






**Independent Communications Authority of South Africa**

<b>MINUTES OF A SPECIAL MEETING OF COUNCIL</b>		
<b>Date</b>	<b>26 April 2023</b>	
<b>Time:</b>	<b>09:00</b>	
<b>Venue:</b>	<b>Virtual- Microsoft Teams</b>	
<b>Present</b>	██████████	Acting Chairperson
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
	██████████	Councillor
<b>By Invitation</b>	██████████	CEO
	██████████	Acting CFO
	██████████	Acting CAE
	██████████	Corporate Secretary
	██████████	Secretariat Officer
	██████████	Secretariat Officer
<b>Partial Attendees</b>	██████████	Manager: Cyber Security
	██████████	Manager: Broadcasting Frequency Coordination
	██████████	Senior Manager: SPM
	██████████	Radio Frequency Specialist: Licensing
	██████████	AGSA: Audit Manager
<b>Apologies</b>	██████████	Councillor
	██████████	Councillor

<b>No.</b>	<b>Action Item</b>	<b>Person Responsible</b>
1.	<p><b>Opening and apologies</b></p> <p>1.1. The Chairperson declared the meeting open at 09:00 and welcomed all present.</p> <p>1.2. Cllr [REDACTED] was on annual leave.</p> <p>1.3. Cllr [REDACTED]</p> <p><b>The opening was noted.</b></p>	<b>Chairperson</b>
2.	<p><b>Ratification of the Agenda</b></p> <p>2.1 Item 4.2 - Minutes of Council: 31 March 2023 was deferred to the next Council meeting to allow Councillors enough time to review and to make inputs into the minutes.</p> <p>2.2 A new item under 'General' was added on the agenda as Item 9.1 – Update from PPCC engagement – to be presented by Cllr [REDACTED].</p> <p>2.3 Item 6 – A verbal update will be provided under International Engagements.</p> <p><b>The agenda was adopted with the above.</b></p>	<b>All</b>
3.	<p><b>Declaration of interest</b></p> <p>No conflict of interest was noted.</p>	<b>Council</b>
4.	<p><b>Adoption of Minutes of Council</b></p>	<b>Council</b>
4.1	<p>Minutes of Council: 28 March 2023</p> <p>4.1.1 The last sentence of paragraph 9.4 was amended to state the following "...Authority does not have the resources to cover all the licensees".</p>	<b>Council</b>

<b>No.</b>	<b>Action Item</b>	<b>Person Responsible</b>
	<b>The minutes were approved with the above-mentioned amendment.</b>	
<b>5.</b>	<p>Matters Arising</p> <p>5.1 Item 3 SANDF outstanding fees – Council suggested that the CEO should have a discussion with Executive: Engineering and Technology and the Executive: Licensing and Compliance, regarding the communication received from SANDF in relation to the way licences are structured.</p> <p>5.2 Item 9 Council Remuneration and Performance Contracts – Executive: LRCCC advised that the submission in relation to the Council PMS will be tabled in the next Council meeting.</p> <p>5.3 Item 12 Funding model – Council alerted management that, whilst the Matters Arising states that the progress update will be provided in April 2023, the next Council meeting will only be in May and not April.</p> <p>5.4 Item 14 Review of Digital Terrestrial Television Regulations/Digital Migration Regulations – Council expressed that the write-up needs to be revisited and updated when the Minister announces the switch-off date.</p> <p>5.5 Item 18 Hybrid Working Model – Council expressed that employees who are working from home, should be requested to have good Internet connection and standby power solutions.</p> <p>5.6 Item 19 Dark Fibre Transfer Applications – Council requested an update since the matter is now before the Competition Commission. Council was informed that the Authority has responded to the questions from the Competition Commission.</p>	<b>CEO</b>

No.	Action Item	Person Responsible
6.	<p>International Engagements (“<b>Standing Item</b>”)</p> <p><b>Whilst a formal submission was not submitted and presented, management provided a verbal update.</b></p> <p>The Executive: Corporate Services highlighted the following:</p> <p>6.1. Councillors who are interested in participating in the ITU study, are still welcome to join.</p> <p>6.2. The invitation is open for Councillors who are interested in participating in a capacity development building training on ITM, hosted in collaboration with the ITU. The final date for the event is yet to be confirmed but it will be some time in June.</p> <p>6.3. The invitation is open for Councillors who are interested in participating in another capacity building training, hosted in collaboration with the ITU. The training will take place at the end of the year.</p> <p>6.4. Cllr █████, the CEO and other ICASA officials met with the Finland delegation, to discuss issues relating to technology and spectrum.</p> <p><b>Council resolved to await the formal submission and noted the update.</b></p>	<p><b>CEO / Executive: Corporate Services</b></p>
7.	<p>Litigation Update (“<b>Standing Item</b>”)</p> <p><b>The presentation was noted.</b></p>	<p><b>CEO / Executive: LRCCC</b></p>
8.	<p>Work Progress Update in relation to Disaster Management Task Team (“<b>Standing Item</b>”)</p> <p><b>The presentation was noted.</b></p>	<p><b>Cllr █████</b></p>

No.	Action Item	Person Responsible
9.	<p><b>Committee Resolution Amendment for the Committee responsible for the Inquiry Into Television Broadcasting Services</b></p> <p>The Manager: Cybersecurity presented the submission:</p> <p>9.1. The purpose of the submission dated 13 April 2023 was to request the Council to approve the amendments to the Council resolution in respect of the establishment of the Subscription Broadcasting Market Committee responsible for the Inquiry into Subscription Television Broadcasting Services (“the Inquiry”).</p> <p><u>Recommendation to Council:</u></p> <p>9.2. It was recommended that Council should approve the amendments to the Council resolution in respect of the establishment of the Subscription Broadcasting Market Committee responsible for the Inquiry into Subscription Television Broadcasting Services.</p> <p><u>Comments made:</u></p> <p>9.3. Council expressed that following the end / closure of some projects, the issue of the allocation of Council Committees needed to be addressed.</p> <p><u>Resolutions by Council:</u></p> <p>9.4. Council resolved that the amendment of the Committee resolution be approved.</p> <p><b>The submission was approved.</b></p>	<p><b>Cllr</b>  </p>
10.	<p><b>Implementation of Social Obligations</b></p> <p>Cllr  and the Manager: Broadcasting Frequency Coordination presented the submission:</p> <p>10.1. The purpose of the submission dated 20 April 2023 was to recommend that Council should:</p>	<p><b>Cllr</b> </p>

No.	Action Item	Person Responsible
	<p>10.1.1. Approve the terms and conditions aimed at implementing the Social Obligations prescribed in section 12.5 of the Invitation to Apply published on 10 December 2021 in the Government Gazette No 45628 and the Radio Frequency Spectrum Licences issued as a result of this process; and</p> <p>10.1.2. Approve the amended Radio Frequency Spectrum Licence of the licensees to reflect the recommended terms and conditions that implement the social obligations.</p> <p><u>Recommendation to Council:</u></p> <p>10.2. The Committee recommends that Council should:</p> <p>10.2.1. Approve the terms and conditions aimed at implementing the Social Obligations prescribed in section 12.5 of the Invitation to Apply published on 10 December 2021 in the Government Gazette No 45628 and the Radio Frequency Spectrum Licences issued as a result of this process; and</p> <p>10.2.2. Approve the amended Radio Frequency Spectrum Licence of the licensees to reflect the recommended terms and conditions that implement the social obligations.</p> <p><u>Comments made:</u></p> <p>10.3. Council sought clarity on the status of Annexure F - was it intended to be gazetted? Council was informed that this was intended for gazetting.</p> <p>10.4. Council expressed that it appeared as if the legal opinion is being disregarded, and, if so, on what basis is the legal opinion being disregarded. The legal opinion had advised that specific licences for each of the respective licensees be issued. Council was informed that the legal opinion was considered. The manner in which the public service</p>	

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	<p>institutions will be categorised is in line with the spectrum acquired from the auction.</p> <p>10.3. Council requested clarity in relation to the definition of 'Connectivity' - To what extent is the connectivity 'technology neutral'? The understanding has been that this is up to the licensee to determine the type of connectivity than for it to be enforced.</p> <p>10.4. Council was informed that mobile service connectivity is being implemented, as it has been previously used with the ITA.</p> <p>10.5. Council expressed that it is not clear from Annexure G (par 4.2.1.) as to what is being used in terms of the definition of under-serviced areas. It needs to be clear that the definitions used are contained in the ITA, and not from the regulations. Council was informed that definitions used need to be consistent with the ITA.</p> <p>10.6. Council expressed that the issues related to zero-rating, such as onboarding processes, vetting, managing complaints etc, suggest that there is a need for the appointment of an independent body to do this work (same as in relation to number portability). Council was informed that the onboarding process has been highlighted in the submission, with the aim of outlining the terms and conditions for easy implementation. The Compliance Division has been engaged to monitor this process. Should the Compliance division indicate its inability to manage the task, the necessary procurement processes will take place to acquire the services of an independent body.</p> <p>10.7. Council expressed that in terms of the issue of PBOs, .ac.za and .school.za websites are not included. The exclusion of .ac.za and .school.za websites from the definition of PBOs, excludes a substantial user community. Council was informed that the exclusion is in line with the ITA.</p>	

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	<p>10.8. Council highlighted that the definition of “day” needed to be clarified.</p> <p>10.9. Council highlighted that the editorial errors in Annexure G should be fixed.</p> <p>10.10. Council asked why the swapping of obligations was not permitted. This could be allowed, subject to the Authority being notified. Council was informed that the Committee was advised that swapping of obligations may raise competition issues.</p> <p>10.11. Council expressed that paragraph 4.6.1 of the draft licence mentions a period of 5 years regarding the sharing of obligations, and suggested that it be reduced to 2 years before obligations can be shared. Council was informed that the issue has already been decided, and the licences have been issued, thus the submission only dealt with the amending of the terms and conditions of the social obligations for compliance purposes.</p> <p>10.12. Council expressed a concern regarding probability of the Authority being litigated. Council was informed that this has been highlighted by the Committee as a risk that might occur.</p> <p>10.13. Council requested the Committee to confirm and validate the percentage coverage in the proposed obligations versus what was reported in the ICT report. The two need to correspond.</p> <p><u>Resolutions by Council:</u></p> <p>10.14. Council resolved to approve the submission, subject to the implementation of the above inputs.</p> <p><b>The submission was approved, subject to the implementation of the above inputs.</b></p>	
11.	<p><b>Radio Frequency Spectrum Regulations</b></p> <p>Cllr █████ presented the submission:</p>	Cllr █████



No.	Action Item	Person Responsible
	<p>11.1. The purpose of the submission dated 17 April 2023 was to request Council to approve the Notice to amend Annexure B of the Radio Frequency Spectrum Regulations, 2015 (“RFSR”).</p> <p><u>Recommendation to Council:</u></p> <p>11.2. It was recommended that Council should approve the Notice to amend the Radio Frequency Spectrum Regulations, 2015.</p> <p><u>Comments made:</u></p> <p>11.3. Council highlighted that the Reasons Document is still in draft format, and this has to be corrected. The final version should have been circulated to Council.</p> <p>11.4. Council expressed that the Reasons Document has editorial errors.</p> <p>11.5. Council queried that, since the Spectrum Resources Committee is not a decision making Committee, what is the correct legal process that should be followed? Council was informed that the Committee is suggesting that the submission be processed through the National Radio Frequency Plan Committee, or Radio Frequency Assignment Plan Committee on non IMT devices to endorse the documents. Council was further informed that the Legal Division has indicated that no adverse issues will arise should the Spectrum Resources Committee bring the submission to Council for approval.</p> <p><u>Resolutions by Council:</u></p> <p>11.6. Council resolved that the submission can be taken forward to the relevant Committee for finalisation.</p> <p>11.7. Council resolved to approve the submission.</p> <p><b>The submission was approved.</b></p>	



No.	Action Item	Person Responsible
	<p>12.6. Council noted with concern that the contract with the psychometrics service provider has expired. Council was informed that MIE has been appointed on a 3 year contract to offer the service.</p> <p>12.7. Council further noted [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p><u>Resolutions by Council:</u></p> <p>12.8. Council resolved to note the submission.</p> <p><b>The submission was noted.</b></p>	
13.	<p><b>Liquid Telecom Payment Plan</b></p> <p>The Acting CFO presented the submission:</p> <p>13.1. The purpose of the submission dated 05 April 2023 was to request Council to approve the request by Liquid Telecommunications SA (Pty) Ltd (Liquid Telecom) for a payment plan of spectrum licence fees for 2023/2024 and to request the Acting Chairperson to sign the letter (Annexure A) to Liquid Telecom regarding the subject above.</p> <p><u>Recommendation to Council:</u></p> <p>13.2. It was recommended that Council should approve the Liquid Telecom request as recommended by EXCO/OPCO and request the Acting Chairperson to sign the letter to Liquid Telecom regarding the subject above.</p> <p><u>Comments made:</u></p>	CEO / Acting CFO

No.	Action Item	Person Responsible
	<p>13.3. Council sought clarity on whether the payment that was due to be paid at the end of March 2023 was made. Council was informed that the payment was made.</p> <p><u>Resolution by Council:</u></p> <p>13.4. Council resolved to approve the submission.</p> <p><b>The submission was approved.</b></p>	
14.	<p><b>Constitution of a Council Committee on National Elections Broadcasting</b></p> <p>The Executive: PRA presented the submission:</p> <p>14.1. The purpose of the submission dated 30 March 2023 was to request the Council to approve the Council Resolution for the constitution of a Council Committee on National Elections Broadcasting.</p> <p><u>Recommendation to Council:</u></p> <p>14.2. It was recommended that Council should approve the Council Resolution for the constitution of a Council Committee on National Elections Broadcasting.</p> <p><u>Resolution by Council:</u></p> <p>14.4. Council resolved to approve the submission.</p> <p><b>The submission was approved.</b></p>	CEO / Exec: PRA
15.	<p><b>Draft Q4 Performance Information Report and Draft Q4 Comprehensive Report</b></p> <p><b>(Items 15 and 16 were combined into one presentation)</b></p>	CEO / Senior Manager: SPM

No.	Action Item	Person Responsible
	<p>The SM: Strategy &amp; Programme Management presented the submission:</p> <p>15.1. The purpose of the submission dated 23 April 2023 was to table the ICASA Quarter 4 Performance Information 2022/23 to Council for approval.</p> <p><u>Recommendation to Council:</u></p> <p>15.2. It was recommended that Council should consider and approve the ICASA Quarter 4 Performance Information Report.</p> <p><u>Comments made:</u></p> <p>15.4. Council expressed that the [REDACTED].</p> <p>15.5. Council expressed that the bar graph used under “Employee relations incidents” needs to be amended, as it does not provide accurate depiction of the figures.</p> <p>15.6. Council noted with concern the [REDACTED].</p> <p>15.7. Council expressed with concern that a number of non-performance risk assessments [REDACTED].</p> <p><u>Resolution by Council:</u></p> <p>15.8. Council resolved that management needs to ensure that the information in the reports is above board.</p>	


No.	Action Item	Person Responsible
	<p>15.9. Council resolved to approve the submission, subject to the implementation of the above-mentioned inputs.</p> <p><b>The submission was approved.</b></p>	
<p><b>16.</b></p>	<p><b>Draft Q4 Projects Status Report</b></p> <p>The Senior Manager: SPM presented the submission:</p> <p>16.1. The purpose of the submission dated 23 April 2023 was to table the ICASA Quarter 4 Strategic Projects Report to Council for noting.</p> <p><u>Recommendation to Council:</u></p> <p>16.2. It is recommended that Council should note the report.</p> <p><u>Comments made:</u></p> <p>16.3. Council sought clarity on whether the presentation slide 3 on scope management, simply covers the measuring of projects that are reported: is there a possibility that a project changes its scope but is not reported? Council was informed that, where the report indicates that there is no scope change, it means the Committee is able to deliver what was set out.</p> <p>16.4. Council sought further clarity on whether slide 8 in the presentation reports on the rate of attendance at Governance Committee meetings by Councillors. Council was informed that the rate of attendance is not covered, the report will be amended so as to include this.</p> <p>16.5. Council highlighted that some figures in the report need to be reviewed for accuracy.</p> <p><u>Resolution by Council:</u></p>	<p><b>CEO/Senior Manager: SPM</b></p>

No.	Action Item	Person Responsible
	<p>16.6. Council resolved to note the submission, subject to the implementation of the above-mentioned inputs.</p> <p><b>The submission was noted.</b></p>	
<p><b>17.</b></p>	<p><b>Review of the draft Quarter 4 Performance Information</b></p> <p>The Acting CAE presented the submission:</p> <p>17.1. The purpose of the submission dated 21 April 2023 was to apprise the Council of the audit results emanating from the reviewed Quarter 4 Performance Information Report.</p> <p><u>Recommendation to Council:</u></p> <p>17.2. Council was requested to note the submission and provide input where necessary.</p> <p><u>Comments made:</u></p> <p>17.3. Council sought confirmation from the Acting CAE on whether the average annual performance of the Authority is at ■■■. Council was informed that Internal Audit is yet to receive the management assessment, and that the process to assess the status of the overall performance has not commenced, and will only begin after the finalisation of the management assessment.</p> <p><u>Resolutions by Council:</u></p> <p>17.4. Council resolved to note the submission.</p>	<p><b>Acting CAE</b></p>
<p><b>18.</b></p>	<p><b>Engagement Letter</b></p> <p>The AGSA Audit Manager presented the item:</p> <p>18.1. The purpose of the engagement letter dated 28 February 2023 was for Council to note:</p> <p>18.1.1. The terms of the audit engagement as well as the nature and limitations of the annual audit.</p>	<p><b>AGSA</b></p>

No.	Action Item	Person Responsible
	<p>18.1.2. The respective responsibilities of the auditor and the accounting officer regarding the annual audit.</p> <p><u>Recommendation to Council:</u></p> <p>18.2. Council was required to note the submission.</p> <p><u>Resolutions by Council:</u></p> <p>18.4. Council resolved to note the submission.</p> <p><b>The submission was noted.</b></p>	
19.	<p><b>Audit Strategy</b></p> <p>The AGSA Audit Manager presented the item:</p> <p>19.1. The purpose of the Audit Strategy dated 31 March 2023 was for Council to note the overview of the planned scope, timing and cost of the audit.</p> <p><u>Comments made:</u></p> <p>19.2. Council recommended that employees should be made aware that, in an instance where an employee is found to be at fault for fruitless expenditure or delays in the payment of invoices (30 days), the employee will be liable to cover the loss incurred by the Authority.</p> <p><u>Recommendation to Council:</u></p> <p>19.3. Council was requested to note the submission.</p> <p><u>Resolution by Council:</u></p> <p>19.4. Council resolved to note the submission.</p> <p><b>The submission was noted.</b></p>	AGSA



No.	Action Item	Person Responsible
20.	<p><b>Draft MOA between the Authority and MDDA</b></p> <p>The submission was deferred to the next Council meeting.</p>	<p><b>CEO / Executive: LRCCC</b></p>
21.	<p><b>General</b></p> <p><b>21.1. Update from the engagement with the Portfolio Committee:</b></p> <p>21.1.1. A report on the meeting will be circulated via email for noting. Should Councillors note any issues that warrant for the submission to be formally tabled at a meeting for discussion, this will be so done at a subsequent Council meeting.</p> <p><b>21.2. Council requested an update on the Cell C spectrum auction non-payment matter in the next Council meeting.</b></p>	<p><b>Cllr Lewis</b></p>
22.	<p><b>Closure</b></p> <p>The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 15.03pm.</p>	<p><b>Council</b></p>

Signed:  \_\_\_\_\_  
**Yolisa Kedama**  
**(Acting Chairperson)**

Date: 20-06-2023 \_\_\_\_\_