



**Independent Communications Authority of South Africa**

<b>MINUTES OF AN ORDINARY COUNCIL MEETING</b>		
<b>Date</b>	<b>13 July 2021</b>	
<b>Time:</b>	<b>08:00</b>	
<b>Venue:</b>	<b>Microsoft Teams</b>	
<b>Present</b>		
	[REDACTED]	Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
<b>By Invitation</b>		
	[REDACTED]	CEO
	[REDACTED]	CAE
	[REDACTED]	Acting CFO
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat Officer
	[REDACTED]	Secretariat Officer
<b>Partial Attendees</b>		
	[REDACTED]	Executive: Corporate Services
	[REDACTED]	Executive: HR
	[REDACTED]	Acting Executive: Legal, Risk & CCC
	[REDACTED]	Acting Executive: Engineering & Technology
	[REDACTED]	SM: Legal (Regulatory Support & Legislative Drafting)
	[REDACTED]	Executive: Regions
	[REDACTED]	Manager: Cyber Security
<b>Apologies</b>		

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No.	Action Item	Person Responsible
1.	<p><b>Opening and apologies</b></p> <p>The Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p><b>Apologies</b></p> <p>No apology was noted.</p>	Chairperson
2.	<p><b>Ratification of the Agenda</b></p> <p>The agenda was ratified.</p>	Council
3.	<p><b>Declaration of interest</b></p> <p>No conflict of interest was noted.</p>	Council
4.	<p><b>Minutes of Council</b></p>	Council
4.1	<p>Minutes of 15 June 2021 were approved subject to comments received and incorporated.</p>	
5.	<p><b>Matters Arising</b></p> <p>The Matters Arising document was noted.</p>	CEO
6.	<p><b>International Engagements (“Standing item”)</b></p> <p>There was no update on International Engagements.</p>	
7.	<p><b>Licensing of IMT (“Standing Item”)</b></p> <p>It was reported that Senior Counsel and the internal legal team will provide feedback to Council in the next Council meeting.</p>	
8.	<p><b>Report on agreements concluded between VODACOM (PTY) LTD AND RAIN (PTY) LTD</b></p>	CEO/E&T

No.	Action Item	Person Responsible
	<p>The purpose of the submission was for Council to note the response to the Competition Commission (the Commission), regarding its investigation relating to the Vodacom and Rain 2019 agreements.</p> <p>The Chief Executive Officer and Acting Executive: Engineering and Technology presented the item:</p> <p>8.1 On 13 October 2020, Telkom filed an application to the Competition Tribunal (the Tribunal). Telkom sought an order to the effect that a suite of agreements concluded between Vodacom and Rain constitute a notifiable merger in terms of section 12(2)(g) of the Competition Act, 1998 (Act No 89 of 1998), as amended.</p> <p>8.2 On 13 September 2016, Vodacom and Rain entered into the following three (3) agreements:</p> <p>8.2.1 A facilities leasing agreement;</p> <p>8.2.2 A roaming agreement; and</p> <p>8.2.3 A services agreement.</p> <p>8.3 On 2 December 2019, Vodacom and Rain amended the 2016 agreements by concluding a set of the following four (4) amendments / restatements and addenda:</p> <p>8.3.1 The New Managed Network Services Agreement;</p> <p>8.3.2 The Facilities Leasing Agreement Addendum;</p> <p>8.3.3 The Services Agreement Addendum; and</p> <p>8.3.4 The Amended and Restated Roaming Agreement.</p> <p>8.4 The Commission investigated the 2016 agreements in order to determine whether the agreements amounted to a notifiable merger in terms of section 12(1) of the Competition Act.</p> <p>8.5 Following the analysis of the 2016 agreements, the Commission concluded that the 2016 agreements did not constitute a merger as contemplated in section 12(1) of the Competition Act.</p> <p>8.6 On 29 March 2021, the Tribunal, on the request of the Commission, remitted the matter back to the Commission for the Commission to conduct a similar investigation into the 2019 agreements.</p> <p>8.7 The purpose of the referral was to determine whether the 2019 agreements constitute a notifiable merger in terms of section 12(1) of the Competition Act, and file a report with the Tribunal</p>	

No.	Action Item	Person Responsible
	<p>by 15 June 2021. The Commission subsequently requested, and was granted an extension to file the report with the Tribunal by 19 July 2021.</p> <p>8.8 On 7 May 2021, the Commission requested assistance from the Authority regarding its investigation of the 2019 agreements. To this end, the Commission posed several questions to the Authority to assist the Commission in its assessment of whether the 2019 agreements constitute a notifiable merger.</p> <p>8.9 The questions posed to the Authority related to Active RAN Sharing (ARS), inter-operator carrier aggregation, and roaming.</p> <p>8.10 On 19 May 2021, the Authority requested clarity from the Commission regarding the managed network service, number of sites, and traffic relating to the facilities leasing agreement.</p> <p>8.11 On 27 May 2021, the Authority was invited to a site visit by the Commission, to conduct tests at two sites selected by Vodacom and Rain.</p> <p>8.12 On 23 June 2021, the Authority conducted drive tests using a high-end mobile device (SAMSUNG S20 5G) on the two sites, and the surrounding areas.</p> <p>8.13 Whilst assisting the Commission, Authority subsequently found that there was non-compliance with the Electronic Communications Act (ECA), and the applicable Regulations. The Authority resolved to institute its own investigation, would afford Vodacom and Rain an opportunity to comment on its findings.</p> <p>8.14 The following responses were stated by the Authority as a reply to the questions posed by the Competition Commission:</p> <p><u>On the Active RAN Sharing:</u></p> <p>8.14.1 The Authority was of the view that RAIN is in control of the transmission of communications with respect to the spectrum assigned to RAIN.</p> <p>8.14.2 The Authority supports the ARS agreement, only if it does not contravene the ECA or Spectrum Regulations.</p>	

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	<p>8.14.3 The Authority could not ascertain whether the use of Vodacom's OSS by RAIN results in Vodacom controlling Rain's spectrum, without sight of the agreement of the independent third party responsible for configuration management.</p> <p>8.14.4 Rain's network deployment is not limited to the ARS arrangement, as Rain is currently deploying its own "5G" network.</p> <p><u>On Inter-Operator Carrier Aggregation</u></p> <p>The Authority was of the view that the inter-operator carrier aggregation amounts to spectrum sharing, irrespective of the reciprocity of the benefits to be realised in respect of both MNOs' customers.</p> <p><u>On the roaming:</u></p> <p>8.14.5 The Authority indicated the difference between the roaming coverage, and roaming for capacity as highlighted in the Authority's "Findings Document on Mobile Broadband Services Inquiry".</p> <p>8.14.6 The Authority was not in a position to formulate an opinion on the impact of the roaming access fee structure on RAIN, without having sight of the volumes, and the cost incidentals of providing higher quality of service tier, with the information at its disposal, and within the tight timelines set by the Commission.</p> <p><b>The following comments were made:</b></p> <p>8.15 Council noted that the shortcomings in respect of spectrum sharing models needed to be addressed; and</p> <p>8.16 Clarity was sought on whether the non-compliance found by the Authority was in regard to spectrum sharing.</p> <p><b>The recommendation was noted.</b></p>	
9.	<p><b>Close-out report on Sports Broadcasting Services Regulations Amendment, 2020</b></p> <p>The Cllr [REDACTED] presented the item:</p>	Cllr [REDACTED]

No.	Action Item	Person Responsible
	<p>The purpose of the submission was for Council to note the close-out report on Sports Broadcasting Services Regulations Amendment, 2020.</p> <p>9.1 The National Sporting Broadcasting Services Regulations, Amendment 2020 is a project which reviewed the "National Sporting Events Regulations, 2010". These regulations were meant to list sporting events that are deemed to be of national interest, and to ensure that such events are accessible to the majority of South Africans.</p> <p>9.2 The project scope involved one-on-one meetings with the sports fraternity and the broadcasters. The organisations engaged were SAFA, SARU, CSA, ASA, Boxing SA, Netball, and PSL. With regards to broadcasters, the Authority engaged with SABC, MultiChoice, and eMedia. In addition to this, the Authority engaged with the officials from the Department of Sports and Recreation and the Department of Communications and Digital Technologies.</p> <p>9.3 The process began in 2017/18 with the development of an internal research report. The report was based on desktop research and an international benchmark study. The internal desktop research was approved by Council in March 2018.</p> <p>9.4 The draft regulations were published in October 2018, with the closing date of 13 December 2018 for written submissions.</p> <p>9.5 Public hearings were held in May 2019, during which stakeholders were requested to provide additional information.</p> <p>9.6 The regulations were finalised for publication in the Government Gazette in March 2021.</p> <p>9.7 Stakeholders, particularly sports federations, commended the Authority for the initial engagements prior to the formulation of regulations. They indicated that it was their first experience of engaging the Authority outside of inquiries.</p> <p>9.8 The Sports Broadcasting Services project demonstrated the need for the Authority to engage with stakeholders more often, in order to share the Authority's plan for the year and address the issues that the stakeholders might have on the projects.</p>	




No.	Action Item	Person Responsible
	<p>It was recommended that:</p> <p>9.9 The Authority engages with the Parliamentary Portfolio Committee on Communications (PPCC) more often, rather than engaging with the Committee only when it presents its Annual Plan; and</p> <p>9.10 The Authority, through public awareness, shares its work in relation to the different projects on which the Authority embarks, and be the leading voice in positioning its intentions.</p> <p><b>The following comment was made:</b></p> <p>9.11 Clarity was sought on the reasons why the Authority needed to lobby the PPCC.</p> <p>9.12 Even though the Corporate Secretary has been assisting with engaging Parliament, the appointment of a Parliament Liaison Officer can be looked at in the context of the approved organisational structure, and the virtual meeting structure brought about by the Covid -19 pandemic.</p> <p><b>The report was noted.</b></p>	
10	<p><b>Cybersecurity newsletter to be published on the Cybersecurity Hub's website</b></p> <p>The purpose of the submission was to request Council to approve the proposed Cybersecurity Awareness Newsletter, to be published on the Cybersecurity Hub's website as per the approved Internal Position Paper on the Authority's Responsibility on Cybersecurity.</p> <p>The Cllr [REDACTED] and Manager: Cyber Security presented the item:</p> <p>10.1 ICASA gave notice of its intention to conduct an inquiry into the role and responsibilities of the Authority in Cybersecurity in terms of section 4B of the ICASA Act, 2000, as indicated in a Discussion Document published in Government Gazette No 41944 of 28 September 2018.</p> <p>10.2 The Authority received 10 responses to the said Discussion Document on 30 November 2018, and held public hearings from 17 to 18 January 2019.</p>	Cllr [REDACTED]

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	<p>10.3 On 29 March 2019, the Authority published a Position Paper on its role on Cybersecurity under Government Gazette No 42363.</p> <p>10.4 On 17 March 2020, Council approved the internal position paper on the roles and responsibilities of the Authority on cybersecurity as follows:</p> <p>10.4.1 The Authority to engage with the Cybersecurity Hub with the intention of collaborating with it. The Cybersecurity Hub is South Africa's National Computer Security Incident Response Team (CSIRT) and strives to make cyberspace an environment where all residents of South Africa can safely communicate, socialise, and transact in confidence.</p> <p>10.4.2 ICASA and the Cybersecurity Hub have agreed on the participation of ICASA in the Cybersecurity Hub's monthly newsletter programme.</p> <p>10.4.3 The publication of the newsletter that contains the advisories that can assist citizens will Take place on the Cybersecurity Hub website, with the Authority's logo prominently displayed on the Portal, which will link to the ICASA website.</p> <p>10.4.4 The Authority will craft awareness messages that meet the Authority's Cybersecurity mandate.</p> <p>10.4.5 The Authority will collaborate with the Hub, in a month to be communicated by the Hub, in order to contribute content for the newsletter.</p> <p><b>The following comment was made:</b></p> <p>10.5 Council reiterated the need for a proper copy edit and layout specialist to go through documents.</p> <p>10.6 Cllr Lewis volunteered to assist Corporate Services Division with editing the newsletter, before it is submitted to the Hub.</p> <p><b>The recommendation was approved by Council, subject to the further editing.</b></p>	

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No.	Action Item	Person Responsible
11	<p><b>CAP Q1 Quarterly Report</b></p> <p><b>Council deferred the submission to the next Council meeting.</b></p>	<p>Cllr  </p>
12	<p><b>Amendment of Council Resolutions for the Review of Advertising Committee</b></p> <p>The purpose of the submission was to request Council to approve the amended Council Resolution, on the constitution of the Committee on the Review of the Advertising, Infomercials and Programme Sponsorship Regulations, to replace Keneilwe Motaung with Samantha Hill as Project Secretary.</p> <p>Cllr  presented the item:</p> <p>12.1 The Review of the Advertising, Infomercials and Programme Sponsorship Regulations Committee is in the process of reviewing the IBA (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999, published in Government Gazette No 6487 of 01 April 1999.</p> <p>12.2 The Authority is reviewing the Regulations in line with section 55(1) of the Electronic Communications Act of 2005, which provides that “all broadcasting services licensees must adhere to the Code as from time to time determined and administered by the Advertising Standards Authority of South Africa and any advertising regulations prescribed by the Authority in respect of scheduling of adverts, infomercials and programme sponsorship”.</p> <p>12.3 Samantha Hill is currently the Personal Assistant to Councillor Mkumatela, the Chairperson of the Committee - hence she is appointed to replace Keneilwe Motaung.</p> <p><b>Council resolved to approve the recommendation.</b></p>	<p>Cllr  </p>
13	<p><b>List of meetings for the second quarter of 2021/22 financial year.</b></p> <p>The purpose of the submission was to request Council to note the list of International and Regional meetings in which ICASA participates or is affiliated, for the second quarter of 2021/22 financial year and to nominate Councillors who will attend the meetings.</p>	<p>CEO/CS</p>

No.	Action Item	Person Responsible
	<p data-bbox="261 293 983 327">Executive: Corporate Services presented the item:</p> <p data-bbox="261 405 1241 546">13.1 As part of the international programme for the 2021/22 Financial Year, the International Relations Unit identified key meetings for attendance by Council to taking place from July - September 2021.</p> <p data-bbox="261 584 1241 656">13.2 The following meetings have been identified for attendance by Council;</p> <p data-bbox="363 696 1241 768">13.2.1 SADC ICT Ministerial Meeting – 06 - 09 July 2021 (e-meeting);</p> <p data-bbox="363 808 1241 913">13.2.2 ITU Regional Radiocommunication Seminar 2021 for Africa (RRS-21-Africa) – 05 - 16 July 2021 (e-meeting);</p> <p data-bbox="363 954 1241 1059">13.2.3 UPU 27th Universal Postal Union (UPU) Congress – 09 – 27 August 2021 Abidjan, Cote d’Ivoire (planned physical meeting);</p> <p data-bbox="363 1099 1241 1240">13.2.4 The 2nd ATU African Preparatory meeting for the World Radio Communication Conference 2023 (APM23-2) – 06 - 10 September 2021 Host Benin (e-meeting); and</p> <p data-bbox="363 1281 1241 1352">13.2.5 8<sup>th</sup> 5G Huddle – 29 - 30 September 2021, Ottawa, Canada (planned physical meeting).</p> <p data-bbox="261 1413 1241 1525">13.3 The following meetings are also taking place from July – September 2021 that may be of interest to Council. These meetings will be attended by ICASA officials;</p> <p data-bbox="363 1581 1241 1653">13.3.1 14 July CRASA 1st Postal Committee Meeting (e-meeting);</p> <p data-bbox="363 1693 1241 1765">13.3.2 15 July CRASA 1st Legal and Policy Committee Meeting (e-meeting);</p> <p data-bbox="363 1805 1241 1877">13.3.3 21 – 22 July CRASA 1st Consumer Committee (e-meeting);</p> <p data-bbox="363 1917 1241 1989">13.3.4 27 – 29 July CRASA 1st Universal Access and Service Committee Meeting (e-meeting);</p>	

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	<p>13.3.5 4 August CRASA Human Resource Development Committee (e-meeting);</p> <p>13.3.6 9 – 10 August Economic Regulation Committee (Pricing and Valuation of Radio Frequency Spectrum Workshop) (e-meeting);</p> <p>13.3.7 19 – 20 August Finance and Audit Committee (e-meeting);</p> <p>13.3.8 9 – 10 September Electronic Communication Committee (Workshop on Migration from IPv4 to IPv6) (e-meeting); and</p> <p>13.3.9 24 September Electronic Communication Committee (Numbering and Standards) _ Finalise draft Revised Guidelines (e-meeting).</p> <p><b>Following comments were made:</b></p> <p>Council requested that the Executive of Corporate Services and the Corporate Secretary, allocate Councillors the invitations in line with committees relevant to the subject matter of the invitation.</p> <p><b>Council resolved to defer the recommendation</b></p>	
14	<p><b>Appointment Submission of the Chief Financial Officer</b></p> <p>The purpose of the submission was to request approval for the appointment of Ms [REDACTED] as the Chief Financial Officer (CFO) within the Finance Division, for a period of five (5) years.</p> <p>The Chief Executive Officer presented the item:</p> <p>14.1 After a comprehensive evaluation [REDACTED]  [REDACTED]  [REDACTED]  [REDACTED]  [REDACTED]</p>	

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No.	Action Item	Person Responsible
14.2	E [REDACTED]	
14.3	After a comprehensive [REDACTED]	
14.4	[REDACTED]	
14.5	[REDACTED]	
14.6	[REDACTED]	
<p><b>Following comments were made:</b></p>		
14.7	Council [REDACTED]	
14.8	Council n [REDACTED]	

No.	Action Item	Person Responsible
	<p>14.9 The recommendation [REDACTED] [REDACTED] [REDACTED]</p> <p>14.10 [REDACTED] [REDACTED] [REDACTED]</p> <p>14.11 Council [REDACTED] [REDACTED] [REDACTED]</p> <p>Council resolved to approve the recommendation, [REDACTED] [REDACTED] [REDACTED]</p>	
15	<p><b>ICASA MOU register as of Quarter 1 of 2021/22 financial year</b></p> <p>The purpose of the submission was to update Council with regards to the Memoranda of Understanding (MOUs) entered into by ICASA, including those in the process of being concluded with other entities as of Quarter 1 of the 2021/22 financial year.</p> <p>The Acting Executive: LRCCC presented the item:</p> <p>15.1 In terms of section 4(3A) (b) of the ICASA Act, ICASA is empowered to enter into concurrent jurisdiction agreements with other relevant authorities or institutions.</p> <p>15.2 The LRCCC will, going forward, be providing updates to Council regarding new MOUs concluded with other entities, and developments with respect to MOUs still in the process of being concluded.</p> <p>15.3 The MOUs that are currently in effect between ICASA and other entities include the following –</p> <p>15.3.1 ICASA and the Council for Scientific and Industrial Research (CSIR);</p> <p>15.3.2 ICASA and the South African Civil Aviation Authority (SACAA);</p> <p>15.3.3 ICASA and the National Consumer Commission (NCC);</p>	CEO/LRCCC

No.	Action Item	Person Responsible
	<p>15.3.4 ICASA and the Lesotho Communications Authority;</p> <p>15.3.5 ICASA and the South African Maritime Authority (SAMSA);</p> <p>15.3.6 ICASA and the Competition Commission;</p> <p>15.3.7 ICASA and the South Africa Bureau of Standards (SABS);</p> <p>15.3.8 ICASA and the Directorate for Priority Crime Investigation (DPCI) Judge;</p> <p>15.3.9 ICASA and the Universal Service and Access Agency of South Africa (USAASA);</p> <p>15.3.10 ICASA and the Film and Publications Board (FPB);</p> <p>15.3.11 ICASA and the Swedish Programme for ICT in Developing Regions (Spider) at the Department of Computer and System Sciences, Stockholm University, Stockholm, Sweden;</p> <p>15.3.12 ICASA and the National Telecommunication Agency of Brazil;</p> <p>15.3.13 ICASA and the National Metrology Institute of South Africa (NMISA);</p> <p>15.3.14 ICASA and the South African Radio League;</p> <p>15.3.15 ICASA and the Autoridade Reguladora Das Comunicacoes (INCM) of Mozambique.</p> <p>15.3.16 ICASA and the Advertising Regulatory Board (ARB); and</p> <p>15.3.17 ICASA and the Federal Communications Commission (FCC).</p> <p>15.4 The most recent updates to the MOU register are the conclusion of the following MOUs between ICASA and -</p> <p>15.4.1 ARB concluded on 31 March 2021;</p>	

No.	Action Item	Person Responsible
	<p>15.4.2 FCC concluded on 8 April 2021; and</p> <p>15.4.3 SACAA concluded on 17 May 2021 (constituting a new version of a previous MOU between ICASA SACAA).</p> <p>15.5 ICASA is still in the process of concluding MOUs with the following entities –</p> <p>15.5.1 Media Development and Diversity Agency (MDDA);</p> <p>15.5.2 Department of Defence (DOD);</p> <p>15.5.3 Statistics South Africa (SSA);</p> <p>15.5.4 Lundstar Waste Management Group (Pty) Ltd; and</p> <p>15.5.5 Telecoms Regulatory Authority of India (TRAI).</p> <p><b>Following comment was made:</b></p> <p>15.6 Council requested management to utilise the MOUs for the benefit of the Authority.</p> <p>15.7 Council should note that an MOU between the Authority and the ICT B-BBEE council was being considered. Further communication on the MOU will be tabled to Council after finalisation.</p> <p>15.8 There are two outstanding MOUs, namely with the: Information Regulator; and the South African Banking Risk Information Centre.</p> <p><b>Council resolved to note the submission.</b></p>	
16	<p><b>Establishment of the Council Committee on the review the CCC Regulations</b></p> <p>The purpose of the submission was to request Council to approve the establishment of a special Council Committee on the review of the Regulations Governing the Aspects of the Procedures of the Complaints and Compliance Committee, 2010 (“CCC Regulations”).</p>	CEO/LRCCC

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No.	Action Item	Person Responsible
	<p>The Acting Executive: LRCCC presented the item:</p> <p>16.1 In terms of section 17 (1) of the ICASA Act, the Authority may establish standing or special committees for purposes that Council may deem necessary, with a view to assisting it in the effective exercise and performance of its powers and duties.</p> <p>16.2 The CCC Regulations are aimed at providing details of the procedures to be followed when the CCC executes its mandate in accordance with section 17B of the ICASA Act, which is to investigate, to hear if appropriate, and make findings on:</p> <p>16.2.1 All matters referred to it by the Authority;</p> <p>16.2.2 Complaints received by it; and</p> <p>16.2.3 Allegations of non-compliance with this Act or the underlying statutes received by it.</p> <p>16.3 In terms of the Authority's Annual Performance Plan for 2021/22, the Authority planned to review the CCC Regulations in the 2021/22 financial year.</p> <p>It was resolved that Cllr [REDACTED] and Cllr [REDACTED] be appointed to the Committee, and that Cllr [REDACTED] will be the Chairperson and Cllr [REDACTED] will serve as the Deputy Chairperson.</p>	
17	<p><b>General</b></p> <p>Council noted with concern the events that took place in Kwa-Zulu-Natal and Gauteng which led to the destruction of property including mobile phone (communication) towers, which will have impact on the Communications Sector.</p> <p>17.1 As a result of the unrest taking in the country, the following were noted;</p> <p>17.1.1 The KZN and Gauteng offices were advised not to do offsite inspections; very urgent interference complaints will be investigated only if the safety of staff members can be assured and if SAPS escort is available;</p>	

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No.	Action Item	Person Responsible
	<p>17.1.2 The KZN regional office was under siege, but fortunately looters were not able to access the office;</p> <p>17.1.3 Two (2) radio stations have been reported to be off air due to the looting, namely, Alex FM (GP) and Westside FM (KZN); and</p> <p>17.1.4 Regional offices are on alert, and any interruptions will be reported to the Disaster Management Task Team.</p> <p><b>Council resolved to issue a Media Statement, stating the closure of the two radio stations is as a result of the looting.</b></p> <p><b>Council requested a submission from HR, outlining the support mechanisms in place for staff who have been impacted and infected with Covid - 19.</b></p>	
	<p><b>Closure</b></p> <p>The Chairperson thanked all present at the meeting and closed the meeting at 10:46</p>	<b>Chairperson</b>
	<b>Date of next meeting: TBA</b>	<b>Secretariat</b>

Signed: \_\_\_\_\_

(Chairperson)

Date: 30/07/2021