



Independent Communications Authority of South Africa

MINUTES OF A SPECIAL COUNCIL MEETING		
Date	20 June 2017:	
Time:	09h30	
Venue:	Block B, Council Boardroom	
Present	████████████████████	Acting Chairperson
	██████████████████	Member
	████████████████████████████	Member
	██████████████████	Member
	████████████████████	Member
By Invitation	████████████████████████████	CEO
	████████████████████████████	COO
	████████████████████████████	CFO
	████████████████████	Manager: Internal Audit
	██████████████████	Acting SM: Office of Chairperson
	████████████████████	Secretariat Officer
Partial Attendees	████████████████████████████	Executive: Corporate Services
	████████████████████████████	Senior Manager: Spectrum Licencing
	██████████████████	Senior Manager: Compliance
	████████████████████	SM: Talent and Performance Management o.b.o Executive: HR
	████████████████████	SM: Spectrum Licencing
	████████████████████	Senior Manager: Litigation and General Services
	████████████████████████████	Manager: Wholesale Services
	████████████████████████████	: Position
	██████████████████	Specialist: Employee Relations
Apologies	████████████████████████████	CAE: Attending to an internal staff matter



	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>The Acting Chairperson, Cllr ██████████ opened the meeting at 09:55 am and welcomed all present.</p> <p>The following Apologies were noted</p> <ul style="list-style-type: none"> • The CAE was attending to an internal staff matter • Mr ██████████ was attending on behalf of CAE 	Chairperson
2.	<p>Ratification of the Agenda</p> <p>The following amendments were made to the agenda:</p> <ul style="list-style-type: none"> • The SADC (ICT) Ministerial Meeting in September 2017 • Mpumalanga Consumer Campaign Activation • The COO to circulate updated summary on allocation of projects and resolutions of committees <p>Items to be deferred to the next meeting</p> <p>Item 4.2-Minutes of the meeting held on 30 May 2017 Item 4.3-Minutes of the Meeting held on 06 June 2017 Item 5: Matters Arising</p> <p>It was resolved the Agenda be ratified with the above additions and amendments.</p>	Council
3.	<p>Declaration of interest</p> <p>No conflict of interest was noted at the meeting.</p>	All
4.	Minutes of the meeting held on 23 March 2016	Council

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	Action Item	Person Responsible
	<p>The minutes omitted the meeting held in Cape Town with the Minister of Communications.</p> <p>It was resolved that the minutes of 23 May 2017, be deferred.</p>	
4.1	<p>Minutes of a meeting held on 30 May 2017</p> <p>It was resolved that the minutes of a meeting held on 30 May 2017 be deferred to next meeting.</p>	Council
4.2	<p>Minutes of a meeting held on 06 May 2017</p> <p>It was resolved that the minutes of a meeting held on 30 May be deferred to the next meeting.</p>	Council
5.	<p>Matters Arising from the previous minutes.</p> <p>It was resolved that the “Matters Arising “be deferred to the next meeting.</p>	Council
6.	<p>Inter Operator Disputes</p> <p>The COO presented this item:</p> <p>The following were noted.</p> <p>The list was still in a draft form, a final list will be submitted to Council</p> <ul style="list-style-type: none"> • Council will receive a report on the Investigation carried by E&T on the allegations made by MTN regarding the alleged spectrum sharing between Vodacom (Pty) Ltd and WBS • Council will also receive a list of Inter Operator Disputes <p>It was resolved that the report on Inter Operator Disputes is noted.</p> <p><i>The Executive: Corporate Services joined the meeting at 10:30</i></p>	CEO

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	Action Item	Person Responsible
6.1	<p>6th CRASA AGM</p> <p>CRASA Chairperson's Role and Mandate</p> <p>Cllr ██████ presented this item:</p> <p>The purpose of this submission was to request Council to approve the appointment of an ICASA representative as CRASA Chairperson for the financial period 2017/2018.</p> <p>The following was noted:</p> <p>In March 2017, CRASA hosted its Annual General Meeting in Durban. South Africa was appointed as the new CRASA Chairperson.</p> <p>In light of the composition of ICASA Council, it was unclear as to who is supposed to Chair CRASA.</p> <p>It was resolved that the Chairperson will assume the position at CRASA.</p> <p>The Minister of Communications should be informed of Council decision.</p>	Cllr Zimri
6.2	<p>Report on 06th CRASA AGM.</p> <p>Cllr ██████ presented this item:</p> <p>The purpose of this submission was to appraise Council on the fact that the Authority successfully hosted, the 06th Annual General Meeting (AGM) of the Communications Regulatory Association of Southern Africa (CRASA), and Pre-AGM sessions as listed below:</p> <ul style="list-style-type: none"> • The 3rd CRASA Executive Committee Meeting of 25 March 2017 • Symposium with the title "Evolutionary Path to 5G and Internet of Things (IoT) from 27 to 28 March 2017 • Workshop on Cost Modelling of International Roaming Services on 29 March 2017 	

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	Action Item	Person Responsible
	<ul style="list-style-type: none"> • Postal Market Regulations and Universal Service Obligations (USO) in the evolving Postal Sector • Breakfast Forum (HRD for CEOs) held on 31 March 2017 <p>The AGM was officially closed by Dr Siyabonga Cyprian Cwele, MP, Minister of Telecommunications and Postal Services.</p> <p>It was resolved that the 06th CRASA AGM Report be noted subject to the tabling of the Internal Audit Report.</p>	
7.	<p>Appointment of Company Secretary and Senior Manager: Office of the Chairperson</p> <p>Cllr [REDACTED] presented this item:</p> <p>The purpose of this submission was to request Council to approve the job specification for a position of Corporate Secretary Council considered the following:</p> <ul style="list-style-type: none"> • Advertising the two positions; or • Merge the two positions into one <p>It was resolved that a revised and inclusive job specifications be circulated to Council for consideration.</p> <p>Council to note that the six months' tenure of the Acting SM: Office of the Chairperson is coming to an end on the 31st June 2017.</p> <p>The tenure of the Personal Assistant in the Office of the Chairperson ended on the 31st May 2017.</p> <p><i>The Manager: Wholesale Services joined the meeting at 12:00 pm</i></p>	Cllr [REDACTED]
8.	<p>Update on the SADC Home and Away Roaming.</p> <p>Councillor [REDACTED] presented this item:</p> <p>The purpose of the submission was to provide Council with an update on the Implementation of the SADC Roam Like at Home initiative by South Africa and Feedback from the ICT Permanent</p>	Cllr [REDACTED] /Project Leader

MR



	Action Item	Person Responsible
	<p>Secretaries meeting held in Harare, Zimbabwe on 5-6 June 2017.</p> <p>There was notable progress on the reduction of Roam and Away rates.</p> <p>It was resolved that the update on the SADC Home and Away Roaming be noted.</p> <p><i>The SM: Litigation and General Services joined the meeting at 14:25</i></p>	
9.	<p>Taking Oath of Office by Members of the Complaints and Compliance Committee('CCC) to be appointed by the Authority</p> <p>Cllr ██████████ presented this item:</p> <p>The purpose of this memorandum was to request Council to resolve that taking an oath of office be compulsory for members of the Complaints and Compliance Committee ("the CCC").</p> <p>Council received an internal legal opinion on whether members are obliged to take an oath of office prior to discharging their functions in terms of section 17B of the ICASA Act.</p> <p>The legal opinion was benchmarked with the Competition Tribunal because it discharged similar obligations to the CCC.</p> <p>The Legal Division recommended that to the extent that the Authority requires an oath to be taken by a new member of the CCC, the authority should develop regulations wherein a newly appointed CCC member would be legally required to take an oath prior to assuming office or discharging his/her duties.</p> <p>It was resolved that the CCC terms of reference be revised to include the taking of an oath.</p>	Cllr ██████████
10.	<p>Publication of the revised notice to conduct Priority Markets Study.</p> <p>Cllr ██████████ presented this item:</p> <p>The purpose of this memorandum was to request Council:</p>	Cllr ██████████

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	Action Item	Person Responsible
	<ul style="list-style-type: none"> • to approve the publication of the revised notice on Priority Markets • to note the media release on priority Markets study to be published on the Authority 's website <p>It was resolved that the request to approve the revised notice of intention to conduct an inquiry to identify Priority Markets in the Telecommunications Sector to published in the Government Gazette and;</p> <p>To note the media release on the state of Priority Markets Study to be published on the Authority s' website be approved with changes.</p>	
11.	<p>Consumer Education Plan Financial Year 2017/2018.</p> <p>The COO presented this item</p> <p>The purpose of this memorandum was to request Council to approve the plan for Consumer Education Initiatives for the Regions Division.</p> <p>In the APP of the current Financial Year, Regions has a target to develop and implement a consumer-focused education plan.</p> <p>The purpose of the consumer-focussed education campaign is to deliver on ICASA s' mandate that requires it to regulate in the interest of South African consumers, educate consumers on their rights and responsibilities and protect them against harmful business practices by licensees and illegal operators within the sector.</p> <p>It was resolved that the Consumer Education plan for the Financial Year 2017/2018 be approved.</p> <p><i>The SM: Spectrum Licencing joined the meeting at 16:00</i></p>	CEO
12.	<p>M-Power: Application for Amendment of the Frequency Spectrum Licence</p> <p>The SM: Spectrum licensing presented this item</p>	Cllr [REDACTED]

WR



	Action Item	Person Responsible
	<p>The purpose of this submission was to request Council; to reject the application for the amendment of Radio Frequency Spectrum Licence of M-Power Radio ("the applicant")</p> <p>The following was noted:</p> <p>The Authority received an application for amendment of the Radio Frequency Spectrum Licence from M-Power on 10 January 2017.</p> <p>M-Power Radio is licensed to provide sound commercial broadcasting service in the Mpumalanga Province. The applicant is currently providing its service with seven transmitter sites.</p> <p>The applicant intends to expand its coverage area within its licensed area by adding the transmitter at Bushbuckridge to operate on a frequency of 94.8 MHz with an Effective Radiated Power (ERP) of 0, 5 kW.</p> <p>It is recommended that Council rejects the amendment application for Radio Frequency Spectrum Licence of M-Power Radio.</p> <p>Reasons for rejection:</p> <p>The proposed additional transmitter will cause harmful interference to the spare frequency of 94.7 MHz with an ERP of 10 kW, coordinated for public broadcasting services at the Letaba transmitter side.</p> <p>The proposed additional transmitter will cause harmful interference to Hoedspruit transmitter 's spare frequency coordinated for community sound broadcasting service on a frequency of 94.4 MHz with ERP of 18 kW and;</p> <p>The amendment is not in line with the provision of section 31(4) of the Electronic Communications Act.36 of 2005</p> <p>The applicant to be advised of different alternative frequencies for consideration.</p> <p>It was resolved that the request to reject the application for the amendment of Radio Frequency Spectrum Licence of M-Power be approved.</p>	

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13.	<p>Amendment of Council Committee Membership on the Framework for Community Broadcasting</p> <p>Cllr [REDACTED] presented this item:</p> <p>The purpose of this submission was to approve the amendment of the resolution on the Council Committee regarding the Framework for Community Broadcasting.</p> <p>It was resolved that the Amendment is approved</p> <p><i>The SM: Compliance joined the meeting at 17:55</i></p>	Cllr [REDACTED]
14.	<p>The Processes to Establish the Consumer Advisory Panel</p> <p>The SM: Compliance presented this item:</p> <p>The purpose of this submission was to advise Council on the processes of establishing the Consumer Advisory Panel (CAP) and to request Council to approve the process, including the establishment of an interview panel for the appointment of CAP members.</p> <p>It was resolved that the process to establish the Consumer Advisory Panel be approved.</p> <p><i>The Acting Executive:HR and the Specialist: Employee Relations joined the meeting at 18:30</i></p>	Cllr [REDACTED]
15.	<p>Payment of 2015/2016 Performance Bonuses for Six (6) employees within the licensing division based on their re-moderated scores</p> <p>The COO presented this item:</p> <p>The purpose of this submission was to seek Council approval for the payment of 2015/2016 performance bonuses to employees within the licensing division, to which their scores were re-moderated based on the received grievances.</p>	CEO

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	Action Item	Person Responsible
	<p>It was resolved that the payment of 2015/2016 Performance Bonus for six (6) employees within the licensing division is approved.</p>	
<p>18.</p>	<p>Update on the Resignation of the Executive: Human Resources.</p> <p>The Acting Executive: Human Resources presented this item:</p> <p>The purpose of this submission was to update Council on the resignation of the Executive: Human Resources</p> <p>As per Human Resources procedure, when an employee resigns the resignation letter is tendered directly to the line manager.</p> <p>The Human Resource Division resumes the off boarding process of the employee who has resigned upon receipt of the accepted and signed resignation letter from the relevant line manager.</p> <p>The former Executive: Human Resources submitted a resignation letter addressed to the Chief Executive Officer on the 07th April 2017, which was accepted by the CEO on the 19th April 2017,</p> <p>It was resolved that the update on the resignation of the Executive: Human Resources be noted</p> <p><i>The SM: Litigation and General Services joined the meeting at 19:10</i></p>	<p>CEO</p>
<p>19.</p>	<p>Possible Withdrawal of SABC Criminal Charges for Contravention of Section 17E of the ICASA Act</p> <p>The SM: Regulatory presented the item.</p> <p>The purpose of this submission was for Council to note the legal opinion on whether it is permissible for ICASA to require/request the National Prosecuting Authority to cease with its criminal investigations or withdraw criminal charges against the then responsible SABC board members.</p> <p>The following was noted:</p> <p>On 26 May 2016, the SABC issued a media statement indicating that it will no longer broadcast footage of destruction of public</p>	

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	<p>property during protest. The SABC believed that the broadcast of destruction of property constituted an act of encouragement by the public broadcaster and continuing to broadcast such footage of destruction might encourage other communities to do the same.</p> <p>A complaint was subsequently lodged with the CCC against the aforementioned SABC decision.</p> <p>On 3 July 2016, the CCC made a determination of noncompliance by the SABC with the relevant provisions of the Constitution and the Broadcasting Act.</p> <p>Subsequent to the determination or finding by the CCC, the Authority made the following decision regarding non-compliance of the SABC:</p> <p>Decision A: Direct the SABC to withdraw its resolution as published in its statement of 26 May 2016, which states that the SABC will no longer broadcast footage of destruction of public property during protest'.</p> <p>Decision B: The withdrawal must be done retrospectively.</p> <p>Decision C: The Chairperson of the board of the SABC must confirm in writing to Council via the Office of the Coordinator of the CCC within seven calendar days that the resolution as endorsed by Council of the Authority was taken as ordered.</p> <p>The Authority after having sent various correspondence and reminders seeking confirmation that the order of the authority has been complied with and after not receiving the aforementioned confirmation, the Authority took a decision to lay criminal charges in terms of section 17H (f) of the ICASA Act.</p> <p>Subsequent to the opening of the criminal case, a new Minister of Communications inquired that since there is compliance, can the matter be resolved amicably.</p> <p>It was resolved that the legal opinion on possible withdrawal of the SABC Criminal Charges for the contravention of Section 17E of the ICASA Act be noted.</p>	

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	Action Item	Person Responsible
	<p>It was further resolved that the Authority draft a letter to the NPA seeking an update on the investigation in light of the recent developments at the SABC, namely, the Interim board indication to make amends on the previous transgressions.</p>	
	<p>Update on the Implementation of the Memorandum of Understanding (“MoU”) signed between the Independent Communications Authority of South Africa (“the Authority”) and the South African Bureau of Standards (“the SABS”) on the Issuance of Certificates of Compliance(“CoCs”).</p> <p>The SM: Spectrum Licencing presented this item:</p> <p>The purpose of this submission was to provide the update to Council of the signed Memorandum of Understanding(MoU) as attached on the Annexure A, between the Authority and the SABS on the issuance of the CoCs for electromagnetic compatibility and Electromagnetic interference(EMC/EMI) standards for non-telecommunications equipment</p> <p>It was resolved that the update on the implementation of the Memorandum of Understanding (“MoU”) signed between ICASA and the SABS on issuance of certificates of compliance be noted.</p>	
	<p>Invitation for Participation of Council on Strategic Risk Workshop.</p> <p>The CEO presented this item:</p> <p>The purpose of this memorandum was to invite the Council to attend the Strategic Risk Workshop</p> <p>It was resolved that the Invitation for participation of Council on strategic Workshops be rescheduled to the first week of July 2017, depending on the availability of Councillors.</p>	
	<p>General</p> <p>(i) Reasons Document for Decision in Respect of e-tv Licence Amendment Application.</p>	

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	Action Item	Person Responsible
	<p>Cllr ██████████ presented this item;</p> <p>The purpose of this memo was to request Council to approve the attached e.tv (Pty) Ltd, vetted reasons document for publication in the Government Gazette.</p> <p>The following was noted:</p> <p>On 16 February 2016, e.tv (Pty) Ltd ("the applicant") submitted an application for the amendment of its Individual Commercial Television Broadcasting Service Licence ("I-CTBS").</p> <p>The applicant proposed the amendment of clause 6.2 of its I-CTBS Licence, which reads as follows:</p> <p><i>"The licensee shall broadcast at least two (2) hours of news programming during the performance period of which at least thirty (30) minutes, shall be packaged as a single programme, shall be broadcast during prime time.</i></p> <p>The proposed amended to read as follows:</p> <p><i>"The Licensee shall broadcast at least two (2) hours of news programming during the performance of which at least thirty (30) minutes, shall be packaged as a single programme"</i></p> <p>On 13 February 2017, Council approved the committee recommendation to decline the licence amendment application by e.tv (Pty) Ltd.</p> <p>Section 9 (5) read with 10(2) of the Electronic Communications Act,36 of 2005 requires the Authority to publish its reasons for decision in relation to the application for the amendment of an individual licence in the Gazette</p> <p>It was resolved that the attached vetted reasons document for publication in the Government Gazette be approved.</p> <p>(ii) Re: Amendments to the National Radio Frequency Plan 2017(NRFP-17.</p> <p>The Office of the Acting Chairperson received a letter dated 08 June 2017 from the Office of the Minister of Telecommunications</p>	

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	Action Item	Person Responsible
	<p>and Postal Services, MP referring to the approval by Cabinet of the National Frequency Plan 2017 and noting ICASA s' objections.</p> <p>It was resolved that the Authority should draft the letter acknowledging receipt and agree with the proposals as suggested.</p> <ul style="list-style-type: none">• State the position of ICASA• Copy the Minister of Communications and enclosed the previous correspondence on this matter.	
20.	<p>Closure:</p> <p>The Chairperson thanked all who attended the meeting and adjourned at 20:00</p>	
9.	<p>Date of next meeting: 27 June 2017</p>	Secretariat

Signed: _____
(Chairperson)

Date: _____

08/08/2017