



MINUTES OF AN ORDINARY COUNCIL MEETING

Date	03 December 2019	
Time:	08:00	
Venue:	Block C, Thabo Mbeki Boardroom	
Present	[REDACTED]	Acting Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	<i>joined via tele-conferencing</i>
By Invitation	[REDACTED]	CEO
	[REDACTED]	CFO
	[REDACTED]	CAE
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat officer
Partial Attendees	[REDACTED]	SM: Type Approval and Numbering
	[REDACTED]	Specialist: Type Approval
	[REDACTED]	Manager Type Approval
	[REDACTED]	Specialist: Telecoms Network Measurements
	[REDACTED]	Manager: Broadcasting Frequency Coordination
	[REDACTED]	Manager: Content Services
	[REDACTED]	Manager: Cyber Security
	[REDACTED]	SM: Legal (Regulatory Support)
	[REDACTED]	Specialist: Radio Frequency
	[REDACTED]	SM: Litigation, Contracts and Legislation
	[REDACTED]	Executive: Legal, Risk and CCC
	[REDACTED]	Executive: Human Resources



	[REDACTED]	GM: PRA
	[REDACTED]	Specialist: Risk and Compliance
	[REDACTED]	SM: Litigation, Contracts and Legislation



Independent Communications Authority of South Africa

No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p><u>Opening</u></p> <p>The Acting Chairperson opened the meeting at 08:10 and welcomed all present.</p> <p>The Acting Chairperson reported on the following:</p> <p>1.1 <u>Competition Commission (the Commission) Data Services Market Enquiry Report.</u></p> <p>1.1.1 Council noted the Final Findings and Recommendations of the Data Services Market Inquiry Report, released by the Commission on 02 December 2019.</p> <p>1.1.2 Council was briefed that the Deputy Commissioner had informal engagements with ICASA's CEO for purposes of inviting Council to attend the ceremony to announce the release of report.</p> <p>1.1.3 Council noted that the invitation by the Commission was informal and came at an 11th hour.</p> <p>1.1.4 Council expressed a concern on how the matter regarding the invitation was handled by the Commission.</p> <p>1.1.5 The Acting Chairperson expressed a need for ICASA to complete its own process with regard to the Discussion Document into the inquiry on the Mobile Broadband Services in South Africa, in that, as a Regulator, ICASA will be ultimately responsible to implement whatever regulations will be in place to deal with the Cost to Communicate.</p> <p>It was resolved that Council will study the Commission report</p>	Chairperson

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	<p>prior to making any determinations on the matter.</p> <p>1.2 <u>Meeting with the Young Communist League.</u></p> <p>1.2.1 The Acting Chairperson was informed that the Young Communist League of South Africa (YCL) intended to embark on a protest action and march to ICASA premises, to protest the high cost of data.</p> <p>1.2.2 As a result, the CEO and the Acting Chairperson proposed to meet with the YCL, a meeting which took place on 02 December 2019, to update the YCL on actions taken by the Authority to address the high cost of data.</p> <p>ICASA's update was welcomed by the YCL and the engagements between the two parties were cordial.</p> <p><u>Apologies</u></p> <p>The following apologies were noted:</p> <p>1.3 The CFO will join the meeting later;</p> <p>1.4 The Manager: Internal Auditor is attending in his capacity as Acting Chief Audit Executive. He was appointed to act in the position of Chief Audit Executive (CAE), as the position was vacant due to an expiry of the contract of the CAE;</p> <p>1.5 Cllr [REDACTED] expressed her disappointment that the CAE has left the Authority, without Council having had an opportunity to bid him farewell;</p> <p>1.6 Item D8-Recommendation by CCC in the matter between the CCC and the South African Broadcasting Corporation-SAFM, Radio 2000, Ligwalalagwala will be presented by Cllr [REDACTED] not Cllr [REDACTED]</p>	
2.	<p>Ratification of Agenda</p> <p>The following items were added to the agenda:</p>	Council

No.	Action Item	Person Responsible
	<p>2.1 An application by the South African Broadcasting Corporation SABC for an exemption to comply with its licence conditions to broadcast sport of national interest- "Inbound Cricket Tour by the England National Team from 26 December 2019 to 28 January 2020;</p> <p>2.2 Appointment of the Executive: Engineering and Technology;</p> <p>2.3 Appointment of the Chief Audit Executive;</p> <p>2.4 Invitation to attend the Community Media Summit in conjugation with the MDDA.</p> <p>It was resolved that the agenda be approved with the additions above.</p>	
3.	<p>Declaration of interest</p> <p>No conflict of interest was noted in the meeting.</p>	All
4.	<p>Matters arising from the previous minutes</p> <p>The item was deferred.</p>	Secretariat
5.	<p>International Engagements ("Standing Item")</p> <p>The item was deferred to the next meeting</p>	Cllr [REDACTED]
6.	<p>Licensing of IMT ("Standing Item")</p> <p>Cllr [REDACTED] presented the item:</p> <p>The following was noted:</p> <p>6.1 A service provider for the licensing of the spectrum has been appointed, and a contract is signed.</p> <p>6.2 The Spectrum Resource Committee held a meeting with the service provider to map a way forward on the project.</p>	Cllr [REDACTED]




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	<p>6.3 The service provider has made a commitment to provide Training, and skills transfer to ICASA employees.</p> <p>The update was noted.</p> <p><i>The SM: Type Approval and Numbering, Specialist: Type Approval and Manager: Type Approval joined the meeting at 9:39</i></p>	
<p>C1.1</p>	<p>Request for Council to approve the Official List</p> <p>The purpose of the submission was to request Council to approve the regulations in respect of technical standards, for electronic communications equipment (“Official List regulations”) for publication.</p> <p>The SM: Type Approval and Numbering presented the item:</p> <p>Discussion</p> <p>1.1.1 ICASA together with the South African Bureau of Standards (SABS) entered a Memorandum of Understanding (MoU) which paved way for the establishment of the ICASA/SABS technical committee (TC080).</p> <p>1.1.2 The role of the TC080 was to adopt standards within the telecommunications and broadcasting space and to harmonise applicable standards into an enforceable official list of regulated standards.</p> <p>1.1.3 The draft official list was published for comments and licensees such as Telkom and MTN responded to the published list and indicated that the list is on track.</p> <p>1.1.4 The updated list introduces two standards which are merged into one standard.</p> <p>1.1.5 Council inquired if there was general consensus for the amendment of the standards. Management indicated that there was voting that took place for the approval of the official list.</p> <p>The Council resolved that:</p> <p>The updated version of the list should be dealt with as a regulation making process, as it may have some regulatory</p>	<p>CEO</p>

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	<p>impact on the industry, and therefore due process should be followed by allowing the Type Approval Committee to deal with the process.</p> <p>The submission was referred to the Council Committee on Type Approval to process further.</p> <p><i>The Specialist: Telecoms Network Measurement joined the meeting at 09:41</i></p>	
<p>C2.1</p>	<p>2019/2020 USASA Nyandeni Local Municipality Broadband Network Audit.</p> <p>The purpose of the submission was to request Council to note the Engineering and Technology 's Quality of Service, and Network Audit report for a broadband network rolled out in the Nyandeni Local Municipality, in the Eastern Cape Province.</p> <p>The Specialist: Telecoms Network Measurement presented the item:</p> <p>Discussion</p> <p>2.1 In 2016, Universal Service and Access Agency of South Africa (USAASA), issued a tender for the roll out of broadband infrastructure and connectivity in Nyandeni and Impendle Local Municipalities.</p> <p>2.2 ICASA received a request from USAASA to assist in providing technical expertise, and auditing of the broadband infrastructure built in those municipalities.</p> <p>2.3 The aim was to inspect and audit the broadband infrastructure rolled out by Grow Makhosikati CC within the Municipality.</p> <p>2.4 The Engineering and Technology division commissioned a team to conduct a broadband infrastructure audit. The audit was conducted during 29 July 2019 to 02 August 2019.</p> <p>2.5 The objective of that audit was to confirm the Quality of Service through checking the installed network equipment in both indoor, and outdoor scenarios, the availability of the Wi-Fi signal, overall connectivity, and the speed of the broadband services as per the National Broadband Policy of 2013.</p>	<p>CEO</p>



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	<p>2.6 Council inquired if there was an SLA between ICASA and USAASA that delegates responsibilities between the parties, and also as to what empowers ICASA to conduct such audits.</p> <p>2.7 Council also questioned the report to the extent that it does not reflect certain Schools, clinics and Post Office which might be deemed to be central to Nyandeni whilst it reflects 80% connectivity.</p> <p>2.8 Management indicated that there is an MoU between ICASA and USAASA that govern collaboration between the parties. Further, USAASA is entitled – in terms of its contract with the service provider – to enlist the services of an expert (i.e. ICASA) to assess the quality of the network it has commissioned. The broadband policy and the ECA also empowers ICASA to conduct the network audit even though the current regulations do not make provision for enforcement. Enforcement of the performance standards can be undertaken by USAASA through contractual recourse.</p> <p>2.9 Management indicated that it has provided details of the sites audited in tables three (3), four (4) and (5) of the report.</p> <p>The following was noted:</p> <p>2.10 A total number of 170 sites were sampled and audited, high sites, public facilities, clinics and schools.</p> <p>2.11 Broadband speed tests were conducted to measure upload and download speeds. It was found that the overall performance of the network was poor.</p> <p>Conclusion</p> <p>The audited broadband network showed that the broadband infrastructure has been rolled out to the most parts of Nyandeni Local Municipality, and that the end users had access to broadband services.</p> <p>The following observations were also made:</p>	


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	<p>2.11.1 Lack of physical security around the network infrastructure. 2.11.2 Lack of network redundancy, and 2.11.3 Unreliable power supply.</p> <p>The following was resolved:</p> <p>2.12 The document should be corrected editorially including the fonts.</p> <p>2.13 The Engineering and Technology division should indicate that ICASA was empowered by the National Broadband Policy and the ECA to audit the broadband.</p> <p>2.14 The division should indicate remedial actions in cases of non-compliance by licensees.</p> <p>2.15 On the report, put a disclaimer on usage of unlicensed bands.</p> <p>The report was noted</p> <p><i>The Manager: Content Services and the Manager: Cybersecurity joined the meeting at 09:57</i></p>	
C3.1	<p>An Analysis tariff notifications submitted to ICASA for the period 01 January 2019 to 30 June 2019.</p> <p>The purpose of the submission was to request Council to note the report on the analysis of tariff notifications submitted to ICASA for the period 01 January 2019 to 30 June 2019, which were to be published on the Authority's website.</p> <p>The GM: Policy Research and Analysis presented the item:</p> <p>Discussion:</p> <p>3.1.1 The purpose of the submission was to provide an update on tariffs that were filed by the different mobile operators during the period of 01 January 2019 to 30 June 2019.</p> <p>3.1.2 The aim of the report was aligned to object 2 (n) of the Electronic Communications Act which was to promote the</p>	CEO

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	<p>interest of consumers about price, Quality of Service (QoS), and the variety of electronic communication services, as it seeks to ensure that there was retail price transparency.</p> <p>3.1.3 The report presented an analysis of the 179 tariff notifications received from individual licensees and mobile virtual network operators during the period under review.</p> <p>3.1.4 Amongst others, there are standard pre-paid voice and data promotional products, and there are also terminations of certain products by licensees.</p> <p>3.1.5 The report also touched on the mobile data market inquiry which was introduced to try and reduce the cost of data.</p> <p>3.1.6 In terms of mobile data, there has been changes with regards to the out of bundle rates introduced by both MTN and Vodacom.</p> <p>3.1.7 Cell C customers who intent to roll-over data are charged 3-cents for the roll-over.</p> <p>The following was noted:</p> <p>3.1.8 There appears to be non-compliance with the End-User Subscriber Charter Regulations by licensees.</p> <p>3.1.9 It was also not evident how the report assisted ICASA on assessing whether the regulations were effective or not;</p> <p>3.1.10 The report did not indicate why there was non-compliance with the regulations.</p> <p>3.1.11 Management indicated that the referrals to the CCC are ongoing, and they were not brought to Council on the grounds that Council ultimately makes decisions on CCC matters.</p> <p>The report was noted.</p>	
		Cllr 

No.	Action Item	Person Responsible
D1.	<p>Submission of Discussion Document on the Review of Must Carry Regulations for approval and publication</p> <p>The Manager: Content Services presented the item:</p> <p>The purpose of the submission was to request Council to approve the Discussion Document, on the review of Must Carry Regulations for publication in the government gazette.</p> <p>Discussion</p> <p>1.1 The Must Carry Committee was in the process of reviewing the regulations on Must Carry obligations published in the Government Gazette no 31500 of 10 October 2008.</p> <p>1.2 In 2013, the Authority undertook to review the regulations and in 2019, a Regulatory Impact Assessment (RIA) and published a report on the Must Carry Regulations in March 2019, on the Authority's website.</p> <p>1.3 In June 2019, a Council committee was formed which undertook several benchmarking exercises, which culminated into the discussion document that is presented.</p> <p>1.4 The SABC is unhappy with the current regulations to the extent that, it must be paid by the Subscription Broadcasters for carrying content of the public broadcaster.</p> <p>1.5 The issue of payment is contentious to the SABC hence the need for further consultation on this aspect.</p> <p>1.6 The intention of these regulations is to ensure that there is access to important content by the majority of South Africans.</p> <p>1.7 There was a historical context as to why there was a need for Must Carry and if this is still relevant to South Africa.</p> <p>1.8 The purpose of the Must Carry is to preserve the culture and diversity of opinions.</p> <p>The submission was approved for publication on the Authority's website.</p> <p><i>The CFO joined the meeting at 10:17</i></p>	<p>██████████</p>


No.	Action Item	Person Responsible
D2	<p>The joint report of the submission to the Radio Assembly 2019 WRC-19,1st session of conference preparatory meeting 2023 and outcomes of 4th Africa preparatory meeting,3rd APM Working Group and 6th SADC WRC-19 Meeting</p> <p>Cllr █████ presented the item:</p> <p>The following was noted:</p> <p>2.1 The report was overtaken by events and was therefore outdated.</p> <p>An updated report will be tabled at Council in the next meeting.</p>	Cllr █████
D3	<p>Report to Council on the meeting of SADC Ministers responsible for ICT and Information 2019.</p> <p>The purpose of the submission was to provide a report on the meeting of the SADC Ministers responsible for ICTs and Information 2019,16-20 September 2019 at the Julius Nyerere International Convention Centre in Dar Es Salaam, United Republic of Tanzania.</p> <p>Cllr █████ presented the item:</p> <p>Discussion</p> <p>3.1 The multi sectoral event was hosted by the government of the United Republic of Tanzania and was attended by Ministers or their representatives.</p> <p>3.2 The following are issues which ICASA needed to action:</p> <ul style="list-style-type: none"> 3.2.1 SADC Roaming Project; 3.2.2 SADC Shared Satellite System; 3.2.3 SADC ICT Observatory; 3.2.4 SADC Emergency Numbering Guidelines; 3.2.5 SADC Universal Postal and Access Regulatory Guidelines; and 3.2.6 SADC Harmonised Cyber Security Framework. <p>The report was noted without further inputs</p> <p><i>The Manager: Broadcasting Frequency Co-ordination joined the meeting 10:30</i></p>	Cllr █████

No.	Action Item	Person Responsible
D4	<p>Amendment of the Radio Frequency Spectrum Assignment Plan for IMT 2600</p> <p>The purpose of the submission was to request Council to approve;</p> <p>4.1 The notice regarding the Draft Radio Frequency Spectrum Assignment Plan (RFSAP) for International Mobile Telecommunication in the Frequency band 2500 to 2690 MHz public for consultation.</p> <p>4.2 The publication of the notice regarding the Draft Radio Frequency Spectrum Assignment Plan for International Mobile Telecommunication in the Frequency band 2500 to 2690 MHz for public consultation in the Government Gazette and on the Authority's website.</p> <p>The Manager: Broadcasting Frequency Co-ordination presented the item:</p> <p>Discussion</p> <p>4.3 RFSAP provides information on the requirements to the use of a frequency band in line with the allocation and other information in the National Radio Frequency Plan (NRFP).</p> <p>4.4 That allocation included technical characteristics of radio systems, frequency channelling coordination and details on required migration of existing users of the band and the expected method of assignment</p> <p>The submission was approved.</p>	Cllr [REDACTED]
D5.	<p>Recommendation by Complaints and Compliance Committee (CCC) to Council in the matter of Lusindiso Tantsi v Unitra Community Radio (UCR)</p> <p>The purpose of the submission was to table the recommendation of the CCC in the matter between Lusindiso Tantsi and Unitra Community Radio.</p> <p>Cllr [REDACTED] presented the item:</p>	Cllr G [REDACTED]

No.	Action Item	Person Responsible
	<p>Discussion</p> <p>5.1 The matter was tabled at Council at a previous meeting, but Council sought clarity on the criteria used by the CCC to appoint the stipulated individuals as Action Committee Members; and</p> <p>5.2 Whether the CCC had powers to prescribe appointment of committee members, and if the recommendation was not <i>ultra vires</i> or <i>not acting beyond its powers</i>.</p> <p>5.3 The matter was taken back to the CCC and a revised order was issued which then recommended the following:</p> <p>5.3.1 That the current board upon receipt of the order must invite the community to elect an Action Committee Members.</p> <p>5.3.2 A quorum will be determined by three members and meetings must be called by the Chairperson with seven days by way of electronic notice.</p> <p>5.3.3 The Chairperson will have an extra vote where the votes were equally divided.</p> <p>5.3.4 The fees paid to the Action Committee Members by the licensee per meeting will accord with the fees payable to the Board per meeting in 2019.</p> <p>5.3.5 Where three members request a meeting, such a meeting must be held by the Chairperson within seven calendar days.</p> <p>Broadly the task of the Action Committee will be to deal with matters placed before the board in the normal course plus as a special task, to address the financial position of the station and appoint the new Board.</p> <p>The recommendation was approved as tabled.</p>	
D6.	<p>Publication of Erratum Notice Regarding the Intention to Review the Price Cap Regulations</p> <p>The purpose of the submission was to request Council to approve an Erratum Notice, regarding a gazetted intention to review the Price Cap Regulations Notice (GG 42657) to be published in the</p>	Cllr 

No.	Action Item	Person Responsible
	<p>Government Gazette, which seeks to rescind Phase 2 of the Review Process</p> <p>The Manager: Cost Modelling presented the item:</p> <p>Discussion</p> <p>6.1 ICASA was in a process of conducting a review of the Price Cap Regulations for Reserved Postal Services, 2013.</p> <p>6.2 The purpose of the review was to impose effective controls in the reserved postal services and ensure that regulation of the reserved services space remained appropriate and enough to secure the efficient and financially sustainable provision of the reserved postal services.</p> <p>6.3 On 23 August 2019, the Authority published a notice of its intention to review the Price Cap Regulations in the Government Gazette.</p> <p>6.4 The gazetted intention to Review Notice (GG 42657) was also published on ICASA's website alongside a Questionnaire requesting information and opinions from market participants and general stakeholders.</p> <p>6.5 Additionally, a media statement was issued on social media platforms to ensure maximum coverage. Stakeholders were invited to submit written responses to the Questionnaire within thirty (30) working days from the date of publication of the Notice.</p> <p>6.6 The Authority is now at Phase 2 of the review process as per the notice of intention, which entails the drafting and eventual publication of a Discussion Document.</p> <p>6.7 The Discussion document was meant to stimulate further input from stakeholders, informed by the submissions of stakeholders responding to the Questionnaire and any other research or benchmarking exercises to be conducted by the Authority.</p> <p>6.8 SAPO is the only reserved postal service licensee in South Africa and is solely affected by the outcome of this review process. SAEPA is an industry organisation with over 100</p>	

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	<p>members, ranging from local operators to large multinationals that operate in the unreserved postal space in South Africa. This means that any changes to the Price Cap Regulations arising from this review will not affect SAEPA's members.</p> <p>6.9 In light of the reasons above, the Price Cap Regulations Review Council Committee met on Thursday 07 November 2019 and resolved to rescind Phase 2 of the project (the Authority will publish in the Gazette a report of the review conducted in terms of regulation 10 of the Regulations) from the review process.</p> <p>The submission was taken as read and was approved for publication.</p>	
D7.	<p>Recommendation by CCC to Council in the matter between Hope FM and the Compliance and Consumer Affairs of ICASA</p> <p>The purpose of the submission was to table the recommendation of the CCC in the matter between Hope FM and the CCA Division of ICASA.</p> <p>Cllr [REDACTED] presented the item:</p> <p>Discussion</p> <p>On 03 October 2019, Hope FM referred an urgent complaint against the CCA division of ICASA alleging the following:</p> <p>7.1 ICASA informed Hope FM that it must cease broadcasting through YB20 Leadership who is allegedly not recognised as a licensee by ICASA.</p> <p>7.2 The complainant who was the Station Manager of Hope FM, Mr Motseki Mabuya was personally served with a contravention notice from ICASA which stated that "YB20 is hereby charged by ICASA for operating illegally the operations of Hope FM".</p> <p>7.3 Furthermore, ICASA gave Hope FM seven (7) days in which to comply with the Contravention Notice, failing which the radio station would be switched off.</p>	Cllr [REDACTED]

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	<p>7.4 At the hearing on 30 October 2019, the CCC Chairperson stated that he was of the opinion that ICASA would only be in a position to close down a broadcaster if advised to do so by the CCC or if it approaches a Court. To close down the station down without an advice by the CCC or a court order would amount to “taking the law into one’ own hands”</p> <p>Advice to Council</p> <p>The CCC recommended that Council Grants Hope FM, 90 calendar days to conclude the matter as follows:</p> <p>7.4.1 Complete Form L must which must reach ICASA within forty calendar days.</p> <p>7.4.2 Complete Form H which must reach ICASA within fifty calendar days thereafter. These days would count as from the first calendar day after the date in which ICASA’s decision was issued.</p> <p>8 Hope FM was permitted to continue with the broadcast in the interest of the community, until the outstanding documents are submitted to ICASA.</p> <p>Council inquired if the CCC had the competency to hear matters or cases against ICASA as its mother-body or if it has powers to interdict ICASA officials and or inspectors appointed in terms of the ICASA Act 2000 from executing their duties?</p> <p>The following was resolved:</p> <p>9 A legal opinion should be obtained as to whether the CCC can hear cases against ICASA.</p> <p>It was resolved the submission be re-tabled after a legal opinion had been obtained.</p>	
D8.	<p>Recommendation by CCC to Council in the matter between CCC and the South African Broadcasting Corporation-SAFM, Radio 2000, Ligwalagwala and Tru FM</p> <p>The purpose of the submission was to table the recommendation of the CCC in the matter between Compliance and Consumer</p>	Cllr 

No.	Action Item	Person Responsible
	<p>Affairs(CCA) and the South African Broadcasting Corporation (SABC)-SAFM, Radio 2000, Ligwalagwala FM and Tru FM.</p> <p>Cllr ██████████ presented the item:</p> <p>Discussion</p> <p>8.1 On 23 August 2019, the CCA referred matters in relation to the broadcast of national elections, alleging that the SABC had contravened the 2014 Regulations on Party Election Broadcasts (PEB), Political Advertisements (PA), the Equitable Treatment of Political Parties by Broadcasting Licensees and Related Matters to the CCC.</p> <p>8.2 The complaints were accordingly not upheld by the CCC because of the absence of negligence.</p> <p>8.3 The SABC was however, cautioned that if similar error was made in an election period in the next six years, an error or errors referred to above will be taken into consideration in arriving at a decision on negligence and the order advised to Council.</p> <p>The following was resolved:</p> <p>8.3.1 The Secretariat to check whether during the 2014 and 2016 general elections, the SABC was a repeat offender or did not have similar contraventions.</p> <p>8.3.2 There was an inconsistency with the judgments related to the alleged contraventions committed by the SABC.</p> <p>The recommendation of the CCC was referred back to the CCC, for reconsideration.</p>	
D9	<p>Public Hearings on the Draft Findings Document: Inquiry into Subscription Television Broadcasting Services.</p> <p>The purpose of the submission was to appraise Council of the Subscription Inquiry Committee 's decision not to conduct a second round of public hearings on the Draft Findings Document: Inquiry into Subscription Television Broadcasting Services.</p> <p>Cllr ██████████ presented the item:</p>	Cllr ██████████

No.	Action Item	Person Responsible
	<p>Discussion</p> <p>9.1 MultiChoice wrote to ICASA requesting that there should be another round of public hearings post the final analysis of the findings document to make further representations.</p> <p>9.2 The Authority obtained a legal opinion from both internal and external lawyers, on whether the Authority has an obligation to conduct a second round of public hearings, as the committee was of the view that it has received sufficient submissions to come to a final analysis.</p> <p>9.3 The outcome of the legal opinion was that the Authority is not obliged to conduct another round of public hearings, which is now the position and decision of the committee.</p> <p>9.4 The committee indicated that it is ready to publish the final findings document after it has considered both the written and oral submissions. The committee indicated that it is guided by section 4B of the ICASA Act, and that the provisions of that section do not call for a further round of public hearings. In addition, the committee submitted that according to the provisions of PAJA, MultiChoice has failed the test for making a case for public hearings.</p> <p>9.5 The committee indicated that in terms of the analysis, there is nothing further that MultiChoice can put before the committee orally, that will influence the analysis and such exercise to conduct further hearings will amount to over consultation.</p> <p>9.6 The committee indicated that it is the Authority's discretion to decide on a further round of consultation, and it is almost ready to consolidate its findings.</p> <p>9.7 Council cautioned that the committee must not come out as having a position on the matter prior to rejecting the request for further public hearings. Council also asked what the harm to the committee work will be, in the event that another round of public hearings are conducted bearing in mind that the committee has its own timelines.</p> <p>9.8 The external legal opinion was tentative in that it leaves the decision to hold public hearings upon ICASA.</p>	

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	<p>9.9 Council also questioned the committee’s submission to the extent that there will be no value add, if there is another round of public hearings. Council was of the view that one can determine the value add once one have afforded the other party a hearing.</p> <p>The following was noted:</p> <p>The following was resolved</p> <p>9.9.1 The Committee should address how will ICASA suffer “<i>material prejudice and procedural detriment</i>” if parties were afforded oral hearings.</p> <p>9.9.2 Committee will have further engagements to finalise the document (including undertaking a complete analysis of all submissions and other considerations) and make a comprehensive submission to Council with clear recommendations the matter.</p> <p>9.9.3 Council will make a final determination January 2020.</p> <p>It was resolved that the item be re-tabled at Council in January 2020.</p>	
E1.1	<p>Q1 International Reports</p> <p>The item was deferred to the next meeting</p>	CEO
E1.2	<p>Request to rescind the Conference Attendance Policy</p> <p>The item was deferred to the next meeting of Council.</p>	CEO
E2.1	<p>Proposed changes to Compulsory Key Performance Areas in the Individual Performance Management Contract for the 2019/20 FY.</p> <p>The purpose of the submission was to obtain Council approval on the proposed changes to the compulsory KPAs in the individual performance management contract for the 2019/20 FY.</p>	CEO

No.	Action Item	Person Responsible
	<p>The Executive: Human Resources presented the item:</p> <p>Discussion</p> <p>2.1.1 As per the Performance Management Policy as well as approval from Council, pertaining to the memorandum on the proposed changes to the 2018/19 Performance contracts in November 2018, all employees should have key compulsory Key Performance Areas within their performance contracts.</p> <p>The submission focused on two KPAs where there were proposed changes were listed as:</p> <p>2.1.2 Self-Development KPA which carried 5% weight to be excluded from the 2019/20 FY final assessment; and</p> <p>2.1.3 Introduction of the closing of the Auditor General and Internal Audit findings with a weight of 5% for Executives.</p> <p>Changes in relation to the Self- Development KPA:</p> <p>2.1.4 The Human Resources division is responsible for ensuring that all line managers and employees engage one another to draft employees Individual Development Plans that specify which training interventions should employees attend for a particular financial year.</p> <p>2.1.5 Ordinarily employees complete training forms and submit them to Human Resources for processing and procurement of all training interventions.</p> <p>2.1.6 For the current financial year, the Human Resources Development business unit did not have sufficient budget to deliver all the planned interventions thus the majority of employees would not have been able to attend all identified training interventions by the end of the financial year.</p> <p>2.1.7 Therefore, it would deem to be unfair for the Authority to assess employees' performance in relation to the Self Development KP for the 2019/20 performance cycle.</p>	

No.	Action Item	Person Responsible
	<p>Council had expressed a concern for not having Executives contracting on the performance pertaining to the attainment of a clean audit.</p> <p>That also had a direct link to the financial perspective in the balanced score card framework.</p> <p>The proposed change of the KPA was a Closing of AG and Internal Audit findings.</p> <p>The following was noted:</p> <p>2.1.8 REMCO had noted the submission.</p> <p>2.1.9 The Authority had applied to the MICT SETA for additional funding.</p> <p>The following was resolved:</p> <p>2.1.10 The recommendation for the addition of compulsory KPA for Executives and GMs in respect of closing of AG findings is approved;</p> <p>2.1.11 The recommendation for removal of compulsory KPA for self-development is not approved. The submission should be re-tabled at Council.</p> <p>2.1.12 Human Resources division should explore and include additional information on the submission.</p> <p>2.1.13 The submission should include funding from MICT SETA.</p> <p>Also, to be included was the criteria to select training by employees.</p>	
E2.2	<p>Feedback to Council on the 2019/20 Cost of Living Adjustments Pay-out</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>The Executive presented the item:</p> <p>Discussion</p>	CEO

No.	Action Item	Person Responsible
	<p>2.2 [REDACTED]</p> <p>2.3 [REDACTED]</p> <p>2.4 [REDACTED]</p> <p>2.5 [REDACTED]</p> <p>The submission was noted.</p>	
E2.3	<p>Feedback on HR and REMCO Recommendation to Council on Implementation of Revised 2018/19 ICASA Bonus Payment</p> <p>[REDACTED]</p> <p>The Executive: Human Resources presented the item:</p> <p>Discussion</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>2.3.1 [REDACTED]</p>	CEO

No.	Action Item	Person Responsible
	<p>2.3.2 [REDACTED]</p> <p>2.3.3 [REDACTED]</p> <p>2.3.4 [REDACTED]</p> <p>2.3.5 [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>2.3.6 [REDACTED]</p> <p>2.3.7 [REDACTED]</p> <p>The submission was approved as presented.</p>	
E2.4	<p>Feedback on HR and REMCO Recommendation to Council on Implementation of Revised 2019/20 ICASA Merit Increase.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	CEO

No.	Action Item	Person Responsible
	<p>2.4.1 [REDACTED]</p> <p>2.4.2 [REDACTED]</p> <p>2.4.3 [REDACTED]</p> <p>The submission was approved as presented.</p>	
<p>E2.5</p>	<p>2019/20 HR Operational Report</p> <p>The purpose of the submission was to share the HR Quarterly Report as of 30 September 2019 for noting.</p> <p>The Executive: Human Resources presented the item:</p> <p>Discussion</p> <p>2.5. The HR division is the custodian of providing HR services to employees within ICASA.</p> <p>2.6 It was therefore crucial that at the end of every quarter, the HR takes stock in assessing the HR operational activities that have been offered to the business, analyse the trends and develop possible solutions and recommendations to address HR needs that may impact the business.</p> <p>The following was resolved</p> <p>2.6.1 [REDACTED]</p> <p>2.6.2 Correct the comments on page 3 of 17 on Comments on Talent Sourcing</p> <p>The report was noted.</p>	<p>CEO</p>
		<p>CEO</p>

No.	Action Item	Person Responsible
E5.1	<p>Q1 Risk and Compliance Management Plan Progress Report.</p> <p>The purpose of the submission was to provide quarterly progress report to Council on Risk and Compliance Management activities which were undertaken by Legal, Risk and CCC.</p> <p>The Specialist: Risk and Compliance presented the item:</p> <p>Risk Management continues to be an integral part of the management's programme, which includes having report to Council on a quarterly basis.</p> <p>The following was noted:</p> <p>5.1.1 The information on the report is outdated.</p> <p>5.1.2 The report will be updated and tabled at Council.</p> <p>The report was noted and will be updated.</p>	
E5.2	<p>Q2 Risk and Compliance Management Plan Progress Report</p> <p>The purpose of the report was to provide quarterly progress report to Council on Risk and Compliance Management activities which were undertaken by Legal, Risk and CCC division for noting.</p> <p>The Specialist: Risk and Compliance Management presented the item:</p> <p>The submission has been overtaken by events and will be consolidated into Q3 report.</p> <p>The report was noted.</p>	CEO
E5.3	<p>Q1 Strategic Risk Mitigation Plan Implementation Progress Report</p> <p>The purpose of the submission was to provide Council with quarter one progress report on the implementation of the Strategic Risks Mitigation Plans for noting.</p> <p>The Specialist: Risk and Compliance Management presented the item:</p>	CEO

No.	Action Item	Person Responsible
	<p>Discussion</p> <p>6.9.1 ICASA Management Team and Councillors had several meetings to determine the Authority's Strategic Risks.</p> <p>6.9.2 The Strategic Risk register was approved by Council in January 2019, and progress on the implementation of the mitigation plans will continuously be monitored and reported to the Risk and Compliance Management Committee.</p> <p>The report was noted as presented.</p>	
<p>E5.6</p>	<p>Appointments into the Authority's Panel of Legal Practitioners</p> <p>Council requested to be furnished with a submission addressing the following issues:</p> <p>5.6.1 A list of law firms that had been appointed to the Authority's panel of legal practitioners.</p> <p>5.6.2 An overview of the principles that will apply pertaining to rotation in briefing panellist; and</p> <p>5.6.3 A discussion on the possibility of increasing the number of panellists from ten to fifteen.</p> <p>The following was resolved.</p> <p>5.6.4 The division should rotate law firms representing the Authority, as the previous panel was small and overloaded with work.</p> <p>The submission was noted.</p>	<p>CEO</p>
<p>E5.7</p>	<p>Risk Appetite Statement</p> <p>The purpose of the submission was to present the draft risk appetite statement, risk appetite and tolerance levels for approval.</p> <p>The Specialist: Risk and Compliance Management presented the item:</p>	<p>CEO</p>

No.	Action Item	Person Responsible
	<p>Discussion</p> <p>Risk appetite is the total impact of risk ICASA was willing to accept in the pursuit of its strategic objectives. The purpose of risk appetite statement was to consider the most significant risks to which the ICASA was exposed and to provide an outline of the approach to managing those risks.</p> <p>On 17 September 2019, Council considered the draft risk appetite statement and made the following inputs-</p> <ul style="list-style-type: none"> 5.7.1 Risk mitigation measures should be included; 5.7.2 The baseline for risk should be included, where applicable; 5.7.3 Revisit the tolerance levels of certain risks taking into account the baseline; 5.8.1 The amounts should be quantified under financial and compliance risks; 5.8.2 Liability insurance cover should be considered in relation to litigation risks; 5.8.3 The period to achieve the risk appetite targets should be Included; 5.8.4 That various definitions of the risk tolerance should be considered; and 5.8.5 Divisional risk registers must be reviewed quarterly <p>The above inputs were noted and will be considered in the revised risk appetite statement.</p> <p>It was resolved that the item be approved.</p>	
E6.1	<p>Security of Information-Interim Progress Report Adhoc Review</p> <p>The purpose of the submission was to share with Council the results on the Security of Information review.</p>	Acting CAE

No.	Action Item	Person Responsible
	<p>The Acting CAE presented the item:</p> <p>Discussion</p> <p>6.1 Council requested Internal Audit to review the Security of Information within ICASA as they believed that the confidentiality of information was breached.</p> <p>6.2 There was sensitive and confidential information particularly at Council level where discussions and decisions on high profile matters and if compromised may advantage certain operators/stakeholders to the detriment of others.</p> <p>6.3 That adversely impacts on regulating in the public interest within the ambits of good practice in a fair and transparent manner.</p> <p>The report was noted with the above comments.</p>	
E6.2	<p>Internal Audit Charter</p> <p>The item was deferred to the next meeting.</p>	Acting CAE
7.	General	All
7.1	<p>Application by SABC-Exemption from Compliance with Licence Conditions to Broadcast Sport of National Interest- “Inbound Tour by the England National Team from 26 December 2019 to 28 January 2020</p> <p>7.1.1 The purpose of the submission was to request Council to approve the application by SABC, in terms of its licence and the Sport Broadcasting Service Regulations,2010; and</p> <p>7.1.2 To provide Council with an analysis of the application by the SABC for exemption from compliance with licence terms and conditions on SABC 3 television services.</p> <p>The CEO presented the item:</p> <p>Discussion</p>	CEO

No.	Action Item	Person Responsible
	<p>The application was for the exemption from compliance with its licences, in terms of clause 4.6 of SABC 3 Television service licence and the Sports Broadcasting Service Regulations of 2010.</p> <p>The application was approved.</p>	
7.2	<p>Community Media Summit and the MDDA</p> <p>There was a request for the CEO to nominate ICASA employees to be part of the Task Team organising the Community Media Summit with the MDDA.</p> <p>The request was approved and the CEO will nominate employees who will attend the summit.</p>	CEO
7.3	<p>Appointment of Executive: Engineering and Technology within the Engineering and Technology Division</p> <p>To request Council approval for the appointment of Dr Praneel Ruplal to the advertised position of Executive: Engineering and Technology within the Engineering and Technology Division, for a period of five (5) years, effective from the date of assumption of duty.</p> <p>7.3.1 Council emphasised the need for a gender balance within EXCO, and also indicated that in the event that all processes were exhausted, a head-hunting exercise should be considered in order to achieve the gender balance aspect.</p> <p>The appointment was approved with the above comments.</p>	CEO
7.4	<p>Appointment of the Chief Audit Executive within the Internal Audit Division</p> <p>To request Council approval for the appointment of Ms. [REDACTED] to the position of a Chief Audit Executive within the Internal Audit Division, for a period of five (5) years, effective from the date of assumption of duty.</p> <p>The appointment was approved as presented.</p>	
	Closure	Acting



No.	Action Item	Person Responsible
	The Chairperson thanked all present at the meeting and closed the meeting at 14:45	Chairperson
	Date of next meeting: TBA	Secretariat

Signed:  Date: 28/01/2020

(Chairperson)