



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY COUNCIL MEETING

Date	23 February 2021	
Time:	08:00	
Venue:	Microsoft Teams	
Present	[REDACTED]	Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
By Invitation	[REDACTED]	CEO
	[REDACTED]	CAE
	[REDACTED]	CFO
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat officer
	[REDACTED]	Secretariat Officer
Partial Attendees	[REDACTED]	Executive: Corporate Services
	[REDACTED]	Executive: Licensing
	[REDACTED]	Manager: Broadcasting Frequency Co-ordination
	[REDACTED]	SM: Spectrum Licensing
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>	Chairperson
2.	<p>Ratification of the Agenda</p> <p>The following agenda items were added under General:</p> <ol style="list-style-type: none"> 1. B-BBEE ICT Council participation; and 2. An invitation from the Acting Director General, Department of Communications and Digital Technologies (DCDG) to participate in the Strategic Planning session of the DCDT. <p>The agenda was ratified with the above changes.</p>	Council
3.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
4.	<p>Adoption of previous minutes.</p>	Council
4.1	<p>Minutes of a Council meeting -26 January 2021</p> <p>The following corrections were made:</p> <p>Paragraph 7.7.1 insert the word "there"</p> <p>Paragraph 8.12- Correct the Radio Frequency band to 3800</p> <p>Paragraph 8.19.1 insert the word: in"</p> <p>Paragraph 8.11-replace 'reduces' with 'redundancies"</p> <p>Paragraph 9.9 remove the word' due decline"</p> <p>Paragraph 16.17.1 insert the phrase" as was the case'</p> <p>The minutes were approved with corrections.</p>	All
4.2	<p>Minutes of 29 January 2021</p>	All

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No.	Action Item	Person Responsible
	<p>On page 1-Correct the surname of Cllr [REDACTED] The schedule court date for MTN was 09 March 2021 not 09 February 2021</p> <p>The minutes were approved with corrections.</p>	
5.	<p>Matters Arising (Standing item)</p> <p>The Matters Arising document was deferred to the next meeting of Council.</p>	CEO/Secretariat
6.	<p>International Engagements (Standing item)</p> <p>World Summit on the Information Society Forum 2021</p> <p>The purpose of the submission was to request Council to note the invitation letter from the ITU and nominate a representative to attend and participate at the World Summit on the Information Society Forum 2021.</p> <p>The Executive: Corporate Services presented the item:</p> <p>6.1 The World Summit on the Information Society (WSIS) Forum 2021 has started on a virtual format in January 2021, with pre-events including thematic workshops and other highlights. The final week of the WSIS Forum 2021 would be held from 17 to 21 May 2021.</p> <p>6.2 The Forum was hosted by the ITU and co-organised by ITU, UNESCO, UNCTAD and UNDP. The overall theme was "ICTs for Inclusive, Resilient and Sustainable Societies and Economies".</p> <p>6.3 ICASA was invited to participate as a high-level guest speaker at one of the high-level policy sessions scheduled to be held from 22 to 26 March 2021.</p> <p><u>Recommendation to Council</u></p> <p>It was recommended that:</p> <p>6.4 Council notes the Invitation letter from the ITU; and 6.5 Council to nominate a member of Council that would speak at the forum.</p> <p>Council noted the invitation letter from the ITU and, in the</p>	CEO/CS

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No.	Action Item	Person Responsible
	<p>absence of volunteers within Council, the Chairperson indicated that he would attend the forum.</p>	
<p>7.</p>	<p>Update on the Invitation to Apply (ITA) for Licensing of International Mobile Telecommunications (IMT) Spectrum.</p> <p>The purpose of the submission was to update Council on the project progress and status update on the Licensing of IMT Spectrum.</p> <p>Cllr Qocha presented the item:</p> <p>7.1 The Committee indicated that there was no written submission on the item. Feedback was provided that , the gazette with the revised project timelines would be published on 23 February 2021, as approved by Council on 22 February 2021.</p> <p>7.2 The Committee also indicated that the contract with the Service Provider (Auctioneer) was signed on 22 February 2021, and an inception meeting would take place on 23 February 2021.</p> <p>7.3 The Committee indicated that, with regard to the MTN litigation, there was a Case Management meeting that was scheduled for later that day (23 February 2021), and an update would be provided in the next meeting.</p> <p>7.4 Council inquired about an update on facilities for purposes of having the auction at the Head Office.</p> <p>7.5 The Committee indicated that the item would be discussed at the Steering Committee meeting on 24 February 2021.</p> <p>Council resolved not to take part in the proposed mediation process and would await judgement on the matter and that the Minister be informed of the decision. Council further resolved that if the outcome of the Court matter was in favour of other parties to the litigation on spectrum licensing, the Authority will exhaust all available legal remedies.</p>	<p>Cllr [REDACTED]</p>
<p>8.</p>	<p>Application to amend to VUMA 103 FM (PTY) Ltd 'Individual Commercial Broadcasting Service Licence.</p> <p>The purpose of the submission was to provide Council with an analysis of the application submitted by Vuma 103FM (Pty) Ltd (the Applicant) to amend its Individual Commercial Broadcasting Service (I-CSBS) licence and recommend that the amendment application and the</p>	<p>CEO/ Licensing</p>

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No.	Action Item	Person Responsible
	<p>accompanying vetted Reasons Document be approved by Council.</p>	
	<p>The Executive Licensing presented the item:</p>	
8.1	<p>On 29 July 2020, the Applicant applied for the amendment of its I-CSBS licence.</p>	
8.2	<p>The Applicant held an I-CSBS licence to provide commercial sound broadcasting services in Durban, Donnybrook, Eshowe, Glencoe, Kokstad and Newcastle in the KwaZulu-Natal Province. The licence was issued on 25 May 2012, and was due to expire on 24 May 2022.</p>	
8.3	<p>On 9 October 2020, the Authority published a notice in the Government Gazette inviting all interested persons to make written representations in relation to the application within fourteen (14) working days from the date of publication of the notice.</p>	
8.4	<p>Representations were received from Classic FM supporting the application.</p>	
8.5	<p>The Applicant sought to amend clause 4 of its I-CSBS Licence which read as follows; "the Licensee shall have a programming format that is exclusively and predominantly gospel music led. The Licensee shall broadcast 60% music and 40% talk. 10% of music will be inspirational and spiritual."</p>	
8.6	<p>The Applicant proposed that clause 4 read as follows," the Licensee shall have a format that is 60% music and 40% talk. Of the music broadcast, the single largest genre featured on the music playlist shall be gospel. Of the talk broadcast, a minimum of 15 hours a week shall be gospel/spiritual-related."</p>	
8.7	<p>The Applicant also sought to amend Clause 5 of its I-CSBS Licence which read as follows, "The Licensee shall broadcast 50% of South African music on a weekly basis."</p>	
8.8	<p>The Applicant proposed that clause 5 reads as follows, 40% of the music broadcast shall be South African music, measured on a weekly basis.</p>	
	<p>Recommendation to Council</p>	

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No.	Action Item	Person Responsible
	<p>It was recommended that Council approves the amendment application and accompanying vetted Reasons Document.</p> <p>The following comments were made:</p> <p>8.9 Council inquired whether was there a need to define music genres in the regulations.</p> <p>8.10 Council was concerned about completely moving from a classical music format to a different format and that might set a precedent and encourage similar applications from other licensees.</p> <p>8.11 The concern raised above also emphasised the need to subject such applications to public hearings.</p> <p>8.12 The Executive Management indicated that there were no definitions for different genres, and that was not indicated upfront when the licences were issued.</p> <p>8.13 The Executive Management further indicated that the research received in support of the application was that there was a decline in listenership: hence the need for the amendment.</p> <p>8.14 The Executive Management indicated that it received a legal opinion in one of its licence renewal processes, that the Authority can hold public hearings. However, the purpose of the hearings would be to raise substantive matters.</p> <p>8.15 Council emphasised the need to assist failing licensees and do more research to improve the amendment process in line with section 10 of the ECA.</p> <p>Council resolved to approve the amended application and the vetted Reasons Document.</p>	
9.	<p>Applications for the transfer of an Individual Electronic Communications Services (I-ECS) and Individual Communications Services(I-ECS) Licences from Maredi Towers and Infrastructure (Pty) to Kganyapa Trust</p> <p>The purpose of the submission was to recommend that Council</p>	<p>CEO /Licensing</p> <p style="text-align: right;"><i>KM</i></p>



No.	Action Item	Person Responsible
	<p>approve the transfer of I-ECS, I-ECNS licences from Maredi Tower and Infrastructure (Pty) Ltd (Maredi Tower) (the Applicant) to Kganyapa Trust (the Transferee), as well as the attached vetted Reasons Document.</p> <p>The Executive: Licensing presented the item.</p> <p>9.1 On 07 October 2020, the Authority received applications from the Applicant to transfer its I-ECS and I-ECNS licences to the Transferee.</p> <p>9.2 The Applicant did not request confidentiality in terms of section 4D of the ICASA Act.</p> <p>9.3 On 10 November 2020, the Authority published a General Notice in Government Gazette inviting all interested persons to make written representations in relation to the applications within fourteen (14) working days of the date of the publication of the notice.</p> <p>9.4 There were no written submissions received for the Application.</p> <p>Recommendation to Council</p> <p>It was recommended that Council approves the transfer applications and the vetted Reasons Document.</p> <p>Council resolved to approve the recommendation.</p>	
10.	<p>Application for the amendment of Individual Commercial Sound Broadcasting Service ("I-CSBS) Licence by Classic FM South Africa (Pty) Ltd.</p> <p>The purpose of the submission was to provide Council with an analysis of the application to amend an Individual Commercial Sound Broadcasting Service (I-CSBS) Licence submitted by Classic 1027 and recommend that Council approve the submission.</p> <p>The Executive: Licensing presented the item.</p> <p>10.1 On 09 April 2020, the Authority received the application from the Applicant to amend its I-CSBS licence.</p> <p>10.2 On 25 August 2020, the Authority published the Applicant's amendment application in the Government Gazette, for</p>	CEO/ Licensing

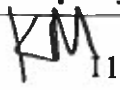
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No.	Action Item	Person Responsible
	<p>written representations and responses, for a period of fourteen (14) working days.</p> <p>10.3 On 14 September 2020 written representations were received by the Authority from Kagiso Media, objecting to the proposed amendments indicating that the Authority should not grant same.</p> <p>10.4 On 15 September 2020 additional written representations were received by the Authority from:</p> <p>10.4.1 Kaya FM; and 10.4.2 Luthuli Media Corporation.</p> <p>10.5 The written representations from both Kaya FM and Luthuli Media Corporation's were submitted out of time. Consequently, on 17 September 2020 the Licensing Division duly advised these two (2) entities that their written representations would not be considered as they had missed the deadline.</p> <p>10.6 Council raised several clarity-seeking questions on the following:</p> <p>10.6.1 Definition or classification of old skool/ school music;</p> <p>10.6.2 If Classical Music was being dropped in its entirety;</p> <p>10.6.3 By adding "among other genres" Classic FM implied that, , there were more genres the applicant had in mind; and</p> <p>10.6.4 What was the average news broadcast period for other commercial stations, and which stations were those?</p> <p>10.7 The Executive Management indicated that ICASA has not h prescribed definitions with respect to formats or music genres. However, Old Skool/ Old School was generally understood to mean older songs across all music genres that are no longer contemporary e.g. music from the 1970s, 1980s early 90s. These may include ballads, rhythm and blues and 80s disco etc.</p>	

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10.8	The Applicant was 'dropping' Classical Music from its traditional platform and proposing a format of 'old Skool music and RnB, amongst others. The Applicant indicated that it was going to play Classical music online and not on a traditional platform, and that it would continue to support classical music where possible.	
10.9	Further that, the Applicant provided research demonstrating that consumer taste in music has changed over the last two decades, and provided research to the effect that the appeal of classical music was limited to middle-aged white males in the 55-65 age group.	
Recommendation to Council		
10.10	Approval of the amendment of clause 5.1 to read as follows, "the Licensee shall provide Old Skool and R&B Music"	
10.11	Approval for the deletion of clauses 5.2, 6.1 and 7.3.	
10.12	Approval of the amendment of clause 7.1 to read as follows. "The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 05h00 and 23h00".	
Council resolved as follows:		
10.13	Approval for the amendment of clause 5.1 to read as follows," "The Licensee shall provide 50% Classical Music and 50% Old Skool and R&B Music".	
10.14	Approval to delete clauses 5.1, 6.1 and 7.3.	
10.15	Approval for the amendment of clause 7.1 to read as follows, "The Licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day between 05h00 and 23h00".	
10.16	Approval for the amendment of clause 8.2 to read as follows," The Licensee shall provide free training to the value of at least R400 000 per annum through the "Hot Radio Training Academy" or similar institution".	

No.	Action Item	Person Responsible
	<p>10.17 Approval for the amendment of clause 8.3 to read as follows, "The Licensee shall contribute towards the development of local artists by providing on-air advertising for concerts or live interviews at no cost or at a reduced rate to the value of at least R400 000 per annum".</p> <p>10.18 That the Licensee shall make contributions to the "Hot Cares" charity which was created by the community station of the same name, which manages various charitable community initiative, or such other institution of similar aim and benefit.</p> <p>10.19 That the Licensee shall provide ongoing assistance to the broader community in the form of annual fundraising events or such other initiatives as may have a similar aim and benefit.</p> <p>10.20 Classic FM was required to provide a communications Strategy/Plan indicating how it would inform existing listeners of the change in format.</p> <p>10.21 Council further resolved to reject the proposed amendment of clause 5.1 which read that "The Licensee shall provide Classical Music", and rather resolved that an amendment be granted to the extent that "The Licensee shall provide 50% Classical Music and 50% Old Skool and R&B Music".</p> <p>Council resolved to approve amended application subject to the above inputs.</p>	
11.	<p>Recommendation by Complaints and Compliance Committee("CCC) to Council in the matter between [REDACTED] and Telkom SA SOC Limited("Telkom").</p> <p>The purpose of the submission was to table the recommendation of the CCC to Council in the matter between [REDACTED] and Telkom.</p> <p>Cllr Kedama presented the item.</p> <p>11.1 On 2 October 2019, Ms [REDACTED] (Ms. [REDACTED]) lodged a complaint against with the CCC for investigation, to the effect that that MTN had initiated port out requests to Telkom without her knowledge.</p> <p>11.2 Ms [REDACTED] alleged that on 10 July 2019, she received a notification through an SMS from Telkom, alerting her of the</p>	Cllr [REDACTED]



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	<p>port-out request for her mobile number, and she managed to decline the first port-out request by replying with a 'STOP'.</p> <p>11.3 On 2 August 2019, Ms Nombeu realised that her Telkom number was ported and changed to MTN, upon which she engaged Telkom on the matter, but was not assisted. Instead she was referred to MTN.</p> <p>11.4 The Complainant further received numerous port-out requests which were initiated without her knowledge. On some occasions she managed to decline the port-out requests, and on some she was assisted by MTN to stop the porting from going through.</p> <p>11.5 The parties appeared before the CCC on 26 November 2020 and the Respondent (Telkom) argued that it acted within the law in line with regulation 4(9) of the 2005 Number Portability Regulations, which provided for grounds under which a donor may reject a request to port.</p> <p>11.6 MTN stated that its investigation of the matter revealed that there was a defect in its wireless interface (WIG), which enabled RICA agents, appointed by MTN to RICA customers, to initiate port-in requests, and to by-pass the caller line identification validation process.</p> <p>11.7 MTN further stated that it has taken the necessary steps to rectify the complaint, by firstly identifying the person who initiated the port-out requests. Further, the issue was reported to the company which employed the said person.</p> <p>11.8 MTN deregistered the person as a RICA agent, which meant they no longer had access to the WIG system. MTN further advised that it immediately took a decision to disable the mobile number portability function on the wireless interface.</p> <p>11.9 The complaint was dismissed by the CCC on the basis that there were no steps required to be taken by Telkom to remedy the complaint.</p> <p>The CCC recommendation was approved.</p>	
12.	Council Performance Contracting with the Minister, DCDT	Company 



No.	Action Item	Person Responsible
	<p>The purpose of the submission was to update Council on the development of the Council Performance Contract draft model between ICASA and the DCDT.</p> <p>The Company Secretary presented the item:</p> <p>12.1 On 09 February 2021, the CEO, Human Resources Division and Secretariat (the Executive) met with the Acting Director General (ADG) of the DCDT with the purpose of formulating a contract model for Council as prepared by the DCDT.</p> <p>12.2 Prior to the engagement referred above, the Executive provided inputs into a draft Performance Contract that the DCDT developed, to ensure that it was aligned with the work of Council, particularly to Council led projects.</p> <p>12.3 Subsequent to the meeting with the DCDT, Council was requested to provide tentative dates towards the end of February 2021 to attend a workshop with the Minister, DCDT.</p> <p>Council resolved as follows:</p> <p>12.4 The date for the proposed workshop with the Minister should be in mid-April 2021.</p> <p>12.5 The proposed template for Performance Contract should be informed by the spirit and purpose of the ICASA Act.</p> <p>12.6 The Secretariat will schedule a meeting with the Minister for mid-April.</p>	<p>Secretary</p>
<p>13.</p>	<p>Update on the closure of all ICASA Premises</p> <p>The purpose of the submission was to present to Council an update on the closure of the ICASA offices in response to the easing of the restrictions in relation to the adjusted lockdown alert level 3.</p> <p>The Executive: Legal, Risk and CCC presented the item:</p> <p>13.1 On 31 December 2020, Council approved the submission of the Crisis Management Committee (CMC) to close all the ICASA offices considering the rapid spike of COVID-19 at the time, as well as the resultant adjustment to the restrictions imposed by Government.</p> <p>13.2 In its previous submission, the Committee undertook to</p>	<p>Crisis Management Committee</p>

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No.	Action Item	Person Responsible
13.3	<p>reassess the situation closer to or after 15 February 2021, in anticipation of the Government's review of the national risk-adjusted strategy. Government has since amended the Regulations issued in terms of the Disaster Management Act, thereby prompting the Committee to review the current state of the pandemic.</p> <p>In light of the above, the Crisis Management Committee hereby submitted its assessment of the current state of the pandemic.</p> <p>Recommendations to Council</p> <p>It was recommended that Council approve the continued closure of ICASA offices for the duration of the adjusted level 3, save for the critical and essential services to be rendered by the organisation.</p> <p>The recommendation was approved.</p>	
14.	General	ALL
15.	<p>Invitation to attend the BBBEE ICT Sector Council.</p> <p>Council requested a written submission in order to consider the matter meaningfully.</p>	All
16.	<p>DCDT Strategic Planning Session, 25th to 26th Feb 2021</p> <p>Clr [REDACTED] would represent Council and make a presentation at the session.</p>	
17.	<p>Invite to ICASA by PPCC re briefing on Spectrum Licensing & Litigation to take place on 2 March 2021</p> <p>Council will honour the invite.</p>	
18.	<p>Closure</p> <p>The Chairperson thanked all present at the meeting and closed the meeting at 11:03.</p>	Chairperson
19.	Date of next meeting: TBA	Secretariat

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Signed: _____
[Handwritten signature]

Date: 20/09/2021

(Chairperson)