



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY COUNCIL MEETING		
Date	22 June 2021	
Time:	08:00	
Venue:	Microsoft Teams	
Present	[REDACTED]	Chairperson
	[REDACTED]	Member
By Invitation	[REDACTED]	CEO
	[REDACTED]	CAE
	[REDACTED]	CFO
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat Officer
	[REDACTED]	Secretariat Officer
Partial Attendees	[REDACTED]	Executive: Licensing
	[REDACTED]	Acting Executive: Legal, Risk & CCC
	[REDACTED]	Acting Executive: HR
	[REDACTED]	SM: Legal (Regulatory Support & Legislative Drafting)
	[REDACTED]	Specialist: Legislative and Regulatory Drafting
	[REDACTED]	Manager: Broadcasting Frequency Coordination
	[REDACTED]	External legal team
Apologies		

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No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>The Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p>Apologies</p> <p>No apologies were noted.</p> <p>The opening and apology were noted.</p>	Chairperson
2.	<p>Ratification of the agenda</p>	Council
3.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
4.	<p>Minutes of Council</p>	Council
4.1	<p>Minutes of 1 June 2021 (Special Meeting of Council) were approved, subject to the following input:</p> <p>Paragraph 6.19 – was removed from the minutes, and it will be reconsidered after further consultations on the definition of Tier 2.</p>	
4.2	<p>Minutes of 15 June 2021 meeting were deferred to the next Council meeting.</p>	
5.	<p>Matters Arising</p> <p>The Matters Arising document was noted.</p>	CEO
6.	<p>International Engagements (“Standing item”)</p>	
7.	<p>Licensing of IMT (“Standing Item”)</p> <p>The purpose of the submission was to recommend that Council</p>	Cllr 

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	<p>notes the draft project plan, the notice to invite public representations on the competition assessment document, in accordance with the Telkom's prayers in its summons seeking to interdict ICASA when it interdicted ICASA from not proceeding with the spectrum auction; and</p> <p>That the Authority issue an invitation for public representations on the competition assessment, pursuant to settlement negotiations.</p> <p>The Project Manager: Licensing of IMT Spectrum Council Committee presented the item:</p> <p>7.1 On 02 October 2020, the Authority published a notice inviting interested parties to apply for the licensing process, for International Mobile Telecommunications (IMT) in respect of the provision of Mobile Broadband Wireless Access Services for Urban and Rural Areas using the Complementary Bands, IMT700, IMT800, IMT2600 and IMT3500.</p> <p>7.2 On 08 March 2021, the Authority was interdicted from proceeding with the spectrum auction process, pending the final determination of the order sought in Part C of the Telkom and e.tv application.</p> <p>7.3 On 09 March 2021, MTN filed a court application against the Authority's ITA. In the main, MTN's submission was that certain aspects of the Auction ITA are legally flawed, inter alia: the provisions relating to the classification of Tier 1 and Tier 2 operators, and the inclusion of an Opt-in Scheme. MTN submitted that the Auction ITA process could continue but without the Opt-In Round.</p> <p>7.4 On 23 March 2021, Vodacom submitted its counter application to have the Court confirm the correct interpretation of the Opt-In Scheme. Vodacom also submitted that it would abide by the relief sought by MTN on the aspect of Operator Categorisation.</p> <p>7.5 On 11 June 2021, the Authority received a letter from Telkom stating that:</p>	

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	<p>7.5.1 There was no public consultation on the economic or competition assessment that underpins the current ITAs; and</p> <p>7.5.2 The lack of public consultation has resulted in Telkom's present disquiet as to the methodology followed and / or the correctness of the conclusions made on issues such as the market players, the market structure, the level of competition, and the role of spectrum in addressing the prevailing competition issues in the mobile sector.</p> <p>7.6 On 17 June 2021, the Authority received an advisory memorandum from Senior Counsel, advising that the Authority should invite written representations on the Competition Assessment on the basis that:</p> <p>7.6.1 The Authority will not suffer any prejudice if interested parties are given the opportunity to make written representations; and</p> <p>7.6.2 The process is going to be limited to the issues contained in the Competition Assessment document.</p> <p>Following comments were made:</p> <p>7.7 Council sought clarity on whether Telkom has agreed to proceed with the process set out in the submission;</p> <p>7.8 What impact will the proposed recommendation have on the temporary Covid19 spectrum allocations; and</p> <p>7.9 That, paragraph 4.1.2 of the submission needs to be reworded, to clearly indicate that Council must approve the notice to invite public representations in relation to the competition assessment.</p> <p>Council resolved to approve the recommendation, subject to the inputs made.</p>	
8.	Jantar Reasons Document	CEO/ Licensing

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	<p>The purpose of the submission was to recommend that Council approve the Reasons Document, for the decision to accept the transfer of one I-ECS and one I-ECNS from Jantar Computer Services cc (the Applicant) to K2019506887 (South Africa) (Pty) Ltd (the Transferee).</p> <p>Executive: Licensing presented the item:</p> <p>8.1 On 23 March 2021, the Authority approved the transfer application from the Applicant to the Transferee.</p> <p>8.2 The draft Reasons Document was sent to Legal, Risk and CCC (LRCCC) Division for vetting on 16 April 2021. The vetted Reasons Document and confirmation of vetting were received from LRCCC Division on 24 May 2021.</p> <p>Recommendation</p> <p>It was recommended that Council approve the vetted Reasons Document.</p> <p>The recommendation was approved by Council.</p>	
9.	<p>Amendment of Resolution for establishment of a Special Committee on IMT Spectrum Licensing.</p> <p>Council resolved that the submission will be circulated by a Round Robin Resolution.</p>	Cllr [REDACTED]
10.	<p>Constitution of a Council Committee on the Review of Price Cap Regulations for Reserved Postal Services.</p> <p>Council resolved that the submission will be circulated by a Round Robin Resolution</p>	Cllr [REDACTED]
11.	<p>CCSA Online Intermediation Platform Market Inquiry</p> <p>The purpose of the submission was to request Council to note the Authority's response to the Competition Commission's (the Commission's) request for submissions on its Online Intermediation Platform Market Inquiry (OIPMI) into digital platforms operating in South Africa.</p>	CEO / LRCCC

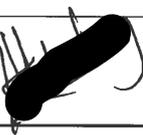
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	<p>The Executive: LRCCC presented the item.</p> <p>11.1 On 19 May 2021, the Commission launched an OIPMI into digital platforms operating in South Africa.</p> <p>11.2 The Inquiry scope covered all online intermediation platforms that facilitate transactions between businesses and consumers for the sale of goods, services and software.</p> <p>11.3 The inquiry was broadly focused on three areas of competition and public interest, namely:</p> <p style="padding-left: 40px;">11.3.1 Market features that may hinder competition amongst the platforms themselves;</p> <p style="padding-left: 40px;">11.3.2 Market features that may give rise to discriminatory, or exploitative treatment of business users; and</p> <p style="padding-left: 40px;">11.3.3 Market features that may negatively impact on the participation of SMEs, and/or HDP firms.</p> <p>11.4 The Commission released a 'statement of issues' paper, which includes questions to solicit views from platforms and key stakeholders in South Africa on the focus areas mentioned above.</p> <p>11.5 The Authority was identified as one of the key stakeholders by the Commission, and was invited to make submissions on the statement of issues, to aid the Inquiry's understanding of these markets in South Africa. The Authority prepared a response to the Commission in this regard. However, the response was limited, since the scope of the OIPMI was outside of the Authority's mandate.</p> <p>Recommendation</p> <p>It was recommended that Council note the Authority's response to the Commission.</p> <p>Following comments were made:</p>	

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	<p>11.6 It is important that the Authority monitors the process of the OIPMI, due to the outcome and direction of the OIPMI having an impact on the work of the Authority.</p> <p>11.7 It should be noted that, the judgement relating to the ongoing litigation process on unreserved postal services, will have an impact on the delivery of platform services.</p> <p>The recommendation was noted by Council.</p>	
12.	<p>Vacancy for Executive LRCCC</p> <p>The purpose of the submission was for Council to approve the initiation of the recruitment process to fill the position of Executive: Legal and CCC (L&CCC), and nominate the interview panel to assist with the selection processes.</p> <p>The Acting Executive: HR presented the item.</p> <p>12.1 The position of Executive: L&CCC became vacant from 01 June 2021.</p> <p>12.2 It was important for the position to be filled without delay, so as to ensure business continuity in the office of the Executive: L&CCC.</p> <p>12.3 Council was requested to nominate and approve the panel that will assist with the screening, interviewing and identification of a suitable candidate to be recommended for the appointment.</p> <p>The recommendation was approved by Council</p>	CEO/HR
13.	<p>General</p> <p>13.1 Subsequent to the Performance Management workshop with the Minister held on 17 June 2021, a legal brief to the external Senior Council will be prepared, in order to assist with an advisory note in relation certain issues that were raised during the workshop. Councillors will be briefed when the legal opinion is received.</p> <p>13.2 The Minister sent a letter, raising concerns about the MOU that the Authority has with the Federal Communications</p>	

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	Commission (FCC). Councillors will be sent the letter from the Minister, and the draft response for making inputs.	
14.	<p>Closure</p> <p>The Chairperson thanked all present at the meeting and closed the meeting at 09:09.</p>	Chairperson
15.	Date of next meeting: TBA	Secretariat

Signed:  _____

Date: 30/07/2021

(Chairperson)