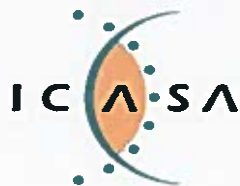




Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY COUNCIL MEETING		
Date	18 January 2017	
Time:	10h00	
Venue:	Block B, Council Boardroom	
Present	[REDACTED]	Acting Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
By invitation	[REDACTED]	CEO
	[REDACTED]	CFO
	[REDACTED]	COO
	[REDACTED]	CAE
	[REDACTED]	GM: Licensing
	[REDACTED]	Acting Senior Manager: Office of the Chairperson
	[REDACTED]	Secretariat Officer
Partial Attendees	[REDACTED]	GM: Policy Research & Analysis: PRA
	[REDACTED]	Market Analyst: PRA
	[REDACTED]	Manager: Cost Modelling: PRA
	[REDACTED]	Senior Manager: Market Regulation
	[REDACTED]	Manager: Broadcasting Compliance CCA
	[REDACTED]	GM: CCA
	[REDACTED]	Acting Executive HR
	[REDACTED]	Remuneration and Benefits Specialist
Apologies	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member

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	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>The Acting Chairperson, Cllr [REDACTED] opened the meeting at 10h00 and welcomed all present.</p> <p>The following apologies were noted:</p> <p>Cllr [REDACTED] and Cllr [REDACTED] were attending the 41st International Training Program on Utility Regulatory and Strategy in Gainesville, Florida and Cllr [REDACTED] was attending the Senior Executive Fellows at Harvard Kennedy School</p>	Chairperson
2.	<p>Ratification of the Agenda</p> <p>There were no items added to the agenda.</p> <p>The agenda was approved with the amendments noted above.</p>	Council
3.	<p>Declaration of interest</p> <p>There was no conflict of interest noted.</p>	All
4.	<p>Adoption of previous minutes</p>	Council
4.1	<p>Minutes of the 29 November 2016</p> <p>The following corrections were noted:</p> <ul style="list-style-type: none"> • Item 4.2, deletion of the wording "The continuation of clawback was not approved" • Item 5.1, a submission to be tabled before Council recommending a way forward • Item 5.6, a submission of a report on exit interviews, including the questionnaire used to be tabled before Council, with the Identity of the subjects interviewed concealed 	Council



	Action Item	Person Responsible
	<ul style="list-style-type: none"> • Items 6, 7, 8, 10 and 11: the CCC matters: inclusion of “the considerations made by Council” • Item 20, providing context of the SABC non-compliance with Council decision based on the CCC recommendation on the editorial policy <p>It was resolved that the minutes of the meeting that was held on 29 November 2016 be approved subject to the above changes.</p>	
5.	<p>Matters arising</p> <p>The item was not tabled.</p>	Council
6.	<p>South African Post Office SOC Ltd.’s (SAPO) annual tariff application for 2017/18 price control period</p> <p>GM: Policy Research and Analysis presented the item.</p> <p>The purpose of this memo is to recommend that Council approve SAPO’s request for the annual increase of 4.19% in reserved postal products and services revenue for the 2017/18 price control period.</p> <p>The following inputs were noted:</p> <ul style="list-style-type: none"> • The submission should be revised as scenario 3 is contrary to the legislation and therefore cannot be approved • The revised submission should detail factors explaining the rationality of the current recommendation <p>It was resolved that the South African Post Office SOC Ltd.’s (SAPO) annual tariff application for 2017/18 price control period be revised.</p> <p>Reason: The submission needs to be revised due to the reason that the recommendation of scenario 3 are contrary to the legislation</p>	CEO

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	Action Item	Person Responsible
	<p><i>Presentation made by SAPO on 17 January 2017 was noted.</i></p> <p><i>GM: Policy Research and Analysis, Market Analyst: PRA and Manager: Cost Modelling: PRA joined the meeting at 09h30 – 10h20</i></p>	
7.	<p>Nomination of beneficiaries for Deukom (Pty) Ltd in pursuance of clause 9.1 of its licence conditions</p> <p>GM: CCA presented the item.</p> <p>The purpose of this memo is to advise Council on the nomination of beneficiaries in order to fulfil the licence conditions of Deukom (Pty) Ltd and that Council approve the nominees for appointment, accordingly.</p> <p>The following points were noted:</p> <ul style="list-style-type: none"> • Potential beneficiaries should be engaged • The recommendation should be revised to say that Council approves that the CCA can identify and engage potential beneficiaries <p>It was resolved that nomination of beneficiaries for Deukom (Pty) Ltd in pursuance of clause 9.1 of its licence conditions be deferred subject to engagement with potential beneficiaries.</p> <p>Reason: Clause 9.1 of the Deukom licence requires the licensee to pay an amount equivalent to 5% of the Licensee's channel acquisition budget in respect of South African subscribers, to one or more appropriate beneficiaries to be nominated by the Authority from time to time.</p> <p><i>GM: CCA and Manager: Broadcasting Compliant CCA joined the meeting at 10h20 – 10h55.</i></p>	CEO
8.	<p>Documents requested from ICASA by the Ad hoc Committee on the SABC enquiry</p> <p>Cllr [REDACTED] presented the item.</p> <p>Cllr [REDACTED] gave feedback from the Ad hoc committee on the SABC</p>	Cllr [REDACTED]

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	<p>enquiry.</p> <p>The following points were noted:</p> <ul style="list-style-type: none"> • There was one outstanding issue and the Ad Hoc committee directed that ICASA's should prepare a submission on section 8 (J) of the Broadcasting Act • The Ad Hoc committee wants to find out if the Multichoice /SABC agreement was in contravention of the Broadcasting Act • Information was collated by the Authority and sent to the legal representative <p>The following inputs were noted:</p> <ul style="list-style-type: none"> • Council has noted the preliminary report sent to the Ad hoc Committee of Parliament on the 15 December 2016, which was subject to approval by Council • Council has noted that there is outstanding information in relation to paragraph 5.23 and 5.24 of the legal opinion, in particular, a possible contravention of a "third duty to maintain libraries and archives" imposed on the SABC. he revised legal opinion must consider options available to the Authority <p>It was resolved that MBA attorneys engage a Senior Counsel on how to explore clauses 5.23 and 5.24. Of the legal opinion.</p>	
9.	<p>Proposed CBARS Account Management Procedure Manual</p> <p>Information Specialist: HR presented the item.</p> <p>The purpose of this submission is for Council to approve the proposed CBARS user Account Management Procedure Manual.</p> <p>The following inputs were noted:</p> <ul style="list-style-type: none"> • The Procedure manual should be vetted by Legal Division • The final Procedure Manual will be noted by way of a round robin resolution 	CEO

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	Action Item	Person Responsible
	<ul style="list-style-type: none"> The submission should indicate the date which the CBARS system was approved by Council Align definitions section of the manual <p>It was resolved that the proposed CBARS Account Management Procedure Manual will be noted by Council Round Robin resolution subject to changes.</p> <p><i>Information Specialist: HR, Remuneration and Benefits Specialist and Acting Executive HR joined the meeting at 13h40.</i></p>	
10.	<p>Feedback on REMCO 's resolution on the proposal to revise the 2015/2016 bonus payment methodology</p> <p>Acting Executive HR: presented the item.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p><i>Information Specialist: HR, Remuneration and Benefits Specialist and Acting Executive HR left the meeting at 15h00.</i></p>	CEO
11.	<p>Delegation of Authority Framework</p> <p>The item was deferred to 19 January 2017.</p>	CEO
12.	<p>Additional information requested by Council relating to the strike action</p> <p>The item was deferred.</p>	CEO

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	Action Item	Person Responsible
13.	<p>Application for the transfer of an individual Electronic Communications Network Service (I-ECNS) Licence and Individual Communications Network Services (I-ECS) by On Digital Media Proprietary Limited (ODM) to StarTimes media (SA) Pty Ltd ("StarTimes")</p> <p>SM: ICT licensing services: Licensing presented the item.</p> <p>The following inputs were noted:</p> <ul style="list-style-type: none"> • The submission should be deferred to Legal Division for a legal opinion on whether ICASA can now issue the licence • The legal opinion should focus on the implications of the Vodacom Neotel judgement in relation to the StarTimes application <p>It was resolved that the Application for the transfer of an individual Electronic Communications Network Service(I-ECNS) Licence and Individual Communications Network Services(I-ECS) by Digital Media Proprietary Limited(ODM) to Star Times media (SA) Pty Ltd ("Star Times ") be deferred subject to a legal advice on the Authority's powers, as to whether ICASA is <i>functus officio</i> or the decision of 2015 stands regardless of what we know in terms of licence transfers and Historically Disadvantaged Groups after the Vodacom Neotel judgment.</p> <p>An objection was noted from Cllr Mohlaloga and Cllr Zimri that the application was approved by the Authority before the Vodacom/Neotel judgement and the applicant satisfied the requirements and therefore the license must be issued. The two applications were not related.</p> <p><i>SM: ICT licensing services: Licensing presented the item. Joined the meeting at 15h00 – 15h00.</i></p> <p><i>Item 11.3 on the agenda.</i></p>	Cllr [REDACTED]
14.	<p>Feedback from the meeting held with the DTPS</p> <p>Cllr [REDACTED] presented the item</p>	Cllr [REDACTED]



	Action Item	Person Responsible
	<p>The following feedback was given.</p> <ul style="list-style-type: none"> • There was a presentation on the white paper by ICASA and the challenges indicated to DTSPS • Acting Chairperson, CEO, and Executive legal attended the meeting. • The Minister indicated that a consultation on the white paper was closed and the was only limited to a discussion but rather consultation on the implementation • It was then agreed that a workshop be held and that the administrative heads (the Director General of the Department and the CEO of ICASA) will map a way forward for presentation to the Minister and Council. <p>Items that were discussed amongst others are follows:</p> <ul style="list-style-type: none"> • BEE • Spectrum plan • ICT White paper • BEE 	<p>██████████/CEO //██████████</p>
<p>15.</p>	<p>Cell C v ICASA –Universal Service Obligations (USO)</p> <p>The COO presented the item.</p> <ul style="list-style-type: none"> • Council decided that there will be an administrative process to remove the USO conditions form the Spectrum Licences and put them in the Individual Network Services Licence • ICASA's legal representative are preparing a letter to Cell C to discuss the process of transferring the USO and the timelines forecasted <p>Reasons</p> <ul style="list-style-type: none"> • Council requested that a resolution be prepared indicating that all affected parties will be included in the administrative process of migrating the USO. Cell C is not the only party affected , 	

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	Action Item	Person Responsible
	<p>Council resolved that there will be a processes followed and a Council Committee will be established if a need arises.</p>	
<p>16.</p>	<p>Cell C v Cellsaf (Pty)Ltd</p> <p>Acting Executive Legal, Risk & CCC</p> <p>The following comments were noted.</p> <ul style="list-style-type: none"> • Cellsaf brought a court application against Cell C for transferring some of its ownership interest without adequate consultation and approval by all shareholders, which might be in contravention of the ECA • ICASA does not have anything concrete that indicate that there is a transaction that requires the Authority's' approval. A draft letter that will put Cell C to terms and respond to the allegations of possible contravention of the ECA has been circulated to Councillors for approval <p>Council resolved that the letter to Cell C be approved. .</p>	<p>CEO</p>
<p>17.</p>	<p>Telkom SA SOC limited v Link</p> <p>Cllr [REDACTED] presented the item</p> <p>Telkom SA SOC Limited V Link was brought before the CCC, The CCC chairperson will submit a write up to provide feedback and it will be submitted to Council. Telkom to re-launch, matter to be referred where appropriate to the CCC.</p>	<p>Cllr [REDACTED]</p>
<p>18.</p>	<p>SADC Roaming</p> <p>Cllr [REDACTED] presented the item.</p> <ul style="list-style-type: none"> • A concern was raised by the Minister of Telecommunications and Postal Services that ICASA has not considered a proposal on the SADC Roaming 	<p>Cllr [REDACTED]</p>

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	Action Item	Person Responsible
	<ul style="list-style-type: none">It was decided that ICASA look into any legal challenges and the legal team will meet with the DTSPS legal team to look at options at how to implement the SADC Roaming	
20.	General	CEO
21.	Date of Next Meeting: 19 January 2017	
22.	Closure Meeting was adjourned at 17h30.	Chairperson

Signed: 
(Acting Chairperson)

Date: 17 May 2017