



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY COUNCIL MEETING		
Date	28 March 2022	
Time:	08:00	
Venue:	Microsoft Teams	
Present	██	Chairperson
	████████████████	Councillor
	████████████████████████████████████	Councillor
	████████████████	Councillor
	██	Councillor
By Invitation	████████████████████████████████████	CEO
	████████████████████████████████████	CFO
	██	CAE
	██	Corporate Secretary
	██	Secretariat Officer
	██	Secretariat Officer
Partial Attendees	████████████████████████████████████	Executive: LRCCC
	████████████████████████████████████	Executive: PRA
	████████████████████████████████████	Executive: Licensing and Compliance
	████████████████████████████████████	External Legal Counsel
	████████████████████████████████████	External Legal Counsel
	██	External Legal Counsel
	████████████████████████████████████	Manager: Retail Services PRA
	████████████████████████████████████	RF Specialist: Licensing
	████████████████████████████████████	Radio Frequency Specialist: E&T
	████████████████████████████████████	SM: Sector Forecasting
	██	Manager: Content Services: PRA
	████████████████████████████████████	SM: ICT Licensing Services
	██	Network System Specialist: E & T
	████████████████████████████████████	Executive: E & T
Apologies		



No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson opened the meeting at 08:00 and welcomed all present.</p> <p>1.2. The Chairperson indicated that the meeting would start with the update of Senior Counsel (SC) in relation to the Telkom litigation, and thereafter deal with the e.tv litigation.</p> <p>1.3. There were no apologies noted.</p> <p>The opening and apologies were noted.</p>	Chairperson
2.	<p>Declaration of interest</p> <p>No conflict of interest was noted.</p>	Council
3.	<p>Ratification of the Agenda</p> <p>The agenda was adopted without amendments.</p>	All
4.	<p>Licensing of IMT (“Standing Item”)</p> <p>The Executive: LRCCC Division introduced SC who provided Council with the update.</p> <p><u>Telkom Litigation update</u></p> <p>4.1. The matter has been allocated to [REDACTED] to preside over and set down for 11 April 2022 to 14 April 2022.</p> <p>4.2. The Judge has already written to all the active parties, requesting a case management meeting. To date, the only outstanding papers are the heads of argument, which are due to be filed this coming Friday.</p>	Cllr [REDACTED]



No.	Action Item	Person Responsible
	<p>4.3. SC advised that there have been intervening factors, one being the fact that the auction has already been successfully concluded, transparently so, with commendation coming from Parliament and further that [REDACTED] has been raised, which will go to the fiscus.</p> <p>4.4. Rain asked for permission from the Court to file a further affidavit dealing with how the auction was conducted. This affidavit was filed last Friday, requesting the court to take into account the fact that the auction has been concluded successfully, raising [REDACTED] for the fiscus, and suggesting that there is nothing that the court should do at this stage.</p> <p>4.5. There is a likelihood that there may be further affidavits by other litigants that are going to be filed, and this may ultimately affect the hearing date of 11 April 2022.</p> <p>4.6. On Friday, Vodacom's lawyers wrote to the Deputy Judge President requesting that the matter be heard by three judges and not one. The DJP has not yet responded to the request by Vodacom.</p> <p>4.7. Until the DJP has responded to the Vodacom's request, there is no guarantee that the matter will be proceeding on the 11th of April 2022. The two critical issues to determine whether the hearing continues are:</p> <p style="padding-left: 40px;">4.5.1 The case management meeting scheduled for Thursday; and</p> <p style="padding-left: 40px;">4.5.2 whether the DJP will respond to the Vodacom's request.</p> <p><u>e.tv Litigation update:</u></p> <p>4.8. The matter has already been argued. We are awaiting judgement from the full bench.</p>	

KM



No.	Action Item	Person Responsible
	<p>4.9. The Minister filed an affidavit committing to the delivery of set-top boxes, with the switch-off date being 31 March 2022.</p> <p>4.10. The Authority should consider a transitional arrangement to ensure that the switch-off does not lead to a blackout.</p> <p>4.11. The Authority should issue a media statement to allay any fears of the public which may have been caused by SABC's media statement suggesting that after 31 March 2022 there will be a complete blackout.</p> <p><u>The following comments were made:</u></p> <p>4.12. Council noted that there were two very recent online articles indicating that Telkom is pushing ahead with the spectrum litigation.</p> <p>4.13. Council further noted that, if e.tv succeeds with its litigation, this will have an impact on the Telkom spectrum litigation one way or the other.</p> <p>4.14. Council inquired what bearing the supervisory interdict has on the case. Council requested that court papers to be shared on the Z drive.</p> <p>4.15. SC informed Council that the legal team will be writing to the DJP to support that the matter be heard by a full bench.</p> <p>4.16. Council indicated that the pronouncement to establish a transitional period from analogue to digital should be linked to the previous iterations of the Authority in relation to provisional spectrum assignments.</p> <p>4.17. Council expressed that, should Sentech switch off by the 31st of March 2022, there is nothing that the Authority can do in that regard.</p> <p>4.18. SC suggested the following with regards to the e.tv transitional period: "Council has resolved that a transitional period of 90</p>	



No.	Action Item	Person Responsible
	<p>days from 31 March 2022 will be given by those who still need to migrate from analogue to digital, and that they will be allowed to still access broadcasting via analogue platform.”</p> <p>4.19. The above will be in order to align the analogue switch-off with ending of provisional spectrum. The formalities are to be handled by the IMT Committee and other relevant Committees.</p> <p>The update was noted by Council.</p>	
5.	<p>Notices regarding increase of administrative fees relating to Type Approval and Service Licence applications, annual spectrum licence fees relating to Radio Frequency Spectrum licences and Unreserved Postal Services</p> <p>The Executive: Licensing and Compliance presented the submission.</p> <p>5.1. The purpose of this submission was to recommend that Council approves the draft notices regarding the increase of administrative fees relating to Type Approval and Service Licence Applications, Annual Spectrum Licence Fees relating to Radio Frequency Spectrum Licences, as well as Unreserved Postal Services (“UPS”), for publication in the Government Gazette.</p> <p>5.2. Regulation 10(3) of the Type Approval Regulations (“the TA Regulations”), as published in the Government Gazette No 36785 of 2013, provides that the Type Approval fees stated in Schedule 1 of the TA regulations will be adjusted by a maximum of the Consumer Price index (CPI) as published by Statistics South Africa.</p> <p>5.3. In terms of regulation 9A of the Radio Frequency Spectrum Licence Fee Amendment Regulations, 2015, as published in the Government Gazette No 38642 of 2015, the Authority will, on an annual basis, implement an automatic increase in radio spectrum fees by the weighted average CPI of the previous calendar year.</p>	<p>CEO / Exec: Licensing and Compliance</p>

KM



No.	Action Item	Person Responsible
	<p>5.4. Radio Frequency Spectrum Fees Regulations relate only to the annual spectrum fees increases, and not to spectrum application, permit, examination and certificate fees.</p> <p>5.5. The adjusted Type Approval and Service licence administrative fees, and Radio Frequency Spectrum annual licence fees must be published annually in the Government Gazette.</p> <p>5.6. In terms of Regulation 10 (1) of the UPS Regulations, as published on 27 March 2020, in Government Gazette No 4341, Notice 381, of 2020, the Authority is required to implement an automatic annual increase in the registration, renewal and annual fee. The percentage increase is determined by the Consumer Price Index (CPI).</p> <p>5.7. Regulation 10 (3) requires the Authority to publish, on an annual basis, inflation-adjusted fees on the Authority's website and/or in the Government Gazette.</p> <p>5.8. Effective from the 1st of April 2022, all administrative fees associated with type approval, service licences, all annual licence fees associated with radio frequency spectrum licence and all registration, renewal, and annual fees relating to UPS should be increased by 4.5 %, based on the average CPI. The annexures show the revised fees.</p> <p><u>Recommendation to Council</u></p> <p>5.9. It was recommended that Council approves the draft notices regarding the increase in the administrative fees relating to type approval fees, service licence fees and radio frequency spectrum annual licence fees and all registration, renewal, and annual fees relating to UPS, for publication in the Government Gazette.</p> <p><u>The following comments were made:</u></p> <p>5.10. Council inquired if the effective date of the equipment authorisation framework is immediate, given that the TA Regulations are yet to be published.</p>	

KM



No.	Action Item	Person Responsible
	<p>5.11. Council expressed that customers might be having difficulties contacting the type approval unit. There have been complaints, and Council requested that there be responses to applications.</p> <p>5.12. Management informed Council that follow ups will be made regarding the customer complaints regarding the type approval unit.</p> <p>5.13. Management further informed Council that, because the new regulations have not been enforced, the Authority still needs to have these regulations published for the increase of fees while the existing regulations are still in force.</p> <p>The submission was approved by Council.</p>	
6.	<p>Report on the analysis of tariff notifications submitted to ICASA for the period 01 July 2021 to 21 December 2021</p> <p>The Executive: PRA presented the submission.</p> <p>6.1. The purpose of the submission was to request Council to approve the report on the analysis of tariff notifications submitted to ICASA for the period 01 July 2021 to 31 December 2021, which will be published on the Authority's website.</p> <p>6.2. In terms of the Standard Terms and Conditions for Individual Licences Regulations of 2010 and the End-user and Subscriber Service Charter Regulations of 2016, as amended, Individual Licensees are required to file notifications of tariffs and promotional tariffs with the Authority, seven (7) days prior to launching them in the market.</p> <p>6.3. The analysis contained in this report is based on the prepaid tariffs that were filed in accordance with the Regulations and with Regulation 4 of the ICT COVID-19 National Disaster Regulations, 2020, and of the ICT COVID-19 National State of Disaster Regulations, 2021, during the period of 01 July 2021 to 31 December 2021.</p>	CEO / Exec: PRA

KM



No.	Action Item	Person Responsible
	<p>6.4. Following the 2021/22 FY second quarter (Q2) Tariff Analysis Report published on ICASA's website on 01 October 2021, the purpose of this report is to provide an update on tariffs that were filed by the different Individual Licensees during the period of 01 July 2021 to 31 December 2021.</p> <p>6.5. The report presents an analysis of the 270 tariff notifications received from individual licensees during the period under review. It entails the following:</p> <p>6.5.1 an analysis of the six types of prepaid tariff plans that were on offer in the market in the period under review, namely the standard prepaid data tariffs, promotional prepaid data tariffs, standard prepaid voice tariffs, promotional prepaid voice tariffs, standard prepaid integrated bundles, and prepaid promotional integrated bundles;</p> <p>6.5.2 brief analysis of month-to-month (MtM) LTE and Wi-Fi tariff plans, month-to-month (MtM) LTE and Wi-Fi tariff plans, a comparative analysis of fibre products; and</p> <p>6.5.3 a discussion of regulatory interventions under way to address the cost of data and reduction in the cost to communicate.</p> <p>6.6. The Authority made the following observations in relation to this report:</p> <p>6.6.1 In the mobile data services market, salient changes in the period under review were the price reductions in the amendment notifications filed by licensees. All four major Mobile Network Operators ("MNOs") reduced the prices of their respective 30-day standard prepaid data bundles.</p> <p>6.6.2 In the voice services market, Cell C filed amendments to the flat-rate tariffs of the MegaBonus and UltraBonus tariff plans. The flat-rate of the MegaBonus tariff plan was increased by 45.3% from R 1.72 to R 2.50 per minute, while the UltraBonus flat-rate was increased by 25% from R 2 to R 2.50 per minute.</p>	

KM
8



No.	Action Item	Person Responsible
	<p>6.6.3 The Authority also received a number of notifications regarding the introduction and/or amendment of voice bundles from the MNOs.</p> <p>6.6.4 The Authority also observed an increase in the provision of LTE and wireless Internet services, the introduction of 5G products and wireless fibre Internet.</p> <p>6.6.5 The Authority also received a total of 79 notifications regarding fibre services (up from 50 in the preceding reporting period) from various Fibre Network Operators (FNOs) in the period under review, and conducted a brief comparative analysis of fibre packages for current prices and average prices of four different fibre line speeds offered by fibre service providers on various fibre networks.</p> <p>6.7. The National State of Disaster is still in place and, as such, the ICT COVID-19 National Disaster Regulations, 2020, which prescribe minimum standards which licensees must follow during this period, were in force until 10 November 2021.</p> <p>6.8. The 2020 Regulations were repealed by the ICT COVID-19 National State of Disaster Regulations, 2021, published on 11 November 2021. The current Regulations did not extend the validity of the temporary radio frequency spectrum licences issued in April 2020, and these licences were terminated on 30 November 2021.</p> <p>6.9. As such, licensees were required to apply for the assignment of provisional radio frequency spectrum licence, and to pay pro-rated radio frequency spectrum licence fees for the period commencing on 01 December 2021 to 30 June 2022.</p> <p><u>Recommendation to Council:</u></p> <p>6.10. It was recommended that Council approves the report on the analysis of tariff notifications which were submitted to ICASA for the period 01 July 2021 to 31 December 2021, which will be published on the Authority's website.</p>	

KM



No.	Action Item	Person Responsible
	<p>6.11. Council suggested that the graphics and tables on the report be 'repackaged' for better clarity to the consumer.</p> <p>6.12. Council expressed concerns regarding the broader quality of service.</p> <p>6.13. Council thanked the Division for the information in the report. Council requested that the document be published in two parts: the Executive Summary and the full Report. Council expressed that the Executive Summary is hard to follow, and that it should be edited to be more reader friendly.</p> <p>6.14. Management informed Council that it notes the issues raised by Council. Management informed Council that the request for the Executive summary was noted, and that it would further be implemented.</p> <p>The submission was approved by Council.</p>	
7.	<p>The state of the ICT sector in South Africa 31st March 2022</p> <p>The Executive: PRA presented the submission.</p> <p>7.1. The purpose of this submission was to request Council to approve the report on the State of the Information and Communication Technology (ICT) Sector in South Africa for publication on the Authority's website.</p> <p>7.2. The Authority continues to recognise that the access to a comprehensive and timely set of ICT indicators is vital for a proper regulation of the sectors for which it is responsible, namely: the telecommunications, broadcasting, and postal sectors.</p> <p>7.3. The intention is to use these indicators to benchmark values, inform sector policy analysis and ensure compatibility with global benchmarking and data compiled by other regulators. The data used to compile this report was collected over a 12-month period ending 30 September 2021.</p>	CEO / Exec: PRA

KM



No.	Action Item	Person Responsible
	<p>7.4. The data was collected from secondary sources (such as Statistics South Africa (“Stats SA”) and OOKLA) as well as through a detailed questionnaire sent to relevant stakeholders by the Authority. Like the previous report, this report also includes an international comparison of South African Internet speeds for fixed as well as mobile broadband (both download and upload speeds).</p> <p>7.5. The collected data is aggregated to deal with the issues of confidentiality. Responses were received from a total of one hundred and two (102) ECS and ECNS licensees, twenty-eight (28) from television and radio broadcast licensees and seven (7) from postal service licensees.</p> <p>7.6. The report presents the performance and developments in the ICT sector, focusing on the three areas that are regulated by ICASA.</p> <p><u>Recommendation to Council</u></p> <p>7.7. It was recommended that Council notes the report on the State of the ICT sector in South Africa for publication on the Authority’s website.</p> <p><u>The following comments were made:</u></p> <p>7.8. Council inquired if the report was for noting or approval.</p> <p>7.9. Management informed Council that the report is for approval and conveyed apologies for inconsistency in the submission in this regard.</p> <p>7.10. Council expressed that the sector report should align with the ICT data submitted to the ITU.</p> <p>7.11. Council inquired if it is a legal requirement that licensees should respond. Council further inquired if the response rate is better or if the response rate was lower than previous years.</p> <p>7.12. Management further informed Council that the report will be aligned with the data submitted to the ITU. Management</p>	



No.	Action Item	Person Responsible
	<p>informed Council that it is a regulatory requirement to respond to the questionnaire of the Authority.</p> <p>7.13. Management informed Council that, when the report is being prepared, the information from Stats SA and the Census are taken into account.</p> <p>The submission was approved.</p>	
8.	<p>Approval of Discussion Document on the Optimisation of the Frequency Modulation (FM) Sound Broadcasting for publication in the Government Gazette</p> <p>The Project Manager presented the submission.</p> <p>8.1. The purpose of the submission was to request Council to approve the Discussion Document on the Optimisation of the Frequency Modulation (FM) Sound Broadcasting for publication in the Government Gazette.</p> <p>8.2. The primary purpose of the optimisation exercise is to achieve efficient use of the VHF 87.5-108 MHz ("FM") band for analogue sound broadcasting and to allocate new frequencies for assignment to meet the increasing need for additional frequencies in African countries.</p> <p>8.3. Moreover, the project is consistent with the International Telecommunications Union's (ITU's) GE84 plan, which provides a plan modification procedure described in Article 4. The procedure allows a frequency assignment's characteristics to be modified or a new assignment to be entered.</p> <p>8.4. Section 30 (2) of the Electronic Communications Act No 36 of 2005 mandates the Authority to control, plan, administer, manage, license and assign the use of radio frequency spectrum. In executing the aforementioned mandate, the Authority must ensure compliance with applicable standards and requirements of the ITU's Radio Regulations, and South</p>	<p>Cllr [REDACTED] / Project Manager</p>

KM



No.	Action Item	Person Responsible
	<p data-bbox="360 495 932 524">Africa's National Radio Frequency Plan.</p> <p data-bbox="261 573 1238 685">8.5. The Committee, as part of the project, submitted thirty-two (32) iterations in total, including South African assignments, into the plan.</p> <p data-bbox="261 730 1238 999">8.6. Iterations 0, 1, and 2 were submitted during the 1st frequency coordination meeting held from 15 to 19 February 2021. Iterations 13, 14, and 15 were submitted during the 2nd frequency coordination meeting. Iterations 30, 31, and 32 were submitted during the 3rd and final frequency coordination meeting. All other iterations were submitted on a bi-weekly basis.</p> <p data-bbox="261 1043 1238 1357">8.7. While identifying new frequencies for FM broadcasting, the Committee took the opportunity to add existing frequency assignments on Annexure A of the Terrestrial Broadcasting Frequency Plan ("TBFP"), which were not on the GE84 plan. To date, South Africa has identified 29 new frequency assignments and added 809 existing frequency assignments to the iteration files of the GE84 plan for consideration by the ITU.</p> <p data-bbox="261 1402 1238 1637">8.8. All the frequency assignments were coordinated with our neighbouring countries as part of the project. The new frequency assignments identified must be categorised for Public Broadcasting Services, Commercial Broadcasting Services, and Community Broadcasting Services, thus the need to consult.</p> <p data-bbox="261 1682 1238 1917">8.9. During the project, the Authority took the opportunity to identify all frequency assignments that need to be suppressed and withdrawn from the GE84 plan and removed from the TBFP as indicated in Table 3 below. This is because these frequency assignments will cause harmful interference to existing licensed assignments.</p>	

KM



No.	Action Item	Person Responsible
	<p>8.10. Moreover, the committee also identified assignments that needed to be modified. The modification required for these assignments includes changes to site name and location.</p> <p><u>Recommendation to Council</u></p> <p>8.11. It was recommended that Council approves the Discussion Document on the Optimisation of FM Sound Broadcasting for publication in the Government Gazette.</p> <p>8.12. Council requested clarity about the frequencies that are currently being suppressed due to other frequencies causing interference.</p> <p>8.13. The Committee informed Council that these frequencies are dormant, but there is another frequency close to the vicinity of that station that needs to be suppressed. The Authority is suppressing that station because it is dormant and, if it is ever used, it will cause interference to a new station.</p> <p>The submission was approved by Council.</p>	
9.	<p>Submission of documents on the review of the 1999 IBA regulations for approval and publication</p> <p>The Project Manager presented the submission.</p> <p>9.1. The purpose of this submission was to request Council to approve the following documents for publication in the Government Gazette:</p> <p>9.1.1 The Findings Document on the Review of the Independent Broadcasting Authority (IBA) Advertising, Infomercials and Programme Sponsorship Regulations, 1999;</p> <p>9.1.2 Draft Regulations regarding Advertising, Infomercials and Programme Sponsorships 2022;</p> <p>9.1.3 The Explanatory Memorandum; and</p> <p>9.1.4 Notice in terms of section 4C (6) of the ICASA Act.</p> <p>9.2. The Committee on the Review of the Advertising, Infomercials and Programme Sponsorship Regulations is in the process of</p>	<p>Cllr [REDACTED] / Project Manager</p>



No.	Action Item	Person Responsible
	<p>reviewing the IBA Advertising, Infomercials and Programme Sponsorship Regulations, 1999, published in Government Gazette No 6487 of 01 April 1999.</p> <p>9.3. The Authority published the Discussion Document on the Review of the Independent Broadcasting Authority Advertising, Infomercials and Programme Sponsorship Regulations, 1999, in Government Gazette No 44333 of 26 March 2021. The closing date for written submissions was 07 June 2021.</p> <p>9.4. The Authority received seven (7) written submissions from stakeholders, namely: eMedia Investments, MultiChoice, Media Monitoring Africa, the National Association of Broadcasters, Outsurance, the South African Broadcasting Corporation and the South African Screen Federation. Four (4) stakeholders indicated that they were interested in making oral presentations at public hearings. The public hearings were held on 14 and 26 July 2021.</p> <p>9.5. The Committee has finalised a Findings Document, Draft Regulations, an Explanatory memo and a Notice in terms of section 4C (6) of the ICASA Act, for publication. The Draft Regulations will be published to solicit inputs from stakeholders.</p> <p><u>Recommendation to Council</u></p> <p>9.6. It was recommended that Council approve the following documents for publication in the Government Gazette:</p> <p>9.6.1 The Findings Document on the Review of the Independent Broadcasting Authority (IBA) Advertising, Infomercials and Programme Sponsorship Regulations, 1999;</p> <p>9.6.2 The Explanatory Memorandum;</p> <p>9.6.3 Draft Regulations regarding Advertising, Infomercials and Programme Sponsorships, 2022; and</p> <p>9.6.4 Notice in terms of section 4C (6) of the ICASA Act.</p> <p><u>The following comments were made:</u></p>	



No.	Action Item	Person Responsible
	<p>9.7. Council requested contextualisation of the APP target, and further inquired what the next steps following publication were.</p> <p>9.8. The Committee informed Council that, following approval by Council, the draft regulations would be published for public comment.</p> <p>9.9. Council requested the next steps for the Committee into the upcoming financial year.</p> <p>9.10. The Committee informed Council that, for 2022-2023 financial year, the Committee will be holding public hearings, and the final regulations will be published in April 2023.</p> <p>9.11. Council expressed that the findings document was a long document, as it is 77 pages long and further that the submission should have been accompanied by an executive summary.</p> <p>9.12. Council queried the phrase “notwithstanding sub-regulation 2” which is in regulation 6.4 of the draft regulations.</p> <p>9.13. The Committee informed Council that the Findings Document is a summary of what was submitted by the stakeholders. The Committee further advised that, where Regulation 6.4 states “notwithstanding sub-regulation 2”, this is incorrect and is supposed to reflect “notwithstanding sub-regulation 6.3”.</p> <p>9.14. Management informed Council that Regulation 6.10 uses wording or language that is in line with editorial independence.</p> <p>The submission was approved by Council.</p>	
10.	<p>Report regarding the licensing process of an Individual Electronic Communications Network Service for the Wireless Open Access Network</p> <p>The Project Manager presented the submission.</p> <p>10.1. The purpose of the submission was to present the report to Council for approval.</p>	<p>Cllr [REDACTED] / Project Manager</p>



No.	Action Item	Person Responsible
	<p>10.2. On 26 July 2019, the Minister of Communications and Digital Technology (“the Minister”) published the Policy Direction on the Licensing of a Wireless Open Access Network (“Policy Direction”).</p> <p>10.3. Pursuant to the Policy Direction, on 2 October 2020 the Authority published a composite Invitation to Apply (ITA) in terms of section 9(2) of the ECA and regulation 7 of the Radio Frequency Spectrum Regulations of 2015 (“RFS Regulations”), for the licensing of awarding Individual Electronic Communications Network Service (I-ECNS) and RFS Licences for the purpose of operating a Wireless Open Access Network (WOAN). The closing date for the submission of applications was on 30 March 2021.</p> <p>10.4. The Authority did not receive applications because on the very date (30 March 2021) the Authority published a notice regarding the suspension of the closing date for applications for the WOAN licence, pursuant to a Court Order handed down on 8 March 2021 by the Pretoria High Court. Given the aforementioned, this document sets out to report on the project status for the awarding of the I-ECNS and RFS licences for the purpose of operating the WOAN.</p> <p>10.5. On 15 September 2021, following the interim interdict handed down by Pretoria high court on 8 March 2021 (mentioned above) and a series of settlement negotiations, the North Gauteng High Court granted a Consent Order entered into between certain parties, which concluded the litigation between the Authority, Telkom and e.tv.</p> <p>10.6. According to the Court Order, the Authority’s decision to publish the WOAN ITA and the Auction ITA was reviewed and set aside. The matter was referred back to the Authority for reconsideration.</p> <p>10.7. The Authority advised that it has resolved temporarily to suspend the timetable for the licensing of the WOAN in order to allow for the completion of the consultation process for the permanent licensing of the IMT spectrum, and to allow the Authority to investigate the impact of the consultation results on the licensing of the WOAN.</p>	



No.	Action Item	Person Responsible
	<p>10.8. The Committee conducted secondary (desktop) research, and prepared a consolidated report on the WOAN in other jurisdictions, such as Russia, Mexico, Rwanda, and Kenya.</p> <p>10.9. The Committee looked at the National Broadband Plans, WOAN construction requirements, allocation and licensing of spectrum for the WOAN, as well as the objectives and conditions for the WOAN, focusing on both industry and social objectives, the WOAN structure (private / public or both), total number of licences, and the WOAN's current status.</p> <p>10.10. On 9 March 2022, Cabinet approved an amendment to the Policy of High Demand Spectrum and Policy Direction on the licensing of a WOAN ("proposed amendment") to be published for public comments, which seeks to amend the policy direction by removing reference to the WOAN.</p> <p>10.11. According to the notice, the available spectrum for licensing of the WOAN does not meet the viability threshold as determined in the study conducted by the CSIR on behalf of the DCDT. Further, the policy objectives intended to be achieved by the WOAN will be realised using the Next Generation Radio Frequency Spectrum policy that is currently being finalised for public consultations.</p> <p>10.12. Taking the above into consideration, the Authority will wait until the Policy Direction is finally amended and the Next Generation Radio Frequency Spectrum Policy is published, for the Authority to consider the same prior to the development of a revised ITA.</p> <p>10.13. The Committee will continue with its studies and further engagements to ensure that no time is lost prior to the publication of the Next Generation Radio Frequency Spectrum Policy.</p> <p>10.14. The Committee remains committed to ensuring transparency in its processes to issue I-ECNS and RFS Licences for the purpose of operating a WOAN.</p>	

KM



No.	Action Item	Person Responsible
	<p><u>Recommendation to Council</u></p> <p>10.15. The Committee recommends that Council approves the report on the licensing of the WOAN.</p> <p>10.16. Council expressed that there should be a broader discussion in terms of the licence conditions in the ITA.</p> <p>10.17. Council expressed that, should the Authority proceed to license WOAN, the question that should be asked by the Authority should be what it can do to make sure that a licensee has the biggest possible chance of success.</p> <p>10.18. Council expressed that there is confusion about what is happening around the WOAN. Council further inquired whether the report was for internal or external consumption.</p> <p>10.19. The Committee informed Council that the report is not for public consumption as is. The Committee informed Council that the public was supposed to be advised on the next step regarding the WOAN. In this case the Committee is not in a position to move forward: the policy process should first be finalised.</p> <p>10.20. The Committee informed Council that it will notify the public that it still awaits the finalisation of the Policy Direction in order to determine a way forward with regards to the WOAN process.</p> <p>10.21. Council resolved to approve the report and keep it for internal consumption, until such time that the Authority is able to attend to the WOAN matter.</p> <p>Approved (for internal consumption only – for APP purposes for now, until the Policy direction is finalised).</p>	

KM



<p>11.</p>	<p>Recommendation By Complaints and Compliance Committee to Council in the matter between Primedia (Pty) Ltd and Magic 828 And LM Radio Stations</p> <p>The CCC Council representative presented the submission to Council.</p> <p>11.1. The purpose of this submission was to table the recommendation of the Complaints and Compliance Committee (“CCC”) in the matter between Primedia (Pty) Ltd (the “Complainant”) and Magic 828 and LM Radio Stations (the “Respondents”).</p> <p>11.2. On 13 May 2021, the Complainant lodged a complaint with the CCC against the Respondents for the following allegations of contravention, viz that:</p> <p>11.2.1 The Respondents failed to comply with Regulation 9(4) of the Standard Terms and Conditions for Individual Licence Regulations contained in Notice 525 published in Government Gazette No 33294, dated 14 June 2010, as amended, in terms of section 4.3(j) of the ICASA Act, 2000 (“the ICASA Act”), read with section 8(3) of the ECA. The section provides as follows: “Programme syndication must not exceed 20% of a licensee’s programme.”</p> <p>11.2.2 This restriction was varied by the ICT COVID-19 National Disaster Regulations in Notice 238 published in Government Gazette 43207 dated 6 April 2020 (“the ICT Covid Regulations”). Regulation 4(9) thereof reads: “Notwithstanding the provisions of the Regulations any licence issued, the following minimum standards shall apply during the subsistence of the National State of Disaster - (9) Programme syndication must not exceed 45% per week of a broadcasting service licensee's programming.”</p> <p>11.2.3 The Complainant alleged that the Respondents exceeded the prescribed limit of 45% by far. In support of the allegation, Primedia attached an affidavit by Mr Alan Matthews, Group Broadcasting Manager at Primedia. The allegation was that, for a period from 05 - 11 April 2021, Magic 828 and LM Radio syndicated 92 hours of programming out of the weekly broadcast period of 98 hours, thereby syndicating 93.87% of their programming during the programme period.</p>	<p>Cllr [REDACTED]</p> <p>KM</p>
------------	---	----------------------------------



No.	Action Item	Person Responsible
	<p>11.3. The hearing of the CCC to hear oral arguments from the parties was held on 05 November 2021.</p> <p>11.4. From the totality of the evidence, the CCC has come to the following conclusion: The complaint that the Respondents have failed to comply with section 4(9) of the ICT COVID-19 Regulations in that LM Radio and Magic 828 are syndicating their programmes to one another, at a percentage that is more than 45% is upheld.</p> <p><u>Recommendation to Council</u></p> <p>11.5. In view of the finding above, the CCC recommends the following order to the Authority:</p> <p>(a) direct the Licensees, LM Radio and Magic 828, to desist from any further contravention of the ICT Covid-19 Regulations as read with the Standard Terms Regulations, in terms of section 17E (2)(a) of the ICASA Act; and</p> <p>(b) direct the Licensees to pay a fine of R30, 000 each, of which R15, 000 is suspended for three years, within 30 days after ICASA has published its decision.</p> <p>The submission was approved by Council.</p>	
12.	<p>Reference Geolocation Spectrum Database Migration</p> <p>The Project Manager presented the submission.</p> <p>12.1. The purpose of this submission is to request Council to:</p> <p>12.1.1 Approve the report on the migration of the Reference Geo-location Spectrum Database (R-GLSD) from Council for Scientific and Industrial Research (CSIR) to ICASA.</p> <p>12.1.2 Approve that the R-GLSD is now hosted and managed by ICASA as of 01 April 2022 henceforth, as a regulatory mechanism in order to implement</p>	<p>Cllr [REDACTED] / Project Manager</p> <p><i>KM</i></p>



No.	Action Item	Person Responsible
	<p style="text-align: center;">Regulation 16 of the Regulations on the Use of Television White Spaces, 2018.</p> <p>12.2. On 23 March 2018, the Authority prescribed the “Regulations on the Use of Television White Spaces”, through promulgation in Government Gazette No 41512 (Notice 147 of 2018) (“the Regulations”).</p> <p>12.3. The Regulations are an enabling mechanism that facilitates the deployment of television white space (TVWS) network technologies based on dynamic spectrum access (DSA), for providing broadband services.</p> <p>12.4. The APP target for the 2021/2022 financial year was to migrate the R-GLSD system onto the Authority’s platform. The R-GLSD migration process has followed a sequential approach, whereby each phase outlined in the plan was completed before moving to the next phase.</p> <p>12.5. Phase 0 was capacity building on the R-GLSD system and the migration process. ICASA personnel attended the live sessions facilitated by the CSIR representatives.</p> <p>12.6. Phases 1 to 4 were server acquisition, setup and application installation. The ICASA team prepared a virtual machine on their existing hosting environment. The team requested to downsize the recommended server specifications due to the delayed procurement process for new servers.</p> <p>12.7. Phase 5 was the operational testing, and it was performed in two parts - addressing technical and functional testing.</p> <p>12.8. Phases 6 to 9 were the performance testing, transfer of historic data and switchover. Performance tests were done to determine whether the R-GLSD hosted within ICASA data centre met the requirements.</p> <p>12.9. Transfer of a database dump for all transactions on R-GLSD since the system commissioning (19 March 2019), and switchover to the Authority’s hosted system was completed during the scheduled slot on Monday 21st March 2022, between 10:00 and 12:00.</p>	<p style="text-align: right;">KM</p>



No.	Action Item	Person Responsible
	<p><u>Recommendation to Council:</u></p> <p>12.10. It was recommended that Council approve the report on the migration of the Reference Geo-Location Spectrum Database (R-GLSD) from the Council for Scientific and Industrial Research (CSIR) to Independent Communication Authority of South Africa (ICASA).</p> <p>12.11. It was further recommended that Council approve that the R-GLSD is now hosted and managed by ICASA as of 01 April 2022 henceforth, as a regulatory mechanism in order to implement Regulation 16 of the Regulations on the Use of Television White Spaces, and of the Responsibilities of Geo-Location Spectrum Database Operators Reference GLSD.</p> <p><u>The following comments were made:</u></p> <p>12.12. Council raised that it was not clear what the aim of the website was. Council inquired if the intention was to communicate the state of play to interested parties in the marketplace, or is it there to assist anybody who wants to apply for access to TV white space spectrum.</p> <p>12.13. Council stated that the Authority was in the process of amending the Type Approval Regulations and requested that the Committee make necessary amendments to the website once the need arises.</p> <p>12.14. The Committee informed Council that the updates would be affected as soon as there are updates within the Authority. The Committee informed Council that the list of service providers contains only one that is qualified, and the rest are test cases that were used by the Authority.</p> <p>12.15. Council requested that the Committee should ensure that the long links and email addresses are more user-friendly.</p> <p>The submission was approved by Council.</p>	


KM



No.	Action Item	Person Responsible
13.	<p>ICASA APP 2022/23</p> <p>The submission was deferred to tomorrow's Council meeting.</p>	<p>CEO / SM: Strategy and Programme Management</p>
14.	<p>Approval of ICASA Council-led Projects for the 2022/23 FY</p> <p>The submission was deferred to the Council Projects Steering Committee to take place tomorrow.</p>	<p>CEO / SM: Strategy and Programme Management</p>
15.	<p>Quarter 2 and 3 of 2021/22 update of Register of Memoranda of Understanding Entered into by the Authority</p> <p>The submission was presented by the Executive: LRCCC.</p> <p>15.1. The purpose of this submission was to update Council with regards to the memoranda of understanding ("MOUs") entered into by ICASA, including those in the process of being concluded with other entities, as of Quarter 2 and 3 of financial year 2021/22, for noting.</p> <p>15.2. The Authority has thus to date entered into various MOUs. The MOUs in effect are uploaded by Corporate Services onto the ICASA website at https://www.icasa.org.za/pages/mous.</p> <p>15.3. The MOUs that are currently in effect between ICASA and other entities include the following:</p> <p>15.3.1 ICASA and Council for Scientific and Industrial Research (CSIR);</p> <p>15.3.2 ICASA and South African Civil Aviation Authority (SACAA);</p> <p>15.3.3 ICASA and National Consumer Commission (NCC);</p> <p>15.3.4 ICASA and the Lesotho Telecommunications Authority;</p> <p>15.3.5 ICASA and South African Maritime Authority (SAMSA);</p> <p>15.3.6 ICASA and the Competition Commission;</p> <p>15.3.7 ICASA and South Africa Bureau of Standards (SABS);</p>	<p>CEO / Exec: LRCCC</p>

KM



No.	Action Item	Person Responsible
	<p>15.3.8 ICASA and the Directorate for Priority Crime Investigation (DPCI) Judge;</p> <p>15.3.9 ICASA and Universal Service and Access Agency of South Africa (USAASA);</p> <p>15.3.10 ICASA and the Film and Publications Board (FPB);</p> <p>15.3.11 ICASA and the Swedish Program for ICT in Developing Regions (Spider) at the Department of Computer and System Sciences, Stockholm University, Stockholm, Sweden;</p> <p>15.3.12 ICASA and National Telecommunication Agency of Brazil;</p> <p>15.3.13 ICASA and the National Metrology Institute of South Africa (NMISA);</p> <p>15.3.14 ICASA and South African Radio League;</p> <p>15.3.15 ICASA and Autoridade Reguladora Das Comunicações (INCM) of Mozambique.</p> <p>15.3.16 ICASA and the Advertising Regulatory Board (ARB);</p> <p>15.3.17 ICASA and the Federal Communications Commission (FCC); and</p> <p>15.3.18 ICASA and Lundstar Waste Management Group (Pty) Ltd.</p> <p>15.4. The requests or proposals for MOU collaborations with ICASA have been received from:</p> <p>15.4.1 the China Branch of the BRICS Institute of Future Networks (BIFNC);</p> <p>15.4.2 the National Broadcasting and Telecommunications Commission in Thailand (NBTC).</p> <p><u>Recommendation to Council</u></p> <p>15.5. It was recommended that Council should note the updated ICASA MOU register as of Quarter 2 and 3 of 2021/22 prepared by the LRCCC.</p> <p>The submission was noted by Council.</p>	
16.	<p>Ethics Help System (Financial Disclosure system) -Training of the system for Councillors</p> <p>The training was deferred to April 2022.</p>	<p>CEO / Exec: LRCCC</p> 

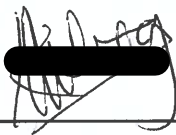


No.	Action Item	Person Responsible
17.	<p>Revised Proposed Policy Direction on Rapid Deployment of Electronic Communications Networks and Facilities</p> <p>The submission was previously tabled and approved at Council. It has been erroneously included on today's agenda</p>	CEO/ Exec: LRCCC
18.	<p>General</p> <p>18.1. The Chairperson requested that Secretariat tentatively diarise a Council meeting to discuss the Subscription TV submission from 5PM - 6PM on 28 March 2022, depending on the outcome of the Subscription TV SteerCo scheduled to take place immediately after the Council meeting.</p> <p>18.2. Council will have a further Council meeting on 29 March 2022, as well as a Council Projects SteerCo meeting.</p> <p>18.3. Secretariat was requested to follow up on the following and ensure that same is loaded on the Z-Drive by 2pm for tomorrow's Council meeting:</p> <p>18.4.1 5G report; 18.4.2 Must Carry submission; 18.4.3 Subscription TV submission; 18.4.4 CAP Q4 Report; 18.4.5 Municipal Elections Report (Secretariat was requested to verify if same is an APP-related matter, and, if it is an APP target it should be loaded on the meeting pack).</p> <p>18.5 Council resolved that on Thursday 31 March 2022 the following be discussed:</p> <p>18.5.1 The Signal Distribution Discussion Document (the APP target is the Council decision/approval and not the Gazetting) - the submission was to be addressed on Thursday 31 March 2022; and</p> <p>18.5.2 Tabling of minutes of Council.</p>	Chairperson

KM
26



No.	Action Item	Person Responsible
19.	Date of next meeting: TBA	Secretariat
20.	Closure The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 11:54 am.	Council

Signed:  _____

Dr Keabetswe Modimoeng
(Chairperson)

Date: 20 May 2022