



Independent Communications Authority of South Africa

MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 18 JUNE 2024

Time:	09:00am	
Venue:	EP-CF Thabo Mbeki	
Present		
	██████████	Chairperson
	██████████	Councillor
	██████████	Councillor
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	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
By Invitation		
	████████████████████	CEO
	██████████████████	CFO
	██████████████████	CAE
	██████████████████	Corporate Secretary
	██████████████████	Secretariat Officer
	██████████████████	Graduate Intern, Secretariate
Partial Attendees		
	██████████████████	Executive: Licensing and Compliance
	██████████████████	Executive: HR
	██████████████████	Executive: PRA
	██████████████	Senior Manager: Social Policy for ICT, PRA
	██████████████████	Manager: Wholesale Services, PRA
	██████████████	Acting CCC Co-ordinator
	██████████████████	Manager: Broadcasting Frequency Co-ordination
	██████████████████	Manager: Cost Modelling, PRA
	██████████████████	Radio Frequency Specialist: Radio Communications
	██████████████	Manager: Service ECS\ECNS\Post
	██████████████████	Competition Law Specialist
	██████████████████	Analyst: Research and Development, PRA
Apologies		
	██████████████████	Councillor

No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson declared the meeting open and welcomed all present.</p> <p>1.2. Councillor [REDACTED] was on annual leave.</p> <p>The opening and apologies were noted.</p>	Chairperson
2.	<p>Ratification of agenda</p> <p>2.1 The below discussion items were added under E6 (Office of the Chairperson) of the agenda:</p> <p>2.1.1 Distribution of Council Minutes;</p> <p>2.1.2 Signing of Minutes;</p> <p>2.1.3 Tracking and Reporting of Matter Arising;</p> <p>2.1.4 Publication of Council Minutes on the ICASA Website; and</p> <p>2.1.5 Governance Framework.</p> <p>2.2 Item 4 (Adoption of Minutes) was amended to provide for confirmation of each item in the Matters Arising, against the corresponding Council minutes.</p> <p>The agenda was ratified with the above amendments.</p>	Council
3.	<p>Declaration of Conflict of interest</p> <p>3.1 No conflict of interest was noted.</p>	Council and CEO
4.	Adoption of Council Minutes and Matters Arising	Secretariat
4.1	<p>Minutes of the meeting held on 28 May 2024</p> <p>Council resolved to approve this set of minutes as presented to Council.</p>	
4.2	<p>Minutes of the Council meeting held on 31 May 2024</p> <p>Council resolved to approve this set of minutes, subject to the incorporation of the editorial inputs made by Council during the meeting.</p>	
4.2.1	Matters Arising: 31 May 2024	


No.	Action Item	Person Responsible
	Noted by Council as outlined in the matters arising documents shared in the meeting pack.	
5.	<p>May and June 2024 monthly activity reports: aligned to the APP of FY 2024/25</p> <p>This item was presented by the CEO assisted by the Senior Manager: SPM.</p> <p>5.1 Council iterated that the CEO should apprise Council regarding progress pursuant to APP-related targets on a monthly basis, notwithstanding the current quarterly performance reporting.</p> <p>5.2 The CEO presented the CEO Report as circulated to Council after the meeting.</p> <p>5.3 A draft template “CEO Dashboard” was presented to Council by the Strategy and Programme Management Unit.</p> <p>5.4 Council resolved that the draft CEO Dashboard template be circulated to Council for inputs.</p> <p>Council resolved to note the item, the draft CEO Dashboard template will be circulated to Council for Council to apply themselves and deliberate later.</p>	CEO
6.	<p>International Engagements (“Standing Item”)</p> <p>No submission tabled.</p>	CEO / Executive: Corporate Services
7.	<p>Litigation Update (“Standing Item”)</p> <p>A high-level update was provided by the CEO, in line with the presentation in the meeting pack.</p> <p>7.1 Council sought to be advised on how active reporting with regard to “live” litigation matters can be done in a manner which allows Council to identify litigation matters which could have been resolved without litigation or which can be closed through settlement.</p> <p>7.2 Council was advised that, in line with the Council delegations to the LCCC Division with regard to litigation management, potential settlement of litigation matters must be initiated at divisional level</p>	CEO / Executive: LRCCC

No.	Action Item	Person Responsible
	<p>and then brought to Council by means of a submission.</p> <p>Council noted the update.</p>	
8.	<p>Transfer of Ownership – eNetworks</p> <p>The Executive: Licensing and Compliance presented the item.</p> <p>8.1. The purpose of this submission dated 05 June 2024 was to recommend that Council should approve the transfer of control of the I-ECS and I-ECNS licences from eNetworks (Pty) Ltd (“the Applicant”) to DCX Bidco (Pty) Ltd (“the Transferee”).</p> <p><u>Recommendation to Council:</u></p> <p>8.2. It was recommended that Council should approve the transfer of control of I-ECS and I-ECNS licences, for the following reasons:</p> <p>8.2.1. The Applicant has not been found guilty of any contravention by the CCC;</p> <p>8.2.2. The Applicant has paid the licence fees due and payable at the date of the applications; and</p> <p>8.2.3. The Transferee has 55.75% ownership interest held by HDGs.</p> <p><u>The following comments were made:</u></p> <p>8.3. Council commended the Licensing Division for the expedient manner in which the matter was dealt with.</p> <p>8.4. Council queried why only a business plan of the Applicant was appended and not also the business plan of the Transferee. Council also requested clarity regarding the issue of foreign ownership.</p> <p>8.5. Council was advised that only the business plan of the Applicant was attached, given that this transaction is an intergroup restructuring and an arms-length transaction.</p>	<p>CEO / Executive: Licensing and Compliance</p>

No.	Action Item	Person Responsible
	<p>8.6. Council resolved to approve the recommendation but directed the Licensing Division to revert with confirmation regarding how the Applicant intends dealing with the transfer of numbers.</p> <p>Council resolved to approve the submission.</p>	
<p>9.</p>	<p>Webinar Report: Regulation of AI in South Africa</p> <p>The Executive: PRA and Manager: Wholesale Services presented the item.</p> <p>9.1. The purpose of this submission dated 01 June 2024 was to provide a report on the insights gathered from the recent Boardroom Bites @9 webinar organised by the Institute of Directors South Africa (IoDSA). The webinar focused on the question of whether artificial intelligence (AI) needs to be regulated in South Africa.</p> <p><u>Recommendation to Council:</u></p> <p>9.2. It was recommended that:</p> <p>9.2.1. Council should note the report; and</p> <p>9.2.2. that Council should also note that the Authority is currently analysing the DCDT's AI's plan with a view to make a submission to the DCDT for Council's consideration.</p> <p><u>Resolution of Council:</u></p> <p>9.3. Council resolved to note the recommendation.</p> <p>The submission was noted.</p>	<p>CEO / Executive: PRA</p>
<p>10.</p>	<p>Final Mobile Broadband Services Amendment Regulations, 2024</p> <p>The Executive: PRA and Manager: Wholesale Services presented the item.</p> <p>10.1. The purpose of the submission dated 24 May 2024 was to approve the final Mobile Broadband Services Amendment Regulations, 2024 ("final amendment Regulations").</p>	<p>CEO / Executive: PRA</p>

No.	Action Item	Person Responsible
	<p><u>Recommendation to Council:</u></p> <p>10.2. It was recommended that Council should approve the final amendment Regulations for publication in the <i>Government Gazette</i>.</p> <p><u>The following comments were made:</u></p> <p>10.3. Council sought clarity on whether the amendments will resolve MTN's litigation. Council was informed that the amendments will substantially reduce the issues contended by MTN in its review application.</p> <p>10.4. Council was advised that the amendments were solely to correct typos and to deal with confidentiality issues.</p> <p>10.5. Council sought clarity on why the Census 2011 main place codes were used instead of the Census 2022 main place codes. Council was advised that, if the Census 2022 data is to be used, this will inevitably change the entire market share study and the outcome of the Inquiry and therefore open the Authority to litigation.</p> <p><u>Resolution of Council:</u></p> <p>10.6. Council resolved to approve the recommendation, subject to corrections being done to section 7(b),7(e),7(f) and 7(g) of the regulations.</p> <p>The submission was approved, subject to the incorporation of the above inputs.</p>	
11.	<p>Request for Council to Approve the Government Notice on the Re-establishment of the Alternative Dispute Resolution (ADR) Committee</p> <p>Cllr ██████ presented the item.</p> <p>11.1 The purpose of this submission dated 12 June 2024 was to request Council to approve the Notice on the re-establishment of the Alternative Dispute Resolution (ADR) Committee for publication in the <i>Government Gazette</i>.</p>	Cllr ██████

No.	Action Item	Person Responsible
	<p><u>Recommendation</u></p> <p>11.2 It was recommended that Council should approve the Notice on the re-establishment of the Alternative Dispute Resolution (ADR) Committee for publication in the Government Gazette.</p> <p><u>Discussion and resolution</u></p> <p>11.3 Council conceded that the member composition be reduced, namely that the Committee only constitute two (2) Councillors, staff members from the LCCC Division and the Consumer Affairs Division, capping the number of members to five (5).</p> <p>11.4 Council further directed that the naming convention with regard to the members in the TORs, for instance the use of "Project Manager", be re-considered and that the members' respective work titles rather be used.</p> <p>11.5 Council noted an error in the draft Notice, specifically in paragraphs 2.1 and 2.2, where the conjunction "and" was erroneously used instead of "or." Council directed that this be corrected accordingly.</p> <p>11.6 Council requested that, if there was a previous ADR structure, a comprehensive report of the previous ADR committee be furnished to Council.</p> <p>Council resolved to defer the submission to allow Council inputs to be addressed. The submission will subsequently be re-tabled at Council.</p>	
12.	<p>Report of the Outcomes of the WRC-23 and the 1st Session of the Conference Preparatory Meeting 2027</p> <p>Cllr [REDACTED] and Radio Frequency Specialist presented the item.</p> <p>12.1 The purpose of this submission is for Council to note the outcomes of:</p>	Cllr [REDACTED]

No.	Action Item	Person Responsible
	<p>a) the International Telecommunications Union (ITU) Radiocommunications Assembly 2023 (RA-23);</p> <p>b) the World Radiocommunications Conference 2023 (WRC-23);</p> <p>c) the first session of the Conference Preparatory Meeting (CPM27-1) for the World Radiocommunication Conference 2027 (WRC-27) for the purpose of organising and co-ordinating conference preparatory studies for WRC-27 and the subsequent WRC, and</p> <p>d) The initiation of the preparatory process for the Second Session of CPM27 (CPM 27-2), the Radiocommunications Assembly 2027 (RA-27) and the WRC-27.</p> <p><u>Recommendation</u></p> <p>12.2 It was recommended that Council should note the outcomes as outlined in paragraph 12.1 <i>supra</i>.</p> <p><u>Council Comments:</u></p> <p>12.3 Council noted the lapse from the time of the conference and the subsequent presentation of the report to Council and requested that a two-hour workshop Council be arranged, in order for Council to factor the impact of the WRC-23 outcomes on the recent directives issued by the ministry.</p> <p>12.4 Council was advised that the ministry's processes ran parallel with the activities of the WRC-23, in that, amongst other things, the ministry had an opportunity to make inputs on the WRC-23 outcomes and is cognisant of the WRC final Acts and therefore in a position to factor this into policies and directives.</p> <p>Council resolved to note the submission.</p>	
13.	Request for Information Regarding Systems Operating in the Sub-bands 3800 to 4200 MHz and 5295 to 6425	Cllr 

No.	Action Item	Person Responsible
	<p>Councillor [REDACTED] and Radio Frequency Specialist: Radio Communications presented the submission:</p> <p>13.1. The purpose of the submission dated 16 June 2024 was to request Council to approve the Notice regarding the Request for Information regarding Systems operating in the Frequency sub-bands 3800 to 4200 MHz and 5925 to 6425 MHz for publication in the <i>Government Gazette</i> and the ICASA website.</p> <p><u>Recommendation to Council:</u></p> <p>13.2. It was recommended that Council should approve the Notice regarding the Request for Information regarding Systems operating in the Frequency sub-bands 3800 to 4200 MHz and 5925 to 6425 MHz for publication in the <i>Government Gazette</i> as well as on the Authority's website.</p> <p><u>Council Comments:</u></p> <p>13.3. Council noted that in the notice the incorrect band of 5295 MHz was indicated instead of 5925MHz, this must be corrected.</p> <p>13.4. Council sought clarity on the two fixed radio systems mentioned in paragraph 2.4 of the submission.</p> <p>13.5. Council further sought clarity on the implications of the use of the dynamic spectrum assignment in the lower 6 band, as that band has been legalised by the Authority for land devices use only. Council was advised that there are no implications on the latter given that only spectrum sitting idling will be used, in this instance only for simulation and trials.</p> <p>13.6. Council sought clarity on whether the Authority has never licensed any operator on these bands. Council was informed that the Authority does not have sufficient data.</p> <p>13.7. Council highlighted that the issue of outstanding date on spectrum assignments which was not migrated during the ASMS. This matter needs to be included into the agenda for further discussion.</p>	

No.	Action Item	Person Responsible
	<p>13.8. Council queried with concern as to why data is being requested – what happened to the data the Authority has collected for the past 30 years with regard to this matter. Council was advised of challenges caused by migrating from the previous system. Council directed that before the Authority goes public requesting the data, satellite operators be approached on a one-on-one basis requesting their databases.</p> <p>13.9. Council conceded to the urgency of developing or enhancing the Authority's data management policies and directed the CEO to urgently address this issue.</p> <p>13.10. In paragraph 6 of the notice, the word “later” must be inserted.</p> <p>13.11. Council resolved that the messaging of the notice should indicate that “ICASA is conducting research, and part of our research...” Operators will therefore be coming in to partner with the Authority if they partake in this process. It should be clear that the Authority will not interfere with anyone who is operating in these bands.</p> <p>13.12. Council resolved to approve the recommendation and directed that one-on-one sessions be held in parallel with stakeholders known to the Authority, including those in the Security Services.</p> <p>Council resolved to approve the submission, subject to the above inputs.</p>	
<p>14.</p>	<p>CCC Judgement in the matter between Licensing and Compliance Division of ICASA and On Digital Media (Pty) Ltd (“ODM”)</p> <p>Councillor [REDACTED] and the CCC: Assessor presented the submission:</p> <p>14.1. The purpose of the submission dated 20 May 2024 was to table the recommendation of the Complaints and Compliance Committee (“CCC”) in the matter between Licensing and Compliance Division of ICASA (“Compliance</p>	<p>Cllr [REDACTED]</p>

No.	Action Item	Person Responsible
	<p>Division/Complainant”) and On Digital Media (Pty) Ltd (“ODM/Respondent”).</p> <p><u>Recommendation to Council:</u></p> <p>14.2. Accordingly, the CCC recommended that the following order be issued by the Authority, namely</p> <p>14.2.1. A total fine of R [REDACTED] [REDACTED] is due and payable by the Respondent within 90 days of publication of this decision.</p> <p><u>Council Comments:</u></p> <p>14.3. Council sought clarity on whether ODM was still operational. The Committee informed Council that this matter was with respect to ODM's non-compliance whilst it was still a licensee of the Authority. A separate submission regarding the current status of ODM would be brought to Council</p> <p><u>Resolutions by Council:</u></p> <p>14.4. Council resolved to approve the submission.</p> <p>The submission was approved.</p>	
15.	<p>Analysis of SAPO Draft Operating Procedure Manual (“ODM”) for the Financial Year ending 31 March 2024</p> <p>The Executive: PRA presented this submission.</p> <p>15.1. The purpose of this submission was to make a recommendation for Council to Council approve:</p> <p>a) the evaluation of SAPO’s draft Operator’s Procedure Manual for the 2023/24 financial year; and</p> <p>b) SAPO’s draft OPM</p> <p><u>Recommendation</u></p> <p>15.2. It was recommended that Council should approve:</p>	CEO / Executive: PRA

No.	Action Item	Person Responsible
	<p>a) the evaluation of SAPO's draft Operator's Procedure Manual for the 2023/24 financial year; and</p> <p>b) SAPO's draft OPM</p> <p><u>Discussion and resolution</u></p> <p>15.3. Council requested that communication be made regarding the next briefing session pertaining to SAPO's Business Rescue for Quarter 1 and that diaries be co-ordinated in this regard.</p> <p>Council resolved to approve the submission.</p>	
16.	<p>The draft Electronic Communications Bill</p> <p>Owing to time constraints, Council resolved to defer this matter for tabling at the next Council meeting.</p>	CEO / Executive: LCCC
17.	<p>Office of the Chairperson</p> <p>All the items listed in paragraph 2.1 <i>supra</i> were deferred to the next meeting.</p>	Chairperson
22.	<p>Closure</p> <p>The Chairperson thanked all who were present at the meeting and declared the meeting adjourned.</p>	Chairperson

Signed: 
Mothibi Ramusi
(Chairperson)

Date: 25/06/2024