Independent Communications Authority of South Africa
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COUNCIL DECISIONS – May 2017

ITEM	DATE OF DECISION	PURPOSE	DECISION/RESOLUTION
Fifth Annual Global Summit of the Dynamic Spectrum Alliance	02 May 2017	The purpose of this memorandum is to request Council to note that: 1. The Dynamic Spectrum Alliance (DSA) is a global, cross industry alliance focussed on increasing dynamic access to unused radio frequencies. It is also a global organization advocating for laws and regulations that will lead to more efficient and effective spectrum utilization. The DSA supports technical, regulatory and business model innovations that can reduce the cost of deploying last-mile wireless networks and help to make wireless broadband access more affordable for people around the world;	**It was resolved that the update on the final arrangements for the Fifth Annual Dynamic Spectrum Alliance Global Summit to be co-hosted by the DSA and ICASA, in Cape Town from 9-11 May 2017 be noted.**

		2. Note the update and final arrangements for the Fifth Annual Dynamic Spectrum Alliance Global Summit co-hosted by the Dynamic Spectrum Alliance and ICASA, in Cape Town from 9-11 May 2017; 3. Note that on the 09th May 2017, the DSA will host Regulator Workshop by invitation only, with the theme is 'Spectrum Sharing and Dynamic Spectrum Access'; and 4. Note the program for the DSA Summit from 09 to 11 May 2017.	
Request for Confidentiality on Call Termination Questionnaire Submissions	02 May 2017	The purpose of this memorandum was to: 1. request Council to approve the request for confidentiality by Cell C, MTN, Vodacom, Telkom, Reunert and Neotel in relation to their response to the Call Termination Questionnaire, and; 2. Approve the attached letters communicating the decisions to the above-mentioned licensees. The Authority published a media statement and a questionnaire on its website on 30 January 2017, and further published in the Government gazette a notice (No 40603)	**It was resolved that the request for confidentiality on Call Termination Questionnaire Submission be approved.**

		on 08 February 2017 announcing its intention to review the above mentioned pro-competitive measures in line with section 67(8) of the Electronic Communications.	
Q3 2016/17 South African Maritime Safety Authority (SAMSA) Inspector Report	02 May 2017	The purpose of this submission was to: 1. request Council to note ICASA's 2016/17 Q3 Inspection Results for inspector certifications issued nationwide by the South African Maritime Safety Authority (SAMSA). SAMSA is authorised to act on behalf of ICASA to perform maritime functions. A memorandum of understanding (MoU) signed on 19 December 2011 stipulates the functions that SAMSA would perform. This includes marine-radio technology training and certification. ICASA is still responsible for issuing the certificates. ICASA should sign the audit verification from SAMSA.	**It was resolved that the Q3 2016/17 South African Maritime Authority (SAMSA) Inspector Report be noted.**

Spectrum Monitoring for International Mobile Telecommunications and Public Protection Disaster 2016/17	02 May 2017	The purpose of this submission was to request Council to note: 1. the Spectrum Monitoring Report for monitoring the IMT and (PPDR Bands, Limpopo, Quarter 3, 2016/17, in accordance with the Electronic Communications Act No .36 of 2005 ('the ECA') and the Independent Communications Authority of South Africa Act No .13 of 2000 (the ICASA Act) as amended, ICASA has a key mandate to perform routine spectrum monitoring to ensure efficient spectrum utilisation and effective spectrum management.	**It was resolved that the Spectrum Monitoring for International Mobile Telecommunications and Public Protection Disaster Recovery Bands, Limpopo Q3 2016/17 be noted.**
Report on the 2016 Annual Meeting of the International Special Committee on Radio Interference (CISPR)	02 May 2017	The purpose of this memorandum was to brief Council on the meetings of CISPR, and to request Council to encourage and support the continuous participation of ICASA in such meetings.	**It was resolved that the Report on the 2016 Annual Meeting of the International Special Committee on Radio Interference be noted.**
ICASA –SAMSA Q1 and Q2 Combined Inspection Results	02 May 2017	The purpose of this memorandum was to request Council to note ICASA 's 2016/17 Q1 and Q2 inspection results for	**It was resolved that the ICASA-SAMSA Q1 and Q2 Combined Inspection Results be noted subject to verification from SAMSA.**

		inspector/operator certifications issued nationwide by SAMSA.	
Vodacom Proprietary Limited and Wireless Business Solutions Proprietary Limited infrastructure sharing agreement.	02 May 2017	The purpose of this memorandum was to advise Council of the Complaints by Mobile Telephone Networks Proprietary Limited ('MTN') and Cell C Proprietary Limited ('Cell C') with respect to the infrastructure sharing agreements entered into by Vodacom and WBS.	**It was resolved that Council note the complaints by MTN, Telkom and Cell C, on** the **infrastructure sharing agreements entered into by Vodacom and WBS. and investigate same.**
Cell C USO Matter	02 May 2017	The purpose of this submission was to update Council about Cell C application for Review of the Universal Service Obligations and to submit to Council the legal opinion requested for noting.	**It was resolved that Council approve that the Authority oppose the review application.**

09 May 2017			
Publication of list of Class Licences and Unreserved Postal Service Notice in terms of section 16(5) of the Electronic Communications Act: List for approval and gazetting.	*09 May 2017*	The purpose of this memorandum was to advise Council of the requirements of section 16 (5) of the Electronic Communications Act, 2005(ECA), and recommend that Council approve the notice for publication. In terms of section 16(5) of the ECA, the Authority must at least once annually update and publish the list of class licensees in the Gazette indicating for each class: (a) The names and contact details of all registered licensees (b) The nature of the services provided and There is no legislative requirement to publish a list of unreserved postal services (courier services). Licencing Division is however of the view that it is in the public interest to also publish the list of active courier services. The previous published lists have included the unreserved postal services	**It was resolved that publication and gazetting of a list of Class Licences and Unreserved Postal Service notice in terms of section 16(5) of the Electronic Communications Act be approved.**

Request for Confidentiality on Call Termination Questionnaire Submissions	*16 May 2017*	The purpose of this memorandum was to request Council to: Approve the request for confidentiality by Cell C, MTN, Vodacom, Telkom, Reunert and Neotel in relation to their response to the Call Termination Questionnaire, and; Approve the letters communicating the decisions to the licensees. The Authority published a media release statement and a questionnaire on its website on 30 January 2017, and further published in the Government gazette a notice (No 40603) on 08 February 2017 announcing its intention to review the above mentioned pro-competitive measures in line with section 67(8) of the Electronic Communications Act no 36. Of 2005('the ECA').	**It was resolved that the request for confidentiality on Call Termination Questionnaire Submission be approved.**
Report on Spectrum Monitoring for International Mobile Telecommunications and Public Protection Disaster Recovery Bands, Limpopo Q3 2016/17	*16 May 2017*	The purpose of this submission was to request Council to note the Spectrum Monitoring Report for monitoring the IMT and (PPDR Bands, Limpopo, Quarter 3, 2016/17).	**It was resolved that the report on Spectrum Monitoring for International Mobile Telecommunications and Public Protection Disaster Recovery Bands, Limpopo Q3 2016/17 be noted.**

Establishment of the Consumer Advisory Panel	*17 May 2017*	The purpose of this memorandum was to request Council to; 1. approve the vetted reasons document for the regulations establishing a Consumer Advisory Panel (CAP Regulations); and 2. approve the publication of the reasons document in the Government Gazette.	**It was resolved that the reasons document be approved for publication in the Government Gazette.**
Application made by LEEF FM (erstwhile MITZIGENIX) against ICASA to show cause why its decision of 28 April 2016 should not be reviewed and set aside and /or referred back to ICASA for consideration.	*17 May 2017*	The purpose of this submission is to notify Council about the review application by Leef FM with regard to a decision of 28 April 2016, in relation to I-CBSC licences in the Northern Cape Province.	**It was resolved that Council note the review application and approve the intention to oppose the application brought by Leef FM.**
Change and Update of ICASA Licensee Information, Telkom SA SOC Limited.	*17 May 2017*	The purpose of this memorandum is to request Council to consider and approve the notice from Telkom SA (SOC) Limited, requesting the Authority to effect the changes to its licence.	**It was resolved that the request to change and update Telkom's' Licence Information be approved.**

18 May 2017			
Application for amendment of the Radio Frequency Spectrum Licence: Radio Zululand	*18 May 2017*	The purpose of this memorandum was to request Council to reject the application for amendment of the Radio Frequency Spectrum Licence of Radio Zululand.	**It was resolved that the application for Radio Frequency Spectrum Licence amendment for Radio Zululand be rejected** **Reasons:** • *the significant improvement from the proposed ERP will create interference and compromise the current radio network;* • *the radio spillage will intensify to other district municipalities; and* • *with the proposed ERP increase the applicant 's coverage footprint will be outside Radio Zululand licensed area* **The refusal of the application is in line with the provisions set out in section 2 (e) of the Electronic Communications Act No. 36 of 2005.**
Request for ICASA concurrence on Regulations to be made that are likely to affect the use of Radio Frequency Spectrum in the Karoo Astronomy Advantage Areas	*18 May 2017*	The purpose of this memorandum is to request Council to approve that ICASA provide its concurrence to the publication of proposed final regulations by the Minister of Science and Technology Mrs GNM Pandor, MP ('Minister'), in relation to the Karoo Central Astronomy Advantage Areas. It is hereby requested that a letter providing concurrence, in response to a letter from the Minister dated 12 March 2017, be signed by the Chairperson and	**It was resolved that the request to provide concurrence to the publication of proposed final regulations by the Minister of Science and Technology Mrs GNM Pandor, MP ('Minister'), in relation to the Karoo Central Astronomy Advantage Areas be approved.**

		sent to the Minister. The purpose of the regulations is to provide protection of the Karoo Central Astronomy Advantage Areas. The Authority provided concurrence, in a letter dated 29 October 2015. Subsequently, the draft regulations were published for public comments in accordance with section 42 of the AGA Act. The Minister is now requesting further concurrence from ICASA on the attached proposed final regulations which had taken into consideration the public's written and oral representations.	
Report back on the engagement with some potential beneficiaries to partner with Deukom (Pty) Ltd, in fulfilment of the terms contained in Clause 9.1 of its licence.	*18 May 2017*	The purpose of this submission is to advise Council of the engagement of CCA with the National Film and Video Foundation (NFVF) as the potential beneficiary to fulfil the licence conditions of Deukom (Pty) Ltd and to request Council to approve them as a beneficiary.	**It was resolved that the report on the engagement with a potential beneficiary for Deukom (Pty) Ltd –in terms of clause 9.1 of its licence be approved subject to the final agreement between licensee and beneficiary being tabled at Council.**

Approval of SABC Commissioning Protocol	*18 May 2017*	The purpose of this memorandum was to request Council, to consider and approve the Commissioning Protocol submitted by the SABC.	**It was resolved that the SABC Commissioning Protocols be approved by Round Robin Resolution.**
Report: SABC Interim Board Induction	*18 May 2017*	The purpose of this memorandum was to provide Council with a feedback on the Induction of the newly appointed SABC Interim Board on 10 April 2017.	**It was resolved that the report on the SABC Interim Board Induction be noted.**
Project Update on the Progress of the Inquiry into Subscription Television Broadcasting	*18 May 2017*	The purpose of this submission is to update Council to note the progress on the Inquiry into Subscription broadcasting.	**It was resolved that the update on the inquiry into Subscription Television Broadcasting be noted.**
Meeting with the Civil Aviation Authority	*18 May 2017*	The Civil Aviation Authority presented its concerns on Radio Frequency Interference**.**	**It was resolved that the presentation by Civil Aviation Authority be noted and that further issues be discussed at operational level.**
CellSaf	*18 May 2017*	A request for a meeting with ICASA to discuss a possible sale of shares transaction between Cell C and Blue Label Telecoms.	**Council noted that the matter was ongoing.**

The matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and MGM Telecoms (Pty) Ltd.	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and MGM Telecoms (Pty) Ltd ('MGM').	**It was resolved that the recommendation by CCC that MGM Telecoms (Pty) Ltd be fined R2500 (Two thousand five hundred Rand) for not having applied for an extension as to becoming operational in terms of its licences be approved.** **This amount must be paid to ICASA within sixty (60) calendar days from the date of the judgement.** **MGM Telecoms (Pty) Ltd is once again informed about its duty to apply to ICASA for an extension, it has not done so at the issue of this judgement. MGM Telecoms (Pty) Ltd is granted thirty days from the date the judgement to comply.**
In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and All Technical Investigations and Security CC.	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and All Technical Investigations and Security ('the Licensee').	**It was resolved that the recommendation by CCC to ICASA Council that the licensee be directed in terms of section 17 e (2)(a) of the ICASA Act to desist in future from not filling its financial statements and paying its USAF contributions and, where applicable, its licence fees be approved.** **That the licensee be directed to file its financial statements for the year 2011/2012, appropriately confirmed by an Accountant or an Auditor within sixty calendar days from the date on which this judgement is issued.**

In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and Limpopo Economic Development Agency	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and Limpopo Economic Development	**It was resolved that the recommendation by the CCC that the findings made against Limpopo Economic Development Agency to file financial statements for the period 2011-12 and 2012-2013 does not amount to a contravention of the relevant regulations, since there was no activity in terms of the licence.** **The omission to inform Compliance (ECS and ECNS) at ICASA of the non-activity under the licences during the above periods (2011-2013) was also not a contravention.** **Although the respondent has satisfactorily explained what its plans are as to the use of the licences, Council is advised to direct Compliance (ECS and ECNS) to ensure that the licensee also formally complies with the provisions of the ECA.**
In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and Talkworld Communications (Pty) Ltd	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and Talkworld Communications (Pty) Ltd.	**It was resolved that the recommendation by CCC that the finding made against Talkworld Communications that the charge for the omission to file the 2009-2010 financial statement and pay USAF fees be not upheld was approved.** **The charge was legally not permissible since the relevant regulations were withdrawn in 2011.**

In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and Orbcomm South Africa (Pty) Ltd	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and Orbcomm South Africa (Pty) Ltd).	**It was resolved that the recommendation by the CCC that in light of the fact that Orbcomm South Africa was *bona fide* in its omission to file the 2011-2012 financial statements and pay USAF fees for the year and has now even files statements and paid fees, it was not necessary to issue more than a desist order in terms of section 17E (2) (a) of the ICASA Act be approved.**
In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and ALT-Wireless	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and ALT-Wireless.	**It was resolved that the recommendation by the CCC that the findings made against ALT –Wireless that the omission to file financial statements for the years 2011-12 and 2012-2013,2013/2014 did not amount to a contravention of the relevant regulations, since there was no activity in terms of the licences be approved.** **The omission to inform Compliance (ECS and ECNS) at ICASA of the non-activity under the licences during the above periods (2011-2013) was also not a contravention. This is because ICT-Works was not charged with not having filed an application to commence operations at a later stage.**

In the matter between the Compliance Division of the Independent Communications Authority of South Africa(ICASA) and B360 Internet Service Providers CC	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and B360 Internet Service Providers CC.	**It was resolved that the recommendation by the CCC that B360 be directed in terms of section 17E (2) (a) of the ICASA Act to desist in the future from not timeously filling its financial statements and paying its USAF contributions; and** **B360 is ordered to pay a fine of R20 000 (twenty thousand rand) to ICASA within sixty working days from the day on which the judgement is published to the parties.**
In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and ICT Works (Pty) Ltd	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and ICT Works (Pty) Ltd.	**It was resolved that the recommendation by CCC to Council in the matter between Compliance division of ICASA and ICT-Works Pty Ltd be approved.** The document before the CCC was an explanatory note, to the extent that the company was dormant.
In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and Zamdela Ministries Association and Karabo FM Broadcasting in Sasolburg.	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between Zamdela Ministers Association('ZAMA") and Karabo FM. On or around 16 September 2016, Zamdela Ministers Association ("ZAMA") lodged a complaint against Karabo FM broadcasting in Zamdela, Sasolburg. The complaint entailed the following:	**It was resolved that the recommendation by the CCC of ICASA in the matter between Zamdela Ministers Association and Karabo FM Broadcasting in Sasolburg be approved.**

		1. That on 5 May 2016 the Chairperson of the Board, Dean Mkhwanazi, has been inappropriately removed as Chairperson of the Board after a vote of no confidence against him; 2. That the removal is in conflict with the Constitution of Karabo FM; 3. That Karabo FM had failed to act in accordance with its constitution when the Board revoked ZAMA 'activities on the Community Forum (and thus also it's right to take part in the Annual General Meeting). **CCC Recommendation** The CCC's advice to Council of ICASA was to issue the following order: That the next Annual General Meeting of Karabo FM be held before August 2017. That an election of all the Board members, as prescribed in the Constitution of Karabo FM, be placed on the Agenda for the said Annual General Meeting. That the term of the present Board members	

		ends immediately after the election of Board members, as aforesaid, has taken place. That the membership of Dean Mkhwanazi of Karabo FM is declared to be valid from the date that it was cancelled and is hereby re-instated from that date (5 May 2016), until the AGM.	
In the matter between the Compliance Division of the Independent Communications Authority of South Africa(ICASA) and Christiaan Pieter de Wit (CP DE WIT")	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and Christiaan Pieter de Wit (CP DE WIT"). On or around 20 June 2013 the CCC received a complaint in terms of Section 17B (a) of the Independent Communications Authority Act of South Africa('ICASA") Act 13 of 2000, to investigate, and hear if appropriate and make a finding on allegations of non-compliance: 1. That the licensee has failed to submit Annual Financial Statements for the period **2011/2013;** and 2. That the licensee has failed to pay Annual General Licensee fees and USAF contributions for the very same years as mentioned above.	**It was resolved that the recommendation by the CCC be approved.**

		CP de Wit holds a Class Electronic Communications Service Licence No: 0187/CECS/FEB/11 and a Class Electronic Communications Network Licence no: 0187/CECNS/FEB/11. The CCC office has engaged with the licensee and his legal representative on numerous occasions in an attempt to ensuring that compliance is met. The licensee had disrespected the timelines granted for indulgence to redress and ensure that compliance is fully met since 7 June 2016. The matter was set down on 25 November 2016.The CCC granted an indulgence to the licensee to comply taking into consideration travel costs that would be incurred. The matter was postponed to 15 March 2017, where the licensee's legal representative made its submissions at the teleconference hearing. After much email correspondence between the CCC Office, Finance division and the licensee, summarised annual financial statements were ultimately submitted. **CCC Recommendation:** Christian Pieter de Wit is directed in terms of section 17E (2)(a) of the ICASA Act 2000 as amended to desist in future from not timeously filling his financial statement in	

		regard to his two licences and paying his USAF contributions; and Christian Pieter de Wit is ordered to pay a fine of R2000 (two thousand Rand) to ICASA on or before 30 June 2017 to ICASA.	
In the matter between the Compliance Division of the Independent Communications Authority of South Africa (ICASA) and Broadband Wireless (Pty) Ltd	*23 May 2017*	The purpose of this memorandum was to table the recommendation of the CCC in the matter between the Compliance Division of ICASA and Broadband Wireless (Pty) Ltd. On or around 20 June 2013, the CCC received a complaint in terms of Section 17B (a) of the Independent Communications Authority Act of South Africa ('ICASA") Act 13 of 2000, to investigate, and hear if appropriate and make a finding on allegations of non-compliance against Broadband Wireless alleging the following: 1. That the licensee has failed to submit Annual Financial Statements from financial year 2011-2012. 2. That the licensee has failed to pay Annual General licence fees and USAF contributions for the very same year as mentioned above**.** *Subject to subsection (3), every holder of a*	**It was resolved that the recommendation by CCC in the matter between the Compliance Division of ICASA and Broadband Wireless (Pty) Ltd be approved**

		licence granted or considered to have been granted in terms of Chapter 3 must pay, in addition to any other fees contemplated in this Act or related legislation, the prescribed annual contributions of the licensee 's licenced activity to the Universal Service and Access Fund. **CCC Recommendation:** Broadband Wireless (Pty) Ltd is ordered to desist in future from not filing its financial Statements within six months after its financial year end and paying its USAF contributions within the time limit set by ICASA	