Independent Communications Authority of South Africa

Date	29 November 2022	
Time:	09:00	
Venue:	Microsoft Teams	
Present		Acting Chairparaca
Present		Acting Chairperson Member
		Member
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By Invitation		Acting CEO
,		CFO
		CAE
		Corporate Secretary
		Secretariat Officer
		Secretariat Officer
		Secretariat Officer
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Partial Attendees		Acting Executive: HR
		Manager: Broadcasting
		Frequency Coordination
		Risk and Compliance
		Management Specialist Manager: Cost Modelling, PRA
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Apologies	None	
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No.	Action Item	Person Responsible
1.	Opening and apologies	Chairperson
	The Chairperson opened the meeting at 09:00 and welcomed all present.	
	1.2. Cllr	
	The opening and apologies were noted.	
2.	Declaration of interest	Council
	No conflict of interest was noted.	
3.	Ratification of the Agenda	All
	3.1 Minutes of 31 August 2022 were erroneously inserted in the agenda and would be tabled at the next Council meeting.	
	3.2 Minutes of the 21 st of September 2022 as reflecting on the agenda was a typing error and it was corrected to 21 October 2022.	
	The agenda was ratified.	
4.1	Minutes of previous Council meeting – 14 July 2022	Council
	Minor inputs were incorporated into the minutes.	
	The minutes were approved.	
4.2	Minutes of 16 August 2022	Council
	Minutes were approved with inputs incorporated.	
4.3	Minutes of 21 October 2022	Council

No.	Action Item	Person Responsible
	Minutes of the 21st of September 2022 as noted on the agenda	
	was a typing error and it was corrected to 21 October 2022.	
	Minutes were approved with inputs incorporated.	
4.5	Minutes of 12 October 2022	Council
	Council resolved that these minutes be retabled at the next meeting in order for Secretariat to ensure that the wording of the item in relation to the COLA for the 2020/21FY, clearly reflects the dissenting views of CIIr and CIIr	
	Minutes were deferred.	
5.	Matters Arising	Acting CEO
	5.1 SANDF OUTSTANDING FEES	
	The memorandum requesting a legal opinion in this matter is being formulated by the Licensing & Compliance Division envisages submitting the request to LRCCC by 09 December 2022.	
	Cllr raised a clarity seeking question asking on the basis and the need of the legal opinion. It was stated that the debt was written off, now ICASA is to institute non-compliance proceedings, and it needs to be applied against SANDF by Licensing & Compliance division.	
	Comments	
	The legal opinion is to determine the legal options available to the authority.	
	A recommendation was brought forward that council consults with the minister of Defence to conclude a way forward on this matter and the matter comes back to council on the next meeting as a substantive item.	
	5.3 AMENDMENT OF ANNEXURE B OF THE RADIO FREQUENCY SPECTRUM REGULATIONS 2015	
	The council committee is in the process of developing an amendment to annexure B "Apparatus exempt for Licensing" of the radio frequency spectrum regulations 2015 to include amongst others. The	

No.	Action Item	Person Responsible
	lower 6 GHz portion for radio local access network (RLAN) for public consultation.	
	5.4 LONG TERM SPECTRUM OUTLOOK FOR SOUTH AFRICA	
	Some industry stakeholders, in their submissions to the long-term spectrum outlook are of the view that there is a need to allocate some spectrum in the 6 GHz band, to unlicensed Wi-Fi use. Council committee is aware of the fact that certain spectrum needs are to be made accessible and affordable for the lower income groups and rural areas.	
	5.5 COMMUNITY SOUND (RADIO) BROADCASTING SERVICES- NEW APPLICATIONS	
	Notice regarding received applications	
	On 15 November 2022, council approved the notice regarding received application for publication. The notice will be published after the process to redact personal information has been concluded.	
	Radio Pretoria court interdict application	
	On 18 November 2022, the authority received a letter from Radio Pretoria in response to the authority's decision letter disqualifying 17 applications from the ITP-R licensing process due to shortfall in terms of the application fees. The urgent application is set out for a hearing on 06 December 2022.	
	5.6 ITP-R for Community Radio	
	The last workshop took place on 17 November 2022.	
	5.7 Open Haven Community Radio	
	Open Haven community filed an amended notice of motion and ICASA has filed the notice to oppose it	

No.	Action Item	Person Responsible
	5.8 Council Remuneration and Performance Contracts	
	On 15 November 2022, Council requested that a follow up letter should be prepared inquiring about the status of the Cllrs revised remuneration and COLA for Acting Chairpersons approval.	
	Comments	
	the corporate secretary was to request a status update on the issue with the relevant stakeholders and bring forth feedback to council.	
	5.9 Outstanding Policies	
	The updated policy review status as of the end of Q2 2022/23 FY was on the council agenda.	
	5.10 Audit Action Plan/Final AG Management Letter	
	The audit action plan was on the council agenda.	
	5.11 ICASA Funding Model	
	The review of the organisation's funding model has been finalised. It will be tabled at EXCO before submission to council for approval.	
	5.12 EXCO Vacancies	
	COO: The submission pertaining to the COO position will be discussed under general.	
	CIO: The submission to readvertise this position is on the agenda.	
	Executive HR: Panel nominated 5 applicants to be interviewed for the position, interviews are to be scheduled.	
	CEO: All the checks have been completed and they will be shared with the panel members for consideration.	
	ICASA Spokesperson: The new employee is to commence duty on 01 December 2022.	
	5.13 Review of Digital Terrestrial Television Regulations / Digital	
	Migration Regulations	

No.	Action Item	Person Responsible
	The 4 TH joint consultation on implementation of IMT in the 694-862 MHz (JSAG/IMT committee and mobile operations was held on 11 November 2022 to consider the report to council for deployment on the digital-to-digital restacking process to the frequencies below 694 MHz	
	5.15 Compliance Monitoring and Enforcement Monitoring Capability Network Performance/QOS and Other Related Matters	
	The Internal Audit division was reviewing the bid, a draft letter for national treasury with respect to the funding shortfall has been prepared for consideration by ACEO, in the meantime, SCM will be initiating a price negotiation with the successful bidder.	
	5.16 CAP Members term end and CAP Regulations Review	
	The draft regulations were published for comments on 11 November 2022.	
	<u>Comments</u>	
	An extension was requested on the period ending on the 20 th of December 2022, it was then suggested to be on the 13 th of January 2023 for stakeholders to consider.	
	5.17 2020/21 FY Performance Rewards Payment	
	Council approved the supplementary submission on 15 December 2022. The performance rewards were effected on 25 November 2022.	
	The update on "Matters Arising" was noted.	
4.	International Engagements (Standing Item)	CEO / Executive:
	There was no current update	Corporate Services
5.	Licensing of IMT ("Standing Item")	Cllr Zimri /
	There was no current update	Spectrum Licensing Committee

No.	Action Item	Person Responsible
6.	Litigation Update An updated report will be provided at the next meeting of Council.	Executive: LRCCC
7.	Analysis of South African Post Office Regulatory Financial Statements as of 31 March 2022 The Manager: Cost Modelling presented the item. The purpose of the submission Discussion 7.1 The Accounting Separation Regulations were published in Government Gazette No. 34130 on 16 March 2011. 7.2 The purpose of 7.3 In terms of the regulation,	CEO

No.	Action Item	Person Responsible
	7.5 The Authority	
	7.6 Auditors	
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	7.7The authority	
	7.8 SAPO's	
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	7.10 Based	
	Comments	
	7.11 What	

No.	Action Item	Person Responsible
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	Recommendation It was requested that Council approve the evaluation of SAPO's 2021/2022 FY Regulatory Financial Statements as of 01 April 2021 to 31 March 2022).	
	The recommendation was approved.	
8.	Request to approve the re-advertisement for the position of the Chief Information Officer.	Executive: HR / CEO
	The Acting Executive: Human Resources presented the submission.	
	8.1.1 The purpose of the submission was to request Council to approve the re-advertisement for the position of Chief Information Officer (CIO) and the utilisation of recruitment	

No.	Action Item	Person Responsible
	agencies and headhunting firms to assist with the sourcing of suitable applicants.	
	8.1.2 The CIO position was advertised externally on 20 June 2022, with a closing date of 16 July 2022. A total number of 20 applications were received, and 04 screened applications were submitted to the panel on 31 October 2022.	
	8.1.3 The shortlisting and interviewing committee had a meeting on 09 November 2022 to consider the screened candidates. The committee unanimously agreed that there was not a sufficient pool of strong candidates to be considered for this position, given the level of technical competencies required for this position.	
	8.1.4 The committee further recommended that the position be readvertised to attract a stronger pool of applicants with the required experience, as well as concurrently utilise the services of recruitment agencies and headhunting firms to assist with the sourcing of suitable applicants.	
	<u>Comments</u>	
	It was resolved that careful consideration needed to be placed on the wording and phrasing of the advert to cover all the gaps that may arise.	
	It was also requested that a detailed report be submitted from the panel detailing the issues encountered with applicants and the screening process so suggestions can be raised going forward.	
	From the first advert, there was no amends or specification for an MBA as a qualification for the criteria, therefore there was insufficient practical day-to-day experience and skills.	
	A question was raised on whether the remuneration package offered had an impact on being a possible issue with the lack of selection pool?	
	It was stated that the package is above the competitive scale seeing that in the market it is offered at a lower rate and ICASA is above parr.	

	Person Responsible
Recommendation to Council:	
it is recommended that Council approve the re-advertisement for the position of Chief Information Officer (CIO) and the utilisation of recruitment agencies and headhunting firms to assist with the sourcing of suitable applicants.	
The recommendation was approved.	
Audit Action Plan and Progress for Q2	CAE
The purpose of the submission was to request Council to note the action plans management has developed to address the management report findings raised by the Auditor General during the 2021/22 financial year audit as well as the progress in implementation the action plan	
9.1 Once the audit by the Auditor General is completed, management prepares an action plan that details the actions management will take to address the findings to ensure that there was no repetition of the findings.	
9.2The audit for the 2021/22 financial year was concluded in July 2022, and all Divisions with findings reported in the management report were requested to prepare their action steps.	
9.3 This was presented to the EXCO and AREDC and comments were made. The final version of the action plan and progress against the action steps were presented to the AREDC in October 2022.	
9.4The action plan was updated with the comments from AREDC, and Annexure A represented the final report as at end of Quarter 2.	
9.5 The report was split between the various components being audited and colour codes the progress as follows:	
Green – finding has been addressed in totality	
Orange – finding was in progress	
Red – action steps identified has not commenced	
	it is recommended that Council approve the re-advertisement for the position of Chief Information Officer (CIO) and the utilisation of recruitment agencies and headhunting firms to assist with the sourcing of suitable applicants. The recommendation was approved. Audit Action Plan and Progress for Q2 The purpose of the submission was to request Council to note the action plans management has developed to address the management report findings raised by the Auditor General during the 2021/22 financial year audit as well as the progress in implementation the action plan 9.1 Once the audit by the Auditor General is completed, management prepares an action plan that details the actions management will take to address the findings to ensure that there was no repetition of the findings. 9.2 The audit for the 2021/22 financial year was concluded in July 2022, and all Divisions with findings reported in the management report were requested to prepare their action steps. 9.3 This was presented to the EXCO and AREDC and comments were made. The final version of the action plan and progress against the action steps were presented to the AREDC in October 2022. 9.4 The action plan was updated with the comments from AREDC, and Annexure A represented the final report as at end of Quarter 2. 9.5 The report was split between the various components being audited and colour codes the progress as follows: • Green – finding has been addressed in totality • Orange – finding was in progress

No.	Action Item	Person Responsible
	 9.6 In summary, the report provides the following progress: Total findings: 54 Completed findings: 35 In progress: 18 No yet started: 01 9.7 The individual action steps are monitored at a divisional level on a regular basis and progress is reported to EXCO, AREDC and Council on a quarterly basis. 	
	National Treasury Implications	
	9.8 National Treasury instruction note 03 of 2021/22 stated in paragraph 5.3 that:	
	"National Institutions are required to submit their implementation plans, in their format or alternatively in a format provided by the National Treasury, to the relevant cluster manager by 30 November 2022, for the audit outcomes relating to the 2021/2022 financial year."	
	9.9 Once the action (implementation) plan was considered by Council, it will be submitted to the National Treasury.	
	Recommendation	
	It was recommended that Council notes the audit action plan and the progress report for Q2 that will be submitted to the National Treasury.	
	The report was noted	
10.	Quarter 2 Progress Report on the Review of Policies	
	The purpose of the submission was to provide Council with progress report on the review of the Organisation's policies, for noting.	CEO / Executive: LRCCC
	The Executive: Legal, Risk and CCC presented the item:	
	10.1 In order for the organisation to operate effectively, active policies were required to ensure consistent, fair, and standardised implementation of programmes and to guide all employees in the performance of their duties.	
	10.2 Regular review of the policies was critical for ICASA to operate optimally.	

No.	Action Item	Person Responsible
	10.3 ICASA's Policy and Procedure Review Framework was approved in June 2019. The Policy framework provided that all policies should be reviewed after three years from the date of approval or earlier where required.	
	10.4 The Legal, Risk & CCC Division has tracked the progress made by the Divisions to review their policy documents in line with the Framework and continues to advise the divisions on the policy documents that were due for review.	
	Recommendation	
	It was recommended that Council notes the progress report on the review of policies	
	The report was noted.	
11.	Quarter 2 Risk Management and Compliance Report	Acting CEO / Executive:
	The purpose of the submission was to provide Council with Risk and Compliance Management progress report for quarter two, for noting.	LRCCC
	The Specialist: Risk and Compliance Management presented the item:	
	Background	
	11.1 Risk management continued to be integral part of the management's programme, which included having to report progress to RCMC/EXCO/AREDC and Council on a quarterly basis.	
	11.2 Internal Audit reports were considered and other relevant information to assist in identification of risks and assessment of the adequacy and effectiveness of controls.	
	11.3 The alignment of output risks was also considered with SPM unit report. To this end, the risk champions coordinated with performance information coordinators for assessment of controls. The risk and compliance unit also coordinate with SPM unit to ensure the alignment on output risks.	

No.	Action Item	Person Responsible
	Recommendation to Council	
	It was recommended that Council notes quarter two Risk and Compliance Management report.	
	Council noted the report	
12.	Request for advisory memo on the scope and application of section 4(5) of the Electronic Communications Act on whether ICASA ought to notify the Minister when it publishes amendment regulations.	
	The Executive: Legal, Risk and CCC presented the item:	
	Purpose	
	The purpose of the submission was to provide Council with an advisory memo on the scope and application of section 4 (5) of the ECA and whether ICASA ought to notify the Minister of Communications and Digital Technologies when it publishes amendment to its Regulations	
	Background and Discussion	
	12.1 The Council of the Authority, through the office of the Chief Executive Officer, had requested an advisory memo on the scope of application of section 4(5) of the ECA on whether the Authority was obliged to notify the Minister of Communications and Digital Technologies of its intention to amend any of its subordinate legislation.	
	12.2 The Legal, Risk and CCC division has accordingly prepared the requested advisory memo on the scope and application of section 4(5) of the ECA.	
	12.3 In summary, the advisory memo provided that the Authority must inform the Minister of its intention to amend the Regulations in terms of section 4(5) of the ECA	
	Recommendation to Council	
	It was recommended that Council should consider the attached advisory memo and note the contents.	

No.	Action Item	Person Responsible
	The recommendation was approved.	
13.	Resubmission – Review of the Terms of Reference for the Audit, Risk, Ethics and Disclosure Committee (AREDC)	Acting CEO /
	The Chief Audit Executive presented the submission.	
	Purpose	
	13.1 The purpose of this submission was to seek Council's approval of the reviewed Audit Risk Ethics & Disclosures Committee's Terms of Reference.	
	13.2 The following changes were made to the terms of reference in terms of wording and rephrasing	
	13.2.1 The Chairperson of the Committee (or in his/her absence, any member of the Committee designated by the Chairperson),	
	13.2.2 Council shall co-opt two Councillors to serve as members of the committee with an aim to capacitate the Committee with knowledge of the business of ICASA's mandate.	
	13.2.3 Training and development for core business shall be provided for in the planning and budgeting process, this may include local and global benchmarking exercises and for the regulatory issues which are within the Authority's mandate. The training shall exclude the professional enhancement requirements.	
	13.2.4 The Internal Audit Division may from time to time, in consultation with the Corporate Secretary, assist the Corporate Secretary with any primary Secretariat functions with respect to the Committee. Notwithstanding this, the responsibility with regards to the Secretariat functions of the Committee, shall always vest with the Corporate Secretary.	
	13.2.5 The quorum for meetings shall be a simple majority of 51%, where the majority shall be independent non-executive members of the Committee.	

No.	Action Item	Person Responsible
	13.2.6 Investigate ethics related complaints lodged through the ethics hotline against the Councillor, CEO or ICASA employees in instances where there is reason to believe that a breach or contravention to the Code was committed.	
	13.2.7 Monitor the rotation of the Auditor General's team, where applicable as per the terms set by the Auditor General's office.	
	13.2.8 On an annual basis, review and discuss with the Auditor General all significant relationships the team have with ICASA to assess the auditor's independence and or the need for the rotation of AG's team.	
	13.2.9 Recommend the Annual Organisational Report for approval by the Council.	
	13.2.10 In accordance with the Institute of Internal Auditors Standards, ensure that Internal Audit provides a written confirmation of organisational independence on an annual basis.	
	13.2.11 Two dedicated meetings shall be convened to consider the Ethics & Financial Disclosures matters in addition to the other quarterly meetings. Comments	
	 13.3 The termination clause must be removed or revised because there should not be a requirement for Council to approve terminations, unless if a notice has been served. 13.4 A suggestion to the phrasing and the wording was given that "any person/member on the committee may terminate their services in writing subject to a 30-day notice to council" 	
	13.5 A question was asked on what kind of relationship are we building with the auditors in terms of their independence and was it something concerning? What type of relationship do they have with the authority?	

No.	Action Item	Person Responsible
	13.6 The trend studied was that the salary package of the AG indicated retention from their clients, so this is where it was sparked. Declarations must be made seeing that we are the client of the AG.	
	13.7 There was a question as to whether quorum relates to external members? If a councillor is not available, were they not to proceed with the meeting?	
	13.8 Their answer was that it relates to non-executives, meaning that it excludes the councillors, in the case that there's 3 independent members at least 2 of the members must be present for the meeting to take place.	
	Recommendation:	
	It is requested for Council to review and approve the revised AREDC Terms of Reference	
	The recommendation was approved subject to implementation of changes to align with other governance committees for consistency. Changes will also be made to 3.5, 4.13, 5.1 of the TORs, as indicated above.	
14.	General	All
14.1	Council requested an update on the recruitment for the Chief Operating Officer	Acting Executive: HR
	An update was provided to Council on the recruitment process of the Chief Operating Officer.	
	It was resolved that the recruitment process will be undertaken in the new financial year as currently the position was not budgeted for and to avoid compromising the filling in of critical vacancies.	

No.	Action Item	Person Responsible
14.2	Invitation to the World Summit on the Information Society (WSIS) Forum 2023 13-17 March 2023 in Geneva, Switzerland & Virtual Workshops in April, and May.	Acting Chairperson
	The invitation was approved.	
	The Acting CEO and the Acting Chairperson will attend.	
14.3	Personal Invitation to attend the GSMA Ministerial Programme MWC Barcelona, 27 February – 1 March 2023	Acting Chairperson
	The invitation was approved	
	The Acting CEO and the Chairperson will attend.	
14.4	Invitation for a meet and greet from ACT to new Councillors Council resolved that if the ACT wishes to meet, their invite should be to the whole complement of Council and not only the new Councillors.	Acting Chairperson
14.5	Invitation from the NAB to the Councillors to an online engagement on Policy and Regulatory issues that affect the broadcasting sector. It was indicated that Council can only discuss general issues and not	Acting Chairperson
	It will be inappropriate for Council to discuss specific regulatory and policy issue with specified stakeholders rather than all stakeholders. If Council is to meet with the NAB, then the discussion can only be general issues.	
15.7	Closure	Council
	The Chairperson thanked all who were present and declared the meeting adjourned.	

Signed:	2023-03-16 Date:
Dr Charley Lewis	

(Acting Chairperson)