

## **Independent Communications Authority of South Africa**

	MINUTES OF AN ORDINARY	COUNCIL MEETING
Date	31 August 2021	
Time:	11:00	
Venue:	Microsoft Teams	
Present		Chairperson
		Member
By Invitation		CEO
		CAE
		Acting CFO
		Acting Corporate Secretary
		Secretariat Officer
		Secretariat Officer
Partial Attendees		Executive: Licensing and Compliance
T di tidi / tttoildoo		Executive: Human Resources
		Acting Executive: Legal, Risk & CCC
		Manager: Wholesale Services: PRA
		Manager: Cost Modelling: PRA
		Chairperson of HR & RemCo
Apologies		
		Chairperson
		Member

No.	Action Item	Person Responsible
1.	Opening and apologies	Chairperson
	Councillor opened the meeting at 11:00 and welcomed all present.	
	Apologies	
	1.1 (Chairperson) will join the meeting late.	
	1.2 (Councillor) had doctor's engagement.	
	The apologies were noted.	
2.	Ratification of the Agenda	Council
	The agenda was ratified.	
3.	Declaration of interest	Council
	No conflict of interest was noted.	
4.	Minutes of Council	Council
4.1	Minutes of 30 July 2021 were approved, subject to the following comments being incorporated:	
	4.1.1 Page 1 - The name of must be included on the list attendees.	
	4.1.2 Apologies should write the names of people, and not their titles.	
	4.1.3 The angle mentioned in 8.2.1 and 8.4.1 should be 250 degrees.	
5.	Matters Arising	CEO
	The Matters Arising document was noted.	
		K <sub>2</sub> M

No.	Action Item	Person Responsible
6.	International Engagements ("Standing item")	
	There was no update on International Engagements.	
7.	Licensing of IMT ("Standing Item")	
	The Chairperson provided a brief feedback to Council on the following:	
	7.1 The final draft court order has been circulated to all the litigants to the case. E.tv indicated its dissatisfaction with the draft Court Order, and will forward their inputs today.	
	7.2 The legal task team will convene a meeting at 18H00 this evening, to resolve the issues raised by e.tv.	
	7.3 A case management meeting will be held tomorrow (01 September 2021), and the Judge will determine whether the Court Order will be made final.	
8.	Reasons Document, for the decision on the application for the amendment of the I-CSBS licence by Classic FM South Africa (Pty) Ltd, for publication on the Authority's website	CEO/Exec: Licensing and Compliance
	The submission was moved to the next Council meeting.	
9.	Telemedia licence transfer and Reasons Document	CEO/Exec: Licensing
	The SM: ICT Licensing Services presented the item:	and Compliance
	The purpose of the submission was for Council to approve the transfer of control of an I-ECNS licence, as well as the vetted Reasons Document from Telemedia (Pty) Ltd's current shareholders ("the Applicant") to Telemedia (Pty) Ltd's proposed new shareholders ("the Transferee").	
	9.1 On 04 December 2020, the Independent Communications Authority of South Africa ("the Authority") received an application from the Applicant to transfer the control of its I-ECNS licence to the Transferee. The application was not fully completed.	

No.	Actio	Person Responsible	
	9.2	The Applicant was requested to complete and re-submit the application form in an e-mail dated 07 December 2020. A new application for the transfer of control was subsequently submitted on 11 December 2020.	•
	9.3	The Authority sent the Applicant another e-mail requesting the Business Plan, the Independent Competition Analysis Report, and the Consumer Analysis Report.	
	9.4	On 11 March 2021, the Applicant submitted the Business Plan, the Independent Competition Analysis Report and the Consumer Analysis Report.	
	9.5	The Reasons Document was sent to Legal, Risk and CCC ("LRCCC") Division for vetting on 11 May 2021. The vetted Reasons Document was, however, received by the Licensing Unit on 21 June 2021.	
	9.6	The LRCCC Division advised the Licensing Division to consider and address the comments on the draft Reasons Document. The Licensing Division has duly addressed the comments from LRCCC Division.	
	9.7	According to the Authority's analysis, the acquisition of the ECNS Licence by AOE and REX will not have any adverse or significant impact on competition in the relevant markets. The proposed transaction provides Telemedia with an ability to diversify its shareholders' assets, and further boost its B-BBEE standing in order to comply with South Africa's transformation imperatives.	
	9.8	The proposed change in control is negligible. Telemedia will continue to operate in its current form, with no significant changes to its organisational structure, operating model, product and service offering, or pricing structures.	
	9.9	The Authority is of the view that the proposed transfer would not affect customers in the applicable markets. Furthermore, a revitalised Telemedia ownership structure can improve the quality of the products, and services offered, while maintaining comparable pricing structure and choice.	
	9.10	The Applicant has not been found guilty of any contravention by the CCC. Further, the Applicant has paid the licence fees due and payable at the date of the applications. Furthermore, the Transferee has 36.18% ownership interest held by HDIs.	

No.	Actio	n Item		Person Responsible
	Reco	mmenda	tion to Council	
	9.11		ecommended that Council approves the application for sfer of control of the I-ECNS licence for the following:	
		9.11.1	The Applicant has not been found guilty of any contravention by the CCC;	
		9.11.2	The Applicant has paid the licence fees due and payable at the date of the applications; and	
		9.11.3	The Transferee has 36.18% ownership interest held by HDIs.	
	9.12		urther recommended that Council approves the vetted s Document.	
	The f	ollowing	comment was made:	
	9.13		enquired whether the spectrum licence transfer would parate process.	
	9.14	necessa	raised a concern of whether AOE and REX has the ary expertise to offer consumer services as a result of sfer of the ECNS Licence.	
	9.15		he submission for the spectrum licence transfer is council, it needs to indicate which bands are being red.	
	9.16		sought clarity on whether the 36.18% ownership held by HDIs, will be transferred to AOE and REX.	
	Coun	cil resolv	ved to approve the recommendation.	
10	1		tion CCC in the matter between CCA Broadcasting nd Forte Community Radio.	Cllr
	the C	omplaints en CCA	f the submission was to table the recommendation of and Compliance Committee ("CCC") in the matter Broadcasting Compliance ("Complainant") and Forte dio ("Respondent").	
	The		presented the item:	1/
				KIM

<ul> <li>10.1 On 08 June 2021, the Broadcasting Compliance Unit of the Compliance &amp; Consumer Affairs ("CCA") lodged a complaint with the CCC (CCA applied to the CCC to adjudicate the complaint on urgent basis and the request was granted) against Forte Community Radio for the following allegations of contravention.</li> <li>10.2 That on 07 October 2020, Broadcasting Compliance sent a letter to the Chairperson of Forte FM, requesting him to respond to allegations of non-adherence to Regulation 9 of the Community Broadcasting Services Regulations which provides a list of persons who may not hold a position of responsibility, in any radio station.</li> <li>10.3 The following persons are prohibited from holding a position of responsibility in any radio station:</li> <li>10.3.1. Members of the Local Executive Committees of political parties, the youth affiliates and women affiliates of political parties, and any organisation that is in an alliance with a political party;</li> <li>10.3.2. Members of the Regional Executive Committees of political parties, the youth affiliates and women's affiliates of political parties and any organisation that is in an alliance with a political party;</li> <li>10.3.3. Members of the Provincial Executive Committees of political parties, the youth wings, women's wings of political parties and any organisation that is in alliance with a political party;</li> <li>10.3.4. Members of the National Executive Committee of political parties, the youth wings and women's wings of political parties, the youth wings and women's wings of political parties, the youth wings and women's wings of political parties, the youth wings and women's wings of political parties, the youth wings and women's wings of political parties, the youth wings and women's wings of political parties and any organisation that is an alliance with a political party;</li> <li>10.3.5. Councillors;</li> <li>10.3.6. Mayors;</li> </ul>	erson esponsible	n	Actio	No.
letter to the Chairperson of Forte FM, requesting him to respond to allegations of non-adherence to Regulation 9 of the Community Broadcasting Services Regulations which provides a list of persons who may not hold a position of responsibility, in any radio station.  10.3 The following persons are prohibited from holding a position of responsibility in any radio station:  10.3.1. Members of the Local Executive Committees of political parties, the youth affiliates and women affiliates of political parties, and any organisation that is in an alliance with a political party;  10.3.2. Members of the Regional Executive Committees of political parties, the youth affiliates and women's affiliates of political parties and any organisation that is in an alliance with a political party;  10.3.3. Members of the Provincial Executive Committees of political parties, the youth wings, women's wings of political parties and any organisation that is in alliance with a political party;  10.3.4. Members of the National Executive Committee of political parties, the youth wings and women's wings of political parties, the youth wings and women's wings of political parties and any organisation that is an alliance with a political party;		inpliance & Consumer Affairs ("CCA") lodged a complaint the CCC (CCA applied to the CCC to adjudicate the applaint on urgent basis and the request was granted) inst Forte Community Radio for the following allegations	10.1	
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		political parties, the youth wings and women's wings of political parties and any organisation that is an		
10.3.6. Mayors;		.5. Councillors;		
		.6. Mayors;		
10.3.7. Members of the Provincial Legislatures; and		.7. Members of the Provincial Legislatures; and		
10.3.8. Members of Parliament.		.8. Members of Parliament.		

No.	Actio	n Item			Person Responsible
	10.4			ne CCC to hear oral arguments from the n 23 July 2021.	
	10.5			all the information presented and the e, the CCC makes the following finding:	
		10.5.1.	The com	plaint against Forte FM is upheld.	
		10.5.2.	contraver Broadcas Nhanha, prohibited	M Community Radio is found to have ned Regulation 9 of the Community sting Services Regulation 2019, in that Mr then Chairperson of Forte FM, was a deperson in terms of Regulation 9, at the was in office.	
	Reco	mmenda	tion to Co	uncil	
	10.6	The CC	C recomme	ended the following order to the Authority:	
		10.6.1.	contraver	Respondent desists from any further nation of Regulation 9 by not appointing prohibited to participate in the affairs of the ster in terms of the Regulation.	
	:	10.6.2.	Forte FM	must take the following remedial steps:	:
			10.6.2.1	That within 21 days after ICASA has published its findings and order, the Respondent convenes a special AGM at which meeting members of an interim structure shall be elected.	
			10.6.2.2	That the interim structure is to prepare for an AGM at which members of the Board shall be elected and the interim structure shall be disbanded.	
			10.6.2.3	That the CCA urgently intervenes by assisting Forte FM to comply so that similar complaints are not lodged in the future.	
			10.6.2.4	That the Respondent cooperates with the CCA in its efforts to restore order and stability to the station.	

No.	Action Item	Person Responsible
	Council resolved to approve the recommendation.	
11	Notice of intention to conduct market inquiry into signal distribution services in South Africa to be published in the Gazette	
	The purpose of the submission was to request Council to approve the	
	Notice of intention to conduct market inquiry into signal distribution	
	services in South Africa to be published in the Gazette, and a	
	questionnaire on the signal distribution services market to be	
	published on the Authority's website.	
	Manager: Wholesale Services presented the item:	
	11.1 In September 2010, the Authority initiated a Section 4B Inquiry into the Broadcasting Transmissions Market in South Africa, which was concluded when the Authority published in the Gazette the Findings Document regarding the Wholesale Broadcasting Transmission Services Discussion Document published in Government Gazette No 36537 of 2013.	
	11.2 However, the Authority published General Notice 851 of 2014 on the "Withdrawal of the Findings Document regarding the Wholesale Broadcasting Transmission Services Discussion Document published in Government Gazette No 36537 of 2013", which nullified the section 4B Inquiry initiated in September 2010.	
	11.3 At the meeting between the Authority, the SABC and the Ministry of Communications and Digital Technologies held at the DCDT offices on 15 October 2020, the Authority committed	

No.	Actio	Action Item			
		to initiate an Inquiry into Signal Distribution Services in the 2021/2022 financial year.	Responsible		
	11.4	The purpose of the Inquiry is to assess the state of competition and determine whether or not there are markets or market 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 ECA.			
	11.5	The Signal Distribution Council Committee intend to conduct the inquiry in terms of the following phases:			
		<ul> <li>11.5.1 Phase 1 (commencement of the market inquiry).</li> <li>11.5.2 Phase 2 (Discussion Document).</li> <li>11.5.3 Phase 3 (Public Hearings on the Discussion Document).</li> <li>11.5.4 Phase 4 (Findings Document).</li> </ul>			
	11.6	Depending on the outcome of the Inquiry, the Authority may "prescribe regulations defining the relevant markets and market segments and impose appropriate and sufficient procompetitive licence conditions on licensees where there is ineffective competition" in the signal distribution services markets in terms of section 67(4) of the ECA.			
	Reco	mmendation to Council			
	11.7	The Committee recommends that Council approve the following documents:			
		11.7.1 Notice of intention to conduct market inquiry into signal distribution services in South Africa to be published in the Gazette.			

No.	Actio	n Item	Person Responsible				
		11.7.2 A questionnaire on the signal distribution services market inquiry to be published on the Authority's website.					
	The f	The following comment was made:					
	11.8	Paragraph 2.4 needs to be reworded.					
	11.9	Council inquired on whether the Round-Robin Resolution for the establishment of the Committee that will oversee this inquiry was approved.					
	Coun	cil resolved to approve the recommendation.					
12	Amer	ndment of Price Cap Regulations and Reasons Document	Cllr				
	public Rese	urpose of the submission was to request Council to approve the ration of amendments to the Price Cap Regulations for rved Postal Service, 2013, and the accompanying Reasons ment, in the Government Gazette and on the Authority's tte.					
	Cllr	Cllr and Manager: Cost Modelling presented the item:					
	12.1	The purpose of the review is to impose effective price controls in the reserved postal services market, and to ensure that regulation of the reserved services space remains appropriate and sufficient to secure the efficient and financially sustainable provision of such reserved postal services.					
	12.2	On 23 August 2019 the Authority published a notice of its intention to review the Price Cap Regulations in the Government Gazette. The closing date for submissions was Monday 07 October 2019.					
	12.3	On 13 March 2020, the Authority published its Findings Report on the Review of the Price Cap Regulations ("The Findings Report"), in which it concluded that the Price Cap Regulations should be amended. It also released a media statement with regards to this.	\z.\\\ \\				

No.	Action	Item			Person Responsible
	12.4	gazetted Explanate comment. comments	Draft Prory Note of The deas were re	ndings Report, the Authority published the rice Cap Amendment Regulations, and (GG 44332) on 26 March 2021 for public adline for comments was 31 May 2021. No seceived, except for SAPO, which indicated ement with the proposed amendments.	÷
	12.5	entails the	e publica ent Regu	w at Phase 5 of the review process, which tion in the Gazette of the Final Price Cap lations and the accompanying Reasons	
	12.6	the Autho formula i regulatory and effici	rity has on the second of the second of the second in the second in the second of the	on its mandated review of the Regulations, determined that the general price control nger effective nor proportionate as a ensuring that SAPO can recover prudently curred costs to maintain the long term able provision of reserved postal services.	
	12.7		nue cap	tory shortcomings associated with the approach to date, the Authority has to:	
		(	concernir which de	Regulation 3 of the Regulations ng the General Price Control formula, als with setting an inflationary price cap ency control/productivity factor; and	
				rices of reserved postal services in such a such prices are:	
	:	,	12.7.2.1	Affordable;	
		•	12.7.2.2	Cost-oriented (i.e. reflective of the costs of providing the postal service concerned);	
		•	12.7.2.3	Uniform throughout the Republic (unless ICASA, with the prior consent of the Minister, decides otherwise); and	
		,	12.7.2.4	Transparent and non-discriminatory.	
	12.8	LRCCC d	livision ir	al vetting of the Reasons document, the ndicated that it was comfortable with the document, which provides reasons	1

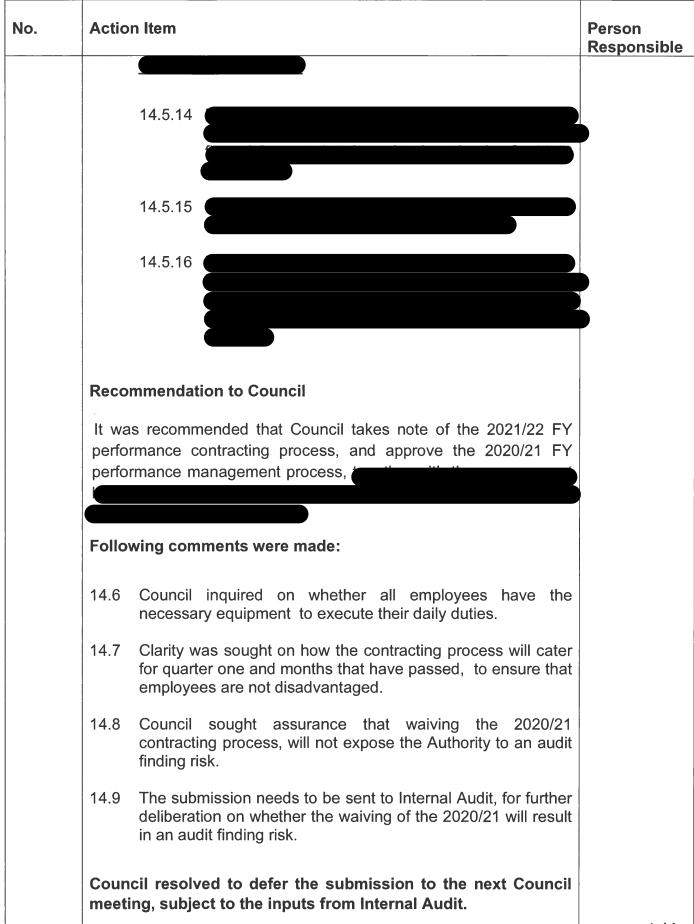
No.	Action Item	Person Responsible
	regarding the decision of the Authority to have the commencement date of the Regulations to be 1 April 2022.	
	Recommendation	
	It was recommended that Council approve the publication of amendments to the Price Cap Regulations for Reserved Postal Service, 2013, and accompanying Reasons Document in the Government Gazette and on the Authority's website.	
	Council resolved to approve the recommendation.	
13	Appointment of a Consumer Advisory Panel (CAP) Chairperson	CEO/Exec:
	The purpose of the submission was to request Council to appoint a Consumer Advisory Panel (CAP) Chairperson from the remaining ten (10) CAP Members, for a period of three (3) years, and approve the appointment of, as well as the advertisement for, an additional CAP member.	Resources
	CEO presented the item:	
	13.1 The contract term of the previous CAP Chairperson,	
	which the recruitment process commenced in terms of filling the CAP Chairperson position.	
	13.2 The position of the CAP Chairperson was advertised as a CAP Chairperson position, for which position applicants applied.	
-	13.3	
	13.4 Subsequently,	
	. 2	

No.	Actio	Person Responsible	
	13.5	A consensus was reached to obtain a legal opinion to provide clarity in terms of the appointment, and the term of office of a CAP Chairperson and CAP Member, and to whether both applicants that applied for the CAP Chairperson position are eligible to be considered for the interview process.	•
	13.6	The legal opinion from (Annexure A) concluded the following:	*
		13.6.1 The CAP Chairperson is appointed from among serving CAP Members. A person who is not a CAP Member is not eligible for appointment as CAP Chairperson.	
		13.6.2 The Regulations do not require that the CAP Chairperson should be appointed at commencement of his term as a CAP Member. A serving CAP Member can be appointed at any stage. The term of office of the Chairperson is three (3) years.	
		13.6.3 Upon the resignation or end of contract of the CAP Chairperson, ICASA should appoint a new CAP Chairperson from among the pool of already appointed CAP Members. There should not be an advertisement issued to the public for the filling of the vacancy.	
		13.6.4 is not eligible for appointment as a CAP Member or Chairperson. She served the maximum period of two terms as a CAP Member.	
		and the rest of serving CAP Members whose terms have not lapsed, are eligible for appointment to the position of CAP Chairperson, despite the fact that their term is coming to an end. However, as soon as a member's second term ends, they are not eligible for any appointment within CAP.	
	13.7	Given the fact that the CAP Chairperson will be appointed from the existing serving CAP members, it was requested that Council approves the advertisement to fill the position of a CAP Member for a period of two (2) years, which position will become vacant due the appointment of the CAP Chairperson for a period of three (3) years.	

No.	Action Item	Person Responsible
	Recommendation	-
	It was recommended that Council appoints a Consumer Advisory Panel (CAP) Chairperson from the remaining ten (10) CAP Members for a period of three (3) years, and approve this appointment process, as well as approve the advertisement of an additional CAP member.	
	Following comments were made:	
	13.8 The following individuals will form a panel that will shortlist candidates the ten(10) to three (3):	
	13.8.1 The Chairperson –	
	13.8.2 Councillor –	
	13.8.3 Councillor –	
	13.9 The process of formulating the panel, to bring the number of candidates to three (3), will provide Council with a coherent structure to the appointments.	
	Council resolved to defer the recommendation, subject to the inputs made.	
14	2021/22 FY performance contracting process	Chairperson of HR &
	The purpose of the submission was to request approval from Council	RemCo
	The Executive: HR and Chairperson HR/REMCO presented the item:	
	14.1	
	14.2 T	
		\
		14 M

No.	Action Item	Person Responsible
	14.3 The performance management contracting would focus on the following key principles:	
	14.3.1	
	14.3.2	
	14.3.3	
	14.3.4	
	14.3.5	
	14.4	
	14.5	
	14.5.1	
	14.5.2	
	14.5.3	

No.	Action Item	Person Responsible
	14.5.4	
	14.5.5	
	14.5.6	
	14.5.7 th	
	Covid-19 Pandemic	
	14.5.8 Since 26 March 2020, the South African governmendeclared a National State of Disaster due to the Covid-19 pandemic.	
	14.5.9 The country was placed on lockdown, and variou levels of alerts were implemented throughout th 2020/21 financial year.	
	14.5.10	
	14.5.11	
	14.5.12	
	14.5.13 The job functions of certain positions could only b done at the office and not virtually. This resulted i employees not being able to perform any of the daily operational duties for the majority of the 2020/21 financial year.	n ir



No.	Actio	n Item		Person Responsible
15	1	A's con oration S	CEO/ Acting Executive: LRCCC	
	The p Author Digital for co Ltd ( Gove			
	The A	acting Exe	ecutive: LRCCC presented the item:	
	15.1.		luly 2021, the Department published the SABC Bill in ernment Gazette for public comment.	
	15.2.			
		15.2.1	Repeal the Broadcasting Act, 1999, as amended;	
	j	15.2.2	Provide for the continued existence of the Corporation, its governance and matters connected therewith;	
		15.2.3	Align with the Companies Act, 2008, Public Finance Management Act, 1999, recommendation of the Ad Hoc Committee on the SABC Board Inquiry by the National Assembly and recent case law.	
	15.3	Interesto comme		
	15.4	In sumr	mary the Authority's submission, inter alia, notes the g:	
		15.4.1	The Bill does not adequately define the role of the Board, with the result that the Corporation is susceptible to interference from the Minister;	
		15.4.2	The language used throughout the Bill needs to be improved to avoid issues of interpretation and challenges by the Authority with respect to enforcement;	
		15.4.3	Some provisions of the SABC Bill seem to encroach on the Authority's independence. These provisions	Van

No.	Action Item	Person Responsible	
	have been identified and appropriate amendments have been proposed.		
	Recommendation to Council		
	It was recommended that Council:		
	<ul><li>15.5 Take note of the SABC Bill;</li><li>15.6 Consider and approve the attached comments in relation to the SABC Bill; and</li></ul>		
*	15.7 Resolve on whether the approved comments can be submitted to the DCDT.		
	Following comments were made:		
	15.8 Council inquired on how the Bill aligns with the Draft White Paper on Audio and Audiovisual Content Services.		
	Council resolved that the submission be amended to include the inputs made, and for the Legal Division to circulate it by email to Councillors.		
16	General		
16.1	Invitation to the Minister to be Keynote Speaker at 5G Forum Committee Public Event	Cllr	
	Council noted that legal clarity needs to be obtained, in order the ascertain the Authority's role on the 5G Forum.		
	Once the legal clarity on the role of the Authority has been obtained, it must be shared with the Corporate Secretary so to allow Council to apply its mind on the matter.		
16.2	Preparations for Minister's visit	All	
	Council noted the introductory meeting with the Minister, that will be held today with Councillors at the auditorium.		
17	Closure	Chairperson	

No.	Action Item	Person Responsible	
	The Chairperson thanked all present at the meeting and closed the meeting at 13:40pm.		
18	Date of next meeting: TBA	Secretariat	

Signed:	Date:	. 12	October	202
(Chairperson)				