



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL

Date	07 May 2019	
Time:	09:30	
Venue:	Thabo Mbeki Boardroom, Block C	
Present	[REDACTED]	Acting Chairperson
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	Member
	[REDACTED]	
By Invitation	[REDACTED]	CEO
	[REDACTED]	CFO
	[REDACTED]	CAE
	[REDACTED]	Corporate Secretary
	[REDACTED]	Secretariat officer
Partial Attendees	[REDACTED]	Executive: Corporate Services
	[REDACTED]	Senior Manager: Market Regulations
	[REDACTED]	AGM: Engineering and Technology
	[REDACTED]	Manager: National Spectrum Monitoring
	[REDACTED]	GM: Regions
	[REDACTED]	Manager: IT Audit
Apologies	[REDACTED]	Member



	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>The Acting Chairperson opened the meeting at 09:38 and welcomed all present.</p> <p>Apologies</p> <p>The following apologies were noted:</p> <ul style="list-style-type: none"> • Cllr [REDACTED] was on sick leave 	Acting Chairperson
2.	<p>Ratification of Agenda</p> <p>The Agenda was ratified with addition of the following item:</p> <ul style="list-style-type: none"> • Resignation of the CAP Chairperson 	All
3.	<p>Declaration of Interest</p> <p>The declaration of interest form was circulated.</p> <p>No conflict of interest was noted</p>	Council
4.1	<p>Minutes of the meeting held on the 30 April 2019</p> <p>Page 3 – 4.1 and 4.2 Cllr [REDACTED] indicated that she was part of the meetings on 2 March 2019 and 18 April 2019</p> <p>Page 6 – spelling of efficiency must be corrected</p> <p>Page 7 – the third sentence</p> <p>Page 7 – item 10 must cover finance section.</p> <p>Page 7 - Item 11, only the income part was captured, expenditure is missing</p> <p>Page 8 – at the end of Financial report, the issue of Finance policies is missing</p> <p>The date of the next meeting should be corrected to the 07th May 2019 not 06 May 2019</p> <p>The Minutes were approved with corrections.</p>	Council



	Action Item	Person Responsible
5.	<p>Matters Arising from the previous minutes</p> <p>Matters Arising were discussed and updated.</p> <p><i>The Executive: Corporate Services joined the meeting at 10:13</i></p>	Council
6.	<p>International Engagements ("Standing Item")</p> <p><i>See item below:</i></p>	Executive: Corporate Services
6.1	<p>Adhoc International Meetings</p> <p>The purpose of the memo was to request Council to approve the adhoc international meetings for the 2019/20 financial year.</p> <p>The Executive: Corporate Services presented the item:</p> <p>Discussion</p> <p>On the meeting of Council held on the 2nd April 2019, Council approved the schedule of International Meetings for the 2019/20 Financial Year. The International Relations Unit in consultation with the DTPS and DOC compiled a list of International engagements that were of value to ICASA. Some meetings outside the approved schedule of meetings were identified and it would be of great value to ICASA to attend the said meetings.</p> <p>The International engagement where ICASA participates demands that a vast amount of resources be directed towards the programme and as such each engagement or meeting should carry deliberate intentions that would ensure participate and direct benefit towards the organisation's achievements and alignment with the Strategic Goal. The Strategic goal that the International Relations programme was aligned to is <i>Strategic Goal 3: Improve Organisational Service Delivery</i></p> <p>In terms of section 3(1) (c) read with section 3 (2) and section 3(4) of the ECA, ICASA has a duty to support the DTPS and DOC to advance South Africa's interests in the International forums. ICASA's active participation in International forums advances national interests of the country in that the organization was able to shape and influence</p>	Executive:CS



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<p>specific mandates and decisions.</p> <p>The below list details the priority adhoc meetings identified:</p> <ol style="list-style-type: none"> 1. ITU Global Symposium for Regulators, 09-12 July 2019-Port Vila, Vanuatu. 2. GSMA Mobile Series for Africa, 15-18 July 2019-Kigali-Rwanda. 3. ITU Regional Development Forum for Africa, 20-21 May 2019-Lusaka, Zambia. 4. IIC Telecommunications and Media Forum, 15-17 May 2019-Miami, USA 5. Commonwealth Human Resources and ICT Forum '20, 04-05 February 2020-Gaborone, Botswana <p>Council resolved to approve some of the meetings by Round Robin Resolution.</p>	
<p>7. Licensing of IMT ("Standing Item")</p>	<p>Cllr [REDACTED]</p>
<p>8. Public Audit Amendment Act ("Standing Item")</p>	<p>CEO</p>
<p>9. Recommendation by Complaints and Compliance Committee to Council in the matter between Consumer and Complaints Affairs and Sybaweb (Pty) Ltd.</p> <p>The purpose of the memo was to table the recommendation of the Complaints and Compliance Committee in the matter between the Consumer and Compliance Affairs and Sybaweb (Pty) Ltd.</p> <p>Cllr [REDACTED] presented the item:</p> <p>Background</p> <p>On 22 October 2018, the CCA lodged the matter to the CCC for investigation in terms of Section 17B (a) (i) of the Independent Communications Act of South Africa ("ICASA") Act 13 of 200, which provides that the CCC must investigate, and hear if appropriate, and make a finding on all matters referred to it by the Authority.</p>	<p>Cllr [REDACTED]</p>



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	<p>In a letter dated 08 November 2019, the Office of the CCC addressed a PAJA letter which contained allegations of contravention against Sybaweb and requested the licensee to respond to the allegations within fifteen days in accordance with the 2010 Regulations Governing the aspects of the CCC</p> <p>The CCA alleged that Sybaweb contravened section 13 (1) of the Electronic Communications Act no .36 of 2005('ECA") by transferring the control of its ECS and ECNS Licences to Siyafunda Family Trust without the requisite prior written permission of the Authority to transfer the control of its licences.</p> <p>Section 13(1) of the ECA provides as follows: <i>"an individual licence may not be let, sublet, assigned, ceded or in any way transferred, and the control of an individual licence may not be assigned, ceded or in any way transferred to any other person without prior written permission of the Authority"</i>.</p> <p><u>Relevant Factors to be considered by the Authority when deciding in terms of section 17 E of the ICASA Act</u></p> <p><u>a. The recommendation of the Complaints and Compliance Committee</u></p> <p>The advice to Council in relation to the case was outlined in paragraph 11 and 12 of the ruling of the CCC and clause 4 of the memorandum.</p> <p><u>b. The nature and gravity of the non -compliance</u></p> <p>The nature of the non-compliance as alleged by the CCA was that Sybaweb effected changes in the control of its licences without prior written approval by the Authority in contravention of section 13(1) of the ECA</p> <p><u>c. The consequence of non-compliance</u></p> <p>Where Sybaweb is found to have contravened section 13(1) of the ECA, the transfer of control becomes null and void from the outset. Sybaweb will have to apply to the Authority for the transfer</p>	



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	<p>control following the applicable procedures.</p> <p>d. <u>The circumstances under which the non-compliance occurred.</u></p> <p>On 21 November 2016 Sybaweb filed a notification using Form O which</p>	
10.	<p>Recommendation by Complaints and Compliance Committee to Council in the matter between Democratic Alliance and the South African Broadcasting Corporation</p> <p>The purpose of the memo was to table the recommendation of the Complaints and Compliance Committee in the matter between the Democratic Alliance ("DA") and the South African Broadcasting Corporation("SABC")</p> <p>Cllr [REDACTED] presented the item:</p> <p>Background</p> <p>On 27 August 2018, DA through its leader in KwaZulu-Natal, Mr [REDACTED] lodged a complaint with the CCC for investigation in terms of section 17B of the Independent Communications Authority of South Africa (ICASA) Act No.13 of 2000.</p> <p>The complaint was not properly formulated, and it lacked detail. The allegations against the SABC were based on a broadcast by Ukhozi FM which took place on 10 June 2018. During the broadcast, Siya Mhlongo, a presenter at Ukhozi FM asked a question to the KwaZulu - Natal MEC for Corporate Governance and Traditional Affairs and the question related to the political issue which involved the DA. DA alleged that the MEC used a paid slot which was meant to communicate the government's work in the province (and such slot was paid for by the government) to criticize the DA and without the SABC affording DA an opportunity to respond. Mhlongo posed a question to the KZN MEC pertaining to a political debate in which a question was raised whether she had influenced state contracts which were granted to her husband and the MEC denied such allegations.</p> <p><u>Relevant Factors to be considered by the Authority when deciding in terms of section 17E of the ICASA Act</u></p>	Cllr [REDACTED]



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	<p><u>a. The recommendation of the Complaints and Compliance Committee</u></p> <p>The CCC's findings was that the complaint was dismissed, and no order was advised to Council as outlined in the CCC's judgement</p> <p><u>b. The nature and gravity of the non-compliance</u></p> <p>The complaint against the licensee was not justified in terms of the applicable legislation, and as such the complaint was not upheld by the CCC</p> <p><u>c. The consequence of non-compliance</u></p> <p>The CCC had dismissed the complaint and there would be no consequences of non-compliance</p> <p><u>d. The circumstances under which the non-compliance occurred</u></p> <p>There were circumstances under which any non-compliance occurred by the licensee, since the finding of the CCC was that there has been no contravention of any applicable legislation.</p> <p><u>e. The steps taken by the licensee to remedy the complaint</u></p> <p>The complaint was dismissed by the CCC and there was no remedial action to be taken by the licensee.</p> <p><u>f. The steps taken by the licensee to ensure that similar complaints will not be lodged in the future.</u></p> <p>There are no steps taken by the licensee to ensure that similar complaints will not be lodged in the future, since no finding had been made against the licensee for non-compliance</p> <p>For Noting by Council</p> <p>The CCC's finding was that the complaint was dismissed, therefore no order was advised to Council.</p>	

[illegible]



	Action Item	Person Responsible
	<p>[REDACTED]</p> <p>e) [REDACTED]</p> <p>f) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Recommendation</p> <p>[REDACTED]</p> <p>The recommendation was approved</p> <p><i>The GM: Regions joined the meeting at 11:15</i></p>	
12.	<p>Submission of Report on Limpopo and Consolidated 2018-2019 Consumer Education Activations</p> <p>The purpose of this memorandum was to request the Council of ICASA to note the report on the three Consumer Education Events that took place in Limpopo on the 29th and 30th March 2019 and further note the full year performance of the campaign.</p> <p>The GM: Regions presented the item:</p> <p>Discussion</p> <p>In the APP of the current financial year, the Regions division has a target to implement 80% of a consumer education plan.</p>	Acting CEO



	Action Item	Person Responsible
	<p>In line with the Council -approved plan, the following seventeen events have taken place in the current financial year:</p> <ul style="list-style-type: none"> • Gauteng: Town Hall and Consumer Activation in Kagiso (25 May 2018). • KwaZulu Natal: Town Hall and Consumer Activation in Esikhawini (29 June 2018) and Consumer Activation in Empangeni (30 June 2018). • Western Cape: Town Hall and Consumer Activation in Gugulethu (5 October 2018) and Consumer Activation in Dunoon (6 October 2018). • Free State: Town Hall and Consumer Activation in Botshabelo (30 November 2018) and Bloemfontein (1 December 2018). • North West: Consumer Activation in Kanana Mall (28 February), Town Hall in Chris Hani Hall (1 March), Consumer Activation at Mega City Shopping Centre (2 March 2019). • Limpopo: Consumer Activation in Jane Furse Plaza (29 March) Town Hall in Hlatiolanang Health and Nutrition Centre (29 March), Consumer Activation at Senwabarwana Plaza (30 March 2019) <p>The current performance against the APP target was one hundred percent (100%) as seventeen out of seventeen planned events for the financial year have been implemented, which resulted in the achievement of the APP target for the year.</p> <p>The report presents the final Annual Performance of the 2018-2019 campaign. It further details the performance of the events that took place in the Limpopo on the 29th and 30th of March 2019.</p> <p>The Report was noted.</p> <p><i>The AGM: Engineering and Technology and Manager: National Spectrum Monitoring joined the meeting at 11:33</i></p>	
13.	<p>Q4 2018/2019 Spectrum Monitoring Report for International Mobile Telecommunications (IMT) and Public Protection and Disaster Relief (PPDR) Bands</p> <p>The purpose of the memorandum was to request Council to review and note the IMT and PPDR Spectrum Measurement Report for</p>	Acting CEO



	Action Item	Person Responsible
	<p>monitoring conducted in the Northern Cape Province (SKA Area), for Q4, 2018/19.</p> <p>The AGM: Engineering and Technology presented the item:</p> <p>Background</p> <ul style="list-style-type: none"> • ICASA was mandated according to Chapter 5 of the Electronic Communications Act 2005 (Control of Radio Frequency Spectrum), to ensure efficient usage and effective management of the radio frequency spectrum. • The International Telecommunications Union (ITU) identified spectrum bands for IMT applications. An outcome of the 2015 World Radio-communications Conference (WRC-15) was the proposal for a globally harmonised Public Protection and Disaster Relief (PPDR) band, co-existing with IMT in the 694-894 MHz frequency range. • The monitoring was conducted from 10 to 16 February 2019 and nine planned points were monitored. The focus of the monitoring was to derive baseline data of spectrum occupancy in the frequency range of 380 to 3599 MHz. The measurements were performed with the mobile stations only. At each monitoring point, the appropriate level of signal (thresholds) that would be a potentially interfering signal, was stated signals measured were then classified as either interfering or not, based on this signal level being exceeded or not. • The 694-894 MHz band includes the IMT700 and IMT800 band frequency ranges and measurements were compared against the TV broadcasting database as the band was still predominantly occupied by analogue TV services. The measurement results contained in the report serve as a baseline guide for any migration decisions in the spectrum bands that were identified for IMT allocation. This spectrum occupancy results will be shared with the licencing division to support the licensing of IMT spectrum. Licensee information and TV broadcasting transmitter information were geo-coded, and the coordinates were mapped to assist with the selection of monitoring points 	



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	<p>Discussion</p> <p>Occupancies of more than 70% were recorded around SKA Meerkat Core areas as follows:</p> <ul style="list-style-type: none"> • Occupancies of 98% and 87% were measured in the frequency bands 791-821 MHz and 694-894 MHz respectively at SKA Baseline position 5. • Occupancy of 83% was measured in the band 791-821 MHz at SKA Baseline position 7. • Occupancies of between 0%-51% were measured across most of the other band and the rest of the monitoring positions <p>This and the next set of occupancy data will provide useful insight to the licensing division, for licensing and services in the IMT700/750 bands, the IMT800/850 bands and the proposed PPDR band. A collection of occupancy data will allow the NSM Unit to build a trend analysis report to compare against spectrum events (such as digital migration, analogue switch-off and re-allocation of spectrum bands).</p> <p>Recommendation</p> <p>It was recommended that Council reviews and notes the spectrum measurement report for monitoring performed in the Northern Cape Province for Q4 of 2018/2019.</p> <p>The recommendation was approved.</p> <p><i>Senior Manager: Market Regulation joined the meeting at 12:01</i></p>	
14.	<p>Smart Africa Terms of Reference: Study on the Impact of OTT's on Telecommunications Sector in Africa</p> <p>The purpose of the memorandum was to request Council to approve the comments on the Terms of Reference ("ToR") for a study on the Impact of OTTs on the Telecommunications Sector in Africa that was to be conducted on behalf of Smart Africa.</p> <p>The Senior Manager: Market Regulation presented the item:</p> <p>Background</p> <p>In October 2013, seven African Heads of State adopted the Smart Africa Manifesto in which they committed to provide leadership that</p>	Acting CEO



	Action Item	Person Responsible
	<p>facilitated socio economic development through Information Communication Technologies.</p> <p>The Manifesto was subsequently endorsed by all Heads of State at the African Union 's 22nd Ordinary Session Assembly held in Addis Ababa on 30-31 January 2014.</p> <p>The Council of African Regulators("CAR") was created on 09th May 2017,on the side line of the 3rd Transform Africa Summit in Kigali,Rwanda.The CAR is a consultative continental body that brings together all ICT Regulatory Authorities with a view to stimulating technological development in Africa and the creation of a single digital market .It is also used as a platform to strengthen collaboration between African Regulators in the furtherance of the continent 's digital transformation agenda</p> <p>On 15 April 2019, the Authority received correspondence from Smart Africa Secretary General requesting comments and observations on the draft ToR relating to the study on the impact of OTTs on the telecommunications sector in Africa.</p> <p>The request was made in line with the resolutions of both the 6th and 7th meetings of CAR.</p> <p>In line with call for Smart Africa to conduct studies and propose recommendations in several areas, such as impact of the OTT's on the Telecommunications sector and the wholesale broadband prices, the Secretary General send a draft ToRs for the Authority 's review and input.</p> <p>However, in principle, the team was concerned by the:</p> <ul style="list-style-type: none"> • Limited scope of the ToRs as it only focused on the impact of the OTTs on voice and ignores instant messaging. The division recommended that the scope should be broadened to include this element to reflect the true impact of OTTs on the telecommunications sector over the years. • Limited time planned for the study. The study was planned to take only four months. Given the experience with similar studies, the timeframe may not be practical and will hamper the process of collating and analyzing data from operators in different jurisdictions; and • Non-inclusion of a bid evaluation criteria. The TORs have not 	

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	Action Item	Person Responsible
	<p>included objective criteria to be used to evaluate the functional capacity of bidders</p> <p>Recommendation</p> <p>It was recommended that Council approve the editorials and commentary on the draft ToRs relating to the study on the impact of the OTTs on the telecommunications sector in Africa to be conducted on behalf of Smart Africa.</p> <p>The recommendation was approved</p> <p><i>The Manager: IT Audit joined the meeting at 12:08</i></p>	
15.	<p>Security on Information Review</p> <p>The purpose of the memorandum was to obtain inputs regarding the scope pertaining to the assessment of security of information to prevent possible leaks and or /unauthorised access to sensitive and confidential information.</p> <p>The CAE presented the item:</p> <p>Background</p> <p>Internal Audit had completed an IT Network Security Review in February 2019 and the scope entailed the following:</p> <ul style="list-style-type: none"> a) To assess all policies, procedures and standards into IT Network Security Operating systems, databases and firewalls. b) To assess security configuration on IT network, operating systems, databases and firewalls. c) To perform internal and external vulnerability assessments by reliable tools. d) To document and discuss all work performed with Internal Audit and client. e) To discuss and agree findings or controls weaknesses and remedial actions with Internal Audit and client. <p>The audit focussed on the following ICASA IT Infrastructure, the network components at the head office as well as connectivity to the internet:</p>	CAE



	Action Item	Person Responsible
	<p>a) Servers (119)-Microsoft Windows Operating system b) Linux and Red Hat Operating system (12) c) Oracle and SQL databases (149) d) Firewalls (7)</p> <p>The Internal Audit approach also included installing and running an automated NESSUS Scanning Tool to perform:</p> <p>a) Compliance audits that determine if a system was configured in accordance with an established policy or Compliance standards such as CIS or vendor compliance guidelines. b) The tool assessed the vulnerabilities of the environment internally i.e. within the Network perimeter that was protected by a firewall. The analysis indicated the vulnerabilities that could easily be exploited if an intruder with ICASA network access attempted to gain access to areas of the system that were not authorised to access. The tool was also running to test external vulnerabilities. The tool was run on 510 network host or devices.</p> <p>The above review focused on the Information Technology aspects whilst there were aspects that were outside of the IT environment that created information breach and exposures to the organisation. These have been proposed as additional areas to be included in the scope of assessment of information security as requested by Council</p> <p>The Security of Information Review was noted</p>	
	<p>General</p> <p>Resignation of the CAP Chairperson</p> <p>The submission was about the stated intention of the Chairperson of the Consumer Advisory Panel to resign as Chairperson but also to remain as an ordinary Panel member</p> <p>It was resolved that the Consumer and Complaints Affairs must table the matter at the next meeting of Council</p>	All
16.	Closing	Chairperson



	Action Item	Person Responsible
	The Chairperson thanked all for attending the meeting and the meeting adjourned at 13:08	
17.	Date of next meeting: 24 May 2019	Secretariat

Signed:  _____ Date: 16 July 2019
(Chairperson)