



Independent Communications Authority of South Africa

MINUTES OF ORDINARY COUNCIL MEETING		
Date	19 October 2021	
Time:	08:00	
Venue:	Microsoft Teams	
Present	[REDACTED]	Chairperson
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
	[REDACTED]	Councillor
By Invitation	[REDACTED]	CEO
	[REDACTED]	CFO
	[REDACTED]	CAE
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat Officer
	[REDACTED]	Secretariat Officer
Partial Attendees	[REDACTED]	Executive: Human Resources
	[REDACTED]	Executive: PRA
	[REDACTED]	Acting Executive: LRCCC
	[REDACTED]	External Legal Counsel
	[REDACTED]	SM: Litigation and Contracts
	[REDACTED]	Risk and Compliance Management Specialist
	[REDACTED]	SM: Type Approval and Numbering
	[REDACTED]	Manager: Customer Compliance
	[REDACTED]	CAP Chairperson
	[REDACTED]	CAP Member
	[REDACTED]	CAP Member
Apologies	[REDACTED]	Councillor

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No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p>1.2. Councillor [REDACTED] could not join the session as she was experiencing technical challenges with her laptop and it was being attended to by the IT division.</p> <p>The opening and apologies 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>The agenda was adopted without changes.</p>	All
4.	<p>Minutes of Council: 16 September 2021</p> <p>4.1. In paragraph 13.5 to delete "through Internal News".</p> <p>The minutes were adopted subject to the amendment made.</p>	Council
5.	<p>Matters Arising</p> <p>The Matters Arising was deferred to the next meeting.</p>	CEO
6.	<p>International Engagements</p> <p>There was no update on International Engagements.</p>	CEO

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No.	Action Item	Person Responsible
7.	<p>Licensing of IMT (“Standing Item”)</p> <p><u>Update on the ongoing litigation with regard to temporary spectrum</u></p> <p>7.1. Telkom has instituted a court process against the Authority in relation to temporary spectrum. MTN and Vodacom have joined Telkom in its court application.</p> <p>7.2. The Authority has until 22 October 2021 to file its answering affidavit. A case management meeting is scheduled to take place on 20 October 2021, wherein, amongst other things outlined hereunder, the date of the hearing of the matter is to be discussed.</p> <p>7.3. At the case management meeting, the following will be discussed:</p> <p>7.3.1 The issues related to the timelines (when documents will be filed and the date of the hearing);</p> <p>7.3.2 A formal case management process where the matter will be formally allocated to a judge who will preside over the matter.;</p> <p>7.4. To date the Authority has filed a Notice to Oppose the application and further filed a Rule 35(12&14) Notice requesting further discovery from Telkom to enable the legal team to draft the Authority’s answering affidavit.</p> <p>7.5. Rain has filed an affidavit in support of the Authority. Vodacom has filed an affidavit in support of the Telkom application, and MTN has filed a formal application in support of Telkom.</p> <p>7.6. Council noted the update and requested that, following the case meeting scheduled for 20 October 2021, an email summarising the decisions taken at the meeting should be sent to Council by end of business on Thursday.</p>	<p>ClIr Zimri</p>

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No.	Action Item	Person Responsible
	<p><u>The update on the Information Memorandum Workshop</u></p> <p>7.7. The update on the IM workshop was noted by Council.</p>	
8.	<p>Publication of Notice on Issuance of Electromagnetic Compatibility for Certificates of Compliance</p> <p>The Acting Executive Licensing presented the item.</p> <p>8.1. The purpose of this submission was to request Council to approve the publication of the notice on the issuance of certificates of compliance related to electromagnetic compatibility for non-telecommunications equipment.</p> <p>8.2. On 30 March 2016 the Independent Communications Authority of South Africa (ICASA), and the South African Bureau of Standards (SABS) signed a Memorandum of Understanding (MoU) to collaborate on ensuring that all non-telecommunications electronic equipment entering the South African market meets the required Conformity Assessment Framework/prescribed standards.</p> <p>8.3. The MoU enables SABS to issue Electromagnetic Compatibility Certificates of Compliance (EMC CoC) for all non-telecommunications (i.e. electrical and electronic) equipment in the country, whilst ICASA issues Type Approval Certificates for all electronic communications equipment and radio apparatus.</p> <p>8.4. On 1 June 2017, the SABS officially launched its Issuance of Certificates of Compliance (CoCs) programme through a publication on their website. Section 6.2 of the MoU states that the SABS will implement a quality assurance scheme for issuance of CoCs (Type 3 quality assurance scheme) which will include visits to points of manufacturing, sampling, testing and subsequent verification of certified equipment.</p>	CEO/ Licensing

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	<p>8.5. The SABS publication of 1 June 2017 detailed how SABS planned to implement the Type 3 quality assurance scheme. The SABS indicates in the publication that the Type 3 quality assurance scheme constitutes a SABS Authorised Laboratory (A-Lab) Programme.</p> <p>8.6. The A-Lab Programme seeks to close the gap for full-testing of products for EMC and subsequent assurance of traceability of tested samples. The SABS A Lab program is open to all accredited 3rd Party laboratories through an application process which entails the verification of the lab's requisite skills, equipment, technical competence in the identified scope of accreditation and testing abilities.</p> <p>8.7. The update highlighted the revised Type 3 quality scheme that the SABS plans to implement. Council approved the update and resolved to conduct workshops with stakeholders sensitising them about the MoU and the process that will be involved in the issuance of EMC CoCs. Part of the workshop was to conduct public consultation on the Type 3 quality assurance scheme.</p> <p><u>Recommendation</u></p> <p>8.8. It was recommended that Council approves the publication of the notice on the issuance of certificates of compliance related to electromagnetic compatibility for non-telecommunications equipment.</p> <p><u>The following comments were made:</u></p> <p>8.9. Council sought clarity on whether the notice was flagged at the Conformity Assessment Framework Committee.</p> <p>8.10. Management informed Council that the project is currently a divisional project functioning at an operational level and that the Notice has not been raised at the Committee level as it only explains the existing status.</p>	

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	<p>8.11. Management further informed Council that the Notice is primarily about clarifying what the current status is and it is not introducing anything new.</p> <p>8.12. Council resolved to send the submission to the Conformity Assessment Framework Committee for deliberation, following which it would be circulated via Round Robin Resolution in the following week.</p>	
<p>9.</p>	<p>CAP 2nd Quarter Report 2021/2022</p> <p>The Manager: Customer Compliance (Licensing) presented the item.</p> <p>9.1. The purpose of the submission was to submit the second quarter report (July 2021 - September 2021) of the Consumer Advisory Panel (CAP) to Council.</p> <p>9.2. Members of the Consumer Advisory Panel took their office as of 3rd April 2020 after being appointed in terms of the CAP Regulations of 2017. As per the CAP Regulations, the Chairperson of CAP must appraise Council on the CAP activities quarterly and annually.</p> <p>9.3. The detailed account of activities undertaken and considered by the CAP over a period of three months includes:</p> <p>9.3.1 Eastern Cape stakeholder engagement and consumer advocacy report;</p> <p>9.3.2 Identification of relevant bodies to collaborate with ICASA to advance the consumer protection and empowerment agenda, viz: the Council for Scientific and Industrial Research (CSIR) and South African Bureau of Standards (SABS);</p> <p>9.3.3 CAP consumer trends report No 1 FY 2021/22;</p>	<p>Cllr</p> <p>[REDACTED]</p>



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	<p>9.3.3.1 CAP identified several trends which require careful attention due to their consumer protection implication, and they include the following: Increase in cybercrime in South Africa; Over-the-top video bundling growth; SA ecommerce market accelerated growth; Increased usage of mobile data during the Covid-19 Pandemic; and Fibre backbone providers impacting negatively on ISP competition / free market</p> <p>9.3.4 CAP operational plan 2021/22;</p> <p>9.3.5 CAP critical consumer concerns report Q2 FY 2021/22 - based on the CAP's work over the past two quarters, the following are critical consumer concerns brought to the attention of Council;</p> <p>9.3.5.1 The importance of the issue of accessibility of websites / online content for persons with disabilities;</p> <p>9.3.5.2 The need to expand access to postal address system to all South Africans to participate in e-commerce;</p> <p>9.3.5.3 The institutional crisis and viability crisis at the Post Office which negatively affects disadvantaged and rural postal outlets, particularly during the COVID-19 pandemic;</p> <p>9.3.5.4 The increase in cybercrime, which is a concern for consumers; and</p> <p>9.3.5.5 Consumer unhappiness about ISP switching costs when it comes to fibre services.</p>	

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	<p>9.3.6 Research and investigation into the accessibility of communication platforms for people with disabilities in South Africa and other African countries; and</p> <p>9.3.7 Concept document for research to measure the impact of the proposed introduction of a licence fee for laptops, phones, decoders other broadcasting signal devices;</p> <p>9.4. The CAP Annual Work Plan FY2021/22 provides for the compilation and submission of a final advisory report by end of the 4th Quarter. Nevertheless, CAP has decided to raise a number of high-level preliminary advisory recommendations that have been considered thus far based on CAP's activities up to the half-year period, viz:</p> <p>9.4.1 Accessibility of websites / online content for persons with disabilities by driving collaboration with relevant bodies like the CSIR and SABS - ICASA to ensure persons with disabilities are accommodated.</p> <p>9.4.2 The need to expand access to the postal address system to all to enable participation in e-commerce / on-line shopping by all persons. The increase in ecommerce highlights the importance of an expansion of access for all South Africans to a postal address.</p> <p>9.4.3 Address consumer unhappiness about ISP switching costs for fibre services.</p> <p>9.4.4 Contribute towards addressing rising youth unemployment, and improving senior citizens' digital literacy skills through a review of the License Contract Conditions mechanism in order to address</p>	



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	<p style="text-align: center;">ICT literacy / 4IR skills and to assist youth and senior citizens and persons with disabilities.</p> <p><u>Recommendation</u></p> <p>9.5. It was recommended that Council approve the second Quarter Report for the 2021/2022 of the Consumer Advisory Panel.</p> <p><u>The following comments were made</u></p> <p>9.6. Council requested elaboration on the suggestion to add provision of digital skills to the Universal Service obligations imposed on licensees.</p> <p>9.7. Council raised concern on the proposed additional MOUs and further requested clarity on how they would work with the existing MOUs.</p> <p>9.8. Council requested further expansion on the anti-competitive effect and the implied additional costs when switching fibre services.</p> <p>9.9. CAP informed Council that, with regards to the MOU with CSIR and SABS, the Panel was not aware that the Authority has existing MOUs with the parties, and that the Panel will look into the existing MOUs to ascertain if they possess the provisions which have been suggested.</p> <p>9.10. The Panel relayed to Council that SMMEs have not been covered as much as CAP would have preferred. CAP resolved that there should be a creative look at how to factor in the engagements with SMMEs in the coming quarters.</p> <p>9.11. Council resolved that there should be a structured session that looks into the priorities of CAP, jointly with Council, to evaluate what the Panel is involved in. The session is to</p>	



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	<p>be scheduled in the early months of 2022, and will not be a meeting of Council but rather a session to evaluate the CAP priorities between Council, Management and the CAP members.</p> <p>The submission was noted by Council.</p>	
<p>10.</p>	<p>Risk and Compliance Plan 2021-2022</p> <p>The Risk and Compliance Management Specialist presented the item.</p> <p>10.1. The purpose of this submission was to present to Council the Risk and Compliance Management Plan for 2021-22 for approval.</p> <p>10.2. The Risk and Compliance Management Plan 2021-22 is a tool that ICASA uses to manage risk and compliance function in the organisation.</p> <p>10.3. The primary objective(s) of the Risk and Compliance Plan is to facilitate the execution of risk and compliance management for the financial year.</p> <p>10.4. The Risk and Compliance Plan for ICASA was prepared to give effect to the implementation of the Risk and Compliance Management Policies and the Strategy, and sets out all related activities planned for the 2021/22 financial year.</p> <p>10.5. The plan sets out the annual risk, fraud, business continuity, compliance, ethics management and loss control activities to be undertaken in the 2021-22 financial year.</p> <p>10.6. ICASA aims to improve its current compliance maturity level, which is at level 2, to maturity level 3. The risk maturity level is at level 3 and the plan activities will ensure that the level of maturity is maintained during the</p>	<p>CEO/ LRCCC</p>



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	<p>2021/22 financial year. In terms of the approach taken in the annual plan, the major focus would be on risk identification, assessments, awareness, monitoring and reporting.</p> <p>10.7. The approach to the identification and treatment of risks is informed by the Public Sector Risk Management Framework, Risk and Opportunity Management Strategy, King IV Code on Corporate Governance, and ISO 31000 standard on Risk Management.</p> <p>10.8. Compliance management has developed effective compliance risk monitoring tools. Amongst other factors, the compliance monitoring tools include the following:</p> <p>10.8.1 Identification and tracking of compliance breaches with the objective of improving areas of compliance weakness;</p> <p>10.8.2 Ensuring that controls designed against non-compliance are implemented and effective throughout the year; and</p> <p>10.8.3 Drafting recommendations and follow-up action plans where non-compliance has been identified.</p> <p><u>Recommendation</u></p> <p>10.9 It was recommended that Council approve the Council the Risk and Compliance Management Plan for 2021-22.</p> <p>The submission was approved by Council.</p>	
11.	<p>Q1 Risk and Compliance Management progress</p> <p>The Risk and Compliance Management Specialist presented the item.</p>	<p>CEO/ LRCCC</p>

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	<p>11.1. The purpose of this submission was to present to Council, the Risk and Compliance Management Report for quarter one, for noting.</p> <p>11.2. Section 38(1)(a)(i) of the Public Finance Management Act (Act No 1 of 1999, as amended (the PFMA)), requires the Accounting Officer to ensure that the institution has and maintains effective, efficient and transparent systems of risk management. The primary objective of the risk management function is to ensure that ICASA improves and sustains its performance by protecting the organisation from adverse outcomes and optimising on opportunities.</p> <p>11.3. To give effect to this objective, a risk assessment is undertaken on a regular (quarterly) basis with all business divisions in order to identify risks that could impede the attainment of outcomes, outputs and operations to determine the levels of controls and action plans that are currently in place to mitigate the risks.</p> <p>11.4. A total of six (6) strategic outcome risks were identified. For all six risks identified, eight (8) mitigation plans were identified during the quarter. Four (4) (50%) of the mitigation plans were implemented, whereas other four (54 (50%) are still in progress.</p> <p>11.5. One (1) risk is still assessed high, viz "The risk of litigation", which materialised due to litigation by Telkom SA, which continues to derail the auction of spectrum during quarter one. This has negative impact on the outcome to the organisation and the country. One (1) risk is assessed as cautionary, two (2) at medium, and two (2) as low residual risks. Refer to section C for detailed Outcome risks.</p> <p>11.6. During the quarter twenty-four (24) output risks were identified. Out of the 24 risks identified, seventeen (17)</p>	



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	<p>risk controls were adequate and effective, and the risks thereof did not materialise. Seven (7) risk controls were either inadequate or ineffective. This represents a total of 70.83% effective and adequate controls, and 29.17% inadequate and ineffective controls, during the quarter.</p> <p>11.7. A cause for concern is the adequacy and effectiveness of controls relating to Engineering and Technology, as three risks materialised. Management attention is required to address the root causes identified on the delays in the supply chain process, and, whether the delay is emanating from SCM or division, this should be addressed going ward to avoid further recurrence. Refer to section C for detailed Output risks per division.</p> <p>11.8. One risk on “Employee infections outside of the premises” continued to materialise on a quarter-to-quarter basis. During the quarter, many infection cases were reported by employees. Due to controls implemented by Council, with the closure of premises and employees working remotely, this assisted to ensure that other risks did not materialise. Based on the CMC assessment of controls within the organisation, Council took a decision that office be temporarily closed from 5 July 2021 until further assessment is done.</p> <p>11.9. The Risk and Compliance Management Plan had 19 planned actions for the quarter, of which 14 (74%) have been achieved and 5 (26%) are still outstanding or work is still in progress. Most of the activities relate to approval by AREDC and Council, and therefore should be implemented at the end of the quarter.</p> <p><u>The following comments were made</u></p> <p>11.10. Council requested that the Risk Assessment be finalised in APP projects.</p>	



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	<p>11.11. The division informed Council that it would conclude the process to finalise the Risk Assessment on the APP projects.</p> <p>The report was noted by Council.</p>	
<p>12.</p>	<p>Progress Report on the Review of Policies</p> <p>The Risk and Compliance Management Specialist presented the item.</p> <p>12.1. The purpose of this submission was to provide Council with progress report on the review of the Organisation's policies, for noting.</p> <p>12.2. In order for the organisation to operate effectively, active policies are required to ensure consistent, fair and standardised implementation of programmes and to guide all employees in the performance of their duties. Regular review of the policies is critical for ICASA to operate optimally.</p> <p>12.3. ICASA's Policy and Procedure Review Framework was approved in June 2019. The Policy framework provides that all policies should be reviewed after three years from the date of approval, or earlier where required.</p> <p>12.4. Since LRCCC introduced monitoring of policy review, a great improvement in the review of policies has been noted.</p> <p>12.5. The divisions with a majority of policies include Corporate Services, Finance, Human Resource and LRCCC.</p> <p>12.5.1 Thirty-eight (38) policies, eight (8) frameworks and procedure manuals, and nine (9) terms of reference are not due for review.</p>	<p>CEO/LRCCC</p>




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	<p>12.5.2 Thirteen (13) policies, three (3) frameworks and procedure manuals and eight (8) terms of reference are still undergoing consultation with stakeholders.</p> <p>12.5.3 One (1) policy and one (1) ToR are ready for tabling before Council.</p> <p>12.6. During the quarter, the review of eleven (11) policies and three (3) procedure manuals was finalised. One policy was due for review, but the process of review has commenced.</p> <p>The report was noted by Council.</p>	
13.	<p>General</p> <p><u>Community Sound Applications and Community Television</u></p> <p>13.1. The matter is a standing matter in the Matters Arising. Council requested that Management and the Committee prepare a detailed submission that outlines the process to be undertaken with regards to the advertisement that is to be published.</p> <p>13.2. Council requested that the submission include an outline on how the process will unfold, and the dates for the workshops.</p> <p>13.3. Council further requested that the submission should also give an update on the Community Television process currently under way, and that this should be a high-level update.</p>	All
13.	Date of next meeting: TBA	Secretariat
14.	Closure	Chairperson

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No.	Action Item	Person Responsible
	The Chairperson thanked all who were present at the meeting and closed it at 10:25 am.	

Signed: 
(Chairperson)

Date: 15/02/2022