



**Independent Communications Authority of South Africa**

<b>MINUTES OF A SPECIAL MEETING OF COUNCIL</b>		
<b>Date</b>	<b>16 May 2023</b>	
<b>Time:</b>	<b>16:30</b>	
<b>Venue:</b>	<b>Virtual- Microsoft Teams</b>	
<b>Present</b>	[REDACTED]	Acting Chairperson
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
<b>By Invitation</b>	[REDACTED]	CEO
	[REDACTED]	Acting CFO
	[REDACTED]	Executive: LRCCC
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat Officer
<b>Partial Attendees</b>	None	
<b>Apologies</b>	None	

<b>No.</b>	<b>Action Item</b>	<b>Person Responsible</b>
1.	<p><b>Opening and apologies</b></p> <p>1.1. The Chairperson declared the meeting opened at 16:30 and welcomed all present.</p> <p><b>The opening was noted.</b></p>	<b>Chairperson</b>
2.	<p><b>Declaration of interest</b></p> <p>No conflict of interest was noted.</p>	<b>Council</b>
3.	<p><b>Legal Opinion: Council PMS</b></p> <p>The CEO and the Executive: LCCC presented the submission:</p> <p>3.1. The purpose of the submission dated 15 May 2023 was to:</p> <p>3.1.1. Present to Council, a legal opinion in relation to the draft Performance Management System for ICASA Councillors: and</p> <p>3.1.2. To request Council to consider and approve the recommendations made in the submission.</p> <p><u>Recommendation to Council:</u></p> <p>3.2. It was recommended that Council should consider and note the legal opinion seeking to advise on whether there are any substantive differences with the version of the PMS approved by Council last year and sent to the Minister and the version subsequently tabled and approved at the PPCC and National Assembly (without inputs from Council).</p> <p>3.3. It was further recommended that Council should approve the recommendations made by the LCCC Division in the submission, inter alia, that Council delegate to the HR and REMCO or establish a</p>	<b>CEO / Executive: LCCC</b>

No.	Action Item	Person Responsible
	<p>Governance Committee for the purpose of monitoring the PMS for Councillors; and for the LRCCC to consult the Commission for the determination of remuneration of Office-Bearers to clarify its role in the implementation of the PMS.</p> <p><u>Comments made:</u></p> <p>3.4. Council sought clarity on whether the legal opinion was obtained internally or externally. Council was informed that the legal opinion was sought internally. Council highlighted that a perceived conflict can be created since the legal opinion was sought internally.</p> <p>3.5. Council sought clarity on whether the legal opinion was based on the correct final version of the PMS which was tabled and approved by the PPCC and subsequently the National Assembly – this is on the backdrop that the version appended to the submission had open / unresolved comments. Council was informed that the legal opinion was based on the version that Council sent to DCDT, and the version which was received by the Authority with the PPCC’s legal advisor’s comments.</p> <p>3.6. Council expressed that the legal opinion has not responded to the brief given. Council was informed that the purpose of the legal opinion had been to analyse the version of the PMS that Council sent to DCDT, and the version which was received by the Authority with Parliament legal advisor’s comments and assess whether there are any substantive issues on the two documents.</p> <p>3.7. Council expressed that the version that should be analysed, is the version finalised after the comments made by the Parliament legal advisor were addressed – the version tabled and approved by the National Assembly.</p>	

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	<p>3.8. Council sought clarity on section 6a(4) of the draft PMS document, to how will the panel be constituted and how will the assessment be done.</p> <p>3.9. Council noted with concern the framework used in the draft PMS, and that the template provided does not empower Councillors to contract at this point. Council was unanimous of the need for a workshop between Council and the Minister in order to iron out issues with the PMS pursuant to the signing of the performance agreements.</p> <p><u>Resolutions by Council:</u></p> <p>3.10. Council resolved that the document which the legal opinion is based on, is not the final version of the PMS which was approved by Parliament. The legal opinion must be based on the final version approved by Parliament. Therefore, the Executive: LCCC must seek the final version of the PMS tabled and approved by the National Assembly and to subsequently update the legal opinion for retabling at Council.</p> <p>3.11. Council resolved that a letter be sent to the Minister of DCDT, highlighting the issues raised, and requesting the audience of the Minister. The letter will be circulated by the Corporate Secretary for Council to make inputs.</p> <p>3.12. Council reiterated the need to engage with the Minister on the matter of the PMS. The session / meeting will assist with clarifying all issues raised by Councillors. The letter requesting the audience of the Minister, will further highlight that the engagement will give an opportunity to the new Councillors to thoroughly engage with the Minister in relation to the PMS before it is finalised.</p>	

<b>No.</b>	<b>Action Item</b>	<b>Person Responsible</b>
4.	<b>Closure</b> The Chairperson thanked all who were present at the meeting and declared the meeting adjourned.	<b>Council</b>

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

**Yolisa Kedama**  
**(Acting Chairperson)**

**Date:** 20-06-2023 \_\_\_\_\_