



Independent Communications Authority of South Africa

MINUTES OF AN ORDINARY MEETING OF COUNCIL		
Date	31 May 2024	
Time:	09:00	
Venue:	Virtual – Microsoft	
Present		Chairperson
		Councillor
		Councillor
		Councillor
		Councillor
		Councillor
		Councillor
		Councillor
		Councillor
By Invitation		CEO
		CFO
		CAE
		Executive: LCCC
		Secretariat Officer
		Acting Corporate Secretary
		Graduate Intern, Secretariat
Partial Attendees		Senior Manager: Type Approval and Numbering
		Executive: Corporate Services
		Executive: Licensing and Compliance
		Executive: HR
		Audit Manager
		Manager: Service Broadcasting
		Manager: Broadcasting Frequency Co-ordination
		AREDC Chairperson
Apologies		Corporate Secretary

No.	Action Item	Person Responsible
1.	<p>Opening and apologies</p> <p>1.1. The Chairperson declared the meeting open at 09:00 and welcomed all present.</p> <p>1.2. [REDACTED]</p> <p>1.3. [REDACTED] [REDACTED]</p> <p>1.4. [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>1.5. [REDACTED] [REDACTED] [REDACTED] Council directed that, [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>The opening and apologies were noted.</p>	Chairperson
2.	<p>Ratification of agenda</p> <p>2.1. Items E3, E4 and E6 will be tabled first.</p> <p>2.2. General – delays with the circulation of Council submissions.</p> <p>The agenda was ratified with the above amendments.</p>	Council
3.	<p>Declaration of interest</p> <p>3.1 No conflict of interest was noted.</p> <p>3.2 Council resolved that, in addition to declarations of conflict of interest, each Councillor must also declare that s/he will abide to the confidentiality of discussions held during a Council meeting.</p>	Council

No.	Action Item	Person Responsible
4.	Adoption of Minutes of Council	
4.1	Special Council Meeting held on 15 February 2024 The minutes were approved.	Council
4.2	Special Council Meeting held on 22 February 2024 The minutes were approved.	Council
4.3	Special Council Meeting held on 13 May 2024 The minutes were deferred, subject to the Corporate Secretary confirming that there was a meeting on this date.	Council
4.4	Ordinary Council Meeting held on 14 May 2024 The minutes were approved.	
5.	Matters Arising The Matters Arising was deferred to the next meeting.	Secretariat
6.	CEO Report 6.1 The structure and content of the report to be amended so as to highlight only APP-related targets and matters. 6.2 The CEO provided a high-level verbal update: 6.2.1 Licensing and Compliance Programme – No Q1 targets. The one issue of concern to be noted by Council, is that of untraceable licensees. A submission informed by a recent CCC judgement will be brought to Council. 6.2.2 Corporate Services Programme – All targets on track. 6.2.3 Engineering and Technology Programme – All targets on track.	CEO

No.	Action Item	Person Responsible
	<p>6.2.4 Regions and Consumer Affairs – All targets are on track. [REDACTED] [REDACTED] [REDACTED] [REDACTED] The CEO advised that this target is cumulative, which should allow for catching up should a quarterly target be missed.</p> <p>6.2.5 Policy and Research Analysis Programme – All targets are on track. The SAPO OPM will be brought to Council at the next Council meeting. Public Hearings will be held in June in relation to the Discussion Document on the Review of the Digital Migration Regulations and no challenges have been noted in that regard. The Draft Call Termination Regulations have been published.</p> <p>6.2.6 Human Resources – All targets are on track. [REDACTED] done. The Workplace Skills Planning Process the SITA has already been engaged. The Loss Control Committee must be capacitated with funds. A submission in this regard will be brought to Council. Risk Management is mandated by the PFMA, and it should therefore be well capacitated.</p> <p>6.2.7 Internal Audit – Ten service providers have been appointed as part of the panel to assist to secure skills where the division cannot find specialist skills.</p> <p>6.2.8 Finance – [REDACTED] [REDACTED].</p> <p>6.3 Council noted that in the past Financial Statements IT infrastructure is recorded as having a 19-year depreciation, which may give a wrong impression that the updating of IT Infrastructure does not warrant urgent attention and allocation of funds.</p> <p>6.4 [REDACTED] [REDACTED]</p>	

No.	Action Item	Person Responsible
	Council resolved to note the update.	
7.	International Engagements (“Standing Item”) No submission tabled.	CEO / Executive: Corporate Services
8.	Litigation Update (“Standing Item”) A high-level update was provided by the Executive: LRCCC, in line with the presentation in the meeting pack. 8.1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] Council noted the update.	CEO / Executive: LRCCC
9.	Elections Monitoring Updates (“Standing Item”) 9.1 Council was informed that the elections monitoring team is currently running trials. A report will subsequently be brought to Council. 9.2 Council was assured that all systems were in place. Council noted the update.	Executive: Licensing and Compliance
10.	Request for Radio Frequency Spectrum Coordination from the Communications Authority and Regulatory of Mozambique [sic] (INCM) The Executive: Licensing and Compliance presented the item. 10.1 The purpose of this submission dated 17 May 2024 was to recommend that Council should approve: 10.1.1 INCM’s coordination request of the DTT VHF Band III; and 10.1.2 The letter informing the Minister that the coordination matter with INCM has been concluded.	CEO / Executive: Licensing and Compliance

No.	Action Item	Person Responsible
	<p><u>Recommendation to Council:</u></p> <p>10.2 It was recommended that the Council should approve the following:</p> <p>10.2.1 INCM's coordination request of the DTT VHF Band III; and</p> <p>10.2.2 The letter informing the Minister that the DTT VHF Band III coordination with INCM has been concluded.</p> <p><u>The following comments were made:</u></p> <p>10.3 Council noted that the name of the Mozambican regulator is recorded incorrectly in the submission and the letter. Council directed that the name be corrected to the "National Communications Institute of Mozambique" (INCM).</p> <p>10.4 Council raised concern over the fact that, despite Council previously resolving that Ministerial intervention be sought with regard to the INCM's request, this does not seem to have been done.</p> <p>10.5 Council further remarked that the proposed way forward in the draft letter appended to the Council submission is unclear and does not indicate the reasons why Ministerial intervention is no longer required.</p> <p>10.6 Management advised Council that the INCM had initially requested co-ordination of two frequencies / assignments. However, during a meeting held with the INCM in April 2024, they advised that they were now only requesting co-ordination with regard to one assignment - hence this submission requesting approval in that regard.</p> <p>Council resolved to approve the recommendation and directed that the Minister be apprised in this regard.</p>	
11.	<p>Change and Update – MyVoip Communications CC</p> <p>The Executive: Licensing and Compliance presented the item.</p>	<p>CEO / Executive: Licensing and Compliance</p>

No.	Action Item	Person Responsible
	<p>11.1 The purpose of this submission dated 15 May 2024 was to advise Council of a notice from MyVoip, requesting the Authority to effect changes to its name, contact details, and shareholding, and to request Council to approve the submission.</p> <p><u>Recommendation to Council:</u></p> <p>11.2 It was recommended that Council should approve the submission.</p> <p><u>Resolution of Council:</u></p> <p>11.3 Council resolved to approve the recommendation.</p> <p>The submission was approved.</p>	
12.	<p>Application for a Digital Audio Broadcasting Plus ("DAB+") Trial Radio Frequency Spectrum ("RFS") Licence – SABC</p> <p>The Executive: Licensing and Compliance presented the item.</p> <p>12.1 The purpose of the submission dated 18 May 2024 was to advise the Council of the application received from Radio SABC ("the Applicant") for the DAB+ Trial RFS Licence, for a period of eight ("8") months and recommend that Council approve.</p> <p><u>Recommendation to Council:</u></p> <p>12.2 It was recommended that Council should approve the Application for the DAB+ trial Radio Frequency Spectrum Licence for a period of 8 months for the following reasons:</p> <p>12.2.1 The trial aims to benefit users and the public by introducing a new technology system that combines cloud and server-based technology. The technology would offer users excellent audio performance, service accessibility, and security. Therefore, the application is in line with Regulation 40 as it would enable new and different ways of using the radio frequency spectrum.</p>	CEO / Executive: Licensing and Compliance

No.	Action Item	Person Responsible
	<p>12.2.2 Furthermore, the proposed frequency of 239.2 MHz will not cause harmful radio frequency interference to existing licensees in line with ECA.</p> <p><u>The following comments were made:</u></p> <p>12.3 Council enquired about the reason why the Authority is currently not charging fees for the trial tests licences.</p> <p>12.4 Council further enquired if the Authority is receiving reports from licensees on the conclusions of the trials.</p> <p>12.5 Council remarked that the Authority should commence with the process of licensing Digital Broadcasting Services.</p> <p>12.6 Management informed Council that there is no provision in the Radio Frequency Spectrum Regulations, 2015 ("Regulations") that allows the Authority to charge fees for a trial licence. Management further informed Council that the Authority receives two reports on each trial, namely the Mid-Term Report and the Final Report as stipulated in the Regulations.</p> <p>12.7 Management further informed Council that there is a structure within the Engineering and Technology Division which is working towards the implementation of the Regulations, which will in turn allow the Licensing and Compliance Division to begin the process of licensing Digital Audio Broadcasting Services.</p> <p><u>Resolution of Council:</u></p> <p>12.8 Council resolved that the Authority should establish a plan to fast-track the process indicated in paragraph 12.7 above.</p> <p>12.9 Council requested to be furnished with the actual reports submitted with the application.</p> <p>12.10 Council resolved to approve the recommendation.</p> <p>The submission was approved.</p>	

No.	Action Item	Person Responsible
13.	<p>Amendment of the Electricity Crisis Council Resolution</p> <p>Councillor ██████████ presented the submission:</p> <p>13.1. The submission dated 20 May 2024 was to request the Council approval on the amendment of the Electricity Crisis Council Resolution.</p> <p><u>Recommendation to Council:</u></p> <p>13.2. It was recommended that Council should approve the above request to enable the Electricity Crisis Committee to execute its functions effectively.</p> <p><u>Resolutions by Council:</u></p> <p>13.3. Council resolved to approve the recommendation.</p> <p>The submission was approved.</p>	Cllr ██████████
14.	<p>Complaints and Compliance Committee in the matter between Licensing and Compliance Division of ICASA and On Digital Media (Pty) Ltd</p> <p>Councillor ██████████ presented the submission:</p> <p>14.1. The submission dated 20 May 2024 was to table the recommendation of the Complaints and Compliance Committee ("CCC") in the matter between the Licensing and Compliance Division of ICASA ("Compliance Division/Complainant") and On Digital Media (Pty) Ltd ("ODM/Licensee").</p> <p>14.2. The CCC found that ODM had contravened a number of regulations as charged, and it recommended that ODM be fined accordingly.</p> <p><u>Recommendation to Council:</u></p> <p>14.3. Accordingly, the CCC recommends that the following orders be issued by the Authority a total fine of R ██████████ is due and payable by the Respondent within 90 days of publication of this decision.</p>	Cllr ██████████

Comments made:

- 14.4. Council was informed that the CCC heard the matter on the basis that the contravention occurred when ODM was still a licensee.
- 14.5. Council sought clarity on why the fines for regulation 5 were more substantial than the fines with regard to the other regulations. Council was informed that the process of the calculations was outlined in the CCC judgement (page 33). Council raised its concerns with imposing fines on an entity which is no longer a licensee. It was clarified that CCC heard the complaint on the basis that the alleged contraventions occurred during the period when the license was still valid.
- 14.6. Council was informed that ODM has already been issued with a letter to cease operations by the Licencing and Compliance Division since their license expired and they did not submit a licence renewal application and that this process is unrelated to the CCC process.
- 14.7. Council was also informed that until the fines are settled, the entity will not be allowed to apply for a licence renewal.
- 14.8. The Committee informed Council that in respect of contravention Regulation 6(2) of the Local Television Content Regulations 2016, the respondent failed to ensure that a minimum of 15% of their total annual channel acquisition budget, measured across its service as a whole, is spent on channels with local television content that are compiled and up linked from South Africa.
- 14.9. Council sought clarity on whether its decision on this matter could be deferred. Council was informed that the matter was timebound due to turnaround times in terms of CCC processes.
- 14.10. Council was informed of a meeting between ICASA and the entity on Monday 3 June 2024 to discuss its licence renewal matter.

No.	Action Item	Person Responsible
	<p><u>Resolutions by Council:</u></p> <p>14.11. Council resolved to defer the matter and allow ODM to be heard in the meeting of the 3rd June 2024.</p> <p>14.12. Council to be provided with the Legal Opinion which was considered by the Licensing and Compliance division that informed the decision to issue ODM with a notice to wind up their operations. A special Council meeting will be held for the tabling of this submission again.</p> <p>The submission was deferred.</p>	
15.	<p>2023/24 Annual Financial Statements ("AFS") and AREDC Report</p> <p>The AFS were presented by the CFO. The Financial Specialist presented the part dealing with the prior Auditor-General findings on the previous year's Annual Financial Statements.</p> <p>After presentation of the AFS, the AREDC Chairperson presented the AREDC Recommendation to Council in relation to the AFS, as per the presentation included in the meeting pack.</p> <p><u>Council Comments:</u></p> <p>15.1 [REDACTED]</p> <p>15.2 [REDACTED]</p> <p>15.3 [REDACTED]</p> <p>15.4 [REDACTED]</p>	CEO / CFO / AREDC Chairperson

No.	Action Item	Person Responsible
	<p>[REDACTED]</p> <p>15.5 [REDACTED]</p> <p>15.6 [REDACTED]</p> <p>15.7 [REDACTED]</p> <p><u>Council Resolution:</u></p> <p>15.8 Council resolved to approve the submission.</p> <p>The submission was approved.</p>	
16.	<p>[REDACTED]</p> <p>This item was presented by the CAE for noting.</p> <p>Council resolved to note the submission.</p>	CAE
17.	<p>Annual Performance Information Report</p> <p>The CEO and Senior Manager: Strategy and Programme Management presented the submission:</p> <p>17.1. The purpose of the submission dated 24 May 2024 was to table the ICASA Annual Performance Information Report 2023/24 to Council for approval.</p> <p><u>Recommendation to Council:</u></p>	CEO / Senior Manager: SPM

No.	Action Item	Person Responsible
	<p>17.2. It was recommended that Council should approve the ICASA Annual Performance Information Report 2023/24FY for submission to the [REDACTED]</p> <p><u>Comments made:</u></p> <p>17.3. [REDACTED] [REDACTED]</p> <p>17.4. [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>17.5. [REDACTED] [REDACTED]</p> <p>17.6. [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p><u>Resolutions by Council:</u></p> <p>17.7. Council resolved to approve the recommendation.</p> <p>The submission was approved.</p>	
22.	<p>Assurance Review on the Annual Financial Statements</p> <p>This item was presented by the CAE for noting.</p> <p>Council resolved to note the submission.</p>	CAE
22.	<p>Closure</p> <p>The Chairperson thanked all who were present at the meeting and declared the meeting adjourned at 16:57.</p>	Chairperson

Signed: [REDACTED]
Mothibi Ramusi
(Chairperson)

Date: 18 June 2024