



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL		
Date	31 March 2022	
Time:	08:00	
Venue:	Microsoft Teams	
Present	[REDACTED]	Chairperson
	[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: PRA
	[REDACTED]	Executive: Licensing and Compliance
	[REDACTED]	Executive: Engineering and Technology
	[REDACTED]	SM: Market Regulation, PRA
	[REDACTED]	Manager: Wholesale Services PRA
	[REDACTED]	SM: ICT Licensing Services
	[REDACTED]	Manager: Broadcasting Frequency Coordination
	[REDACTED]	Manager: Accounts, Finance
	[REDACTED]	
	[REDACTED]	
	[REDACTED]	
Apologies	None	



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. 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 ratified.</p>	All
4.	<p>Signal Distribution Discussion Document</p> <p>The Project Leader presented the submission.</p> <p>4.1. The purpose of this submission was to recommend for Council to approve the vetted Discussion Document on the market inquiry into Broadcasting Signal Distribution Services for publication in the Government Gazette.</p> <p>4.2. On 17 September 2021, the Independent Communications Authority of South Africa (“the Authority / ICASA”) published a notice in the Government Gazette indicating its intention to conduct an Inquiry into Broadcasting signal distribution services in terms of section 4B(1)(a) of the Independent Communications Authority of South Africa Act, 2000 (Act No 13 of 2000) (the “ICASA Act”).</p> <p>4.3. The purpose of the Inquiry is to assess the state of competition, and to determine whether or not there are markets or market</p>	Cllr [REDACTED]



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	<p>segments within the signal distribution services value chain which may warrant regulation in the context of a market review in terms of section 67(4) of the Electronic Communications Act, 2005 (Act No 36 of 2005) (“the ECA”).</p> <p>4.4. The Inquiry is being conducted in four Phases (i.e. Phase I Market inquiry, Phase II - Discussion Document, Phase III - Public Hearings on the Discussion Document, and Phase IV - Findings Document).</p> <p>4.5. On 17 September 2021, pursuant to Phase I, the Authority published a questionnaire on its website, requesting information and inputs from stakeholders (including the general public) to inform its market study.</p> <p>4.6. The Authority received two (2) responses to Phase I (Market Study), namely from Radio Pulpit / Radiokansel and the SABC, on 02 and 18 November 2021 respectively.</p> <p>4.7. On 14 January 2022, the Authority sent a letter to Sentech to submit all the information requested by the Authority in terms of the questionnaire within seven (7) days of receipt of the letter. The letter was sent to Sentech after the submission deadline of 23 November 2021, given Sentech’s significance in the signal distribution services markets in South Africa.</p> <p>4.8. On 01 February 2022, the Authority received responses to Phase I (Market Study) from Sentech. The Council Committee considered the responses from the abovementioned licensees in drafting the Discussion Document which outlines the Authority’s preliminary view with regards to the signal distribution services markets.</p> <p>4.9. On 28 March 2022, the Committee received a vetted Discussion Document from the Legal, Risk and CCC division.</p> <p>4.10. After due consideration of the responses to the questionnaire, the Committee’s preliminary views as contained in the Discussion Document are as follows:</p>	



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	<p>4.10.1 Markets identified and defined:</p> <p>4.10.1.1. Retail market for the provisioning of analogue television and radio broadcast content to end-users;</p> <p>4.10.1.2. Wholesale market for the provisioning of analogue and digital terrestrial television broadcasting services;</p> <p>4.10.1.3. Wholesale market for the provisioning of analogue and digital managed transmission services for terrestrial television broadcasting;</p> <p>4.10.1.4. Wholesale market for the provision of analogue and digital managed transmission services for terrestrial radio/sound broadcasting (national); and</p> <p>4.10.1.5. Provisioning of analogue and digital managed transmission services for terrestrial radio/sound broadcasting (local or regional)</p> <p>4.11. Competition is ineffective in the following wholesale markets:</p> <p>4.11.1 Market for the provision of analogue and digital managed transmission services for terrestrial television broadcasting;</p> <p>4.11.2 Market for the provision of analogue and digital managed transmission services for terrestrial radio broadcasting (national);</p> <p>4.11.3 Market for the provision of analogue and digital managed transmission services for terrestrial radio broadcasting (non-national).</p>	



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	<p>4.12. Sentech has Significant Market Power in the markets as per paragraph 4.11, due to its assumed market share of at least 50% in the relevant markets.</p> <p><u>Recommendation to Council:</u></p> <p>4.13. The Committee recommended that Council approve the vetted Discussion Document on the market inquiry into BC Signal Distribution Services for publication in the Government Gazette.</p> <p><u>The following comments were made:</u></p> <p>4.14. Council sought clarity on whether the proposal from the Committee was that a new phase should be included into the process.</p> <p>4.15. The Committee informed Council that the request was to include a new section that addresses the issue of the Minister's cut-off date, and further that there should be a section on the proposed remedies on the Discussion Document. Due to the lack of sufficient information from the key players in the sector, the Committee had decided to leave the section dealing with the Minister's cut-off date and opted to include it in the draft Findings Document.</p> <p>4.16. Council requested that the section that addresses the Minister's cut-off date be amended to be in line with recent developments.</p> <p>4.17. Council inquired about the previous process, and whether these had been captured in the Discussion Document.</p> <p>4.18. The Committee informed Council that the updates were appreciated, and, further, that they will be implemented. The Committee further informed Council that the Authority had withdrawn the Findings Document of the previous process, and that the Committee had opted not to taint the current process with the previous process.</p>	



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	<p>4.19. Council requested further clarity on the criteria for separating markets.</p> <p>4.20. The Committee informed Council that, regarding the national and non-national, the Authority differentiated the two on the basis that in the radio sphere there is no alternative to Sentech. For non-national, some of the Community Broadcasters are self-providing, meaning that there is a bit of an alternative as some self-provide.</p> <p>4.21. The Committee informed Council that Sentech is providing National and Non-National services. When Sentech designs their services, there is a differentiation between National services and local and regional services. The above will be clarified by Sentech when it makes comments on the Discussion Document.</p> <p>The submission was approved subject to the inputs made by Council.</p>	
5.	<p>IMT Project Closure Report</p> <p>The Project Leader presented the submission.</p> <p>5.1. The purpose of this submission was to recommend for Council to note and adopt the Project Closure report relating to the licensing process in respect of the provision of mobile broadband wireless access services for urban and rural areas using the complementary bands IMT700, IMT800, IMT2600 and IMT3500.</p> <p>5.2. On 10 December 2021, the Authority published the Invitation to Apply on the licensing process for International Mobile Telecommunications (“IMT”) in respect of the provision of the mobile broadband wireless access services for urban and rural areas using complementary bands IMT700, IMT800, IMT2600</p>	Cllr [REDACTED]



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	<p>and IMT3500, published in the Government Gazette 45628 (“ITA”).</p> <p>5.3. On 31 January 2022, the Authority received six (6) applications responding to the ITA from: Cell C, MTN, Vodacom, Telkom, Rain Networks, and Liquid Telecoms (“Applicants/Bidders”).</p> <p>5.4. The Applicants had applied for Confidentiality on various aspects of their applications. The Committee has since concluded the confidentiality analysis in accordance with section 4D of the ICASA Act.</p> <p><u>Pre-Qualification Stage</u></p> <p>5.5. In accordance with to section 18.3 of the ITA, the Authority announced the qualified bidders on 21 February 2022.</p> <p>5.6. The Committee, with the assistance of the external Service Provider, NERA Economics, assessed the six (6) applications received to determine which of the Applicants were eligible to participate in the auction stage. The assessment of applications was done in accordance with sections 16.3.7 and 16.3.8 of the ITA.</p> <p>5.7. The disqualification assessment consisted of three (3) critical efficiency factors, with each factor carrying a predetermined score, namely:</p> <p>5.7.1 Technical efficiency – The technical efficiency was assessed in terms of the maximum volume of traffic within a given amount of spectrum resources, for voice and data respectively. The maximum number of points that could be achieved was 40 points.</p> <p>5.7.2 Functional efficiency – The functional efficiency was assessed with respect to the extent to which the use of spectrum meets the users’ needs and meets the coverage and speed obligations. The maximum number of points that could be achieved was 30 points.</p>	



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	<p>5.7.3 Economic efficiency – The economic efficiency was assessed with respect to the monetary gain in terms of revenue, profit, and value which the licensee derives from that portion of spectrum. The maximum number of points that could be achieved was 30 points.</p> <p>5.8. A score of 80 out of 100 points was required for an applicant to be qualified as a bidder. The scoring approach is on an “all or nothing” basis in relation to each factor.</p> <p>5.9. All the Applicants met the three (3) critical efficiency factors and qualified as bidders. In line with section 18.3 of the ITA, the Authority announced the qualified bidders on 21 February 2022.</p> <p>5.10. The bidders were allowed to participate in the auction to acquire spectrum lots. The ITA did not preclude bidders from acquiring any lot, other than spectrum caps of 2 x 21 MHz of the spectrum below 1000 MHz, and the overall spectrum cap of 187 MHz, in accordance with section 7 of the ITA.</p> <p><u>Auction Stage</u></p> <p>5.11. Four bidders were eligible to participate in the Opt-in Auction. The Opt-in Round Auction was conducted on 8 March 2022 at ICASA’s Head Offices in Centurion.</p> <p>5.12. ICASA received bid envelopes from four (4) eligible Bidders during the bid submission window. Cell C, Liquid Telecom, Rain and Telkom all submitted valid bids in line with the criteria highlighted in the Project Closure Report. There were no tied bids, so a random tie break was not needed.</p> <p><u>Main Auction</u></p> <p>5.13. The ITA included 33 lots across 4 bands: 700 MHz, 800 MHz, 2600 MHz and 3500 MHz. All bidders qualified to participate in the main auction:</p> <p>5.13.1 As a result of the Opt-in Auction, Lots 3 and 4 in the 700 MHz band, Lots 7 and 8 in the 800 MHz band and Lot 23</p>	



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	<p>in the 2600 MHz band were removed from the Main Auction Stage.</p> <p>5.13.2 The Authority opened the Main Auction Stage on 10 March 2022. The Main Auction Stage concluded on 17 March 2022, after 58 rounds of bidding held over 6 days. All but one of the Spectrum Lots was sold, and the Main Auction Stage raised a total of 11.8 billion rand.</p> <p>5.13.3 All qualified bidders acquired spectrum in the Main Stage. Following the Opt-In Auction, spectrum Lots 3-4 in the 700 MHz band, Lots 7-8 in the 800 MHz band, and Lot 23 in the 2600 MHz band were removed from the Main Stage.</p> <p>5.13.4 The unsold spectrum in the 800 MHz band is linked to the coverage obligation lot, which required the successful winning bidder to achieve nationwide population coverage of 99.8%. In aggregate, the Opt-In Auction and Main Stage raised a total of 14.48 billion rand.</p> <p><u>Frequency Assignment Phase</u></p> <p>5.14. In preparation to the Frequency Assignment Phase, the Authority prepared the following materials and shared them with bidders on 17 March 2022:</p> <p>5.14.1 List of permissible band plans with small correction issued on 18 March 2022; and</p> <p>5.14.2 Priority ranking of all winners in each band.</p> <p>5.15. During this phase, bidders were asked, in priority order, to choose their assignment:</p> <p>5.15.1 The highest ranked bidder was asked to choose their assignment (consistent with at least 1 permissible band plan).</p>	



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	<p>5.15.2 The Authority then eliminated all band plans that are inconsistent with the highest ranked bidder assignment.</p> <p>5.15.3 The second-highest ranked bidder was then asked to indicate its assignment preference (which needs to be consistent with at least 1 remaining band plan).</p> <p>5.15.4 If more than one band plan remained at the end, the Authority would then use a random draw between them to decide the final assignment.</p> <p>5.15.5 The Authority prepared Assignment Selection Forms for each bidder to complete. If a bidder's form included more than one assignment option, the bidder had fifteen (15) minutes to deliberate on the most preferred assignment option.</p> <p><u>Frequency Assignment Phase Results</u></p> <p>5.16. IMT 700:</p> <p>5.16.1 Vodacom was the highest bidder in the band and was provided with the first opportunity to select its assignment option, followed by Rain Networks. Vodacom selected assignment option 713 – 723 MHz / 768 – 778 MHz, which was consistent with the band plan, thus availing the assignment option 723 – 733 MHz / 778 – 788 MHz to Rain Networks.</p> <p>5.17. IMT 800:</p> <p>5.17.1 MTN was the highest bidder in the band and was provided with the first opportunity to select its assignment option, followed by Telkom. MTN selected assignment option 801 – 811 MHz / 842 – 852 MHz, which was consistent with the band plan. Telkom then opted for the assignment option 811 – 821 MHz / 852 – 862 MHz, thus rendering the assignment option 791 – 801 MHz / 832 – 842 MHz unsold.</p>	



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	<p>5.18. IMT2600:</p> <p>5.18.1 Rain won spectrum in the 2600 MHz band, where the following rules applied:</p> <p>5.18.1.1 Only band plans in which Rain Networks is assigned spectrum adjacent to its existing holdings were to be considered. All other winners received contiguous assignments, and any unsold spectrum forms a single contiguous block.</p> <p>5.18.1.2 If there is no band plan that satisfies Rule 1 (as outlined in paragraph 5.18.1.1 above), Rain must only consider band plans in which Rain Network is assigned spectrum adjacent to its existing holdings, and any unsold spectrum is split into two blocks, with one block right below and one right above Rain network's total holdings. All other winners receive contiguous assignments.</p> <p>5.18.1.3 If there is no band plan that satisfies Rule 1 or 2 (as outlined in paragraph 5.18.1.2 above), only band plans in which Rain Network is assigned spectrum adjacent to its existing holdings were considered, and only one other winner receives a split assignment, with one block right below Rain Network's total holdings and one block right above. If available, only band plans where each of the two block exceeds 5 MHz, were to be considered. All other winners would receive contiguous assignments, and any unsold spectrum was to form a single contiguous block.</p> <p>5.18.1.4 Upon the implementation of the above rule, Rain selected assignment option 2570 – 2575 and 2595 – 2610 MHz, Vodacom selected assignment option 2610-2690 MHz, and MTN selected assignment option 2530-2570 MHz.</p> <p>5.19. IMT3500:</p>	



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	<p>5.19.1 The Authority used the following rule to develop the list of permissible band plans for the IMT3500:</p> <p>5.19.2 If Liquid Telecom wins any spectrum in the Auction Stage, this will be assigned as a contiguous block from 3544 MHz down; and</p> <p>5.19.3 If Telkom wins any spectrum in the Auction Stage, this will be assigned as a contiguous block from 3458 MHz up.</p> <p>5.19.4 Considering the SHB and the above rules:</p> <p>5.19.4.1 MTN selected assignment option 3500 – 3540 MHz;</p> <p>5.19.4.2 Telkom which then selected assignment option 3458 – 3480 MHz;</p> <p>5.19.4.3 Whereas Cell C followed to select option 3490 – 3500 MHz;</p> <p>5.19.4.4 Followed by Vodacom that selected assignment option 3480 – 3490 MHz; and</p> <p>5.19.4.5 Lastly, Liquid Telecom selected assignment option 3540 – 3544 MHz.</p> <p>5.20. The Opt-in Round Auction, Main Auction results and outcomes of the frequency assignment Phase were validated by the appointed external auditors.</p> <p><u>Recommendation to Council:</u></p> <p>5.21. The Committee recommends that Council notes and adopts IMT Spectrum Licensing Project Closure Report.</p> <p><u>The following comments were made:</u></p>	



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	<p>5.22. Council inquired whether any part of the report would be released into the public domain, as there is a lot of information that is highly sensitive.</p> <p>5.23. Council requested that Council be given an opportunity to revisit the report for a thorough consideration and interrogation of the information contained in the report at a later stage, if required to do so.</p> <p>5.24. The Committee informed Council that the information in the report has been shared with the bidders, as they received an analysis of the results after every round. The Committee further informed Council that some of the information contained is not confidential, but there is information that is confidential which should not be shared with the members of the public.</p> <p>The submission was noted by Council.</p>	
6.	<p>Budget and Procurement Plans</p> <p>The Chief Financial Officer presented the submission.</p> <p>6.1. The purpose of this submission was for Council to approve: (1) the budget allocations for the 2022/23 financial year; (2) the list of posts to be funded for the 2022/23 financial year, together with other budgeting principles applied; and (3) the procurement plan.</p> <p>6.2. The Budget Committee meeting took place on the 28th of March 2022 to consider the budget inputs and to agree on the budget allocations for the 2022/23 financial year.</p> <p>6.3. The Budget Committee also ensured that the targets included in the APP are funded, and that there is alignment between the APP, budget and procurement plans.</p> <p>6.4. The budget allocation for the ICASA for the Medium-Term year-on-year increase is as follows:</p>	CEO / CFO



No.	Action Item	Person Responsible
	<p>6.4.1 R [REDACTED] for the 2022/23 FY; 6.4.2 R [REDACTED] for the 2023/24 FY; and 6.4.3 R [REDACTED] for the 2024/25 FY.</p> <p>6.5. In addition to what has been appropriated by National Treasury, ICASA has the following own revenue and rollover funds:</p> <p>6.5.1 Interest on cash balance : R [REDACTED] 6.5.2 Rollover earmarked funds : R [REDACTED].</p> <p>6.6. The above brings the ICASA total budget to R [REDACTED] for the 2022/23 financial year.</p> <p>6.7. There [REDACTED]</p> <p>6.7.1 [REDACTED]</p> <p>6.7.2 [REDACTED]</p> <p>6.7.3 [REDACTED]</p> <p>6.8. For the Medium Term (2022/23 to 2024/25) the Authority will be adding the following panels:</p> <p>6.8.1 Catering (6-month) contact period; 6.8.2 Stationery; 6.8.3 Specialised audit services; 6.8.4 Forensic investigation services and 6.8.5 Recording and transcribing services.</p> <p>6.9. The above panel represents frequently used services / items, and the panel will allow efficiency in the securing the services / goods. The Department of Communications and Digital Technologies will also be putting an ICT panel in place.</p>	



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	<p>6.10. The DCDT in their meeting with CEOs requested that each entity adheres to the requirements from the Department of Women , Youth and Persons with Disabilities to set aside 40% of their procurement for women-owned businesses. Each Division will be requested to identify the projects set aside.</p> <p>6.11. Personnel costs has been budgeted at [REDACTED]</p> <p><u>Recommendation to Council:</u></p> <p>6.12. It was recommended that Council approves the following recommendations from Budget Committee and EXCO:</p> <p>6.13.1 Notes the budget and procurement plan for the 2022/23 Financial Year;</p> <p>6.13.2 [REDACTED];</p> <p>6.13.3 Approves the request to write to National Treasury to fund the shortfall by using earmarked / conditional funds;</p> <p>6.13.4 Notes the items on the procurement plan:</p> <p>6.13.4.1 Notes the new list of panels;</p> <p>6.13.4.2 Approves the request from DCDT to identify procurement items that can be procured from women-owned businesses, provided it is in line with the Procurement Regulations;</p> <p>6.13.4.3 Notes the hold placed on procurement by National Treasury, and the possible impact on the delivery of the procurement plans</p>	



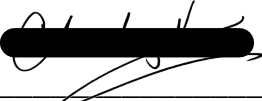
No.	Action Item	Person Responsible
	<p>6.13.5 Notes the following under personnel costs:</p> <p>6.13.5.1 Notes that the personnel costs represent [REDACTED] of the operational budget;</p> <p>6.13.5.2 [REDACTED]</p> <p>6.13.5.3 Approves the implementation of the Job Evaluation results amounting to [REDACTED]; and</p> <p>6.13.5.4 Approves the 38 posts as funded for the 2022/23 financial year, and that the filling of these posts be staggered between Q3 and Q4 of the current financial year.</p> <p><u>The following comments were made:</u></p> <p>6.13. Council inquired [REDACTED]</p> <p>6.14. [REDACTED]</p> <p>6.15. Council requested further [REDACTED]</p> <p>6.16. Council sought clarity on [REDACTED]</p> <p>6.17. Council requested clarity in [REDACTED]</p> <p>6.18. Management informed Council [REDACTED]</p>	



No.	Action Item	Person Responsible
	<p>a [REDACTED]</p> <p>Authority to build capacity to execute its mandate.</p> <p>6.19. Management further [REDACTED]</p> <p>6.20. Management informed Council that the filling of the 38 posts being deferred to the later quarters of the 2022/23 financial year will be to avoid an immediate increase on the wage bill as the year begins, and that the deferral will save the Authority money and will assist in the reduction on the deficit. The positions are urgent and important, but the later filling was to assist with reduction of the deficit.</p> <p>6.21. Council inquired with regards to staff costs if the additional funding from National Treasury [REDACTED] bill.</p> <p>6.22. Management informed Council that the budget is currently [REDACTED] as allocated by National Treasury, and that, when the Authority presents to the Portfolio Committee, the Authority [REDACTED]</p> <p>6.23. Council inquired if the [REDACTED].</p> <p>6.24. Management informed Council that the because the [REDACTED] forthcoming financial years.</p> <p>The submission was approved by Council.</p>	



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7.	<p>General</p> <p><u>Letters from Telkom SA SOC</u></p> <p>7.1. The Chairperson received two letters from Telkom. The first letter appreciates the steps taken by the Authority to engage Telkom pursuant to settlement and further advises that Telkom will revert back to the Authority.</p> <p>7.2. In the second letter, which followed shortly after the first, Telkom states that it urgently requests a “without prejudice” meeting with the Authority, pursuant to settlement negotiations in relation to the litigation.</p> <p>7.3. Council resolved that the Authority should accede to the aforementioned meeting with Telkom on a “without prejudice” basis, and that the delegation should consist of the Chairperson, the CEO, Councillor Peter Zimri, the Executive: Engineering and Technology and the Executive: Legal and Risk and CCC.</p>	All
8.	Date of next meeting: TBA	Secretariat
9.	<p>Closure</p> <p>The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 09:57 am.</p>	Council

Signed:  _____

Dr Charley Lewis
(Acting Chairperson)

2022-08-18
Date: _____