



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL		
Date	27 March 2018	
Time:	09h30	
Venue:	Block B, Council Boardroom	
Present		
	[REDACTED]	Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
By invitation		
	[REDACTED]	CEO
	[REDACTED]	CAE
	[REDACTED]	CFO
	[REDACTED]	Secretariat Officer
Partial Attendees		
	[REDACTED]	Broadcast Compliance Office
	[REDACTED]	GM: Complaints and Compliance Analysis
	[REDACTED]	Manager: National Spectrum Monitoring
	[REDACTED]	SM: Legal (Regulatory Support and Legal Drafting)
	[REDACTED]	Specialist: Legislative and Regulatory Drafting
	[REDACTED]	Executive: Legal, Risk and CCC
	[REDACTED]	SM: Market Regulation
	[REDACTED]	SM: Talent and Performance
	[REDACTED]	Manager: Wholesale Services
	[REDACTED]	Executive: Human Resources
	[REDACTED]	Manager: IT Audit
	[REDACTED]	SM: Administration, and Facilities
Apologies		
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Acting SM: Office of the Chairperson



	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>The Chairperson opened the meeting at 09: 45 and welcomed all present.</p> <p>There following apologies were noted:</p> <ul style="list-style-type: none"> • Cllr ██████ was attending a Corporate Governance Training. • Cllr ██████ was on maternity leave. • Acting SM: Office of Chairperson was attending a briefing by Parliament Constitutional and Legal Service Office (CLSO) on the matter relating to the Chairperson. • Cllr ██████ will leave the meeting early as he has to travel to Botswana for a CRASA meeting. 	Chairperson
2.	<p>Ratification of the Agenda</p> <p>It was resolved that only items requiring urgent attention and APP items will be considered.</p> <p>It was resolved that Items 4.1,4.2,5,6.1,6.3,7.1,7.2,7.3,11,12,13,14, and will be considered in the next meeting as they were not APP targets.</p> <p>It was resolved that a Special Meeting of Council should be scheduled for 28 March 2018, to consider outstanding APP items.</p> <p>The agenda was approved with the amendment indicated above.</p> <p>Second Deputy Chairpersons for Council Committees</p> <ul style="list-style-type: none"> • Council needs to decide on the legality and appropriateness of some Council Committees having two deputy chairpersons. • A historical context was provided on the reasons some committees had second deputy chairpersons. This was because Council had fewer members and a stop gap measure was introduced. Refer to the audio. • It was resolved that since Council has a full complement of 	Council



	Action Item	Person Responsible
	<p>Councillors, committees should revert to having a Chairperson and Deputy Chairperson.</p> <ul style="list-style-type: none"> It was also resolved that there should be a combination of old and new councillors in committees. <p>Issues of Council quorum were raised. Council resolved as follows:</p> <ul style="list-style-type: none"> The <i>Neotel v Vodacom</i> judgement should be considered as a legal precedent. Secretariat should update and tighten the Council Charter. General Managers should expedite the finalisation of resolutions establishing Council Committees. List of allocation of Council Committees and nominees as approved at a Special meeting of 15 March 2018 should be circulated to all Councillors. Business Continuity should be prioritised. 	
3.	<p>Declaration of interest</p> <p>There was no conflict of interest noted.</p> <p><i>The GM: Compliance and Consumer Affairs and the Broadcasting Compliance Officer joined the meeting at 10:45</i></p>	All
4.	<p>Adoption of the previous Minutes</p>	
4.1	<p>Special Meeting of Council held on the 15th March 2018</p> <p>It was resolved that the draft minutes be deferred to the next meeting.</p>	
4.2	<p>Meeting held on the 20th March 2018</p> <p>It was resolved that the draft minutes be deferred to the next meeting.</p>	
5	<p>Matters Arising</p> <p>It was resolved that matters arising be deferred to the next meeting.</p>	
6.1	<p>Inter/ Intra Operator Disputes</p>	CEO



	Action Item	Person Responsible
	It was resolved that this item be deferred to the next meeting.	
6.2.	<p>CRASA 2017/18 Programme</p> <p>Councillors to note that there is a preparatory meeting to be held on the 29th March 2018, for the CRASA AGM to be held in Swaziland.</p> <p>All Councillors are invited to attend the preparatory meeting.</p>	Cllr [REDACTED]
6.3	<p>Update on the Office Relocation</p> <p>It was resolved that this item be deferred to the next meeting.</p>	CFO
7.1	<p>South Africa Police Services: Application for a Radio Frequency Spectrum Trial Licence in the 700/800 MHz Band.</p> <p>It was resolved that this item be deferred to the next meeting.</p>	CEO
7.2	<p>International Relations Strategy and International Meetings Schedule 2018/2019.</p> <p>It was resolved that this item be deferred to the next meeting.</p>	CEO
7.3	<p>International Regulators Forum</p> <p>It was resolved that this item be deferred to the next meeting.</p> <p><i>The GM: Compliance and Consumer Affairs and the Broadcasting Compliance Officer joined the meeting at 11:20</i></p>	CEO
8.	<p>Submissions of Eleven (11) Broadcasting Annual Compliance Reports and Television Services Licences.</p> <p>The GM: Consumer and Compliance Affairs presented the item:</p> <p>The purpose of the memorandum was to request Council to note and approve the Eleven (11) Broadcasting Annual Compliance Reports (ACRs) compiled for the period under review as part of the fifty (50) ACRs, required to be compiled in terms of 2017/2018 Financial Year (FY), Annual Performance (APP).</p> <p>The following was noted:</p> <p>These were the last batch of licensees submitted for the financial year</p>	CEO

	Action Item	Person Responsible
	<p>under review.</p> <p>The licensees were: Lotus FM Kaya FM Rise FM ODM Mafikeng Community Radio Radio Alpha Lichavaal Stereo Rainbow FM Al-Ansaar-Durban Al-Ansaar-Pietermaritzburg</p> <p>Findings</p> <p>Community Radio</p> <p>Of the seven (7) community radio licences, five (5) did not comply fully with the licence terms and conditions, and applicable regulations. Two (2) licensees, Al –Ansaar-Durban and Al-Ansaar – Pietermaritzburg fully complied with their terms and conditions and applicable regulations.</p> <p>Commercial Radio</p> <p>Two (2) commercial sound licences did not fully comply with licence terms and conditions and applicable regulations.</p> <p>Commercial Television</p> <p>ODM-In relation to shareholders, the licensee had changes in its ownership however failed to notify the Authority.</p> <p>General Licence Fees:</p> <p>The licensee did not comply with regulations 3(5) of the General Licence Fees Regulations.</p> <ul style="list-style-type: none"> • Council resolved that a Trends and Analysis Compliance Report should be compiled in Quarter 1(Q1). • The division should prioritise workshops with Community Broadcasting licensees on compliance. • The Community Broadcasting Committee should join the CCA when hosting the workshops. 	





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	<ul style="list-style-type: none"> • Emphasize Consequence Management. <p>It was resolved that the submission be approved for publication.</p> <p><i>The Manager: National Spectrum Monitoring joined the meeting at 11:27</i></p>	
9.	<p>Quarter 4 (Q4) Inspection Report for the South African Maritime Authority (SAMSA).</p> <p>The Manager: National Spectrum Monitoring presented this item:</p> <p>The purpose of the submission was to request Council to note the Q4 SAMSA Inspection Report. The report includes a comparative representation of the Q1, Q2, and Q3 results on a single graph.</p> <p>The following was noted:</p> <ul style="list-style-type: none"> • SAMSA is authorised to act on behalf of ICASA to perform maritime functions. A Memorandum of Understanding (MoU) stipulates the functions that SAMSA would perform. • This includes issuing of certificates for maritime radio equipment that is used for the Safety of Life at Sea (SOLAS) purposes. • ICASA was previously responsible for issuing these certificates. The MoU transfers the duties of issuing certificates over to SAMSA • ICASA is responsible for overseeing the process and conducting quarterly inspections. <p>It was resolved that the Quarter 4 (Q4) Inspection Report for the South African Maritime Authority (SAMSA) be noted</p>	
10.	<p>Electronic Communications Amendment Bill-Supplementary Submission</p> <p>The Executive: Legal, Risk and CCC presented this item:</p>	CEO



	Action Item	Person Responsible
	<p>The purpose of the submission was to request Council to approve ICASA s' supplementary comments regarding the Electronic Communications Amendment Bill.</p> <p>The Department of Telecommunications and Postal Services (DTPS) published the bill for public comment and the Authority submitted its comments on the bill.</p> <p>On 06-07 March 2018, the DTPS held public hearings on the bill. Following the Authority 's representations to the DTPS, the Authority was requested to make further submissions on key issues as follows:</p> <p>Strengthening the regulatory framework around facilities sharing, The Wholesale Open Access Network (WOAN) and the return of spectrum and, Incentives that will make WOAN successful.</p> <p>Comments.</p> <p>On the incentives on WOAN-remove obligatory term 'must' conclude infrastructure sharing agreements.</p> <ul style="list-style-type: none"> • Factor risks. • Check the timelines. <p>It was resolved that the submission be approved with comments.</p>	
11.	<p>Cell C's request for an extension towards Compliance with the Regulations on the Code of Conduct for Premium Rated Services.</p> <p>It was resolved that the matter be deferred to the next meeting.</p>	CEO
12.	<p>Notices requesting reports on the progress of the Machine Related Service Migration</p> <p>It was resolved that the matter be deferred to the next meeting.</p>	CEO
13.	<p>Presentation to the Parliamentary Select Committees on Communications on Cost to Communicate.</p> <p>The purpose of the memorandum was to request Council to approve the draft presentation for the Parliamentary Select Committee on Communications and Public Enterprises meeting scheduled for 28</p>	CEO



	Action Item	Person Responsible
	<p>March 2018.</p> <p>It was resolved that the draft presentation be approved.</p> <p>Cliff [REDACTED] and the CEO will attend the committee meeting.</p>	
14.	<p>Request from ARAB Satellite Communications Organisation (ARABSAT) for the inclusion of the Territory of South Africa into a Service Area of its satellite System</p> <p>It was resolved that the matter be deferred to the next meeting.</p>	CEO
15.	<p>Unauthorised, Irregular, Fruitless and Wasteful Expenditure</p> <p>The purpose of the submission was to provide Council with the results of the review of Unauthorised, Irregular, Fruitless and Wasteful Expenditure (UIFW) previously presented by the Finance Division for condonation by Council.</p> <p>It was resolved that the matter be deferred to the next meeting.</p>	CAE
16.(i)	<p>Draft Audit Findings-Spectrum Management</p> <p>The purpose of the memorandum was to obtain Council's comments on the draft findings in respect of Spectrum Management Review.</p> <p>The CAE presented the item:</p> <p>As part of the Internal Audit Plan, an audit of Regulations Drafting Review was conducted. The scope and objective were to provide assurance on the process of Spectrum Management processes within ICASA and to evaluate the risks controls and governance processes with regard to spectrum management.</p> <p>It was resolved that Council agrees with the comments, root causes and action plans proposed to be included in the final audit report.</p>	CAE
16.ii	<p>Draft Audit Findings-IT Governance Review</p>	CAE

WV



	Action Item	Person Responsible
	<p>The purpose of the memorandum was to obtain Council's comments on the draft findings in respect of the Information Technology Governance Review.</p> <p>The CAE presented this item:</p> <p>As part of the Internal Audit Plan for 2017/18, a follow up of the Audit of the IT Governance was conducted. The scope and objective were to do a follow up on the status of action plans on the issues reported in the previous IT Governance and asses the adequacy and effectiveness of IT Governance processes and structures.</p> <p>It was resolved that Council agree with the comments, root causes and action plans proposed to be included in the final audit report.</p>	
17.	<p>Planned Emergency Evacuation Drill Exercise at Head Office and Regional Offices.</p> <p>The purpose of the memorandum was to notify Council about the planned drill exercise that will takes place at 10:00 at ICASA head Office and Regional offices.</p> <p>The CEO presented the item:</p> <p>The following was noted:</p> <ul style="list-style-type: none"> • One of the key functions of Corporate Services: Facilities is to provide a safe and conducive working environment to ICASA s' employees, stakeholders and interested parties. • ICASA should comply with the Occupational Health and Safety (OHS) Act No. 85 of 1993 as amended. • The approved Occupational Health and Safety Plan of 2017/2018 requires that the Facilities Division should conduct two emergency evacuation drill exercises in the 	CEO



	Action Item	Person Responsible
	<p>current financial year.</p> <ul style="list-style-type: none">The emergency evacuation drill exercise is a tool that is used to prepare ICASA employees, stakeholders and interested parties for any eventuality which can emanate from an emergency (i.e. fire in the building). <p>It was resolved that planned drilling exercise at Head Office and Regional Offices be noted.</p> <p><i>The Executive: Human Resources and SM: Talent and Performance Management joined the meeting at 13:58</i></p>	
18.	<p>Proposed 2018/2019 ICASA Pay Scales and Salary Increases (Cost of Living Adjustment).</p> <p>[Redacted]</p> <ul style="list-style-type: none">[Redacted][Redacted][Redacted][Redacted][Redacted]	

	Action Item	Person Responsible
	<p>[REDACTED]</p> <ul style="list-style-type: none"> [REDACTED] <p>The following were noted:</p> <ul style="list-style-type: none"> [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] <p>[REDACTED]</p>	
19.	<p>Proposed Revised Remuneration Policy.</p> <p>The SM: Talent and Performance Management presented the item</p> <p>The purpose of the submission was for Council to approve the proposed revised Remuneration Policy.</p> <p>The following was noted:</p> <ul style="list-style-type: none"> The current Remuneration Policy was last reviewed in March 2015, and the best practice is to 	CEO





	Action Item	Person Responsible
	<p>have the policy reviewed every three years (3) to follow the market trends. Most of the guidelines in the policy are still according to the best practice as well as global markets.</p> <ul style="list-style-type: none"> • This proposal is limited specifically to the issues that caused the industrial action within ICASA. Management is trying to resolve the outstanding matters through revising the Remuneration Policy. • All other issues will be dealt with after the Organisational Reassessment Process, as the Remuneration Policy will be based on the changes that would have been made. <p>It was resolved that the proposed Revised Remuneration Policy be approved.</p>	
<p>20.</p>	<p>Revised Performance Management Policy.</p> <p>The SM: Talent and Performance Management presented the item:</p> <p>The following were noted:</p> <ul style="list-style-type: none"> • The current Performance Management Policy was last reviewed on in March 2015, and the best practice is to have the policy reviewed every three years (3) to follow the market trends. Most of the guidelines in the policy are still the best practice as well as global markets. <p>It was resolved that REMCO should assist with management of the Wage Bill.</p> <p>It was also resolved that proposed Revised Performance Management Policy be approved.</p> <p><i>The Manager: Wholesale Services joined the meeting at 15:40</i></p>	<p>CEO</p>
<p>21.</p>	<p>Regulatory Impact Assessment on SAPO Price CAP Regulations</p>	



	Action Item	Person Responsible
	<p>The Wholesale Services Manager presented the item:</p> <p>The purpose of the memorandum was to request Council to approve the Regulatory Impact Assessment Report on the South African Post Office Price CAP Regulations, Gazette no 34129.</p> <p>The following were noted:</p> <ul style="list-style-type: none"> • The SA Post Office is mandated to provide Postal Services according to the Postal Services Act 124 of 1998, Government Gazette no 19540("the Act"). SAPO is mandated to provide reserved postal services in terms of section 16 of the Act. • In 2014 ICASA published Price CAP Regulations, Government Gazette 34129 which regulates SAPO's tariffs for reserved postal products and services. • The purpose of the Price Cap Regulations is to replicate the discipline that market forces would impose on the regulated firm if they were presented. The regulator restricts SAPO's average price increase by Consumer Price Inflation, less the estimated productivity growth rate or production factor. • The Policy Research and Analysis (PRA) division initiated a review of the regulations to determine whether imposition of price controls is still relevant or proportionate and propose alternative forms of regulation if necessary. <p>It should be noted that the impact assessment is not a requirement in terms of the Postal Services Act but is viewed as best practice.</p> <p>It was resolved that the Regulatory Impact Assessment on SAPO Price Cap Regulations be approved.</p>	
22.	<p>Claw Back/Industrial Dispute Settlement</p> <p>[REDACTED]</p> <p>The CEO presented this item:</p>	CEO

	Action Item	Person Responsible
	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
<p>23.</p>	<p>ICASA appearance at the Select Committee of Parliament on Cost to Communicate</p> <p>It was resolved that this item be merged with item 13 as they were similar.</p>	<p>CEO</p>
<p>24.</p>	<p>Proposed Special Meeting of Council</p> <p>Council resolved to have an additional meeting to approve outstanding APP items as the financial year was coming to an end.</p> <p>It was resolved that the Special Meeting of Council be scheduled for 28 March 2018.</p>	<p>Council</p>



	Action Item	Person Responsible
25.	Date of the next meeting: 28 March 2017	Secretariat
26.	Closure: The Chairperson thanked all who attended the meeting Meeting was adjourned at 16:37.	Chairperson

Signed: 
(Chairperson)

Date: 16 May 2018