



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL		
Date	16 August 2022	
Time:	08:00	
Venue:	Microsoft Teams	
Present	██████████	Acting Chairperson
	██████████	Councillor
	██████████	Councillor
	██████████████████	Councillor
By Invitation	██████████	CEO
	██████████	CFO
	██████████████████	CAE
	██████████████	Corporate Secretary
	██████████████	Secretariat Officer
	██████████████	Secretariat Officer
Partial Attendees	██████████	Executive: Corporate Services
	██████████████	Radio Frequency Specialist: Radio Communications
	██████████████	Manager: Radio Communications
	██████████	Manager: Cyber Security
	██████████	Executive-Legal & CCC
	██████████	Executive: Licensing and Compliance
	██████████████	SM: ICT Licensing Services
	██████████	Manager: Numbering
	██████████████	Executive: Engineering & Technology
	██████████████	Manager: Broadcasting Frequency Coordination
	██████████████	Manager: Cost Modelling, PRA
	██████████	RF Specialist: Licensing
	██████████████	SM: Type Approval
	██████████	External Legal Advisor

	██████████	External Legal Advisor
	██████████	External Legal Advisor
Apologies	████████████████████	Councillor

No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Acting Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p>1.2. Cllr ██████████ was excused during the meeting to attend one of the series of CAP roadshows.</p> <p>The opening and apology were noted.</p>	Chairperson
2.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
3.	<p>Ratification of the Agenda</p> <p>Councillor ██████████ requested that Item D3 (recommendation by CCC to Council in the matter between the Licensing and Compliance Division of ICASA and Bok Radio) be deferred to the next Council meeting.</p> <p>The agenda was adopted with the above amendment.</p>	All
4.	<p>Previous minutes of Council</p>	Council
4.1	<p>Minutes of Council: 05 May 2022</p> <p>The minutes were adopted as presented.</p>	Council

No.	Action Item	Person Responsible
5.	Matters Arising The Matters Arising were presented to Council by the CEO.	Council
6.	International Engagements	CEO
6.1.	Report of the World Telecommunication Development Conference, 2022 <p>Executive: PRA presented the item:</p> <p>6.1.1. The purpose of this submission is to request Council to note the report of the 8th World Telecommunication Development Conference (“WTDC-22”) of the International Telecommunication Union (“ITU”), which took place on 6 to 16 June 2022 in Kigali, Rwanda, under the theme: “Connecting the unconnected to achieve sustainable development”.</p> <p>6.1.2. In preparing for the WTDC-22, preparatory meetings were held in various regions, and certain country positions were coordinated by the regional telecommunications organisations - in the case of South Africa, the African Telecommunications Union (“ATU”).</p> <p>6.1.3. South Africa was designated as ATU principal coordinator and deputy coordinator for the following WTDC-22 resolutions:</p> <p>6.1.3.1. Resolution 8 on Collection and dissemination of information and statistics – ██████████ (Principal Coordinator).</p> <p>6.1.3.2. Resolution 45 on Mechanisms for enhancing cooperation on cybersecurity, including countering and combating spam – ██████████ (Deputy Coordinator).</p> <p>6.1.3.3. Resolution 85 on Facilitating the Internet of Things and smart cities and communities for global</p>	Cllr ██████████

No.	Action Item	Person Responsible
	<p>development - ██████████ (Principal Coordinator).</p> <p>6.1.3.4. New Draft Resolution on Fostering telecommunications/ICT-centric Entrepreneurship and digital innovation ecosystems for sustainable digital development – ██████████ (Principal Coordinator).</p> <p>6.1.3.5. Resolution 69 on Facilitating creation of national computer incident response teams, particularly for developing countries, and cooperation between them - ██████████(Deputy Coordinator).</p> <p>6.1.4. WTDC-22 adopted the Kigali Action Plan which will enable ITU-D and BDT to foster meaningful universal connectivity and sustainable digital transformation around the world. The Kigali Action Plan describes the ITU-D priorities and scope of activities and associated outcomes and outputs for the period 2023-2027.</p> <p>6.1.5. Key performance indicators (KPIs). The ITU-D priorities are as follows:</p> <ul style="list-style-type: none"> 6.1.5.1. Affordable Connectivity; 6.1.5.2. Digital Transformation; 6.1.5.3. Enabling Policy and Regulatory Environment; 6.1.5.4. Resource Mobilisation and International Cooperation; and 6.1.5.5. Inclusive and secure telecommunications/ICTs for sustainable development. <p>6.1.6. WTDC-22 also adopted the Kigali Declaration, which highlights the main conclusions and priorities established by the Conference and reinforces the political support towards the ITU development mission and strategic goals. The Kigali Declaration is a vision for the future of ICT and is meant to send a strong message from the ICT community to the world on the contribution towards the attainment of the Sustainable Development Goals (“SDGs”).</p>	

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	<p>6.1.7. The absence of ICASA participation in some of the Study Group work disadvantages South Africa in terms of contributions, learning, and development. There is a risk of the regulator being left behind telecommunication trends and technological developments which are being studied under the auspices of the ITU if the Authority is not actively involved in the work of the ITU.</p> <p>6.1.8. ITU-D sector is concerned with, inter alia, building human and institutional capacity, providing data and statistics, promoting digital inclusion, and providing concentrated assistance to countries in special need.</p> <p>6.1.9. South Africa’s participation at ITU-D sector is still in its infancy, and involvement in WTDC is an excellent step to assist South Africa in terms of its developmental goals, which are mostly covered by the work of ITU-D sector.</p> <p><u>Recommendations</u></p> <p>6.1.10. It is recommended that Council notes –</p> <p style="padding-left: 40px;">6.1.10.1. The report of the 8th WTDC, which took place on 6 to 16 June 2022 in Kigali, Rwanda, under the theme: “Connecting the unconnected to achieve sustainable development”; and</p> <p style="padding-left: 40px;">6.1.10.2. That ICASA management will identify relevant Study Group Questions adopted by WTDC-22, as well as relevant officials within the Authority, with the view to contributing to and participating meaningfully in the work of the relevant Study Groups in order to influence the desired outcomes, taking into account resource limitations.</p> <p><u>Comments and Resolutions</u></p> <p>6.1.11. Council noted that the report will be shared with DCDT.</p>	

No.	Action Item	Person Responsible
	Council noted the submission.	
6.2.	<p>Report of the 6th Ordinary Session of the African Telecommunications Union Conference of Plenipotentiaries held from 25 to 26 July 2022, Algeria</p> <p>Executive: PRA presented the item:</p> <p>6.2.1. The purpose of this submission is to request Council to note the report of the 6th Ordinary Session of the African Telecommunications Union (“ATU”/ “Union”) Conference of Plenipotentiaries (“CPL-22” / “Conference”), which took place on 25 to 26 July 2022 in Algiers, Algeria.</p> <p>6.2.2. Three Working Groups were established previously to coordinate and spearhead the discussions on African Common Proposals (“AfCPs”) as follows:</p> <p>6.2.2.1. Working Group 1 on Policy and Legal issues - chaired by Mr. Richard Anago from Burkina Faso;</p> <p>6.2.2.2. Working Group 2 on ITU Administration and Management issues - chaired by Mr. Silulami Doyi from South Africa; and</p> <p>6.2.2.3. Working Group 3 on Public Policy issues – chaired by Ms Shahira Selim from Egypt.</p> <p>6.2.3. Proposals which are of interest to ICASA, due to their impact on the work of the Authority, include the following:</p> <p>6.2.3.1. Modification of Resolution 21 on measures concerning alternative calling procedures on international telecommunication networks;</p> <p>6.2.3.2. Modification of Resolution 25 on strengthening the regional presence;</p> <p>6.2.3.3. Misuse of Article 48 of the ITU Constitution on installations of national defence services - proposed by South Africa;</p>	Cllr ██████

No.	Action Item	Person Responsible
	<p>6.2.3.4. Modification of Resolution 146 on periodic review and revision of the International Telecommunication Regulations (“ITRs”).</p> <p>6.2.3.5. Modification of Resolution 175 on Telecommunication/Information and Communication technology accessibility for persons with disabilities and persons with specific needs;</p> <p>6.2.3.6. Modification of Resolution 176 on measurement and assessment concerns related to human exposure to electromagnetic fields;</p> <p>6.2.3.7. Modification of Resolution 188 on combating counterfeit telecommunication/ICT devices;</p> <p>6.2.3.8. Modification of Resolution 196 on protecting telecommunications services users/consumers;</p> <p>6.2.3.9. Modification of Resolution 70 on mainstreaming a gender perspective in ITU and promoting gender equality;</p> <p>6.2.3.10. Modification of Resolution 177 on conformance and interoperability;</p> <p>6.2.3.11. Modification of Resolution 179 on Child Online Protection;</p> <p>6.2.3.12. Modification of Resolution 188 on counterfeit and tampered devices;</p> <p>6.2.3.13. Modification of Resolution 206 on OTTs;</p> <p>6.2.3.14. Draft new resolution on Artificial Intelligence - proposed by South Africa;</p> <p>6.2.3.15. Draft new resolution on capacity building to bridge the data divide; and</p> <p>6.2.3.16. Modification of Resolution 130 on Cybersecurity.</p> <p><u>It was recommended that Council:</u></p>	

No.	Action Item	Person Responsible
	<p>6.2.6 It is recommended that –</p> <p>6.2.6.1. Council notes the report of the 6th Ordinary Session of the African Telecommunications Union Conference of Plenipotentiaries, which took place from 25 to 26 July 2022 in Algiers, Algeria, preceded by the 3rd ATU Regional Preparatory Meeting for ITU Plenipotentiary Conference from 20 – 21 July 2022; and Conference Preparatory Committee from 22 – 23 July 2022; and</p> <p>6.2.6.2. Council continues to provide support for Mr Mandla Mchunu’s campaign and duties for the RRB position as outlined in the ITU Plenipotentiary Resolution 119 (REV. ANTALYA, 2006) which calls on the Member States “to continue to provide all necessary assistance and support to RRB members individually, and the Board as a whole, in carrying out their functions”.</p> <p><u>Comments and Resolutions</u></p> <p>6.2.7. Council sought clarity on whether there is a process that requires country delegates to nominate particular candidates for particular positions, in situations where there are only three (3) vacancies but six (6) names have been nominated for the vacancies. Council was informed that this issue is highly politicised and politically charged, and that the Authority seek clear guidance from DCTD on how we deal with certain Member States.</p> <p>6.2.8. Council noted that the report will be shared with DCDT.</p> <p>Council noted the submission.</p>	
7.	<p>Licensing of IMT (Standing Item)</p> <p>7.1. Cell C licence payment extension. The following matters were highlighted from the legal opinion provided:</p> <p>7.1.1. The issue of forfeiture of monies paid by Cell C to the Authority as result of breach is not fully covered in the ITA. However, including such a provision in an extension</p>	Cllr ██████

No.	Action Item	Person Responsible
	<p>letter, which is agreed to by Cell C will result in an enforceable agreement between the parties.</p> <p>7.1.2. It is, however, Counsel's view that the Authority should rather stick to conditions that have already been stipulated in the ITA, and rather use the term penalties as opposed to forfeiture.</p> <p>7.1.3. The payment of penalties may be in the form of a setoff against any monies paid to the Authority by Cell C towards this licensing process, which may need to be refunded.</p> <p>7.1.4. It is however important for the Authority to be up front with the penalty amount in order to ensure that the claim is liquidated. A claim has to be liquidated for a common law automatic setoff to be applied by the Authority.</p> <p>7.1.5. Counsel's office has prepared a draft response letter to Cell C for the Authority's consideration, and would like the Authority to insert an estimated penalty.</p> <p><u>Comments and Resolutions</u></p> <p>7.2. Council requested that the letter to be sent to Cell C, should specify the penalty amount in which Cell C will have to pay should it fail to pay the outstanding auction fee.</p> <p>7.3. Council sought clarity on what the exact percentage of the total amount by Cell C has been paid to date, and what they still need to pay. Council was informed that Cell C has paid over the amount of R28 million, and the outstanding amount is R259 080 000. Council was further informed that the ITA has a provision of a bank guarantee of R10 million, and that amount was going to be used by the Authority to draw on for any penalties imposed. There is also a clause in the ITA which indicates that the Authority can increase the bank guarantee if there is a need to do so.</p> <p>7.4. Council resolved on the following:</p> <p>7.4.1. In the event of Cell C failing to make payment of its auction fee on or before 31 August 2022:</p>	

No.	Action Item	Person Responsible
	<p>7.4.1.1. The Authority may immediately revoke the award of the Lot acquired in the Auction in the IMT Spectrum Band IMT3500 (Spectrum Range 3490 – 3500 MHz);</p> <p>7.4.1.2. Cell C shall forfeit the non-refundable application fee in the sum of R3 000 000.00 (three million rands); and</p> <p>7.4.1.3. The money amounting to R28,820,000.00 (twenty-eight million eight hundred and twenty thousand rands), already paid by Cell C to the Authority, will be forfeited as a penalty for prejudice suffered by the Authority as a result of Cell C's failure to pay its auction fee.</p> <p>7.5. Councillor █████ notified Council of his reservations regarding the provision in the letter that stipulates that the R28,820,000.00 (twenty-eight million eight hundred and twenty thousand rands) already paid by Cell C to the Authority will be forfeited as a penalty for prejudice suffered by the Authority as a result of Cell C's failure to pay its auction fee, when the ITA stipulates a bank guarantee of R10 million.</p> <p>7.6. Council was informed that, besides the R10 million bank guarantee stated in the ITA, there is nothing that says that is actually the quantification of the prejudice that the Authority has suffered, or it is actually the quantification of the damages that the Authority suffered.</p> <p>7.7. Council noted the reservations of Councillor █████ and requested the final version of the letter to be circulated for adoption via a round robin resolution.</p> <p>Council approved the submission subject to the above inputs.</p>	
8.	<p>Dark Fibre Transfer Applications</p> <p>The submission was presented to Council by the Senior Manager: Licensing.</p>	<p>Cllr ██████████</p>

No.	Action Item	Person Responsible
	<p>Council resolved that the submission be deferred to a special Council meeting for detailed discussion due to the complex nature of the matter.</p> <p>Supporting documents from the Committee to be shared with Councillors prior to the meeting.</p>	
9.	<p>Recommendation by CCC to Council in the matter between Licensing and Compliance Division of ICASA Versus Vukani Community Radio</p> <p>Cllr Kedama presented the item:</p> <p>9.1. The purpose of this memo is to table the recommendation of the CCC in the matter between Licensing and Compliance Division and Vukani Community Radio.</p> <p>9.2. Division referred the above-mentioned matter to the CCC for investigation in terms of section 17B(a) of the ICASA Act No.13 of 2000.</p> <p>9.3. The Complainant alleged that Vukani Community Radio has, during the elections period, contravened regulation 6(14) of the Municipal Elections Party Elections Broadcasts and Political Advertisements Amendment Regulations of 2021 which provides that a “broadcasting service licensee that broadcasts Political Advertisement (PAs) must ensure that all PA broadcasts are clearly identified through a standard pre-recorded introductory and concluding message (top and tail) disclaimer.”</p> <p>9.4. Vukani Community Radio broadcast PAs for an Independent Candidate ([REDACTED]) without tail disclaimers, on the following dates and times:</p> <p>9.4.1. 13 October 2021 at 16h51;</p> <p>9.4.2. 14 October 2021 at 15h57 and 20h32;</p> <p>9.4.3. 15 October 2021 at 15h53;</p> <p>9.4.4. 18 October 2021 at 06h56; and</p>	Cllr [REDACTED]

No.	Action Item	Person Responsible
	<p>9.4.5. 20 October 2021 at 18h59.</p> <p>9.5. The licensee has taken disciplinary action against the Sales Manager, which resulted in a suspension, which is a way to ensure that similar complaints will not be lodged in the future.</p> <p>9.6. The licensee has conceded to the charges, and indicated that in future they will have a comprehensive plan which will improve the monitoring systems to ensure that similar contraventions do not happen in the next elections.</p> <p>9.7. The CCC makes the following finding: 9.7.1. The complaint that Vukani Community Radio contravened regulation 6(14) of the Municipal Elections Party Elections Broadcasts and Political Advertisements Amendment Regulations of 2021, is upheld.</p> <p><u>Recommendation to Council:</u></p> <p>9.8. The CCC recommends that Council issues the following order:</p> <p>9.8.1. The Licensee is directed to desist from any further contravention of the above-mentioned Regulations; and</p> <p>9.8.2. The Licensee is directed to take the following remedial steps: 9.8.2.1. Vukani Community Radio is to broadcast an apology during the first week after this order is issued. The apology is to be broadcast once a day for five (5) consecutive days as its first item on its news service between 7:00 and 20:10 in IsiXhosa, English and Afrikaans, in the same news Bulletin. On the first two (2) days the broadcast must take place in the first newscast after 7:00. The times of the broadcast must be notified by email to the CCA of ICASA at the latest forty-eight (48) hours before the broadcast. The broadcast may not be accompanied by any background music or sounds, and the item must be read formally by the Station Manager or his representative, who must declare that he/she is the Station Manager or acting on behalf of the Station Manager.</p>	

No.	Action Item	Person Responsible
	<p>9.8.2.2. The apology must be phrased thus: <i>“The Independent Communications Authority of South Africa has found that Vukani FM was negligent in having failed to abide by the Municipal Elections Regulations 2021, in that Vukani FM broadcast PAs without tail disclaimers [a statement which clearly identified Political Advertisements as such] on six separate occasions. This is in conflict with the Municipal Elections Regulations 2021 which require top and tail disclaimers to be made before and after Political Advertisements so as to identify them as such. Vukani FM apologises to its listeners for having committed these contraventions.”</i></p> <p>9.8.2.3. An electronic copy of each broadcast stating the date and the time of the broadcast must be sent to the CCA at ICASA by email within forty-eight (48) hours from the last broadcast in the said five (5) days.</p> <p>9.8.2.4. Direct that the licensee pays as a fine a total amount of thirty thousand rands (R30 000), the breakdown of which is as follows:</p> <ul style="list-style-type: none"> • Five thousand rands (R5000) for the first transgression, which is wholly suspended until the next Municipal Elections; and • Five thousand rands (R5000) for the second to sixth transgressions, half of each which is suspended until the next Municipal Elections. <p>9.8.2.5. Therefore, the licensee is directed to pay a total amount of twelve thousand, five hundred rands (R12 500) in respect of the second to the sixth transgressions. The amount of twelve thousand, five hundred rands (R12 500) is to be paid into the account of ICASA within ninety (90) calendar days from the date of issue of this order.</p>	

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	<p>9.8.2.6. The remaining twelve thousand, five hundred rands (R12 500) in respect of the second to the sixth transgression as well as the five thousand rands (R5000) in respect of the first transgression, is suspended until the next Municipal Elections, subject to the condition that the licensee is not found guilty of any contravention of its licence conditions or election regulations during the next election period.</p> <p>Council approved the submission.</p>	
10.	<p>Recommendation by CCC to Council in the matter between the Licensing and Compliance Division of ICASA and Bok Radio</p> <p>Council deferred the submission, pending amendment of the memorandum.</p>	Cllr [REDACTED]
11.	<p>Recommendation by Complaints and Compliance Committee to Council in the matter between Licensing and Compliance Division and IFM</p> <p>Councillor [REDACTED] presented the item:</p> <p>11.1. The purpose of the submission was to table the recommendation of the Complaints and Compliance Committee (“CCC”) in the matter between Licensing and Compliance Division of ICASA (“Complainant”) and Eastern Cape Muslim Broadcasting Association t/a IFM (“Respondent”).</p> <p>11.2. On 22 March 2022, CCA lodged a complaint with the CCC against IFM community radio for the following allegations of contravention:</p> <p>11.2.1. That the Respondent has contravened Section 58(6) of the Electronic Communications Act No.36 Of 2005. Section 58(6) states as follows: “No Political Advertisement may be broadcast later than 48 hours prior to the commencement of the polling period”.</p> <p>11.2.2. That the alleged contravention is found in the compliance monitoring activity of the 2021 municipal</p>	Cllr [REDACTED]

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	<p>elections coverage, which was conducted by the Complainant. It is alleged that the Respondent broadcast an Independent Candidate's PA on 01 November 2021. The last day to broadcast PAs in accordance with s58(6) of the ECA was 29 October 2021.</p> <p>11.2.3. That the Respondent has contravened Regulation 6(14) of the Municipal Elections Party Broadcasts and Political Advertisement Amendment Regulations of 2021. Regulation 6(14) states as follows: "A Broadcasting Service Licensee that broadcast PA must ensure that all PA broadcasts are clearly identified through a standard pre-recorded introductory and concluding message (top and tail disclaimer)".</p> <p>11.2.4. It is alleged that on 25 October and 01 November 2021, the Respondent broadcast an Independent Candidate's PAs with no top and tail disclaimers.</p> <p>11.3. The CCC's finding is the following:</p> <p>11.3.1. The Licensee failed to ensure that no PAs were broadcast 48 hours prior to the commencement of the polling period. The complaint regarding allegations relating to contravention of Section 58(6) is upheld.</p> <p>11.3.2. Allegations relating to contravention of Regulation 6(14) in that the Licensee failed to ensure that all the PAs broadcast by it had both the top and tail disclaimers.</p> <p>11.3.3. The complaint is upheld.</p> <p><u>Recommendation to Council:</u></p> <p>11.4. The CCC recommends to the Authority that the following order be issued to the Respondent:</p> <p>11.4.1. Direct that the Licensee desist from further contravention.</p>	

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	<p>11.4.2. Direct the Licensee to take the following remedial step:</p> <p>11.4.2.1. The Licensee is to broadcast a public apology during the first week after this order is issued.</p> <p>11.4.2.2. The apology is to be broadcast once a day for five consecutive days as its first item on its news service between 7h00 and 20h10 in English, Afrikaans, IsiXhosa, Arabic and Urdu in the same news bulletin. On the first two days the broadcast must take place in the first newscast after 7h00. The times of the broadcast must be notified by email to the CCA of ICASA at the latest forty-eight (48) hours before the broadcast. The broadcast may not be accompanied by any background music or sounds, and the item must be read formally by the Station Manager or his/her representative who must declare that he/she is the Station Manager or is acting on behalf of the station manager.</p> <p>11.4.2.3. The apology must be phrased thus: “<i>The Independent Communications Authority of South Africa has found that the station was grossly negligent in not having abided by the Electronic Communications Act and the Municipal Elections Regulations 2021. This station broadcast a political advertisement less than 48 hours prior to the commencement of the polling period. This is in conflict with the Electronic Communications Act which prohibits the broadcast of Political Advertisements less than forty-eight (48) hours prior to the commencement of the polling period. In addition, this station broadcast</i>”</p>	

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	<p data-bbox="684 383 1267 808"><i>Political Advertisement without adding a statement which clearly identifies the Political Advertisements as such. This is in conflict with the ICASA’s Municipal Elections Regulations of 2021 which require that all Political Advertisement must be identified as such by adding a disclaimer, before and after the advertisement. This station further extends its apology to its listeners for having committed these contraventions.”</i></p> <p data-bbox="517 857 1267 1084">11.4.2.4. An electronic copy of each broadcast stating the date and the time of the broadcast, must be sent to the CCA of ICASA by email within forty-eight (48) hours from the last broadcast in the said five days.</p> <p data-bbox="517 1133 1267 1283">11.4.2.5. The licensee is to pay as a fine a total amount of ten thousand rands (R10 000), the breakdown of which is as follows:</p> <p data-bbox="687 1290 1267 1720">11.4.2.5.1. Ten thousand rands (R10 000) for contravention of Section 58(6), half of which is suspended until the next Municipal Elections, subject to the condition that the licensee is not found guilty of any contravention of its licence conditions or election regulations during the next election period.</p> <p data-bbox="687 1727 1267 2033">11.4.2.5.2. Ten thousand rands (R10 000) for contravention of Regulation 6(14), half of which is suspended until the next Municipal Elections subject to the condition that the licensee is not found guilty of any contravention of</p>	

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	<p>its licence conditions or election regulations during the next election period.</p> <p>11.4.2.6. The amount of R10 000 (ten thousand rands) is to be paid into the account of ICASA within 90 calendar days from the date of issue of this.</p> <p>Council approved the submission.</p>	
12.	<p>Application for amendment of Telkom SA Soc Limited Radio Frequency Spectrum Licence in the bands 2300 – 2360 MHz (“2300 MHz”) and 2307 – 2387 MHz paired with 2401 – 2481 MHz (“2400 MHz”)</p> <p>The Senior Manager: Talent and Performance Management presented the item.</p> <p>12.1. The purpose of the submission was to request that Council decline Telkom SA SOC Limited’s proposed amendment of its radio frequency spectrum licence in the bands 2300 – 2360 MHz (“2300 MHz”) and 2307 – 2387 MHz paired with 2401 – 2481 MHz (“2400 MHz”).</p> <p>12.2. On 30 July 2021, the Authority received an application from Telkom SA SOC Limited (“the Applicant/ Telkom”) requesting an amendment of its Radio Frequency Spectrum Licence No. 00-536-928-2 in the 2300 – 2360 MHz (“2300 MHz”) and 2307 – 2387 MHz bands paired with the 2401 – 2481 MHz (“2400 MHz”) to:</p> <p>12.2.1. Reflect the refarming of a portion of the 2300 MHz band, and</p> <p>12.2.2. Surrender a portion of the 2400 MHz frequency band.</p> <p>12.3. On 15 October 2021, the Authority published a notice in the Government Gazette No 45333 inviting written representations in respect of the application and giving interested parties twenty-one (21) working days from the date of publication to submit their written representations.</p> <p>12.4. The Authority received six (6) written representations from the following entities by the closing date of 4 November 2021:</p>	Cllr ██████

No.	Action Item	Person Responsible
	<p>12.4.1. Cell C (Pty) Ltd (“Cell C”);</p> <p>12.4.2. Mobile Telecommunications Network (Pty) Ltd (“MTN”);</p> <p>12.4.3. Vodacom (Pty) Ltd;</p> <p>12.4.4. Liquid Intelligent Technologies (“Liquid”);</p> <p>12.4.5. South African Communications Forum (SACF) and</p> <p>12.4.6. Community Investment Ventures Holdings (CIVH).</p> <p>12.5. Due to the legal implication of this application, the committee requested legal opinions soliciting different views from two (2) Senior Counsels (SC) on the application for amendment of Telkom’s radio frequency spectrum licence.</p> <p><u>Recommendation to Council:</u></p> <p>12.6. It is recommended that Council declines Telkom SA SOC Limited’s proposed amendment application of its radio frequency spectrum licence in the bands 2300 – 2360 MHz (“2300 MHz”) and 2307 – 2387 MHz paired with 2401 – 2481 MHz (“2400 MHz”) for the following reasons:</p> <p>12.6.1. Regulations 9 and 10 of the RFSAP 2015 for IMT2300 require that the amendment of existing licences be subject to the results of the feasibility study carried out on the use of the IMT2300 band in line with the Frequency Migration Plan 2013.</p> <p>12.6.2. The Authority is yet to finalise the RFSAP 2022 for the frequency band 2300 MHz which will provide the rules, procedure, and process to be undertaken for the licensing of the 40 MHz available in the frequency band 2 300 to 2 400 MHz post migration.</p> <p>12.6.3. The provisions of regulation 6 (1) of the Radio Frequency Migration Regulation 2013 will be implemented, wherein the Authority will inform users through a notice in Government Gazette to initiate the</p>	

No.	Action Item	Person Responsible
	<p>amendment of existing licences affected by the migration.</p> <p>12.6.4. The 40 MHz in the IMT2300 band must be subject to a competitive spectrum licensing process. This will ensure that IMT spectrum is assigned in an efficient manner and to the highest value use and highest value user.</p> <p>Council approved the submission.</p>	
13.	<p>Outcome of the Survey in relation to Performance Rewards</p> <p>The submission was deferred to the next Council meeting.</p>	<p>CEO / Executive: HR</p>
14.	<p>General</p> <p>14.1. Request for Additional Inputs into the revised draft Performance Management System (PMS)</p> <p>14.1.1. HR and SPM to advise Council on critical areas of the documents (e.g. Measurability of KPAs).</p> <p>14.1.2. Secretariat to circulate to Council the last correspondence / input to the DCDT, as well as legal opinion(s).</p> <p>14.1.3. Special Council meeting to be scheduled for this Friday (tentatively).</p>	
15.	<p>Closure</p> <p>The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 14h35.</p>	<p>Council</p>

Signed: _____

Date: 2023-03-16 _____

Dr Charley Lewis
(Acting Chairperson)