



Independent Communications Authority of South Africa

| MINUTES OF AN ORDINARY COUNCIL MEETING | | |
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| Date | 29 March 2022 | |
| Time: | 08:00 | |
| Venue: | Microsoft Teams | |
| | | |
| Present | [REDACTED] | Chairperson |
| | [REDACTED] | Councillor |
| | [REDACTED] | Councillor |
| | [REDACTED] | Councillor |
| | [REDACTED] | Councillor |
| | [REDACTED] | Councillor |
| | [REDACTED] | |
| By Invitation | [REDACTED] | CEO |
| | [REDACTED] | CFO |
| | [REDACTED] | CAE |
| | [REDACTED] | Corporate Secretary |
| | [REDACTED] | Secretariat Officer |
| | [REDACTED] | Secretariat Officer |
| | [REDACTED] | Secretariat Officer |
| | [REDACTED] | |
| Partial Attendees | [REDACTED] | Executive: Licensing and Compliance |
| | [REDACTED] | Executive: PRA |
| | [REDACTED] | SM: ICT Licensing Services |
| | [REDACTED] | Manager: Content Services |
| | [REDACTED] | Network System Specialist |
| | [REDACTED] | Manager: Broadcasting Compliance |
| | [REDACTED] | SM: Social Policy for ICT |
| | [REDACTED] | Manager: Cyber Security, PRA |
| | [REDACTED] | SM: Market Regulation, PRA |
| | [REDACTED] | RF Specialist: Licensing |
| | [REDACTED] | CAP Chairperson |
| | [REDACTED] | External Consultant |
| | [REDACTED] | External Consultant |
| | [REDACTED] | External Consultant |
| | [REDACTED] | Specialist: Monitoring and Evaluation obo SM: SPM |



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| | Leweng Mphahlele | Manager: Wholesale services |
| | Ryan Hawthorne | External Consultant |
| | | |
| Apologies | None | |

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| 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. There was a request to present Item D3 (Inquiry into Subscription Broadcasting Services – Findings Document and draft Regulations) at 09:00 as the Committee had external stakeholders who would join Council for the presentation.</p> <p>1.3. There were no apologies 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 ratified.</p> | All |
| 4. | <p>Licensing of IMT (“Standing Item”)</p> <p>The following updates were noted by Council:</p> <p>4.1. Council welcomed the e.tv judgment which has just been published. It was noted that the judgment was aligned to the media statement issued by the Authority prior to the handing down of the judgment.</p> | CIlr ████████ |



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| | <p>4.2. The Authority will issue a media statement welcoming the e.tv judgment and requesting Telkom to reconsider the current litigation.</p> <p>4.3. The final closeout report will be finalised on 31st of March 2022, and it will serve at the IMT SteerCo, following which the report will be tabled at Council.</p> <p>The update was noted by Council.</p> | |
| 5. | <p>SABC – Application for a Digital Audio Broadcasting Plus (DAB+) Trial Radio Frequency Spectrum Licence</p> <p>The Executive: Licensing and Compliance presented the submission.</p> <p>5.1. The purpose of the submission was to request Council to approve the South African Broadcasting Corporation’s (“the Applicant”) application for a Digital Audio Broadcasting Plus (DAB+) Trial Radio Frequency Spectrum Licence for a period of eight (8) months.</p> <p>5.2. On 12 October 2021, the Applicant submitted an application for a new DAB+ trial Radio Frequency Spectrum Licence for a period of eight (8) months. The Independent Communications Authority of South Africa (“the Authority”) had previously issued the Applicant with Radio Frequency Spectrum Licences to conduct DAB+ trials.</p> <p>5.3. The initial DAB+ trial Radio Frequency Spectrum Licence was issued on 03 November 2014 for the Applicant to conduct the DAB+ Network Verification Tests, Scenario Testing and Scenario Implementation. The licence was extended for two (2) months from 13 November 2015 to 13 January 2016, and further extended for four (4) months from 12 April 2016 to 12 August 2016.</p> <p>5.4. Through the reports submitted to the Authority, the Applicant indicated that it experienced challenges, including technical difficulties and delays in the procurement of equipment, that resulted in some items not being evaluated.</p> | CEO / Exec: Licensing and Compliance |



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| | <p>5.5. Due to the concerns raised on the mid-term report, the Applicant believed that a duration of twelve (12) months would suffice to address the challenges and outstanding activities of the trial.</p> <p>5.6. In June 2020, the Applicant requested the Authority to extend the DAB+ Trial Radio Frequency Spectrum Licence again for another six (6) months to commence from 04 August 2020 to 04 February 2021 which was decline.</p> <p>5.7. The Applicant was advised to submit a new DAB+ trial Radio Frequency Spectrum Licence which was submitted on 12 October 2021 as the DAB+ Trial Radio Frequency Spectrum Licence has already expired.</p> <p>5.8. In its new application, the Applicant has motivated to test new features of the DAB+ technology. The trial transmission will occur from Sentech’s two transmitters, Brixton and Kameeldrift, which were used in the previous trials, transmitting using a frequency of 239.2 MHz in a Single Frequency Network (SFN) configuration, covering the majority of the Gauteng Province.</p> <p><u>Recommendation to Council</u></p> <p>5.9. It was recommended that Council approves the SABC’s DAB+ trial Broadcasting Radio Frequency Spectrum Licence. The Applicant has applied to test for new few features of DAB+ technology as per regulation 40 of the Radio Frequency Spectrum Regulations, 2015 (“the Regulations”).</p> <p><u>The following comments were made:</u></p> <p>5.10. Council sought clarity on the number of trial licenses it could issue in terms of the Regulations.</p> <p>5.11. Management informed Council that the Regulations do not limit the number of trial licenses a licensee can apply for, the regulations only prohibit the number of extensions that can be</p> | |



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| | <p>granted. A licensee is only allowed one extension of a period not exceeding six (6) months.</p> <p>5.12. Council requested that the licensees should be invited to present the results to Council once the trial is concluded.</p> <p>The submission was approved by Council.</p> | |
| <p>6.</p> | <p>Submission of 60 Broadcasting Compliance Annual Reports</p> <p>The Executive: Licensing and Compliance presented the submission.</p> <p>6.1. The purpose of this submission was to request Council to note and approve the sixty (60) Broadcasting Compliance Annual Reports, for sound broadcasting service Licensees, compiled as per the Compliance Operational Performance Plan (“OPP”) for the 2021/2022 Financial Year.</p> <p>6.2. Currently, there are 326 broadcasting service Licensees in the broadcasting market, broken down as follows:</p> <p>6.2.1. 242 Community Sound Licensees;</p> <p>6.2.2. 23 Low Power Commercial Sound Licensees;</p> <p>6.2.3. 5 Community TV Licensees;</p> <p>6.2.4. 9 Subscription TV Licensees;</p> <p>6.2.5. 5 Free to Air TV Licensees (e.tv, SABC1,2&3 and Kwese TV);</p> <p>6.2.6. 27 Commercial Sound Licensees; and</p> <p>6.2.7. 15 Public Sound Licensees</p> <p>6.3. There are 308 operational Licensees while the remainder (18), are non-operational.</p> <p>6.4. The non-operational Licensees include subscription television (WOW TV, Super 5 Media, Close TV, esat TV and Siyaya TV), commercial radio (Beat FM, Rhythm FM and Talkspots). A process, among others, through the Complaints and Compliance Committee (CCC) was set in motion in 2020 to deal with the non-operational Licensees mentioned.</p> | <p>CEO / Exec: Licensing and Compliance</p> |



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| | <p>6.5. The Compliance Department has identified the following as some of the reasons for the non-operational status of the above-mentioned stations:</p> <p>6.5.1. Funding challenges;</p> <p>6.5.2. Lack of equipment required to commence their broadcasting service; and</p> <p>6.5.3. Governance and management challenges.</p> <p>6.6. The information submitted by each Licensee has been analysed in detail, with areas of non-compliance fully outlined in the respective reports.</p> <p>6.7. For the year under review, Broadcasting Licensees were exempt from compliance with specific programming requirements and promises of performance during the National State of Disaster. The monitoring exercise has taken into consideration the impact of the reduced performance period and the exemptions granted to Licensees during the period under review.</p> <p>6.8. Commercial Radio</p> <p>6.8.1 Eighteen (18) commercial radios that form part of this submission, ten (10) complied with their licence terms and conditions and related Regulations; Algoa FM, Jacaranda FM, Gagasi FM, Heart FM, Kaya FM, OFM, Smile FM, YFM, You FM and Rise FM.</p> <p>6.8.2 Eight (8) commercial radio stations did not fully comply namely: Capricorn FM, LM Radio, Magic 828, Power FM, Talk Radio 702, Highveld Stereo, KFM and Classic FM.</p> <p>6.9. Community Radio</p> <p>6.9.1 Twenty-one (21) Community Radio Stations form part of this submission, sixteen (16) did not fully comply namely; Eldos FM, Jozi FM, Bay FM, Bosveld Stereo, Kurara FM Nkqubela FM, Radio Wolkberg, Vukani Community Radio and L A FM, Radio Veritas, NFM, Kofifi FM, Vibe FM, Bokone Bophirima, Witbank and Mokopane Community Radio.</p> | |



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| | <p>6.9.2 Five (5) Licensees fully comply namely: Al Ansaar - Durban, Al Ansaar – PMB, Univen Radio, Voice of the Cape and Link FM.</p> <p>6.10. The Broadcasting Compliance Unit will approach all Licensees who did not comply during the period under review, with the intention to refer their non-compliance to the CCC for adjudication and given an opportunity to make representations thereat. However, it is important to note that in certain instances the non-compliance could be due to the prevailing restrictions imposed by the COVID–19 Regulations and or the likely negative impact the pandemic has had on the business of the Licensees concerned.</p> <p><u>Recommendation to Council</u></p> <p>6.11. It was recommended that Council should approve the sixty (60) broadcasting compliance annual reports compiled for the 2020/21 Financial Year.</p> <p><u>The following comments were made:</u></p> <p>6.12. Council expressed that the report states that there are high levels of non-compliance with the regulatory requirements in the Community broadcasting sector. Council inquired if there was an interface between the licensing division and the MDDA with regards to the broadcasters that are non-compliant.</p> <p>6.13. Council further inquired if there was a verification of Universal Service and Access Fund contributions by licensees.</p> <p>6.14. Council inquired if there could be a way of increasing the team as the team has staff constraints, or if there was a way in which there could be improved efficiency methods for the team.</p> <p>6.15. Management informed Council that the Division engages the MDDA with regards to some of the non-compliance issues of the licensees. The MDDA does invite the Authority to make presentation with regards to Community broadcasters. The MDDA leadership team has recently changed and there is a process of fostering a relationship between the Authority and the MDDA.</p> | |



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| | <p>6.16. Management informed Council that each station has a compliance officer that is assigned to them for monitoring. the Compliance department workshops the Community Broadcasters about the regulations, how they work and what is required from the broadcasters.</p> <p>6.17. Management informed Council that in terms of the MDDA and the USAF contributions, licensees only receive certificates after making payments of their fees.</p> <p>6.18. Council expressed that the capacity to monitor compliance should be assessed, as there is an apparent issue of capacity constraints in the Compliance division.</p> <p>The submission was approved by Council</p> | |
| 7. | <p>Application for the Amendment of an Individual Commercial Sound Broadcasting Service Licence of Primedia (Pty) Ltd in respect of 567 Cape Talk</p> <p>The Executive Licensing and Compliance presented the submission.</p> <p>7.1. The purpose of this submission was to request for Council to approve the recommendations in respect of the application submitted by Primedia (Pty) Ltd trading as 567 Cape Talk ("the Applicant") for the amendment of 567 Cape Talk's Individual Commercial Sound Broadcasting Service ("I-CSBS") licence.</p> <p>7.2. The Applicant holds both a Radio Frequency Spectrum ("RFS") and Individual-Commercial Sound Broadcasting Services (I-CSBS) licence to provide commercial sound broadcasting services in the Western Cape Province. Both licences expire on 16 December 2028.</p> <p>7.3. On 31 March 2021, the Applicant lodged an application for the amendment of its I-CSBS licence in terms of section 10 (1)(c) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) ("the EC Act").</p> <p>7.4. A resolution authorising Geraint Crwys-Williams to bring this application on behalf of the Applicant was duly submitted.1 The</p> | <p>CEO / Exec: Licensing and Compliance</p> |



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| | <p>Applicant attached proof of payment of the application fee totalling an amount of sixty-six thousand four hundred and twenty Rands (R66 420.00).</p> <p>7.5. On 21 June 2021, the Authority took a decision not to fully grant confidentiality to the Applicant's covering letter and some of the information requested to be treated as confidential did not satisfy the criteria set out in section 4D (4) of the ICASA Act for the granting of confidentiality. Subsequently, on 25 June 2021, the Applicant submitted an amendment application that excluded the information that the Authority granted confidentiality on for public viewing.</p> <p>7.6. On 15 July 2021, the Authority published a notice in the Government Gazette inviting interested parties to submit written representations and responses in relation to the application within fourteen (14) working days from the date of publication of the notice. The closing date for written representations was on 4 August 2021.</p> <p>7.7. On even date, both the Applicant and the Authority received written representations from Smile FM objecting to the amendment by the Applicant. The Applicant responded to the submitted objections on 11 August 2021 within the requisite timelines.</p> <p>7.8. It was recommended that Council reject the Applicant's proposed amendment clause 4 of:</p> <p style="padding-left: 40px;">"From 4. Format: <i>"A talk-based service with a maximum of fifteen percent (15%) music programming."</i></p> <p style="padding-left: 40px;">"To 4. Format: <i>"A talk-based service with a maximum of fifteen percent (15%) music programming. 4.1 a maximum of fifteen percent (15%) music programming on weekdays, that is, Monday to Friday excluding public holidays; and</i></p> | |



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| | <p><i>4.2 eighty percent (80%) music programming on Saturdays, Sundays and public holidays."</i></p> <p>7.9. It was recommended that Council approve the proposed amendments to Clause 5 as reflected hereunder:</p> <p>"5. General Programming Obligations</p> <p>5.1 The licensee shall broadcast news on a regular basis for a minimum of thirty (30) minutes each day during the performance period, which news, measured over the period of a day, is to cover local, national and international news.</p> <p>5.2 Should the Licensee source news material from a source other than itself, the source(s) thereof shall be disclosed during the news broadcast."</p> <p>The recommendations were approved by Council.</p> | |
| <p>8.</p> | <p>Postal Compliance Report – 2021/22 FY</p> <p>The Executive: Licensing and Compliance presented the submission.</p> <p>8.1. The purpose of this submission was to request Council to note and approve the Postal Compliance Annual Report, assessing the 2020/2021 financial year performance of the Reserved and Unreserved Postal Services.</p> <p>8.2. Section 4(3)(b) and (d) of the ICASA Act, makes it a specific obligation for the Authority to monitor and enforce compliance by the postal sector.</p> <p>8.3. In terms of the Authority's 2021/2022 Operational Performance Plan ("OPP"), the Licensing and Compliance division, must compile a Postal Compliance Annual Report for the Reserved and Unreserved Postal Services.</p> <p>8.4. Postal Compliance monitoring is carried out regarding the specific licence terms and conditions of the Amended Reserved Postal Services Licence for the South African Post Office Limited (SAPO service licence), the Regulations applicable to</p> | <p>CEO / Exec: Licensing and Compliance</p> |



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| | <p>SAPO and the Unreserved Services Regulations for the courier services.</p> <p>8.5. The report is based on the analysis and assessment of information that SAPO has submitted to the Authority for the 2020/2021 financial year as well as information obtained through inspections conducted by the Regional Postal Compliance Officers and the Postal Compliance Specialist.</p> <p><u>Recommendation to Council:</u></p> <p>8.6. It was recommended for Council to note and approve the 2021/2022 Postal Compliance Annual Report on the Reserved Postal Services (SAPO) and the Unreserved Postal Services (Couriers).</p> <p>The submission was approved by Council.</p> | |
| <p>9.</p> | <p>ECS-ECNS Compliance Annual Report</p> <p>The Executive: Licensing and Compliance presented the submission.</p> <p>9.1. The purpose of the submission was to request Council to consider and approve the ECS/ECNS Compliance Annual Report 2021/2022 compiled for the period under review (2020/2021FY) as required in terms of the Licensing and Compliance Operational Performance Plan (OPP) for the 2021/2022 Financial Year (“FY”), following approval thereof at EXCO on 24 March 2022.</p> <p>9.2. In terms of section 4(3)(d) of the ICASA Act the Authority “must develop, monitor and enforce compliance with license conditions and regulations consistent with the objects of this Act and the underlying statutes for different categories of licenses”.</p> <p>9.3. The Covid-19 pandemic has had a significant impact on the compliance levels of licensees. The key challenges by the Licensees (full details of which are described in the actual ECS-ECNS compliance annual report itself), are as follows:</p> | <p>CEO / Exec: Licensing and Compliance</p> |



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| | <p>9.3.1 Limited availability of staff compliment of licensees; 9.3.2 Adjustment to work from home; 9.3.2 Compliance with the newly published ICT COVID-19 Regulations 2020; 9.3.3 Temporary Spectrum; and 9.3.4 Requests for extensions to comply.</p> <p>9.4. The ECS/ECNS Compliance Unit has an annual target to compile a report on sixty (60) licensees, during a given financial year. In this instance, the 2020/21 target has been exceeded to bring the total to sixty-five (65) licensees for the period under review.</p> <p>9.5. The market comprises of 1056 individual and 2722 class licensees as follows.</p> <p>9.6. The general finding is that compliance with legislative and regulatory obligations, has continued to improve in every financial year. Where however it becomes necessary to refer matters to the Complaints and Compliance Committee (CCC) for non-compliance, that process will be followed. However, no licensees were referred to the CCC during the 2020/2021 financial year.</p> <p><u>Recommendation to Council:</u></p> <p>9.7. It was recommended that Council should approve the ECS/ECNS Compliance Annual Report 2021/2022.</p> <p><u>The following comments were made:</u></p> <p>9.8. Council inquired whether the number of ECNS/ECS licenses on the website was the same as reflected on the report.</p> <p>9.9. Management informed Council that the numbers will be verified and corrected on the website.</p> <p>The submission was approved by Council.</p> | |



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| 10. | <p>Request for Approval of Final Regulations and Reasons Document on Mobile Broadband Services Inquiry</p> <p>The Project Leader presented the submission.</p> <p>10.1. The purpose of this submission was to request Council to approve the Final Regulations and Reasons Document on Mobile Broadband Services Inquiry.</p> <p>10.2. On 17 August 2018 the Authority concluded the Inquiry into priority markets in the electronic communications sector and published Findings Document on priority markets¹, wherein the Authority made a finding that, inter alia, broad market for mobile services will be prioritised for a market inquiry.</p> <p>10.3. The Mobile Broadband Services Inquiry, therefore, follows the conclusion of the priority markets study. The Inquiry was conducted in a series of phases as follows:</p> <p>10.3.1 Phase 1 (commencement of the market inquiry)</p> <p>10.3.1.1 The Authority published the Notice and a questionnaire or request for information and opinions from market participants and stakeholders.</p> <p>10.3.1.2 The Authority received questions of clarification from Telkom on 25 November 2018 and from Vodacom, ISPA, Cell C and MTN on 30 November 2018.</p> <p>10.3.1.3 On 21 December 2018 the Authority published its Responses to Questions of Clarity on the Mobile Broadband Market Inquiry and subsequently published Updated Responses to Clarity Questions: Mobile Broadband Services market Inquiry on 8 January 2019.</p> <p>10.3.1.4 On 06 March 2019, the Authority received a request for an extension to submit responses to the questionnaire of Phase 1 from MTN. The Authority granted an extension in the Government Gazette to submit their responses to 29 March 2019.</p> | Cllr [REDACTED] |




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| | <p>10.3.1.5 Thereafter, the Authority conducted one-on-one meetings in relation to information submitted by Vodacom, MTN, Cell C, Telkom between the 23rd and 29th April and Afrihost on the 12th June.</p> <p>10.3.1.6 In addition, the aforementioned stakeholders were required to supplement their information provided in response to the Phase 1 questionnaire.</p> <p>10.4. Phase 2 (Discussion Document)</p> <p>10.4.1 Following receipt of information and data in line with the questionnaire or request for information under Phase 1, the Authority published a discussion document on its website for public comment for a period of 45 working days.</p> <p>10.4.2 The Authority granted a submission extension for written representations to stakeholders by 15 working days from 6 February to 27 February 2020.</p> <p>10.4.3 Written submissions on the Discussion Document on 27 February and 3 March 2020 were received from ten stakeholders.</p> <p>10.4.4 In addition, the Authority conducted a second series of one-on-one meetings in relation to information submitted by stakeholders.</p> <p>10.5. Phase 3 (Public Hearings on the Discussion Document)</p> <p>10.5.1 The Authority held public hearings on the Discussion Document on the 26th and 27th October 2020.</p> <p>10.5.2 Seven stakeholders namely Cell C, Competition Commission, ISPA, MMA, Telkom, Vodacom and MTN participated in the public hearings.</p> <p>10.6. Phase 4 (Findings Document and draft Regulations)</p> | |




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| | <p>10.6.1 The Authority published the Findings Document on Mobile Broadband Services Inquiry (“Findings Document”) and the draft Mobile Broadband Services Regulations (“the draft Regulations”) on 26 March 2021.</p> <p>10.6.2 On 17 May 2021, the Authority published a notice of extension⁴ of written representations on the draft Regulations from 12 May 2021 to 28 May 2021.</p> <p>10.7. Phase 5 (Public Hearings)</p> <p>10.7.1 The Authority published a media release statement on its website on 6 August 2021 inviting stakeholders to the virtual public hearings on the draft Regulations, which were held on 12 and 13 August 2021.</p> <p>10.7.2 All interested parties, except the SACF, who submitted written representations on the draft Regulations participated in the public hearings.</p> <p>10.8. Phase 6 (Final Regulations and the Reasons Document)</p> <p>10.8.1 Having considered the views of all stakeholders, the Authority will publish in the Gazette final regulations and the reasons document.</p> <p><u>Recommendation to Council</u></p> <p>10.9. It was recommended that Council approve the final Regulations and Reasons Document on Mobile Broadband Services Inquiry for publication in the Government Gazette.</p> <p><u>The following comments were made:</u></p> <p>10.10. Council expressed a need for the Authority to focus largely on roaming deals as well as the deals or transactions around towers and masts in the coming financial year. Council further expressed that the impact of roaming arrangements on the market should be assessed.</p> | |



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| | <p>The submission was approved by Council.</p> | |
| <p>11.</p> | <p>Final Regulations and Reasons Document on the Review of Must Carry Regulations for Approval and Publication</p> <p>The Project Leader presented the submission.</p> <p>11.1. The purpose of this submission was to request the Council to approve the following documents for publication in the Government Gazette:</p> <p>11.2.</p> <p>11.2.1 Final Must Carry Amendment Regulations, 2022; and</p> <p>11.2.2 Reasons Document on Must Carry Amendment Regulations, 2022.</p> <p>11.3. The Must Carry Regulations Committee initiated the process of reviewing the Regulations on Must Carry obligations published in Government Gazette No 31500 of 10 October 2008 in line with section 60(3) of the Electronic Communications Act of 2005. Section 60(3) states that “<i>the Authority must prescribe regulations regarding the extent to which subscription broadcast services must carry, subject to commercially negotiable terms, the television programmes provided by a public broadcast service licensee</i>”.</p> <p>11.4. The Committee published the Discussion Document on 13 December 2019 in Government Gazette 42902 and received two (2) submissions on the Discussion Document.</p> <p>11.5. The Committee published the Draft Regulations, notice in terms of section 4C (6) of the ICASA Act and the Explanatory Memorandum in Government Gazette 44338 of 26 March 2021 and received four (4) written submissions from stakeholders, who also made representations at the public hearings. The Committee have finalised the regulations and would like to publish the final Regulations.</p> <p><u>Recommendation to Council:</u></p> <p>11.6. It was recommended that Council approve the following documents for publication in the Government Gazette:</p> | <p>Cllr </p> |



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| | <p>11.6.1 Final Must Carry Amendment Regulations, 2022; and 11.6.2 Reasons Document on the Must Carry Amendment Regulations, 2022.</p> <p><u>The following comments were made:</u></p> <p>11.7. Council inquired what it would take to accommodate one day a scenario where even when your DSTV subscription is not paid, you can still have the free to air channels on TV?</p> <p>11.8. Management informed Council that it will require a legislative amendment in the definitions, as the definition currently states that subscription broadcasting service means broadcasting service provided to a subscriber upon payment of a fee. Meaning that if there's no payment of a fee there will be no broadcast of the channels.</p> <p>The submission was approved by Council.</p> | |
| 12. | <p>Inquiry into Subscription Television Broadcasting Services – Findings Document and draft Regulations</p> <p>The Project Leader presented the submission.</p> <p>12.1. The purpose of this submission was to recommend for the Council to approve the Findings Document and draft Regulations following the Subscription Television Broadcasting Services Inquiry, for publication in the Government Gazette.</p> <p>12.2. On 11 July 2016 the Authority published a notice of its intention to conduct an inquiry into the state of competition in subscription television broadcasting services in terms of section 4B of the ICASA Act (“the Inquiry”).</p> <p>12.3. The Inquiry commenced in earnest on 13 July 2016, with a preliminary information gathering exercise on a voluntary basis through the publication of a questionnaire for interested stakeholders to complete.</p> <p>12.4. On 25 August 2017, the Authority published a Discussion Document to solicit views from interested stakeholders on the Authority’s preliminary views and analysis concerning</p> | <p>CIlr </p> |



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| | <p>Subscription Television Broadcasting Services. The Discussion Document set out the Authority's preliminary analysis and views of subscription television broadcasting services in South Africa. The closing date for written representations was 31 October 2017.</p> <p>12.5. A Draft Findings Document which expressed the Authority's view and position was published on 12 April 2019. The deadline for written representations in respect of the draft Findings Document was 21 June 2019, which was subsequently extended by notice to 27 August 2019 and finally 4 October 2019, following requests from the relevant stakeholders.</p> <p>12.6. By the closing date, the Authority had received comments from 17 stakeholders and 2 stakeholders, Multichoice and Premier Soccer League (PSL) indicated that they require an opportunity to make oral representations on the draft Findings Document. To this end, the Committee obtained a legal opinion from Mkhabela Huntley Attorneys ("MHA") on whether the Authority is obliged to hold public hearings on the draft Findings Document.</p> <p>12.7. The legal opinion concluded that there is no statutory obligation on the Authority to allow stakeholders to make oral representation. To that end, the Committee took a decision and recommended that Council should not grant the opportunity for an oral hearing to any stakeholder that submitted.</p> <p>12.8. The Findings Document takes into account, inter alia, the following sources of information: 12.8.1 written submissions in response to the Questionnaire; 12.8.2 written submissions in response to the Discussion Document; 12.8.3 oral representations made during the public hearings on the Discussion Document; 12.8.4 additional information as requested by the Authority during the public hearings on the Discussion Document;</p> | |



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| | <p>12.8.5 further market analysis and research;</p> <p>12.8.6 the results of the consumer survey commissioned by the Authority;</p> <p>12.8.7 stakeholder written representations made in relation to the Draft Findings Document;</p> <p>12.8.8. oral representations made during the public hearings on the Draft Findings Document;</p> <p>12.8.9. additional information as requested by the Authority and submitted after the public hearings on the Draft Findings Document; and</p> <p>12.8.10 Government initiatives and proposed policy in the sector.</p> <p>12.9. The Authority will publish the Findings Document to pronounce its findings and mark the conclusion of the inquiry into the state of competition in subscription television broadcasting services in terms of section 4B of the ICASA Act.</p> <p><u>Recommendation to Council:</u></p> <p>12.10. It was recommended for Council to approve the Findings Document and the draft Regulations on Subscription Television Broadcasting Service Inquiry for publication in the Government Gazette.</p> <p><u>The following comments were made:</u></p> <p>12.11. Council inquired if the information used was up to date.</p> <p>12.12. The Committee informed Council that the project was ongoing for a period of time, and confirmed that the information used is current, except for stakeholder comments that were received in 2018, and those stakeholders did not resubmit new comments as requested by the Authority.</p> <p>12.13. Council required the scientific evidence that doing what is contained in Regulation 6 and 8 would induce competition as Council was of the view that same was <i>ultra vires</i>.</p> | |



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| | <p>12.14. Council inquired if the submission before it was all-encompassing of the current views of stakeholders and further whether the information contained was up to date.</p> <p>12.15. Council was of the view that publishing and approval of the Document with texts such as paragraph 6.5.41 in the Final Findings Document will not be to the advantage of the Authority.</p> <p>12.16. Council cautioned the risk of approving draft findings which would completely change in the next coming months.</p> <p>12.17. Council inquired how it would ensure that the Authority does not get involved into commercial agreements between licensees, as stipulated in section 2(y) of the ICASA Act which makes it clear that the Authority should not interfere in the Commercial activities of licensees.</p> <p>12.18. Council expressed concern over going to the markets with this finding's documents, given the concerns raised by Council. Council inquired about the way forward to ensure that the Authority comes up with a document that will be "acceptable".</p> <p>12.19. The Committee expressed to Council that it understands that approval should not be allowed for the sake of meeting an APP target, which would stain the image of the Authority.</p> <p>12.20. The Committee informed Council that the sentiments of Council were understood, and a way forward should be established on what can be done to salvage the work of the Committee.</p> <p>12.21. The Committee informed Council that paragraph 6.5.41 states that much as multichoice is stating that OTTs are eroding its Premium subscriber base, the information reviewed indicated that the decline in premium subscribers precedes the introduction of OTTs in South Africa. The view is that OTT competes with Showmax and Showmax Pro, and not premium subscription.</p> | |




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| | <p>12.22. Council resolved that in April 2022, there be a session, with supporting documentation, and all the letters that are supporting the submission, to assess the ripeness of amending the process airborne.</p> <p>Council resolved not to uphold the recommendation on the Findings Document and the Draft Regulations. Council directed the Committee to thoroughly engage past CCC judgements, correspondence etc relating to non-commencement of services, with a return date to Council set for April, where Council will determine the readiness of amending the process.</p> | |
| <p>13.</p> | <p>5G Report</p> <p>The Project Leader presented the submission.</p> <p>13.1. The purpose of this submission was to request Council to note the Fifth Generation (5G) project annual report for the 2021/22 financial year.</p> <p>13.2. In the 2017/18 financial year the Independent Communications Authority of South Africa (ICASA) established the South African 5G Forum (“Forum”).</p> <p>13.3. 5G is a catalyst for innovation, giving an opportunity to industry and service providers, communities and individuals to advance their digital agendas towards economic growth, job creation and socio-economic development. The role of 5G in South Africa cannot be understood independently from the current state of industrialisation, the role of politics and stakeholder organisations, state relationships, multilateral agreements, and more.</p> <p>13.4. In financial year 2021/22 the annual report is to recommend an implementation strategy based on the recommendations that were concluded in the 2021 5G Annual Report ‘The State of 5G in South Africa - From Readiness to Recommendations’, where an analysis was done to reveal the state of 5G in South Africa.</p> <p>13.5. South Africa is still in the early phase of 5G deployment, and therefore a forward-looking implementation strategy for the</p> | <p>Cllr ████████</p> |



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| | <p>Authority is important to ensure that South Africa harnesses the full benefits of 5G technology.</p> <p>13.6. It is evident that with 5G there will be a massive increase in bandwidth which will require an upgrade in most parts of the network. It recommended that subsidies be made available to improve the rollout of 5G networks, which could in part be achieved by taking advantage of special municipal funds. Government can further support 5G in various ways, including direct funding, subsidised loans, and risk compensation. Additional support for other resources like electricity and land use rights can also be made available.</p> <p>13.7. The Authority should include the relevant standards for 5G in the Official List of Regulated Standards.</p> <p>13.8. Solutions like FWA, supported by wireless terrestrial and satellite, which together enable reliable and affordable broadband connections to the Internet, and supplemented by zero-rating of public benefit websites, can play a big role in bridging the digital divide at a household level. Together these could open possibilities of 5G services in rural areas.</p> <p>13.9. Network coverage and licensing arrangements are necessary to support the uptake of 5G solutions by industry verticals (e.g., mining, manufacturing, agriculture) that can contribute immensely to the GDP of the country. It is recommended for the Authority to collaborate with industry players across all verticals to get insights, including any bottlenecks or limitations in relation to planned 5G use case applications.</p> <p>13.10. The analysis in relation to spectrum management concludes that 5G bandwidth requirements are no less than 80MHz per operator. Considering that spectrum is a finite resource, spectrum management for 5G deployment will remain crucial.</p> <p>13.11. It is further important to ensure that regulatory frameworks are in place to keep up with the fast-paced technology developments. This warrants continual review of spectrum licensing fees, and measures to promote efficient use of spectrum (e.g., dynamic spectrum sharing, dynamic re-farming, spectrum pooling, spectrum trading etc.), taking into</p> | |




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| | <p>consideration the global trend of the licensing of vertical industries.</p> <p>13.12. Policy and regulation must move towards a dynamic model. The implementation strategy focuses on streamlining of wayleave processes. Further, the Authority needs to engage industry through the 5G Forum with a view to reducing 5G network latency so that it can be kept at a sub-millisecond threshold to minimise threats like DDoS, which may lead to 5G cybersecurity risks.</p> <p><u>Recommendation to Council:</u></p> <p>13.13. It was recommended that Council notes the 5G project report for the 2021/22 financial year.</p> <p><u>The following comments were made:</u></p> <p>13.14. Council inquired about the post Auction step in the context of the 5G research.</p> <p>13.15. The Committee informed Council that the next step would be to circulate the report to the Divisions and request for feedback to be incorporated into the final report which would then be published on the Authority's website.</p> <p>13.16. Council requested that paragraph 3.6 regarding the 80MHz is a problematic statement for the Authority to adopt, and it is usually used by operators when litigating against the Authority. Council was of the view that the wording should be rephrased to state a neutral recommendation by the report.</p> <p>13.17. Council resolved that paragraph 3.6 in the memo and reference of it be removed from the report, and that the recommendation be rephrased to be in line with the stance of the Authority.</p> <p>The submission was noted by Council.</p> | |
| 14. | CAP Q4 Report | Cllr  |



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| | <p>14.1. The purpose of this submission was to submit the fourth quarter report (January- March 2022) of the Consumer Advisory Panel (CAP) to Council.</p> <p>14.2. This is a detailed account of activities undertaken and considered by CAP over a period of three months (January-March 2022) which include the following:</p> <p>14.2.1 Identification of relevant bodies for collaboration with ICASA - The GSMA Local Chapter;</p> <p>14.2.2. Draft Amendment Regulations Governing Aspects of the Procedures of the Complaint and Compliance Committee;</p> <p>14.2.3. Review of effectiveness of the Independent Communications Authority of South Africa Consumer Complaints Mechanism;</p> <p>14.2.4. Annual Advisory Report for 2021/22; and</p> <p>14.2.5 Performance Information Report for Q4 FY 2021/22</p> <p><u>Recommendation to Council:</u></p> <p>14.3. It was recommended that Council approve the 4th Quarter Report and CAP Annual Advisory Report for the 2021/2022.</p> <p><u>The following comments were made:</u></p> <p>14.4. Council requested further clarity about the reference to GSMA Local Chapter and what it entails.</p> <p>14.5. The Committee informed Council that the GSMA Local Chapter has a consumer protection angle, and it has certain principles that it drives to its members. The reference is for the local Mobile Network Operators that form part of the GSMA, and the recommendations made by the Chapter in terms of consumer protection.</p> | |



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| | The submission was approved by Council. | |
| 15. | ICASA APP for 2022/23 FY The submission was deferred to the next meeting of Council. | CEO / SPM Unit |
| 16. | General Global overview of the Authority's overall performance for the current financial year The Specialist: Monitoring and Evaluation presented the item. 16.1 The Authority's overall projected performance was at 92%. With the removal of the Subscription TV from the achieved projects, the current projected overall achievement stands at 91%. 16.2 Council requested that an updated slide listing all unachieved items be presented at tomorrow's Council meeting. The update was noted by Council. | CEO / SPM Unit |
| 17. | Date of next meeting: TBA | Secretariat |
| 18. | Closure The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 13:00pm. | Council |

Signed: 

Dr Charley Lewis
(Acting Chairperson)

Date: 2022-08-18