

Date	06 March 2019	
Time:	10:00	
Venue:	Thabo Mbeki Board	room, Block C
Present		Chairperson
		Member
By Invitation		CEO
		CFO
		CAE
		Corporate Secretary
		Secretariat officer
Partial Attendees		Specialist: Radio Frequency
		Specialist: Radio Frequency
		GM: Licensing
		GM: Compliance and Consumer Affairs
		Executive: Legal, Risk and CCC
		SM: Litigation
		Specialist: Risk and Compliance
		Management
		Manager: Content Services
		GM: Regions
		Manager: Service Broadcasting
		Manager: Broadcasting Compliance
		Manager: ECN/ECNS
		SM: Consumer Affairs
		Specialist: Risk and Compliance Management



Apologies	 Member	
	Member	

Independent Communications Authority of South Africa

	Action Item	Person Responsible
1.	Opening and apologies	Chairperson
	The Chairperson opened the meeting at 10:00 and welcomed all present.	
	Apologies	
	The following apologies were noted:	
	Cllr was attending the CCC hearings.	
	 Cllr will join the meeting later. 	
2.	Ratification of Agenda	All
	It was resolved that the title on Item 9"-IMT Policy Direction" be changed to "Licensing of IMT"	
	The agenda was adopted with the proposed changes.	
3.	Declaration of Interest	Council
	No conflict of interest was noted.	
1.1	Minutes of the meeting held on the 05 February 2019	Council
	Item 19.9-the minutes must reflect the responsible person to table the submission on licence renewals and not the CEO.	
	It was resolved that the minutes be approved with the above correction.	



	Action Item	Person Responsible
4.2	Minutes of a Special Meeting of Council -06 February 2019 It was resolved that the minutes be approved.	Council
4.3	Minutes of the Meeting of Council of 19 February 2019. It was resolved that minutes be deferred.	Council
5.	Matters Arising from the previous minutes The Matters Arising document was discussed and noted.	Council
6.	Inter/ Intra Operator Disputes ("Standing Item")	CEO
	The CEO presented the item: There were no new developments except to note that the Democratic Alliance matter has been resolved. Executive: Corporate Services joined the meeting at 10:27	
7.	International Engagements ("Standing Item")	
7.1	International Telecommunications Union Regional Radiocommunications Seminar -RRS-19 The Executive: Corporate Services presented the item:	
	The purpose of the submission was to request Council to note several developments regarding the hosting of the International Telecommunications Union Regional Radiocommunications Seminar in South Africa.	
	 Council approved the hosting of the Regional Radiocommunications Seminar RRS-19. This was followed by a letter from the Minister of Communications, confirming that South Africa is committed to hosting the RRS-19 from 08-12 April 2019. 	
	ICASA had been tasked with providing the venue and other	



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	logistical arrangements for the meeting.	
•	The initial date for the meeting was 08-12 April 2019 however, the date became unsuitable due to the clash with the ITU Calendar.	
•	The RRS meeting would take place at the same time as the World Summit of the Information Society (WSIS) meeting. As a result, the revised dates for the RRS-2019 are 13-17 May 2019, at the Capital Empire, in Sandton over a period of five (5) days.	
•	Council was requested to consider having a flagship initiative that was targeting academic institutions. This can be done by inviting 3 rd year students of all institutions of higher learning studying engineering.	
•	In this instance, the Authority would request that operators sponsor students who had shown keen interest to attend the event.	
•	ICASA will be leading the conversation in Day 4 and 5, a topic of mutual interest and that which will resonate with students can be selected to ensure that attendees are familiar with the work done by ICASA at RRS.	
Finar	icial Implications	
•	The cost to host a five-day seminar was estimated at R 600 000.00.	
•	The amount was based on preliminary quotes received. The ITU had indicated that it will fund the interpretation, and ICASA will be liable for the following:	
	 ✓ Venue and Meals; ✓ High Speed Wi-Fi (sponsored); and ✓ Audio Visual Equipment. 	
	MTN, Vodacom and Multichoice were to be considered as potential sponsors.	



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	The following was resolved:	
	Corporate Services to consider a venue in Pretoria to host the event and not Sandton.	
	 Pre -book for twenty people, nine Councilors and ICASA employees. 	
	Consider final and Postgraduate students in technical areas.	
	Also consider students in Cybersecurity and Public Policy.	
	Invite students from Universities of Technologies e.g. TUT.	
	Corporate Services to pursue sponsorships including WI-FI.	
8.	CRASA/SADC ("Standing Item")	
	It was resolved that the item be deferred.	
9.	Licensing of IMT ("Standing Item")	Clli
	The Specialist: Radio Frequency presented the item:	
	The purpose of the memorandum was to request Council to:	
	Approve the updated Notice on the draft Information Memorandum (IM) on the licensing process of International Mobile Telecommunications (IMT) Spectrum to provide Mobile Broadband for Wireless Access Services in Urban and Rural Areas using the Complimentary bands, the 1MT700, 1MT800, 1MT2300, 1MT2600 and IMT3500, and the publication of the draft IM for public comments.	
	 ICASA intends to issue a notice to initiate the licensing process of the IMT Spectrum through an IM. The aim is to provide guidance to prospective applicants on the process and criteria to be applied, on the licensing process in terms of Regulations 6 and 7 of the Radio Frequency Spectrum Regulations 2015, read with sections 31(3) and 33 of the Electronic Communications Act. 	
	Previously Council resolved that a letter be sent to the Minister	



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	of Communications to indicate its intention to publish the IMT licensing draft IM as well as the indicative activities, timeframes and cost.	
•	Council further resolved that an option for a scenario where the WOAN is excluded be included in the draft IM.	
•	Council also resolved that the obligations be updated to include the transformation requirements.	
•	The notice provides information to prospective applicants intending to apply for the RFS licences within the designated RFS Assignment Plans in the ranges 3400-3600 MHz (IMT 3500), 2500-2690 MHz (IMT2600),2360-2400MHz (IMT 2300), 790-862 (IMT 800) and 703-790MHz (IMT700) for the purposes of providing national broadband wireless access services.	
•	Interested parties will hereby be invited to submit written representations on their views on the Information Memorandum.	
•	Numerous obligations will form part of the license conditions of the Radio Frequency Spectrum License to be issued:	
The f	following was resolved:	
•	A letter to inform the Minister of an intention to publish a draft IM be drafted/sent setting a deadline for end March 2019.	
•	A request for a follow up meeting with Minister to further discuss the matter.	
•	All formal correspondence and letters sent to the previous Minister regarding the IMT Licensing process which were not responded to, to be shared with the current Minister.	
	The IM to be published by 29 March 2019.	



	Action Item	Person Responsible
10.	Update on active Litigation Matters	CEO
	The Executive: Legal, Risk and CCC presented the item:	
	The purpose of the memorandum was to request Council to note the active litigation matters handled by the Authority.	
	The Authority is duty bound to defend its actions, findings and decisions which were legally, procedurally and reasonably taken against any affected parties who may seek to review them.	
	 The Authority is currently opposing twenty-three (23) legal matters from different stakeholders, fifteen of which are review applications, three (3) are labour related, three are contractual disputes, one is a debt collection matter, and one is an execution of warrant matter. 	
	The total legal costs budget for the financial year 2018/19 was R6 162 412. The legal costs spending as of October was R3 574 386.00. This expenditure excludes outstanding invoices for work already done but not yet paid.	
	It was resolved that the report be noted.	
11.	Legal implications of the Public Audit Amendment Act ,2018 on ICASA.	CEO
	The Executive: Legal, Risk and CCC presented the item:	
	The purpose of the submission was to request Council to note the legal impact of the Public Amendment Act, 2018 and potential risks it might pose to the Authority.	
	The Public Audit Amendment Bill has been signed into law by the President on 18 November 2018. The Amendment Act, 2016 introduces a new type of non-compliance called Material Irregularity.	
	Material Irregularity refers to any non-compliance with or contravention of legislation, fraud, theft or a breach of fiduciary duty identified during an audit performed under the Public Audit	



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	Act, that resulted in or is likely result in a material financial loss, misuse or loss of a material public resource, or substantial harm to public sector institution or the public.	
	The Amendment Act, 2018 seeks to amend the Public Audit Act 2004 as follows:	
	The Auditor General (AG) is to refer suspected material irregularities arising from the Audit performed under the Public Act to a relevant public body for investigation.	à
	The AG to take appropriate remedial action, and	
	 Issue a certificate of debt where an accounting officer or accounting authority failed to recover losses from a responsible person, and to instruct the executive authority to collect the debt. 	
	The following was resolved:	
	NB: In the absence of a reliable Project Management Monitoring and Tracking Tool within the Authority, Cllr Gongxeka-Seopa requested that the Public Audit Management Act should form part of the Standing Items. This to ensure that the Risks associated with this Act are best monitored and managed.	
	It was agreed that investigations be made to ascertain Council personal liability insurance liability is concerned.	
	It was resolved that Council note the impact of the Public Audit Amendment Act, 2018 on ICASA and the potential risk it poses, and workshops to be conducted with all divisions on the impact of the Public Audit Amendment Act 2018.	
12.	Recommendation by CCC to Council in the matter between Khulisa Social Solutions NPC and Multichoice (Pty) Ltd.	Cilr
	It was resolved that the item be deferred to the next meeting.	
13.	Application for the renewal of Individual Commercial Sound Broadcasting Service Licence and Radio Frequency Spectrum Licence by Yired (Pty) Ltd.	Cllr



	Action Item	Person Responsible
	The GM: Licencing presented the item	
	The purpose of the memorandum was to request Council to approve the application for the renewal of the Individual Commercial Sound Broadcasting Service Licence (I-CSBS) and the Radio Frequency Spectrum Licence (RFS) held by Yired (Pty) Ltd (the Applicant).	
	The Applicant holds both an I-CSBS and a RFS licences to provide a commercial sound broadcasting services in the Johannesburg, Gauteng Province.	
	 The Applicant submitted applications to renew both its licences, with the necessary supporting documents including a signed resolution and proof of payment of the application fee of authorising Managing Director to submit the application to R6 094 as per applicable regulations. 	
	The applications were lodged in terms of section 11 read with section 9 (2) of the Electronic Communications Act no.36 of 2005, as amended (ECA).	
	 During the processing of the application, the Authority did not receive any representations objecting to the applications. 	
	The Renewal Committee considered the applications and recommended that the applications be approved in line with section 11 (1), (2), and (3) of the ECA and all relevant underlying statutes.	
	It was resolved that the applications be approved.	
	Cllr Qocha joined the meeting at 12:11	
	The GM's: Regions and Licensing joined the meeting at 12:29	
14.	Report on Compliance Inspections relating to the Code of Conduct Regulations, 2007 FY 2018/2019	CEO
	The purpose of the memorandum was for Council to note the outcomes of Inspections conducted by the Regions Division between April and December 2018, at major ECS/ECNS licences and other	



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	retail outlets, and further to assess compliance with Regulations of Code of Conduct for Licensees of 2007.	
	The GM: Regions presented the item:	
	 In terms of the APP for the current financial year, the Regions Division has a target to compile a report on the Code of Conduct conducted in by the Inspectors in the Regional Offices. 	
	Since the 2015/16 financial period, inspections have been carried out to determine if ECS/ECNS Licensees' comply with the Regulations within their retail outlets.	
	The key objectives of the Regulations are to prescribe guidelines that will set acceptable standards of conduct by licensees in respect of consumers, and protect the rights of consumers within the Electronic Communications Sector.	
	 A standard questionnaire was used in all the regions. The results of the inspections conducted in the 2015/16, 2016/17, 2017/18 financial years were available on the ICASA website. 	
	It was resolved that the report be noted. The Manager: Content Services joined the meeting at 12:59.	
15.	Submission of Final Regulations and Reasons Document on Community Broadcasting Framework for publication and the International Study Tour for noting.	Clir
	The purpose of the submission was to request Council to approve the publication in the government gazette of the Community Broadcasting Reasons Document, Final Regulations for Community Broadcasting Services (Radio and Television) and note the International Study Tour Report.	
	Cllr and the Manager: Content Services presented the item.	
	 The Authority initiated a process to develop a Regulatory Framework for Community Broadcasting Services in line with sections 16-19 and 50 of the Electronic Communications Act (ECA). 	
	On 06 April 2018, the Authority published the Draft Regulations	



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	on the Framework for Community Broadcasting in the Government Gazette.	
•	Section 16 (1) of the ECA empowers the Authority to register class licences upon receipt of a written registration in the manner prescribed.	
•	Section 50 of the ECA deals with the definition of community broadcasting, eligible for community broadcasting license, and Community interest in a community broadcasting license.	
•	There were no significant changes on the Draft Regulations. However, the intention of the Draft Regulations is to prescribe a framework under which community broadcasting licensees will operate, and further provide guidelines on the registration, renewal, transfer and amendment process of community broadcasting licenses, looking into governance and management structures of a community broadcasting licensee and the basic principles of community participation.	
•	According to the Standard Terms and Conditions, a licensed area may not exceed a district municipality as defined in the Local Government Municipal Structures Act No. 117 of 1998. During the consultation phase with the affected stakeholders, an issue was raised to the extent that certain broadcasters sought to nationalise community broadcasting which is against the regulations.	
	Committee had finalized the Regulations and would like to publish nal regulation.	
The f	following was resolved.	
•	The Legal division to provide clarity on the use of certain wording including choosing between shall or may in certain instances.	
•	It was noted that in a regulation making process the rules are fixed.	
	Since one of the pre-requisites for the lifting of the moratorium was the completion of this procees, The CEO was requested	



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	to clarify the status of the moratorium on licensing of Community Broadcasters. It was resolved that the Final Regulations for Community Broadcasting Services and the Reasons Document be approved for Publication and International Study Tour reports be noted. NB: Cllr raised her reservations about the application of the proposal that states that, prior to granting a licence, that prospective licensees must have operated for 2 years as an NPO.	
	The GM: Compliance and Consumer Affairs and the Manager: Broadcasting Services joined the meeting at 14:50	
16	 Submission of ECS/ECNS Annual Compliance Report 2018/2019 The purpose of the submission was to request Council to consider and approve the ECS/ECNS Annual Compliance Report 2018/2019. The GM: CCA presented the item: Section 4 (3) (d) of the ICASA Act states that the Authority must develop, monitor and enforce compliance with licence conditions and regulations consistent with the objects of the Act and the underlying statutes for different categories of licences. The ECS/ECNS licence terms and conditions which are monitored have the standard terms and conditions. Compliance assessments are done retrospectively. Most of the compliance information in the report pertain to the licences issued during then 2017/2018 financial years. The instruments used to carry on the compliance aspect includes amongst others the ICASA Act, the ECA, General Licence Fees Regulations, 2013, Regulations on Standard Terms and Conditions and the Numbering Plan Regulations, 2016. In the 2018/2019 financial period, the ECS/ECNS Compliance Unit had a target of sixty (60) licensees for purposes of 	CEO



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	compliance assessment. The said target was exceeded in view of the fact that the ECS/ECNS Compliance assessed one hundred and nine (109) licensees, this having been achieved despite a staff complement of only 6 ECS/ECNS Compliance Officers, who are responsible for the compliance assessment of over 1000 licensees within the Republic.	
	The scope of compliance areas is slightly larger than it was historically, with an inclusion of the review of interconnection and facilities leasing agreements.	
	 The levels of compliance (standard) of the licensees assessed has been found to be satisfactory at the time of writing the compliance report and continues to improve. 	
	 The report is intended to provide an overview of the findings of the compliance analysis and evaluation process with respect to the 2017/2018 financial year period. 	
	It was resolved that the ECS/ECNS Annual Compliance Report 2018/2019 be approved.	
17.	Submission of Twenty (21) Broadcasting Annual Compliance Reports for Sound and Television Services Licenses	CEO
	The purpose of the memorandum was to request Council to approve, twenty-one (21) Broadcasting Annual Compliance Reports (ACRs) compiled for the 2018/2019 Financial Year, as an Annual Performance Plan (APP) target and as part of the sixty (60) ACRs.	
	The Manager: Broadcasting Compliance presented the item:	
	Number of licenses in the Market	
	Currently, there were 330 broadcasting service Licensees in the broadcasting market classified as follows:	



	Action Item	Person Responsible
	 4 Free to Air Licensees (e-tv, SABC1, SABC2, and SABC3); 27 Commercial Sound Licensees; and 15 Public Sound Licensees. 	
	Only two hundred and forty-seven (247) licensees were operational, while the rest were not in operation.	
	 Annually, the Compliance and Consumer Affairs Division (CCA) compiles reports for class and individual radio and television (including subscription) services in accordance with the APP. 	
	 All commercial broadcasters' reports are also compiled annually, except for SABC TV. There is no specific criteria used to compile reports for commercial broadcasters. However, it is of utmost importance to monitor and compile reports for the commercial sector (Individual Licensees) given the extent of the coverage (geographic and or population wise) in the country. 	
	 With regard to the community sector (Class Sound and TV), as it is overwhelming in numbers, it is important to monitor the community participation aspect of the sector, as well as guard against political interference and holding of dual roles by members of the governing structure and management. 	
	It was resolved that the submission of the twenty-one (21) Annual Broadcasting Compliance Reports for Individual and Class Sound and Television Broadcasting Services License be approved.	
	The SM: Consumer Affairs joined the meeting at 15:18	
8.	Amendment of the Consumer Advisory Regulations	CEO
	The purpose of the memorandum was to request Council to approve the Amendment of the Consumer Advisory Panel Regulations.	
	The SM: Consumer Affairs presented the item:	
	 The Consumer Advisory Panel Regulations (the Regulations) made provision for the establishment of the Consumer Advisory Panel (CAP). 	
	 Regulation 5 (d) of the Regulations stipulated amongst others that, the duty of the Chairperson (CAP) was to manage the 	



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	 budget of the CAP. However, due to ICASA's Supply Chain Policies which subscribe to the Public Finance Management Act (PFMA) and the National Treasury prescripts, it is impossible for the CAP chairperson to manage the CAP budget, hence the need to revise regulation 5 (d). The chairperson of the CAP also raised a concern with regards to budget relating to the committee. There was a proposal to publish an erratum rather than going through a long winded process of amendingthe regulations, 	
	 however, the Legal, Risk, CCC advised CCA that the amendment should be published to afford affected parties to make submissions on the proposed amendment, as this was not a mere error in the regulation. Currently, there is a requirement to have Public Hearings when coming up with completely new regulations for the sake of public interest. However, in the current case, as the regulations read, there is a discretion to publish an amendment regulation without following a public consultation process. There was also a proposal to re-constitute the CAP committee in the event that there are written submissions in response to the proposed amendment. 	
	It was resolved that the proposed amendment of Regulation 5(d) be approved. The Specialist: Risk and Compliance joined the meeting at 12:18	
19.	Risk Appetite Framework	CEO
	The purpose of the submission was to present the Risk Appetite Framework to Council for approval.	
	The Specialist: Risk and Compliance Management presented the item:	
	The purpose of the submission was to conceptualize, articulate, and provide a framework for implementation of	



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	 the Authority's Risk Appetite Framework (RAF). A key benefit of developing a RIA was that risks are identified and quantified in a structured manner and risk limits are set. An established RIA parameters framework will enable steps to be taken to ensure that the necessary quantitative risk information is accurate and timely improving ICASA's ability to adjust positively to prevent any financial loss. Active engagement by both Council, the Executive and Senior Management is critical in securing the financial and human capital necessary to implement the IT Infrastructure Project. Council should also ensure that the Executive and Management establish strong accountability structures to translate the RAF into clear incentives. 	
	The following was resolved: • Staff and divisional heads should be trained on risk	
	 management. Risk tolerance should be indicated. 	
	It was resolved that Risk Appetite Framework be approved.	
20.	Compliance Management Policy The Specialist: Risk and Compliance Management presented the item:	CEO
	The purpose of the submission was to present changes reflected in the revised Compliance Management Policy.	
	The current Compliance Management Policy was approved in 2015 by ICASA Council.	
	There are minor changes which are now reflected in the revised policy which includes:	



	Action Item	Person Responsible
	 ✓ The introduction of the Broadcasting Act of 2002 to 1999; ✓ the responsibilities in line with King IV; ✓ the renaming of the Audit and Risk Committee to Audit, Risk Ethics and Disclosure Committee; ✓ the accountability of Executive Legal and Risk shifting to Senior Manager Risk and Compliance; and ✓ the inclusion of Internal Audit as second line of defence. 	
	 It must be noted that the editorial updates and title of positions, and divisions do not affect the title or substance of the policy purpose, scope, and policy statement. 	
	It was resolved that the changes reflected on the revised Compliance Management Policy be approved	
21.	Updated Digital Television Content Advisory Group (DTCAG) Funding Report	Cllr
	The purpose of the memorandum was to request Council to approve	
	the updated DTCAG funding report, and allow the DTCAG to share the updated funding report with the DAC task team	
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	the updated DTCAG funding report, and allow the DTCAG to share the updated funding report with the DAC task team Clir presented the item: On 21 August 2018, Council approved a submission on the continuation of the DTCAG and also delegated two Councilors to continue with the work. Council further approved the DTCAG	
	 the updated DTCAG funding report, and allow the DTCAG to share the updated funding report with the DAC task team On 21 August 2018, Council approved a submission on the continuation of the DTCAG and also delegated two Councilors to continue with the work. Council further approved the DTCAG Funding Report. The DTCAG funding report was discussed at the first DTCAG meeting and members who did not have sight of the report were 	



	Action Item	Person Responsible
	 The NFVF representative advised they sit on the drafting committee that was formulated after the Film Summit by the DAC, which will be making recommendations to the Minister in terms of what should happen with the creation and generation of content going forward. The NFVF invited the DTCAG it's Funding Report to be incorporated into the recommendations of the 5-year work plan. The working team has until Friday 08 March 2019, to finalise the recommendations. 	
	 The purpose of the submission before Council was to request the approval of the amendments made to the funding model, and also for Council to approve the request by the NFVF to have the recommendations of the DTCAG Funding report incorporated into the 5-year work plan that will inform the way forward. 	
	This will be an advantageous to the DTCAG as it will assist in short-circuiting the efforts of the DTCAG to ensure sufficient content to encourage the uptake of set-top boxes.	
	 The was a question raised in that was the request for funding or for noting, as there was a similar committee sitting on the other side which requested funding from ICASA. 	
	It was resolved that the DTCAG funding report be explored with management and re-tabled at Council.	
2.	General	ALL
	Invitation to the UNOSSC's 1 st Women in STEM Programme Secretariat Meeting	
	The above meeting will be held on 11 ,12 and 13 March 2019, at the UN Economic Commission for Africa Campus, Addis Ababa. It was resolved that Councillor attend the meeting	
24.	Closing	Chairperson
	The Chairperson thanked all for attending the meeting and the	



	Action Item	Person Responsible
	meeting adjourned at 15:45	
25.	Date of next meeting: 12 March 2019	

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Signed:		Date: _	2 HP	ri ZVII	
(Chairperson)					