

Independent Communications Authority of South Africa

| Date | 07 March 2017 | |
|-----------------------|---------------|---|
| Time: | 09h30 | |
| Venue: | | |
| | | |
| Present | | Acting Chairperson |
| | | Member |
| By invitation | | CEO |
| | | CAE |
| | | CFO |
| | | GM: Licencing obo COO |
| | | Acting SM: Office of the Chairperson |
| | | Secretariat Officer |
| Partial Attendees | | SM: Talent and Performance Management |
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| | | Executive: Corporate Services |
| | | Manager: Customer Complaints and Dispute Resolution |
| | | Information Specialist: Human Resource |
| | | Radio Frequency Specialist |
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| | | |
| Apologies | | COO |
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| | Action Item | Person Responsible |
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| 1. | Opening and apologies | Chairperson |
| | The Acting Chairperson, Cllr opened the meeting at 09h45 and welcomed all present. | |
| | There following apologies were noted: | |
| | The COO is attending to a personal matter and the GM Licensing was representing him. | |
| 2. | Ratification of the Agenda | Council |
| | The following items were added on the Agenda under General | |
| | The 5G Forum | |
| | Feedback from a meeting held with the DTPS | |
| | APP Report to the DOC Submission of APP Report to the Auditor General | |
| | The following item was withdrawn from the agenda: | |
| | Item 16.3: Strike Update | |
| | Council resolved that the matter be tabled at a Special meeting after the Council meeting of the 14th March 2017 | |
| | The agenda was approved with the amendments noted above. | |
| 3. | Declaration of interest | All |
| | There was no conflict of interest noted. | |
| 4. | Adoption of previous minutes | Council |
| 4.1 | Minutes of the 21 February 2017 | Council |



| | Action Item | Person Responsible |
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| | Council noted that Secretariat Officer, Ms was | • |
| | It was resolved that the Office of the Chairperson, Office of CEO and Human Resources division should offer some support to the Officer. | |
| | The following corrections were noted: | |
| | Point 5.6, The title was changed to- 'Meeting with the DoC BDM Project Management Office Point 5.6 Secretariat to confirm that correspondence was indeed reported as sent Point 5.7, should be rephrased as -6th CRASA AGM not 8th. | |
| | Point 3.7, Remain a 'Standing Item' Point 5.12, The resolution should state that" ICASA has filed a notice of intention to oppose Cell C's court application on Universal Service Obligations It was agreed that a Council shared folder will be created in | |
| | order to keep Council updated on the matter • Point 5.18. Should state the following: -A discussion will be held separately with Council, Executive HR and the CEO -Council will relook at the Salary grading as far as the claw back strategy is concern | |
| | The positions within the Legal Division should be prioritised and resolved by the end of February 2017 Human Resources should explain the difference between generic and technical positions Item 6: Remove reference to (Cllr will) | |
| | provide text to the Secretariat) Pg. 8, Item 6- Change 8th CRASA AGM to 6th on the resolution. | |
| | The minutes of the meeting held on 21 February 2017 were adopted subject to changes. | |
| | Matters arising | Secretariat/ CEO |
| i.1 | Imminent expiry of the terms of contract for three (3) members of the Complaints and Compliance Committee | Clir |



| | Action Item | Person Responsible |
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| | part-time members of the Complaints and Compliance Committee (the "CCC"), three (3) members' contracts expired on 31 January 2017. | |
| | The HR pre- screening process had gaps and it was sent back to HR for review. | |
| | It was resolved that the positions should be re -advertised. The advert should be circulated to universities and law societies. | |
| | Previous applicants need not re-apply. | |
| 5.2 | Council performance agreement | Council |
| | Council indicated that it is still awaiting the Ministers' feedback on the performance agreements sent to the Department of Communications. | |
| | The Council decision of 13 December 2016, to draft a letter to the minister was withdrawn. | |
| 5.3 | Council Decisions for Website publication | Council |
| | The purpose of the submission was to request Council to approve the decisions of Council for the period starting June 2015 to February 2016 for publication to the ICASA website. | |
| | The team had requested more time to work on the document. A preliminary summary on what has done been so far will be submitted to Council. | |
| | A concern was raised that the website publication has been outstanding since March 2016. | lia |
| 5.4 | | Council |
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| | Action Item | Person Responsible |
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| | The Council minutes of the meeting of the 21st October 2016 should be re-sent to the CEO for ease reference. | |
| 5.5 | Sentech meeting | Council |
| | Council requested that Sentech be invited to present a high level update on the rollout plan in line with coverage targets. | |
| | A letter has been sent to Sentech and the proposed date is 28 February 2017. | |
| 5.6 | Meeting with the DoC DTT project management office | Council |
| | Council requested a meeting with the DoC DTT Project management office to update Council on the project | |
| | A letter has been sent and the proposed date is the 28 February 2017. | |
| | Secretariat to confirm from the recording if indeed it was agreed that Council will meet with the DoC on 28 February 2017. As Councillors were not aware of such agreement. | |
| 5.7 | 6th CRASA AGM | Cllr |
| | Update on the planning of the AGM. | |
| 5.8 | Bilateral Meeting with the Minister of Communications | |
| | A response letter will be prepared for the DoC, the letter should indicate that the Acting Chairperson and CEO will be travelling and therefore, not available to attend the meeting on 24 February 2017. A new date for the meeting should be further explored. | |
| 5.9 | Application for amendment of the Radio Frequency Spectrum Licence: Rainbo FM Community Radio | CEO |
| | Request for Legal opinion regarding an amendment application of the radio frequency licence for Rainbo FM was submitted to Legal on 27/01/2017. | |
| | A legal opinion was received and the update will be provided to Council on 14 March 2017. | |



| | Action Item | Person Responsible |
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| 5.10 | Application for UHF and L-Band Trial Radio Frequency Spectrum Licence: Wecodec | CEO |
| | Request for Legal opinion on whether an entity can trial a service or a new technology on the band allocated for a different service (Mobile IMT) (i.e. 700 MHz – 800 IMT band) was submitted to Legal on 30/01/2017. | |
| | An update will be provided at the next Council meeting. | |
| 5.11 | Nomination of beneficiaries for Deukom (Pty) Ltd in pursuance of clause 9.1 of its licence conditions | CEO |
| | An update on the engagement will be tabled by the end of the financial year. | |
| 5.12 | Documents requested from ICASA by the Ad hoc Committee on the SABC enquiry | CEO |
| | The legal opinion is an agenda item for discussion. | |
| 5.13 | Cell C v ICASA –Universal Service Obligations (USO) | CEO |
| | ICASA filed its Notice of intention to oppose Cell C court application on the USO. | |
| | It was agreed that a Council shared folder be created in order to provide periodical updates to Council on the matter. | |
| 5.14 | Cellsaf | |
| | Request for a meeting with ICASA to discuss a possible sale of shares transaction between Cell C and Blue Label Telecoms. | |
| | Awaiting legal opinion on whether ICASA can meet with Cellsaf. | |
| | Council wanted to know what options are available to the Authority if the transaction was effected. | |



| | Action Item | Person Responsible |
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| | Secretariat will make a follow up on the matter including a follow on an opinion to engage with Cellsaf. | |
| 5.15 | Cell C | |
| | Cell C has requested to meet with Council on the 22 nd February 2017 | |
| | An Agenda for the proposed meeting was requested from Cell C, and Cell C has to date, failed to provide the agenda before the meeting. The meeting did not take place. | |
| 5.16 | CRASA/SAPRA AGM – Progress report on the investigation | |
| | For purposes of reflecting on the control measures for the 6 th CRASA AGM. It has been proposed by Council that management will use the PWC Forensic Report of 2015 to mitigate and ensure quality control on supply chain management. | |
| 5.17 | Investigation into possible fraudulent activities conducted by | CEO |
| | The purpose of the submission was: | |
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| 5.18 | Head Office Relocation | CEO |
| | A comprehensive memo for Council with all information, specifications and project plan including the engagement with DPW to be tabled at Council on 07 March 2017. | A |
| | ICASA met with Department of Public Works (DPW) Property | |



| | Action Item | Person Responsible |
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| | Management Team on Thursday 19 January 2017. | • |
| | An updated submission was an agenda item to be discussed. | |
| 5.19 | Feedback from the meeting of 13 December 2016 held with the DTPS | CEO |
| | It was 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. | |
| | A memo to be prepared on engagement with Minister and subsequent meetings between the DTPS led teams, and CEO ICASA led team and the CEO to provide feedback to Council. | |
| | On the Agenda under General | |
| 5.20 | Durban Public Awareness | CEO |
| | A request for an investigation into the conduct of the Executive: Corporate Services handling of the campaign including suspected fraudulent activities by service providers. | |
| | The Report by CAE on the investigation of the complaint raised around Durban Public Awareness campaign is being prepared. To be tabled at next Council meeting. | 70 |
| 5.21 | Re-grading of positions within Legal, Risk and CCC division- An update from HR on the re-grading process. | CEO |
| | The following was noted: | |
| | A discussion will be held separately with Council, Executive: HR, and the CEO | |
| | Council requested Human Resources to provide a detailed | |
| | explanation as to why it took over a year to resolve the issue The issue from legal division should be prioritised and was to | |
| | be resolved by the end of February 2017 | 7 |
| | Human Resource should explain the difference between generic positions and technical positions | |



| | Action Item | Person Responsible |
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| 5.22 | Claw back strategy- An update on the Claw back strategy. The report will be tabled to Council for Approval. | CEO |
| | | Council |
| 6. | Council Decisions for April 2015- March 2016 | |
| | The purpose of this submission was to update Council on decisions taken and to comply with the provisions of PAJA. | |
| | It was resolved that reference to Councillors names be removed from the decisions. | |
| | It was resolved that Council decision for April 2015-March 2016 be noted and will be resubmitted to Council. additional work is still undertaken. | |
| | The other Council decision for the 2016/2017 should be expedited for tabling at Council. | |
| | It was resolved that on approval by Council the decisions will be published on the website | |
| | The SM: Talent Management and Performance and Ian Somerville from Origins joined the meeting at 11:59 | |
| 7. | 360 degrees' assessment for Councillors (Presentation by Origins) | CEO |
| | Mr I from Origins presented 360 degrees' assessment made a presentation on the 360 degrees' assessment. | |
| | The purpose of the assessment was to obtain feedback from employees on the values. | |
| | The following was noted: | |
| | The presentation did not address how the exercise should apply to Council. | |
| | It was resolved that a separate assessment should be tailored for Councillors as individuals and the efficacy of Council as a structure. | 2 |



| | Action Item | Person Responsible |
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| | It was resolved that the 360 degrees' assessment be and is hereby noted. | |
| 8. | Hosting arrangements of the 6th CRASA ('Standing item') | Cllr |
| | The Executive: Corporate Services joined the meeting at 12h15. | |
| | The purpose of this submission was to provide an update to Council on the progress that has been made on the planning of the CRASA AGM. | |
| | An updated progress report that was presented. | |
| | The following points were noted by Council: | |
| | Council requested a more detailed report to be presented at the next meeting on the following: | |
| | (a) Clarity with regards to ICASA staff and other role players who will be travelling to Durban. | |
| | (b) A more transparent budget to be presented at the next meeting, (Clarity on figures). | |
| | (c) Council also requested the budget and progress spreadsheet be circulated and presented to Council. The spreadsheet should include a list of all role players, sponsors and budgets. | r |
| | (d) Council pointed out the importance of ensuring that financial losses were avoided, therefore an outline of financial controls for CRASA will also be shared with Council at the next meeting. | |
| | The spreadsheet enumerated the sponsors who had already committed to sponsor the event and other potential sponsors. | |
| | The total budgeted amount was R | |
| | Telkom had already committed to sponsor an amount of R | |
| | The following was further noted: | |



| | Action Item | Person Responsible |
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| | The Spreadsheet need to be updated to reflect accurate expenditure and sponsorship commitments. | |
| | Sponsorship requests should be send to all stakeholders. | |
| | Dignitaries including the Premier, Members of Executive Council (MEC), Executive Mayors should be included on the programme. | |
| | Confirm attendance of any Ministers from CRASA member states | |
| | Confirm attendance of ATU. | |
| | The media should also be invited. | |
| | The progress update on hosting of the 6th CRASA AGM was noted by Council. | |
| 9. | Recommendation by Complaints Compliance Committee (CCC) to Council in the complaint lodged by S.O.S Support Public Broadcasting Coalition and South African Broadcasting Corporation(SABC). | Clir |
| | The purpose of the document was to table the recommendation of the CCC in the complaint lodged by S.O.S Support Public Broadcasting Coalition and the SABC. | |
| | Given the fact the CCC has concluded that the SABC Board had not consulted the public as provided for by section 6(6) of the Broadcasting Act, the resolution by the SABC Board to approve the amendment of its Editorial Policies was invalid in law. The CCC ruled that the current editorial policy is invalid and the previous policy will still be in effect. | |
| | The Independent Communications Authority of South Africa (ICASA) | |
| | hereby resolves that it has: | |
| | Recognized the recommendations of the Complaints and | |
| | Compliance Committee dated 24th February 2016; | |
| | Recognized the nature and gravity of the non-compliance; | |
| | Recognized the consequences of the non-compliance; | |



| | Action Item | Person Responsible |
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| | Recognized the circumstances under which the non- compliance occurred; and | |
| | Resolved that it orders the SABC revised editorial policies | |
| | 2016 and consequent amendments are invalid; | |
| | Resolved that it orders the SABC editorial policies 2004 accordingly, remained valid. | |
| | Reason: In line with section 17E (2) (c) of the ICASA Act No. 13 of 2000 (As amended) read with the Broadcasting Act 1999. | |
| 10. | Amendment of the MUX 3 Council Committee Resolution | CEO |
| | The purpose of this memorandum was to request Council to approve the resolution for amendment of the Multiplexer 3 (MUX 3) Committee composition. | |
| | The following was noted: | |
| | Whilst the resolution updates the new members as the previous Project Leader has since resigned from ICASA, Council decided to reconstitute the Committee. Cllr Batyi stepped down from the committee as of 07 March 2017. It was then agreed that Cllr Mashile will chair the committee moving forward. | |
| | It was resolved that MUX 3 Council Committee be reconstituted and a Council Resolution to this effect will be circulated to Councillors for approval. | |
| 11. | Request for Council to note a letter intended to be send to ECS licensees regarding data expiry rules | CEO |
| | The Manager: Customer Complaints and Dispute Resolution joined the meeting at 13:45 | |
| | The purpose of this memo was to request Council to consider and approve a draft letter intended to be send to Electronic Communication Service licensees. | |
| | The Authority (ICASA) and the National Consumer Commission ('the NCC') share common goals and objectives with regards to Consumer | |



| | Action Item | Person Responsible |
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| - 1 | Protection in the ICT Sector. | |
| | The NCC derives its mandate from the Consumer Protection Act 18 of 2008 ('the CPA') and has objectives which amongst others, include promoting fair business practices and protecting consumers from unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices. | |
| | The Authority on the other hand is in terms of the Electronics Communications Act 36 of 2005 ('the ECA') as amended, mandated to promote the interest of consumers with regard to price, quality and variety of electronic communications services. | |
| | The following was noted: | |
| | The letter should include the rationale on "in bundle" and "out bundle" rate pricing. The letter should be consumer focussed and reflect their concerns. Revise some questions to reflect consumer orientation. Strengthen the letter with reference to the ECA and the NCA. Request legal to vet the letter. | |
| | Resubmit vetted letters to Council for approval. | |
| | It was resolved that the request to Council to note and approve the letter intended to be sent to ECS licensees regarding data expiry rules be reworked and be re-submitted to Council for approval. | |
| 12. | Dates for Media Training Workshop | CEO |
| | The purpose of this submission was to request Council to approve dates for media training workshops to be attended by Council, EXCO and General Managers. | |
| | The proposed dates are as follows: | |
| | 07/08/10 March 2017 13/14/15/17 March 2017 20/21/22 March 2017 | |
| | Councillors to set dates suitable to them to attend the workshop. | |
| | It was resolved that the media training workshop be moved to the first week of April 2017. | |



| | Action Item | Person Responsible |
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| 13. | Office Accommodation for ICASA 's Head Office | CEO |
| | The Executive: Corporate Services joined the meeting at 14:33 | |
| | The purpose of this submission was to provide Council with a comprehensive background, terms of reference, scope of work for the proposed premises, as well as the latest update on the sourcing of accommodation of ICASA Head Office. | |
| | The following was noted: | |
| | The current Head Office Lease Agreement, at Pinmill Farm, Sandton was expiring on 31 October 2017. | |
| | ICASA is in consultation with the Department of Public Works (DPW) and has already initiated the process of sourcing alternative office accommodation. | |
| | DPW has already conducted a market research for sourcing office accommodation for ICASA and provided ICASA with various options available. | |
| | Office space requirement for ICASA were developed, guided by the DPW's space Planning Norms and Standards for Office accommodation used by organs of the state. | |
| | On 02 February 2017 ICASA needs assessments had to be resubmitted to the DPW on a revised template as well as a User Specified Accommodation Schedule? | |
| | -DPW converted ICASA's needs assessment into a norms document, which has been approved through their internal process. | |
| | -On Approval DPW compiled preliminary costs for ICASA's approval (i.e. confirming availability of funds). | |
| | -On 27 February ICASA received DPW's preliminary cost analysisThe preliminary costs were reviewed by Corporate Services before signed off/approval by ICASADPW mistakenly reduced the square meterage on some of the | |
| | proposed boardrooms. -DPW was informed about the reduced square meterage on 24 February 2017, and it is in the process of correcting the error as it has an impact on preliminary costs. | |



| | Action Item | Person Responsible |
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| | The following was noted: | |
| | If there was any deviation intended, the National Treasury must be consulted. | |
| | ICASA and DPW must explain why specifications have changed. | |
| | A comprehensive Project Plan must be tabled at Council. | |
| | A dedicated project team should be constituted to manage the Project. | |
| | It was resolved that item on the update on Head Office Relocation be and is hereby noted. | |
| 14. | Proposed CBARS Account Management Procedure Manual | CEO |
| | It was resolved that the CBARS Management Procedure Manual be and is hereby approved. | |
| 15. | Progress Report on Auditor General 's Findings 2014/2015 | CEO |
| | The CAE presented this item: | |
| | The purpose of this submission is provide an update to Council on the progress made to address the audit findings raised by the Auditor General (AG). | |
| | The AG raised 25 findings for the 2014/25 financial year. | - |
| | 88% (23 out of 25) of the findings have been resolved to date whereby (1) finding has been partially resolved and (1) finding was not resolved. | a a |
| | Further the AG raised findings over the security of the IT assets, identifying (15) vulnerabilities. | |
| | The IT Division has resolved all of the security vulnerabilities. | |
| | It was resolved that the Progress Report on the Auditor General's Findings 2014/2015 be and is hereby noted. | |
| | | CEO |



| | Action Item | Person Responsible |
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| | Progress Report on the Auditor General 's Findings 2015/16 | |
| | The CAE presented this item: | |
| | The purpose of this submission is provide an update to Council on the progress made to address the audit findings raised by the Auditor General (AG). | El Company |
| | The AG raised findings for the 2015/16 financial year. | |
| | 66.6 % (10 out of 15) of the findings have been resolved to date whereby 1 finding has been partially resolved and 1 finding was not resolved. | |
| | Further the AG raised 13 findings in the Information Technology (IT) environment. | 1 |
| | The IT Division has resolved 69 %(9 out of 13) of the IT vulnerabilities. It was resolved that the Progress Report on the Auditor General's Findings 2015/2016 be and is hereby noted. | |
| 16. | General | |
| 16.1 | Legal Opinion-SABC Enquiry dated 20 February 2017 | Council |
| | ICASA has been requested by the Ad Hoc Committee on the SABC Board Inquiry ('the Committee') to provide comments should ICASA have on the Committee's Interim Report ('the Interim Report') in so far as it related to ICASA. | |
| | The opinion in response to Ad Hoc committee was noted. It was stated that there was no need for ICASA to respond to the Ad Hoc committee based on the report as the Ad hoc Committee report was not ripe at that point. | |
| | Legal Opinion-SABC Section 8 (j) referral to Senior Counsel | |
| | ICASA sought and received legal opinion from instructing attorneys and Senior Counsel (SC) with respect to section 8 (j) of the Broadcasting Act. | th. |



| | Action Item | Person Responsible |
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| | Bham SC 's conclusions differed materially with the opinion provided by the attorneys. | • |
| | In light of the urgency to provide an opinion, the attorneys and SC were not able to meet to discuss the differing views. | |
| | Council requested that the attorneys and SC meet and provide a final view on the matter. | |
| | Feedback to Council should be tabled at the next meeting of Council. | |
| | It was resolved that the Legal Opinion on the SABC Enquiry be and is hereby noted. | |
| 16.2 | Legal Opinion-Meeting with Stakeholders | Council |
| | ICASA sought an opinion on implications of a meeting request by Vodacom to meet and discuss agenda items that are proposed by Vodacom. | |
| | The opinion held that there was nothing wrong in principle for ICASA to occasionally hold meetings with Industry Stakeholders. | |
| | ICASA needs to determine area of discourse if it meets stakeholders. | *** |
| | The Meeting should be held at the Authority's premises. | |
| | Council should use the opinion to develop and customise guidelines on rules of engagement with stakeholders. | 8 0 |
| | It was resolved that the Legal Opinion on Meeting with Stakeholders is hereby noted. | |
| 16.3 | SKA South Africa | Council |
| | Councillor is invited by the Department of Science and Technology Team to travel with them to the SKA in the Carnarvon. | |
| | It was resolved Clir can accept the invitation to SKA. It was also resolved that the ICASA SKA Committee should follow up on the invitation of other Councillors for them to visit the sight. | |
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| | Action Item | Person Responsible |
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| 16.4 | 5G Forum | CEO |
| | Council is requested to elect the Chairperson for the 5G Forum | |
| | Councillor was elected the Chairperson of the 5 G Forum | |
| | The forum meeting is scheduled for 17 March 2017. | |
| | There was a concern raised to the extent that a single day was insufficient to convene the meeting. | |
| | There was a proposal that a working group be established. | |
| | When Council approved the 5G forum the role of the Historically Disadvantaged Universities was not clarified (The role is still not clarified). | |
| * | The 5G Forum should invite all industry and stakeholders. | |
| | Resubmit the updated terms of reference, and the appointments made, including those who declined, and a number of delegates. | |
| | Invite people from local government, transport, experts, agricultural organisations etc. to make presentations. | |
| | Circulate to Councillors before submission for approval. | |
| | It was resolved the item on the 5G Forum be resubmitted to Council as an update prior to approval. | |
| 16.5 | MTN Meeting Request | CEO |
| 10.5 | Council was requested to note the request from MTN to meet with its newly appointed Group President and CEO. | |
| | The proposed date for the meeting is the first week of April 2017 | |
| | It was resolved that available Councillors which are available to meet with MTN may do so ICASA premises. | |
| 16.6 | Minister of Communications Imbizo's | Council |
| | Councillors should select and attend one or two of the Imbizos'. | 3 3 3 3 3 3 |
| | Regions and Corporate Services need to track and attend the | |



| | Action Item | Person Responsible |
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| • | It was resolved that Councillors should confirm with the Secretariat as to which Imbizos' they wish to attend by Friday at 12:00, the Secretariat will notify the Department. | |
| 16.7 | APP Report to the Department of Communications | Council |
| | The Entity Oversight Division indicated that there is no need to change the Strategic Plan, ICASA should focus on the APP over the MTF Period. | |
| | The Strategy and APP should be from 2014/2015 to 2019/20 financial year, and the Authority must separate the APP from Organisational Strategy. | |
| 16.8 | Submission of the APP Report to the Auditor General The AG has accepted the late submission of the APP report. | Council |
| 17. | Date of Next Meeting: 14 March 2017 | |
| 18. | Closure | Chairpersor |
| | Meeting was adjourned at 19h45. | |

Signed: (Acting Chairperson)

Date: 01/08 /201