



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY COUNCIL MEETING

Date	17 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
By Invitation		
	[REDACTED]	CEO
	[REDACTED]	CAE
	[REDACTED]	CFO
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat officer
	[REDACTED]	Secretariat Officer
Partial Attendees		
	[REDACTED]	Executive: Corporate Services
	[REDACTED]	Executive: Human Resources
	[REDACTED]	Executive: Legal
	[REDACTED]	SM: Spectrum Licensing
	[REDACTED]	Information Specialist
	[REDACTED]	Broadcasting Compliance Officer
	[REDACTED]	SM: ICT Services
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>Apologies</p> <p>No 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>	Council
4.	<p>Licensing of IMT (Standing item)</p>	CEO/Secretariat
5.	<p>International Engagements (Standing item)</p> <p>The Executive for Corporate Services presented the Item:</p> <p>5.1 International Engagements for March 2021:</p> <p>5.1.1 The purpose of the submission was to provide Council with an overview of the international engagements taking place in March 2021 and provide a status update.</p> <p>5.1.2 The Communications Regulators' Association of Southern Africa will host its 10th Annual General Meeting (AGM).</p> <p>5.1.3 The Authority had received a notice from CRASA on the upcoming AGM, which historically occurs on the last week of March. A formal invitation letter from CRASA with confirmed dates and mode of the meeting was yet to be received by member states. Prior to the AGM, the Executive Committee of CRASA receives consolidated reports from all the Specialised Committees for presentation and consideration by the AGM.</p>	CEO/CS

No.	Action Item	Person Responsible
	<p>5.1.4 The composition and appointment of the CRASA Executive Committee is governed by the CRASA Constitution. The Executive Committee is elected annually by the AGM and consists of four (4) members.</p> <p>5.1.5 No Member serves the Committee for more than two consecutive terms, except the Treasurer (Botswana), who is also the host of the CRASA Secretariat.</p> <p>5.1.6 Traditionally, all Specialised Committees within ICASA (Postal, Human Resources, Finance, Audit) attend the AGM. A member of Council also attends the CRASA AGM, and is tasked with leading the ICASA delegation.</p> <p>5.1.7 The proposed date for the Preparatory Meeting is 18 March 2021, but the date of the AGM is still to be determined.</p> <p><u>Recommendation to Council</u></p> <p>It was recommended that Council note the upcoming meetings for March 2021.</p> <p>Council noted the upcoming meetings for March 2021 and resolved to nominate Councillors' Zimri, Lewis and Kedama to attend the AGM.</p>	
6.	<p>Amendment Regulations and Reasons document: Licensing Standard Terms and Conditions (STC) Regulations for class Licences, 2010 and 2016 as amended.</p> <p>SM: ICT Services presented the item:</p> <p>The purpose of the submission was to request Council to approve the Amendment Regulations and the Reasons Document on the Licensing Standard Terms and Conditions (STC) Regulations for Class Licences, 2010 and 2016 for publication in the Government Gazette.</p> <p>6.1. Council has established a (Council Committee) to amend the Standard Terms and Conditions Regulations for Class Licences, 2010 and 2016 as amended.</p>	Cllr [REDACTED]

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	<p>6.2. The rationale for the amendment of the above-mentioned Regulations was to streamline the submission of documents to the Authority by Broadcasting, Electronic Communications Services and Electronic Communications Network Services Class Licences and to enhance compliance with the licence terms and conditions.</p> <p>6.3. On 05 March 2020, the Authority published the draft Amendment Standard Terms and Conditions Regulations for class licences in the Government Gazette for public comment.</p> <p>6.4. The Authority received written representations on the draft amendment regulations from the following stakeholders:</p> <p>6.4.1 Internet Service Providers Association (ISPA); 6.4.2 Wireless Access Providers Association (WAPA); and 6.6.3 South African Communications Forum (SACF).</p> <p>6.5. On 2 November 2020, the Authority published a notice in Government Gazette advising interested parties that it would convene public hearings on 6 November 2020.</p> <p>6.6. In developing the Reasons Document, the Authority had considered the written submissions which were put before it as well as oral submissions made during the public hearing.</p> <p>6.7. The Authority is charged with the obligation to formulate regulations independently and in the public interest.</p> <p>6.8. Council requested that there be an alignment between the Standard Terms & Conditions Committee and the Advertising Committee, so that the committee documents do not contain any contradictions.</p> <p>6.9. Council inquired about clause 9.3, which indicated that “no person may occupy a position of management unless the person was from the same licensee”.</p> <p>6.10. Council further inquired about the use of the word “must not” and proposed “may not” under clause 10.</p> <p>6.11. The Executive Assured Council that the comments raised would be addressed and if needs be, would also be incorporated in the regulations.</p>	

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	<p>Recommendation to Council:</p> <p>It was recommended that Council approves the Amendment Regulations and Reasons Document, for publication in the government gazette.</p> <p>Council approved the Amendment Regulations and Reasons Document, for publication in the Government Gazette.</p>	
7	<p>Request for approving of Code for Persons with Disabilities Draft Regulations.</p> <p>The Broadcasting Compliance Officer presented the Item:</p> <p>The purpose of the submission was to request that Council approves the Code for Persons with Disabilities Regulations.</p> <p>7.1 The purpose of the Regulations was to prescribe a Code for Persons with Disabilities, to be adhered to by Electronic Communications Service (ECS) licensees and Television Broadcasting Service licensees, aimed at ensuring that persons with Disabilities have access to these services.</p> <p>7.2 Audio description service would be an added feature, to the benefit of sight impaired persons. Viewers will be able to obtain an audio feed describing the scene, e.g. if it is rainy, sunny or cloudy.</p> <p>7.3 On 28 March 2014, the Authority published the first draft Regulations for public comment (Government Gazette No 37486). Subsequent to receiving written representations in response to the draft, the Authority published a second version of the draft Regulation for another round for public comments (Government Gazette No 38211). The Authority published a third version of the draft Regulations (Government Gazette No 41265) on 20 November 2017.</p> <p>7.4 The last version of the draft Regulations (Government Gazette No 43418) was published on 12 June 2020. The Committee has considered the representations received from stakeholders and it was on that basis, that the Committee seeks to publish the final Regulations.</p> <p>7.5 The Committee added that licensees would be given 18 months to implement the Regulations from the date of gazetting.</p>	Cllr [REDACTED]

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	<p>7.6 Council stated that there were draft regulations, which were published for comment, and which attempted to better serve persons with disabilities with regards to the postal services, and that reference would be made with the Regulation that was before Council.</p> <p>Recommendation to Council</p> <p>It was recommended that Council approves the final Regulations for publication in the Government Gazette.</p> <p>Council resolved to approve final Regulations for publication in the Government Gazette.</p>	
8	<p>Update on the National COVID-19 Risk Adjusted Strategy</p> <p>The purpose of the submission was to present to Council, the updated assessment conducted by the Crisis Management Committee (the Committee) on the national risk adjusted strategy.</p> <p>The SM: Risk & Compliance presented the item:</p> <p>8.1 On 23 February 2021, Council approved the continued closure of the ICASA premises to 15 March 2021 on the advice of the Committee. At that point, the Country was on adjusted alert level 3, following a review of the national risk adjusted strategy.</p> <p>8.2 However, following the recent review of the national risk adjusted strategy, the government has moved the country from lockdown alert level 3, to alert level 1, effective from 28 February 2021.</p> <p>8.3 In its previous submission, the Committee recommended the continued closure of the ICASA premises for the duration of alert level 3. As a result, the move to alert level 1 has prompted the Committee to assess the current state of the pandemic.</p> <p>8.4 The Committee was further stated in its presentation that the return to the offices, would be on a rotational basis, to ensure that a manageable number of employees are present.</p> <p>8.5 Council noted that the proposed date by the Committee to</p>	CEO

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	<p>re-open offices (5 April 2021) fell on a Public Holiday and proposed 6 April 2021 as the date of return.</p> <p>8.6 Council further welcomed the submission and stated that the proposed date was reasonable, as it would be after the Easter holidays, and it would allow employees the opportunity to travel back close to work or places of residence.</p> <p>8.7 Council also raised the risk associated with high infections during the Easter holidays, as people would be travelling, going to religious gatherings and attending other festivals. Council proposed that the Authority open a week after the Easter holidays to allow employees to isolate after the various activities surrounding the Easter holidays.</p> <p>Recommendation to Council</p> <p>Council resolved to approve that the Authority re-open offices on 12 April 2021 while considering the updates of the National Command Council.</p>	
9	<p>Human Resources and Organisational Development Strategy</p> <p>The purpose of the submission was for Council to approve the Human Resources strategies; (Human Resources (HR) Strategy; and Organisational Development (OD) Strategy).</p> <p>The Executive: Human Resources presented the item.</p> <p>9.1 The strategies emanated from an audit process that was conducted by the South African Board of People Practices (SABP). Some of the findings of the audit were that the Authority had an outdated HR strategy, and was found wanting for not having an OD strategy.</p> <p>9.2 The revised HR Strategy has been designed to ensure that the key HR strategy objectives identified within the HR Strategy are aligned to the overall achievement of the Authority's vision, mission and strategic objectives.</p> <p>9.3 The HR strategy has been reviewed and aligned to best practice. The strategic organisational challenges and external factors were reflected in the strategy to enable the Authority to incorporate the value-chain processes in as far</p>	CEO/EHR

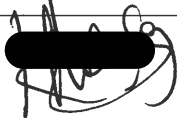
No.	Action Item	Person Responsible
	<p>as Human Resources is concerned.</p> <p>9.4 The revised HR strategy aimed to support the corporate business plan by giving employees the skills and knowledge they need to function to the best of their abilities, and by providing appropriate rewards for successful performance.</p> <p>9.5 The revised HR Strategy further highlighted the strategic HR issues per each functional area that were aligned to the National HR Management System Model and Standard, as outlined by the South African Board of People Practices that governs all HR professionals.</p> <p><u>OD Strategy:</u></p> <p>9.6 ICASA has never had an OD Strategy and the absence of such came up as an audit finding from the SABP. Therefore, it was vital for ICASA to develop an OD Strategy in order to have a planned, comprehensive and systematic process to continually improve the Authority's overall effectiveness and efficiency by utilising diagnostic data, designing and implementing appropriate solutions and interventions to enable the organisation to optimise its purpose and strategy.</p> <p>9.7 In terms of the OD strategy, the criticism that came from Internal Audit was that the Authority did not have a blueprint, that guides business on how to manage organisational strategy.</p> <p>9.8 The strategy has been framed in a systematic manner to broadly deal with organisational effectiveness across the board.</p> <p>9.9 Council requested that, in the event that submissions were designated to be discussed at external governance committees, the Chairperson of that committee should either table the submission at Council or alternatively sign that particular submission as an assurance tool.</p> <p>Council resolved to defer the HR Strategy, OD Strategy as well as the HR Policies and requested that Management provide an</p>	

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	assurance from the HR & REMCO to the extent that the Committee had considered the submissions.	
10	<p>Update on ICASA active litigation matters Q3 2020/21 Financial year</p> <p>The purpose of the memorandum was to request Council to note the litigation matters managed by the Legal, Risk and CCC Division (LRCCC) for the period ending 31 December 2020 (Q3 2020/21 financial year).</p> <p>The Executive: LRCCC presented the item:</p> <p>10.1 The Authority was opposing twenty-one (21) matters from different stakeholders, fourteen (14) of which were review applications, five (5) labour-related matters, one (1) contractual matter, and one (1) matter for the recovery of funds.</p> <p>10.2 ICASA was involved in fourteen (14) review applications emanating from its role as an administrator. Eight (8) of the review applications relate to the decisions of the Authority resulting from recommendations of the Complaints and Compliance Committee; five (5) matters concern the decisions of the Authority related to licensing processes under the Licensing Division; and one (1) matter is related to the decision of the Authority in respect of a report conducted by the Policy, Research and Analysis Division.</p> <p>10.3 There were five (5) labour matters managed by the legal division. Three (3) dismissals were challenged and referred to CCMA.</p> <p>ICASA court roll for the month of February was as follows:</p> <p>10.4 Telkom & e.tv vs ICASA – review of the WOAN & IMT Auction- Part B (interim interdict) (08-09 February) - the judgement was handed down in March 2021.</p> <p>10.5 PRIMEDIA vs ICASA- Declaratory Order: Perpetual exemption to control more than 2 FM stations (11 February) - judgment was reserved.</p> <p>10.6 Impact Radio vs ICASA- Music Review of the Content Regulations (15 February - Postponed <i>sine die</i>).</p>	CEO/ELRCC C

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	<p>10.7 ICASA vs SM- Labour review application (10 February) - judgment was Reserved.</p> <p>10.8 The Authority had fourteen (14) inactive matters. Most of these matters have come to a stand-still when the applicants realised that their case lacked prospects of success. Often, when the Authority files its answering affidavit, presenting its defence, the applicants can determine their prospects of success, and, if determined to be slim, they decide to abandon the matter. In other cases, the applicants come to terms with the view that the relief sought is not necessarily against the Authority but a third party.</p> <p>10.9 The total budget for external legal fees in relation to litigation for the financial year 2020/21 was R12,305,000. The legal fees expended as of 31 December 2020 was R6,539,880. The expenditure excluded outstanding invoices for services already rendered but not yet paid.</p> <p>10.10 Council proposed that the inactive matters be completed.</p> <p>10.11 The Executive Management submitted that the Cell C number portability case has not been settled as yet.</p> <p>10.12 Council requested that another letter be sent to Cell C with regards to the Number Portability case.</p> <p><u>Recommendation</u></p> <p>It was recommended that Council notes the status of litigation matters for the period ending 31 December 2020 (Q3 2020/21 financial year).</p> <p>The recommendation was noted.</p>	
11	General	ALL
	<p>Closure</p> <p>The Chairperson thanked all present at the meeting and closed the meeting at 10:43.</p>	Chairperson



No.	Action Item	Person Responsible
	Date of next meeting: TBA	Secretariat

Signed:  _____

(Chairperson)

Date: 31 May 2021