



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY COUNCIL MEETING

Date	16 March 2021	
Time:	08:00	
Venue:	Microsoft Teams	
Present	[REDACTED]	Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
By Invitation	[REDACTED]	CEO
	[REDACTED]	CFO
	[REDACTED]	CAE
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat Officer
	[REDACTED]	Secretariat Officer
	[REDACTED]	
Partial Attendees	[REDACTED]	Senior Advocate (SC KT)
	[REDACTED]	Senior Advocate (SC TN)
	[REDACTED]	Executive: Legal, Risk and CCC
	[REDACTED]	Executive: Licensing
	[REDACTED]	SM: ICT Services
	[REDACTED]	Specialist: Risk and Compliance
	[REDACTED]	Manager: Wholesale Service
	[REDACTED]	Manager: Content Service
	[REDACTED]	Manager: Cost Modelling
	[REDACTED]	
Apologies		



No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>The Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p>There were no apologies recorded.</p> <p>The opening and apologies were noted.</p>	Chairperson
2.	<p>Ratification of the agenda</p> <p>The agenda was adopted as presented.</p>	Council
3.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	All
4.	<p>International Engagements (Standing item)</p> <p>The update was deferred to the meeting of the 17 March 2021.</p>	CEO/CS
5.	<p>Licensing of IMT (Standing Item)</p> <p>The Executive: LRCCC presented the item</p> <p>5.1. A memo was prepared for Council dealing with 6 issues in respect of which legal advice was sought. The issues emanated from the judgement of the High Court, in which the Authority was interdicted from proceeding with the Auction in respect of the two ITAs. All the issues raised were addressed with the different headings for easy reference as follows:</p> <p>5.1.1 The effect of the interdict which has been granted</p> <p>5.1.1.1 The effect of the judgement was that the Authority cannot proceed with the Auction process for both Spectrum and the WOAN ITAs. Senior Counsel (KT) advised that the interdict would remain in place until the Telkom review application was finalized.</p>	Council

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	<p>5.1.1.2 Senior Counsel (KT) stated that until such time that the review applications are finalized, or the interdict was set aside, ICASA was prohibited from implementing the decision to publish the Auction ITA and the WOAN ITA. Simply put this means that ICASA ought to suspend the execution of its project plan.</p> <p>5.1.2 Possible grounds of appeal</p> <p>5.1.2.1 Senior Counsel (KT) stated that ordinarily, an interim interdict was not appealable. It would be appealable if it had final effect and if it had the effect of encroaching upon the exercise and performance of executive and statutory powers and function of another organ of the State and this was such a case.</p> <p>5.1.2.2 Senior Counsel expressed that the order granted was preliminarily appealable, as usually in an interim interdict application, the Court does not deal with the grounds of review and one of the important views was on paragraph 5.5.1 which read as follows: <i>“The High Court has inappropriately prejudged the outcome of the review application and has in fact usurped the function of the Court which is to hear the review application. The High Court has reached final conclusions on the review grounds relied upon by Telkom and e.tv such that ICASA is going to be prejudiced in its defence in the review application, just like it was prejudiced by the judgment of Sutherland J, in that the High Court has finally concluded that ICASA acted unlawfully in seeking to auction the IMT700 and IMT800 spectrum before the consideration of the digital migration process.”</i></p> <p>5.1.2.3 In light of the above, it was submitted that it was inappropriate for an Interim Court to</p>	

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	<p>make a final determination on the abovementioned reasons.</p> <p>5.1.2.4 The reason mentioned was on the view that the Court acted wrongfully in that, when the Authority approaches the Review Court, Telkom and e.tv would argue that the Court has already found that the Authority has acted in an unlawful manner. Therefore, the Authority will go to the Review Court on a back foot if it does not appeal the interim judgement.</p> <p>5.1.2.5 The other ground considered was the issue of the harm that would be suffered by the public should the whole auction not proceed. The applicants have argued that ICASA itself would not suffer any harm should the process not succeed, but all the parties involved understand that ICASA does not act for itself, or its benefit, however it regulates for Public interest as mandated by the Constitution.</p> <p>5.1.3 Best options available to ICASA</p> <p>5.1.3.1 The first available option was to take all the necessary steps to expedite the hearing of the review applications. This only applies insofar as Telkom's request for production of additional documents is concerned.</p> <p>5.1.3.2 The second option was to appeal against the interim interdict on an urgent basis. This option can be pursued together with the first option; the appeal can be lodged with the Constitutional Court.</p> <p>5.1.3.3 The third option was for ICASA to find a way of negotiating a settlement agreement with Telkom, MTN, e.tv and Vodacom provided that the outcome of such negotiations allows for the auction process and the licensing of the WOAN and ITA to proceed. This process should be driven by ICASA itself.</p>	

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	<p>5.2. <u>Mediation</u></p> <p>5.2.1 ICASA has already taken a position on the mediation requested by the Minister. Senior Counsel (KT) advised that ICASA should not change its position.</p> <p>5.2.2 However, ICASA was prepared to consider an out of Court resolution of the litigation, there was nothing which prevented ICASA from directly engaging with the litigants, i.e. those who have filed affidavits and have participated in the ongoing case management process.</p> <p>5.2.3 Senior Counsel (KT) advised that the main difficulty with mediation in a matter of this nature was that the Authority would have to have a very strong mediator to mediate or a panel of mediators which would try to assist the parties to find a solution.</p> <p>5.2.4 A formal mediation process was, however, likely to take time to commence as the parties must first agree on the mediator or a panel of mediators, the terms of reference, etc. and that was not likely to be achieved within a short period of time.</p> <p>5.2.5 On the question as to whether the Authority can go directly to the Constitutional Court or the Supreme Court of Appeal, (SC TN) indicated that the Authority should factor in if it can solve the problems that the judge ordered to be resolved. SC (TN) asked if it would be realistic that the auction can be postponed until the digital migration has been finalized, or is it an impossible task to be completed?</p> <p>5.2.6 The SC (TN) indicated that if the authority was of the view that the problems cannot be solved, the Authority must take the judgement on appeal.</p> <p>5.3. <u>Questions and Comments</u></p> <p>5.2.7 Council raised concern on the judgment being muted and silent on the competition aspect of the case. The fact that the Authority's strong ground was on the basis that the judge prejudged the matters which ought to</p>	

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	<p>have been heard when the Authority's decisions were being reviewed, was lacking the merits of the economic aspects.</p> <p>5.2.8 From an economic point of view, the harm to the consumer would be that if the market was concentrated, there won't be fair prices to the consumer. From the briefing received from the consultants, it reflects that the level of concentration was at 70% which was very high and was the main concern.</p> <p>5.4. <u>Council resolutions</u></p> <p>5.4.1 Council reaffirmed the decisions to appeal the matter, and it supports the endeavours to appeal the High Court judgment.</p> <p>5.4.2 Council resolved that the Senior Counsel and legal team enter into settlement discussions with the active litigants i.e. parties who deposed affidavits in Court.</p>	
6.	<p>Reasons for Decision for The Amendment Application for The Public Sound Broadcasting Service by South African Broadcasting Corporation (SABC) With Regards to SA FM</p> <p>The purpose of the submission was to recommend that Council approves the vetted Reasons for Decision on the application for the amendment of a Public Sound Broadcasting Service (PSBS) licence lodged by the SABC (SA FM), for publication in the Government Gazette.</p> <p>The SM: Licensing presented the item:</p> <p>6.1 On 30 June 2017, the Authority received an application for the amendment of SA FM's PSBS licence. The Applicant sought approval for the amendment of its PSBS to delete clause 6.3 of the licence in its entirety. Clause 6.3 prescribes "Programming targeted at Children", which required the broadcaster to broadcast at least one hour of programming targeted at children as contemplated by the Act.</p> <p>6.2 On 29 August 2017, the Authority published the Applicant's amendment application in General Notice 626</p>	CEO/ Licensing

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	<p>under Government Gazette 41074, for written representations and responses for a period of twenty-one (21) working days. No written representations were received by the closing date of 27 September 2017.</p> <p><u>Recommendation to Council</u></p> <p>It was recommended that Council approve the Reasons for Decision Document.</p> <p><u>Comments</u></p> <p>6.3 Council asked if the Authority has been able to monitor if the Licensees have been able to comply with the broadcasting of the children’s programmes?</p> <p>6.4 Council requested clarity on whether the document would be published in the Government Gazette.</p> <p>6.5 Management indicated that the compliance reports regarding to SA FM would be tabled before Council in the next meeting and further that when the compliance reports are being presented, they would indicate as to whether there has been compliance with regards to Children’s programming.</p> <p>6.6 The Reasons documents are not published in the Government Gazette as it is expensive, the Authority publishes a notice communicating that the Reasons Document is available, and it is published on the Authority’s website of the Authority.</p> <p>Council resolved to approve the Reasons for Decision Document and a notice to be published in the Government Gazette.</p>	
7.	<p>Request for Council to appoint Councillors to serve on the Individual Renewals Committee</p> <p>The purpose of the submission was to request Council to appoint Councillors to serve on the Individual Renewals Committee to enable the Committee to finalise its outstanding work.</p> <p>The Chief Executive Officer presented the item:</p> <p>7.1 The Committee was established on 16 April 2018, to</p>	CEO

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	<p>consider the renewal of the Individual Sound Broadcasting Service (I-CBS) and Radio Frequency Spectrum (RFS) licences. The Committee was led by former Councillor [REDACTED] who subsequently left the Authority's employ in July 2020.</p> <p>7.2 To date, the committee renewed eighteen (18) SABC I-CBS and RFS licences; YFM, Jacaranda FM, East Coast Radio, OFM, Algoa FM, Radio Heart FM, Radio Igagasi FM, KAYA FM, and three (3) of Primedia (Pty) Ltd.'s Licences namely: 567 Cape Talk, 94.7 Highveld Stereo and 95.4 KFM.</p> <p>7.3 The renewals applications relating to Talk 702 and Classic FM were still pending. Primedia (Pty) Ltd (Primedia) currently holds the following licenses: Talk Radio 702; 567 Cape Talk; 94.7 Highveld Stereo; and 94.5 KFM.</p> <p><u>Recommendation to Council</u></p> <p>It was recommended that Council appoints Councillors to serve on the Renewals Committee for the Committee to finalise the outstanding work.</p> <p>Council nominated Cll [REDACTED] to be the chairperson of the committee and resolved that a deputy chairperson would be nominated in April 2021.</p>	
8.	<p>Submission of Broadcasting Annual Compliance Reports for Individual Sound Broadcasting Services</p> <p>The purpose of the submission was to request Council to note and approve the eleven (11) Annual Compliance Reports (ACRs) for sound broadcasting service Licensees (I-SBS), compiled for the period under review as part of the sixty (60) ACRs required in terms of the Compliance Operational Performance Plan (OPP), for the 2020/2021 Financial Year.</p> <p>The Executive: Licensing presented the item</p> <p>8.1. Section 4(3)(b) and (d) of the Independent Communications Act of South Africa, Act No. 13 of 2000 (the ICASA Act), imposes an obligation on the Authority to monitor and enforce compliance with licence conditions and Regulations consistent with the objects of the ICASA</p>	CEO/CCA


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	<p>Act and the underlying statutes.</p> <p>8.2. Currently, there are 268 broadcasting service Licensees in the broadcasting market, broken down as follows: 207 Community Sound Licensees; 5 Community TV Licensees; 9 Subscription TV Licensees; 5 Free to Air TV Licensees (e.tv, SABC1, SABC2, SABC3 and Kwese TV); 27 Commercial Sound Licensees; and 15 Public Sound Licensees.</p> <p>8.3. There are 248 operational Licensees whilst the remainder (20), are non-operational. Compliance has established that the reasons for the non-operational status are due to several factors which include, funding; lack of equipment; and governance challenges.</p> <p>8.4. Compliance reports in respect of broadcasting services provided by all individual commercial broadcasters are compiled annually. With respect to the stations – both commercial and public – that are licensed to the SABC, the Authority prepares compliance reports for all its (SABC) broadcasting sound services. However, in terms of the television broadcasting services provided by the SABC (SABC 1, SABC 2 and SABC3) the Authority does not compile annual reports.</p> <p>8.5. Of the four (4) commercial radio stations that form part of the submission, one (1) did not fully comply with its licence terms and conditions namely Smile FM.</p> <p>8.6. Smile FM did not comply with the obligation to broadcast a minimum of seven (7) songs in an hour and failed to sustain the fifty percent (50%) South African music during its daily programming. The Licensee would be referred to the CCC for non-compliance.</p> <p>8.7. Three (3) commercial radio stations that complied in full, with their licence terms and conditions and regulatory requirements, were, Heart FM, iGagasi FM and OFM.</p> <p><u>Recommendation to Council</u></p> <p>8.8. It was recommended that Council approves the eleven (11) annual compliance reports (ACRs), compiled for the</p>	

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	<p>period under review as part of the sixty (60) CARs required in the Compliance OPP.</p> <p>8.9. <u>Comments</u></p> <p>8.9.1 Council requested clarity on how the Authority capacitates the monitoring division. Council went on to inquire that where an entity has been found to be non-compliant the general rule would be to say that the Licensee or Entity be referred to the CCC, but only one or two cases have been sent to the CCC and not all the non-compliant entities are referred to the CCC.</p> <p>8.9.2 Council requested that the reports be made easily available on the website of the Authority for easy reference.</p> <p>8.9.3 It was indicated that capacitation of the monitoring division was something that was being considered and with regards to the CCC, traditionally ICASA's approach has been to handhold the licensee specifically the community broadcasters to be compliant before considering referral to the CCC.</p> <p>Council approved the Broadcasting Annual Compliance Reports for Individual Sound Broadcasting Services.</p>	
9.	<p>Discussion Document on the Review of 1999 IBA (Advertising, Infomercials and Programme Sponsorship) Regulations for approval and publication</p> <p>The purpose of the submission was to request that Council approves the draft Discussion Document on the review of the Independent Broadcasting Authority (IBA) (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999, for publication in the Government Gazette.</p> <p>Cllr [REDACTED] and Manager: Content Services presented the item:</p> <p>9.1 The Review of the Advertising Infomercials and Programme Sponsorship Regulations Committee was 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>	Cllr [REDACTED]

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9.2	The Committee indicated that broadcasting was a commercial venture and advertising was the business of broadcasting. Advertising was regarded as the key that led to the profits of a Licensee.	
9.3	The Committee further stated that the definitions need to be clear as to what advertisements, infomercial and what sponsorship are, so as to avoid the confusions amongst viewers.	
9.4	Further that the committee aimed to limit the time on broadcasting slots so as to not bombard programmes with advertisements.	
9.5	The Committee indicated that it wanted to ensure that there was editorial independence and that the advertisers do not end up with all the editorial powers.	
9.6	The Committee finalised a draft Discussion Document and requested Council to approve the draft Discussion Document for publication in the Government Gazette.	
9.7	The draft Discussion Document seeks to solicit inputs from stakeholders on the regulation of Advertising, Infomercials and Programme Sponsorship. The inputs would assist the Authority in assessing the extent of the amendments to the Regulations, where necessary.	
	<p><u>Recommendations to Council:</u></p> <p>It was recommended that Council approves the draft Discussion Document on the review of the IBA (Advertising, Infomercials and Programme Sponsorship) Regulations, for publication in the Government Gazette.</p>	
	<p><u>Comments</u></p>	
9.8	Council commented on the time lapse to the extent that, it took the Authority almost 21 years to review the regulations.	
9.9	Council stated that many entities are now fighting for the same advertisement time. The time lapse has created a	

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	<p>vacuum, because when you watch television you find certain things that are supposed to be prohibited that are on the screens for example, when watching the news, you have a small window of the news reader and the rest will be advertisements.</p> <p>Council approved the draft Discussion Document on the review of the IBA Regulations for publication in the Government Gazette.</p>	
10.	<p>Approval of the Findings Document and Draft Regulations for publication as well as the letter to the Minister on the Mobile Broadband Services.</p> <p>Manager: Wholesale Services presented the item:</p> <p>The purpose of the submission was to request that Council approves the vetted Findings Document for publication in the Government Gazette, the vetted Draft Regulations for publication in Government Gazette, and the letter to the Minister in terms of section 4(5) of the Electronic Communications Act.</p> <p>10.1 On 16 November 2018, the Authority published a notice of intention to conduct an inquiry into Mobile Broadband Services in terms of section 4B of the ICASA Act of 2000, read with section 67(4) of the Electronic Communications Act No.36 of 2005.</p> <p>10.2 The Inquiry was conducted in six Phases (i.e. Phase 1 – commencement of the market inquiry, Phase 2 - Discussion Document, Phase 3 – Public Hearings on the Discussion Document, Phase 4 – Findings Document and Draft Regulations (if necessary), Phase 5 – Public Hearings on draft regulations and Phase 6 – Final Regulations and Reasons Document).</p> <p>10.3 As part of Phase 1, the Authority published a questionnaire or request for information and opinions from stakeholders. On 06 March 2019, the Authority received a request for an extension to submit responses to the questionnaire of Phase 1 from MTN. The Authority granted an extension in the Government Gazette to submit their responses to 29 March 2021.</p> <p>10.4 On 29 November 2019, following receipt of information and data in line with the questionnaire or request for information under Phase 1, the Authority published a</p>	Cllr [REDACTED]

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	<p>Discussion Document (Phase 2) on its website for public comment for a period of 45 working days.</p> <p>10.5 Following the publication of the discussion document, the Authority received requests for an extension to submit written representation on the discussion document from Vodacom, MTN and Telkom.</p> <p>10.6 Thereafter, the Authority conducted a second series of one-on-one meetings. The purpose of the one-on-ones was for the Authority to ask questions of clarity on the information submitted and to discuss some of the questions or comments made by stakeholders in their written submissions on the discussion document.</p> <p>10.7 The Authority made findings to the extent that competition was ineffective in the following markets:</p> <p>10.7.1 Retail market;</p> <p>10.7.2 Upstream market 1 (wholesale site infrastructure access in local and metropolitan municipalities);</p> <p>10.7.3 Upstream market 2 (wholesale national roaming services for coverage purposes; and</p> <p>10.7.4 Upstream market 3 (APN only).</p> <p>10.8 The Authority also found that Vodacom and MTN are dominant in the above three markets namely retail market, upstream market 1 and upstream market 2. The Authority has identified pro-competitive terms and conditions that should be imposed on licensees in order to address market failure in the relevant markets.</p> <p>10.9 The pro-competitive remedies relate to data reporting requirements which minimise information asymmetry and also would empower the Authority to actively monitor the relevant markets and introduce additional targeted regulatory measures, if necessary</p> <p><u>Recommendation to Council</u></p> <p>The Committee recommended the publication of the Findings</p>	

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	<p>Document and draft mobile broadband services regulations in the Government Gazette for public consultation.</p> <p><u>Comments</u></p> <p>10.10 Council requested clarity if there was any disjuncture in the findings for the Mobile Broadband, in the way that the tiering system has been defined.</p> <p>10.11 Council wanted clarity if it was still saying the same thing or is the Authority coming to different conclusions in as far as the tiering system was concerned.</p> <p>10.12 Council stated that the Authority now has a much more reasonable approach to market definition which was more defensible than the previous formulation. There was a question about the percentages, which market share are they referring to?</p> <p>10.13 The Committee informed Council that the IMT/ITA Tier 1 explanation was exactly the same as captured in the Mobile Broadband Inquiry (MBI).</p> <p>10.14 The Committee indicated that the percentages on page nine refer to the number of active subscribers in identified areas.</p> <p>10.15 The committee further indicated that because the Regulations are in a draft format, the Authority would consult stakeholders once that process has been finalised.</p> <p>Council resolved to approve the publication of the Findings Document and Draft Mobile Broadband Services Regulations in the Government Gazette.</p>	
11	<p>Amendments to the Price Cap Regulations for Reserved Postal Services, 2013 and accompanying explanatory note.</p> <p>The purpose of the submission was to recommend that Council approves the publication of amendments to the Price Cap Regulations for Reserved Postal Service, 2013 and accompanying Explanatory Note in the Government Gazette and on the Authority's website.</p> <p>The Manager: Wholesale Service presented the item:</p>	Cllr 

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	<p>11.1. The Authority was conducting a review of Price Cap Regulations for Reserved Postal Services, 2013 (the Price Cap Regulations) in terms of sections 2 (a), 8(a) and 30 of the Postal Services Act 124 of the 1998 (PSA" and regulation 10 of the Price Cap Regulations.</p> <p>11.2. The purpose of the review was to impose effective price controls in the reserved postal services and ensure that regulation of the reserved services space remains appropriate and enough to secure the efficient and financially sustainable provision of the reserved postal services.</p> <p>11.3. On Friday 23 August 2019, the Authority published a notice of its intention to review the Price Cap Regulations in the Government Gazette. The Gazetted Intention to Review Notice (GG 42657) was also published on ICASA's website alongside a Questionnaire requesting information and opinions from market participants and general stakeholders.</p> <p>11.4. Additionally, a media statement was issued on social media platforms to ensure maximum coverage. Stakeholders were invited to submit written responses to the Questionnaire within thirty (30) working days from the date of publication of the Notice. Closing date for submissions was Monday 07 October 2019.</p> <p>11.5. As per the Intention to Review Notice, the Authority was now at Phase 3 of the review process which entails the compilation, drafting and eventual publication of the draft Regulations.</p> <p>11.6. The draft Regulations are meant to stimulate further input from stakeholders, informed by the submissions of stakeholders responding to the Questionnaire and research exercises conducted by the Authority that led to the compilation of the draft Regulations and accompanying Explanatory Note.</p> <p><u>Recommendation to Council</u></p> <p>It was recommended that Council approves the publication of amendments to the Price Cap Regulations for Reserved Postal Service, 2013 in the Government Gazette and on the Authority's website.</p>	

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	<p><u>Comments</u></p> <p>Assurance was given to Council that the committee went overboard to research with formula that SAPO can use to be financially viable.</p> <p>Council was of the view that the move was overdue, and further that price cap Regulations were appropriate in a market where prices are falling, and the RoR is currently being used by Eskom and will work to the advantage of SAPO.</p> <p>The submission was approved by Council.</p>	
12	<p>Amendment Regulations and Reasons Documents on the licensing Processes and Procedures Regulations (PPR) For Class Licences, 2010 And 2016, as amended.</p> <p>The purpose of the submission was to request Council to approve the vetted Amendment Regulations and the Reasons Document on the Licensing Processes and Procedures Regulations for Class Licences, 2010 and 2016 for publication in the Government Gazette.</p> <p>The Manager: Service ECS/ECN presented the item:</p> <p>12.1 The rationale for the amendment of the Regulations was two pronged. Firstly, to provide clarity on the Authority's process with respect to the licensing of Broadcasting, Electronic Communications and Electronic Communications Network Services for Class Licences.</p> <p>12.2 Secondly, to enhance compliance with the Regulations and streamline the submission of documents to the Authority and as such provide effective service to licensees and applicants alike. This will in turn minimise the regulatory burden on both the Authority and stakeholders (licensees).</p> <p>12.3 On 09 March 2020, the Authority published the draft Amendment PPR for class licences in Government Gazette No. 43062 for public comment from interested parties. The closing date for submission of comments was 17 April 2020.</p> <p>12.4 By closing date, the Authority received written representations on the draft amendment regulations from the following stakeholders: Internet Service Providers</p>	Cllr [REDACTED]

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	<p>Association (ISPA); Wireless Access Providers Association (WAPA); and South African Communications Forum (SACF).</p> <p><u>Recommendations to Council:</u></p> <p>It was recommended that Council approves the vetted Amendment Regulations and Reasons Document, for publication in the Government Gazette.</p> <p>Council resolved to approve the vetted Amendment Regulations and Reasons Document for publication in the Government Gazette.</p>	
13	<p>ICASA's 2021/22 APP Strategic Alignment to Government Policy Objectives</p> <p>The purpose of the submission was to update Council on the engagements with the Department of Communications and Digital Technologies (DCDT) with regards to the approval process for the Authority's 2021/22FY APP, and to further request that Council consider some amendments to the 2021/22FY APP in order to, close the gaps identified in respect of key aspects of the Authority's delivery mandate not covered in terms of the 2021/22FY APP, and where legally justifiable and reasonable, address potential misalignment with national policy objectives.</p> <p>The CEO presented the item:</p> <p>13.1 The Authority submitted its final draft 2021/22FY APP to the DCDT on 30 January 2021 following Council approval of same on 26 January 2021. This was submitted in accordance with the Department of Planning Monitoring and Evaluation Revised Framework for Strategic Plans and Annual Performance Plans of December 2019.</p> <p>13.2 In terms of the Framework, the Authority's 2021/22FY APP was due to be tabled to Parliament for approval by 31 March of the financial year preceding the financial year of its implementation.</p> <p>13.3 The DCDT held a strategic planning session over three days, on 25 and 26 February as well as 4 March 2021.</p> <p>Key issues raised at DCDT Strategic Alignment Session were that:</p>	CEO

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13.4	The 2021/22FY APP does not include a target on wholesale transmission market review.	
13.5	The 2021/22FY does not cover issues pertaining to access to broadcasting services for persons with disabilities, the regulations for implementation of 116 short-code for protection of children, and the regulations on gender equality.	
13.6	There appears to be no measures to address / accelerate digital migration process. That the APP does not deal with all the operation vulindlela interventions as relevant to ICASA. In particular, the APP does not cover the rapid deployment regulations which was a key report action number 2.3.b in terms of the outlined structural reforms.	
<u>Recommendations to Council</u>		
13.7	Considering the above, it was recommended that Council note the outcomes of the DCDT strategic session as well as the engagements that have since ensued between ICASA and DCDT management team.	
13.8	It was further recommended that Council approve that the edits, additions and amendments be effected to the 2021/22FY APP to address the gaps that have been identified during the alignment discussions.	
13.9	<p>The amendments, edits and or additions will cover the following:</p> <p>13.9.1 The inclusion of an output for operation vulindlela interventions as relevant to ICASA. In particular, the APP does not cover the rapid deployment regulations which is key report action number 2.3.b in terms of the outlined structural reforms. This would be included under Programme 4.</p> <p>13.9.2 The inclusion of an output related to cost to communicate, in the context of conclusion of the final leg of the mobile broadband inquiry. This would be included under Programme 3.</p> <p>13.9.3 Inclusion of an output for revenue collection under</p>	

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	<p style="text-align: center;">Programme 1, sub-programme Finance.</p> <p><u>Comments</u></p> <p>13.10 Council was of the view that the targets need to be put towards the last quarter of 2021/2022 so that the process was controlled, as it might affect the performance of the Authority if the policy was not finalised and leaves the Authority in a position of not being able to move forward with it.</p> <p>13.11 Council expressed that the Rapid Development Regulations requires policy direction, and further inquired if the Minister's performance contract was formally communicated to Council.</p> <p>13.12 Management stated that, the Department shared a summary of its strategic priorities as well as the Ministers priorities, and that the documents had been shared with Councillors and further requested them to be re-circulated.</p> <p>13.13 Management indicated that, with regards to the alignment, it would be informed by what was shared by the Department as the priority areas for the Department, the key performance areas for the Minister emanating from what they said was the performance agreement concluded with the President as well as the reforms from operation Vulindlela.</p> <p>Council resolved to approve ICASA's 2021/22 APP Strategic Alignment to Government Policy Objectives.</p>	
	General	
	<p>Closure</p> <p>The Chairperson thanked all present at the meeting closed the meeting at 13h00.</p>	
11	Date of next meeting: 17 March 2021	Secretariat



Signed: 

Date: 31 May 2021

(Chairperson)