The Authority's performance [REDACTED]</p>	CEO / Exec: Human Resources



No.	Action Item	Person Responsible
	[Redacted]	
11.5.	For 2020/21FY [Redacted]	
11.6.	The performance [Redacted]	
11.7.	To qualify [Redacted]	
11.8.	A [Redacted]	
11.9.	The payment [Redacted]	
	<u>Proposed Scenarios</u>	
11.10.	Scenario One	



No.	Action Item	Person Responsible
	<p>11.10.1 In terms of scenario [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11.10.2 In terms of scenario [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11.10.3 The Authority [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11.10.4 The performance [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11.11. Scenario Two</p> <p>11.11.1 In terms of scenario two, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11.11.2 In terms of scenario two, [REDACTED] [REDACTED]</p>	



No.	Action Item	Person Responsible
	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.11.3 The Authority [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.11.4 The [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.12. Scenario Three</p> <p>11.12.1 In terms of scenario three, [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.12.2 In terms of scenario three, [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	



No.	Action Item	Person Responsible
	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.12.3 The Authority [Redacted]</p> <p>[Redacted] [Redacted] [Redacted] [Redacted]</p> <p>[Redacted]</p> <p>11.12.4 The performance [Redacted]</p> <p>[Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p><u>HR & REMCO deliberations and recommendations</u></p> <p>11.13. HR & REMCO expressed [Redacted]</p> <p>[Redacted]</p> <p>11.14. The achievement [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.15. The proposal [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.16. HR & REMCO expressed [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>11.17. HR & REMCO recommended [Redacted] [Redacted] [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	



No.	Action Item	Person Responsible
	<p data-bbox="263 486 679 517"><u>Recommendation to Council:</u></p> <p data-bbox="255 607 1262 719">11.18. It was recommended [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]:</p> <p data-bbox="391 763 1262 837">11.18.1 The [REDACTED] [REDACTED];</p> <p data-bbox="391 882 1262 1032">11.18.2The fact that the organisation [REDACTED] [REDACTED] [REDACTED]</p> <p data-bbox="391 1077 1262 1151">11.18.3 The budget [REDACTED] [REDACTED]</p> <p data-bbox="391 1196 1262 1308">11.18.4 The fact that Council [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p data-bbox="391 1352 1262 1503">11.18.5 The ruling [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p data-bbox="263 1536 791 1568"><u>The following comments were made:</u></p> <p data-bbox="255 1599 1262 1711">11.19. Council raised [REDACTED] [REDACTED] [REDACTED]</p> <p data-bbox="255 1756 1262 1868">11.20. Council raised [REDACTED] [REDACTED] [REDACTED]</p> <p data-bbox="255 1912 1262 2024">11.21. Council sought clarity [REDACTED] [REDACTED] [REDACTED]</p>	



No.	Action Item	Person Responsible
	<p>11.22. Management informed [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>11.23. Following [REDACTED] [REDACTED].</p> <p>11.24. Council [REDACTED] [REDACTED]</p> <p>The submission was approved.</p>	
12.	<p>Settlement terms for the Review Application on the amendment application of VUMA FM’s Individual Commercial Sound Broadcasting Service licence in the matter between VUMA FM and ICASA</p> <p>12.1. The purpose of this Council Submission was to apprise Council of the proposed settlement terms for the Review Application in respect of the amendment application of Vuma FM’s individual commercial sound broadcasting (“I-CSBS”) licence dated 27 July 2020 in the matter between Vuma FM and ICASA Case No. 61869/21 and recommend that Council approves that the Authority should accept the terms and that the LRCCC Division should proceed and instruct the Attorneys of Record to attend to the conclusion of the settlement agreement.</p> <p>12.2. On 7 December 2021 the Authority received a Review Application filed by Submission on review application settlement agreement between Vuma FM and ICASA on the amendment of an individual commercial sound broadcasting licence “Vuma FM” for a declaratory order confirming the amendment of the Vuma FM’s I-CSBS licence on its own terms as published in Government Gazette 44744 on 21 June 2021; or alternatively, the reviewing and setting aside of the</p>	CEO / Exec: Legal Risk &CCC



No.	Action Item	Person Responsible
	<p>amendment application of Vuma FM's I-CSBS licence as communicated to Vuma FM in the letter from the Authority on 3 March 2021.</p> <p>12.3. On 29 July 2020, Vuma FM made an application in terms of section 10 of the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("ECA") to amend paragraph 4 of its I-CSBS licence.</p> <p>12.4. On 3 March 2021, the Authority addressed a letter to Vuma FM informing it of its decision to approve the amendment application for paragraph 4 of its license to read, "Of the music broadcast, more than 50% of the music featured on the music playlist must be gospel. Of the talk broadcast, a minimum of 15 hours a week shall be gospel/spiritual-related." On 17 March 2021, the Authority issued the amended licence to Vuma FM.</p> <p>12.5. On 22 June 2021, the Authority published the outcome of the amendment application in Government Gazette no. 44744. The publication reflected that the amendment application had been approved, that a licence was issued to Vuma FM on its terms and that the reasons for the decision are available at the ICASA website and library.</p> <p>12.6. On 1 August 2021, Vuma FM wrote to the Authority informing it of what it considered to be a discrepancy between the letter it received on 3 March 2021 and the notice published in the Government Gazette on 22 June 2021 in relation to the percentage of gospel music to be played by the station and requested that the Authority amend paragraph 4 of the licence to reflect what is contained in its amendment application i.e. "Of the music broadcast, the single largest genre featured on the music playlist shall be gospel."</p> <p>12.7. On 17 August 2021, Vuma FM raised the same concern it had on 1 August 2021 with the Authority. Consequently, the Authority and Vuma FM exchanged email correspondence in which the Authority informed Vuma FM the licence was</p>	



No.	Action Item	Person Responsible
	<p>amended to reflect what was communicated to Vuma FM in the 3 March 2021 letter.</p> <p>12.8. 23 November 2021, Vuma FM again wrote to the Authority regarding the licence and ultimately elected to institute review proceedings in order to attain the relief that it sought.</p> <p>12.9. Two meetings to discuss the settlement proposals were held between the Authority and Vuma FM and the Authority was represented by the ICASA CEO, Legal Services and Licensing Division. It was highlighted to Vuma FM that there is not guarantee that the application for amendment will be approved by the Authority. The Authority still needs to subject the application to the assessment in terms of the relevant regulatory prescripts. Further that, the amendment application still needs to carry the spirit of the initial License issued to Vuma FM, and that any deviation must be motivated.</p> <p>12.10. Vuma FM has also proposed that each party pay its own costs, however, it is normal practice that when an applicant withdraws its application the applicant should tender the wasted costs of the respondents. In this regard, the LRCCC would request the Authority to exercise a discretion and consider whether the proposed terms are acceptable and its commitment to the pending litigation.</p> <p>12.11. In exercising the discretion on payment of legal costs it must be noted that the Authority has incurred the total legal fees in the amount of R775,941.37, in defending the matter. An amount of R533 070.38 was paid to the Attorneys and R242 870.99 to the Senior Counsel. The total legal fees cost will have to be taxed and Counsel's fees are often heavily taxed by the Tax Master.</p> <p><u>Recommendation to Council:</u></p> <p>12.12. Considering that Vuma FM will submit an amendment application to the Authority for consideration and thus allows the Authority to still exercise its power and mandate as per the</p>	



No.	Action Item	Person Responsible
	<p>ECA, the LRCC recommend that the settlement proposal be accepted.</p> <p>The submission was deferred to the next meeting of Council.</p>	
13.	<p>Request for a Legal Opinion - Telkom v Octotel</p> <p>The submission was deferred.</p>	<p>CEO / Exec: Legal Risk & CCC</p>
14.	<p>Review Application by MTN in relation to the Mobile Broadband Service Regulations</p> <p>14.1. On 21 September 2022, the Legal, Risk and CCC Division (the “LRCCC Division”) received a review application lodged in the High Court of South Africa Gauteng Division, Pretoria by Mobile Telephone Networks (Pty) Ltd “MTN/Applicant”) which seeks to review and set aside regulation 3(a) to (c) and aspects of regulation 5, 6 and 7 of the Mobile Broadband Services Regulations (the “Regulations”).</p> <p>14.2. The Authority is the first respondent. The matter cites eleven (11) other respondents, who are cited for an interest they may have in the matter, against whom no costs are sought, save for if they oppose application – in which case they are liable for costs jointly and severally with the Authority.</p> <p>14.3. On 31 March 2022, the Authority published the Regulations together with a document entitled Reasons Document: Mobile Broadband Services Regulations, 2021.</p> <p>14.4. MTN has approached the Court for the following relief:</p> <p>14.4.1 “Reviewing and setting aside, and declaring invalid the following provisions of the Mobile Broadband Services Regulations, 2021 published under Notice 1960 in the</p>	<p>CEO / Exec: Legal Risk & CCC</p>



No.	Action Item	Person Responsible
	<p>Government Gazette of 31 March 2022 (“the Regulations”):</p> <p>14.4.1.1 Regulations 3(a), 3(b) and 3(c);</p> <p>14.4.1.2 Regulation 5 to the extent that it refers to “the Retail market”; “Upstream market 1” and “Upstream market 2”;</p> <p>14.4.1.3 Regulation 6 to the extent that it relates to the Applicant; and</p> <p>14.4.1.4 Regulation 7 to the extent that it relates to the Applicant (collectively, “the impugned regulations”);</p> <p>14.4.2. In the alternative to prayer above, declaring that Regulation 7 does not apply to the applicant;</p> <p>14.4.3 Granting the applicant further and/or alternative relief;</p> <p>14.4.4 Ordering the first respondent to pay the applicant’s costs, on a joint and several basis together with any other respondent(s) who oppose(s) this application.”</p> <p><u>Recommendation to Council:</u></p> <p>14.5. Notes the review application.</p> <p>14.6. Approve that the application be opposed and that the LRCCC Division should proceed to brief the attorneys on its panel to attend to all court processes linked to or incidental to the opposition of the application.</p> <p>The submission was approved by Council.</p>	
15.	<p>Internal Audit Submission – Quarter 1 Progress Report</p> <p>The submission was deferred to the next meeting of Council.</p>	CAE



No.	Action Item	Person Responsible
16.	<p>Review of AREDC TORs</p> <p>The submission was deferred to the next meeting of Council.</p>	CAE
17.	<p>Must Carry Regulations Committee Dissolution</p> <p>The submission was to be approved via Round Robin Resolution.</p>	Cllr ██████████
18.	<p>Application for Renewal of Individual Commercial Sound Broadcasting Service Licence and Radio Frequency Spectrum licence by Cape Town Radio (Pty) Ltd T/A Smile 90.4 FM</p> <p>18.1. The purpose of this memorandum was to provide Council with an analysis of the application submitted by Cape Town Radio (Pty) Ltd t/a Smile 90.4 FM ("the Applicant") for the renewal of its Individual Commercial Sound Broadcasting Service ("I-CSBS") and Radio Frequency Spectrum ("RFS") licences, and to recommend that Council approves the Applicant's renewal application.</p> <p>18.2. The Applicant holds both I-CSBS and RFS licences to provide commercial sound broadcasting services in the City of Cape Town Metropolitan area in the Western Cape Province. Both the I-CSBS and RFS licences expire on 24 May 2022.</p> <p>18.3. On 12 November 2021, the Applicant applied to the Authority for the renewal of its I-CSBS and RFS licences. A resolution authorising Ms. Lois O'Brien to submit and sign the application on behalf of the Applicant was submitted.</p> <p>18.4. On 18 November 2021, the Applicant lodged a request for confidentiality in terms section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). The confidential information relates to personal information protected in terms of the Protection of Personal Information Act, 2014 (Act No 4 of 2014). On 09</p>	Cllr ██████████



No.	Action Item	Person Responsible
	<p>February 2022, the Application for confidentiality was granted by the Authority in terms of section 4D of the ICASA Act.</p> <p>18.5. On 24 March 2022, the Authority published the Applicant's renewal application in General Notice 904 under Government Gazette No. 46087 inviting interested persons to make written representations within fourteen (14) working days from the date of publication of the notice. The closing date was on 12 April 2022.</p> <p>18.6. No written representations were received by the closing of 12 April 2022.</p> <p>18.7. On 22 April 2022, the Applicant was requested to submit shareholder information and shareholder certificates for companies listed in the renewal application form. The requisite information was received on 22 June 2022.</p> <p>18.8. The Applicant made the following non-monetary undertakings, to:</p> <p>18.8.1 promote local content on its platform in a manner that is feasible and appropriate;</p> <p>18.8.2 provide for regular news services;</p> <p>18.8.3 provide a wide range of entertainment in line with the demands and needs of its listeners;</p> <p>18.8.4 comply with the applicable procedures and obligations of the EC Act and related legislation, as well as the Codes prescribed by the Advertising Regulatory Board and the BCCSA;</p> <p>18.8.5 remain committed to the empowerment of historically disadvantaged persons and to Smile FM's corporate social investment initiatives; and</p>	



No.	Action Item	Person Responsible
	<p>18.8.6 strive to improve its competitive and sustainability, by being responsive to technological developments and feedback received from listeners and grow its audience.</p> <p>18.9. The committee is satisfied with these undertakings made by the Applicant.</p> <p><u>Recommendation to Council:</u></p> <p>18.10. It was recommended that Council approves the Applicant's application to renew its I-CSBS and RFS Licences for the following reasons:</p> <p>18.10.1 The Applicant's renewal application is in line with section 11 (1), (2), and (3) and 31 (1), (2), and (3) of the EC Act read with regulation 10 (1), (2), and (3) of the Regulations.</p> <p>18.10.2 The Applicant's HDI equity stake meets the Authority's legislated minimum 30% HDI requirement -as stipulated in section 9 (2) (b) of the EC Act.</p> <p>18.10.3 The Applicant has paid all the licence fees due and payable at the date of the application.</p> <p>18.10.4 The Applicant has not been found guilty of a contravention by the CCC. Further, according to the BCCSA, the Applicant has always given effect to all rulings made against it and has abided by the procedures applied by the BCCSA and that no contraventions and accordingly no sanctions were imposed to the Applicant in the period under review.</p> <p>18.10.5 The Applicant has complied with section 11 (7) and regulation 12 (1) of the EC Act and the Regulations, respectively.</p> <p>The submission was deferred to the next meeting of Council.</p>	



No.	Action Item	Person Responsible
19.	<p>Recommendation by CCC to Council in the matter between Telkom SA Soc Ltd (“Telkom”) And Metro Fibre Networx (Pty) Ltd (“MFN”)</p> <p>The submission was deferred to the next meeting of Council.</p>	Cllr [REDACTED]
20.	<p>Request for Council to approve the Draft Consumer Advisory Panel Regulations, Explanatory Memo and Draft Letter to the Minister</p> <p>The submission was deferred to the next meeting of Council.</p>	Cllr [REDACTED]
21.	<p>Amendment of the Council Resolution on the review of the Advertising, Infomercials and Programme Sponsorship Regulations Committee</p> <p>The submission was to be circulated via Round Robin Resolution.</p>	Cllr [REDACTED]
22.	<p>Submission of Broadcasting Annual Compliance Reports for Individual Broadcasting Services Licensees</p> <p>The submission was deferred to the next meeting of Council.</p>	CEO / Exec: Licensing and Compliance
23.	<p>Change and update of ICASA licensee information- K2015351513 South Africa (Pty) Ltd T/A One Telecom</p> <p>The submission was deferred to the next meeting.</p>	CEO / Exec: Licensing and Compliance
24.	<p>Quality of service reports for data services in two provinces for Financial Year 2021/22</p>	Acting CEO / Executive: Engineering



No.	Action Item	Person Responsible
	The submission was deferred to the next meeting.	& Technology
25.	Quality of Service Reports for voice services in six provinces for Financial Year 2021/22 The submission was deferred to the next meeting.	Acting CEO / Executive: Engineering & Technology
26.	Report on the analysis of tariff notification submitted for the period 1 Jan 2022 to 30 June 2022 The submission was deferred to the next meeting.	Acting CEO / PRA
27.	General <u>The letter from the Minister</u> The letter from the Minister regarding the appointment of new Councillors was noted.	Cllr [REDACTED]
28.	Date of next meeting: TBA	Secretariat
29.	Closure The Chairperson thanked all who were present at the meeting and closed it at 14:33 pm.	Council

Signed: [Signature]

Date: 2023-03-16

Dr Charley Lewis
(Acting Chairperson)