Independent Communications Authority of South Africa
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COUNCIL DECISIONS – 03 December 2019

ITEM NO.	AGENDA ITEM	DECISION
1.	**2019/2020 USASA Nyandeni Local Municipality Broadband Network Audit.** 1.1 The purpose of the submission was to request Council to note the Engineering and Technology 's Quality of Service, and Network Audit report for a broadband network rolled out in the Nyandeni Local Municipality, in the Eastern Cape Province. 1.2 In 2016, Universal Service and Access Agency of South Africa (USAASA), issued a tender for the roll out of broadband infrastructure and connectivity in Nyandeni and Impendle Local Municipalities. 1.3 ICASA received a request from USAASA to assist in providing technical expertise, and auditing of the broadband infrastructure built in those municipalities. 1.4 The aim was to inspect and audit the broadband infrastructure rolled out by Grow Makhosikati CC within the Municipality. 1.5 The Engineering and	**The report was noted.**

	Technology division commissioned a team to conduct a broadband infrastructure audit. The audit was conducted during 29 July 2019 to 02 August 2019. **The following was noted:** 1.6 A total number of 170 sites were sampled and audited, high sites, public facilities, clinics and schools. 1.7 Broadband speed tests were conducted to measure upload and download speeds. It was found that the overall performance of the network was poor. **Conclusion** The audited broadband showed that the broadband infrastructure has been rolled out to the most parts of Nyandeni Local Municipality, and that the end users had access to broadband services.	
2.	**An Analysis of SAPO tariff notifications submitted to ICASA for the period 01 January 2019 to 30 June 2019.** The purpose of the submission was to request Council to note the report on the analysis of tariff notifications submitted to ICASA for the period 01 January 2019 to 30 June 2019, which were to be published on the Authority's website. 2.1 The aim of the report was aligned to object 2 (n) of the Electronic Communications Act which was to promote the interest of consumers about price, quality and the variety of electronic communication services, as it seeks to ensure that there was retail price transparency.	**The report was noted.**

	2.2 The report presented an analysis of the 179 tariff notifications received from individual licensees and mobile virtual network operators during the period under review. 2.3 Amongst others, there are standard pre-paid voice and data promotional products, and there are also terminations of certain products by licensees. 2.4 The report also touches on the mobile data market inquiry which was introduced to try and reduce the cost of data. 2.5 In terms of mobile data, there has been changes with regards to the out of bundle rates introduced by both MTN and Vodacom. 2.6 Cell C customers who intent to roll-over data are charged 3-cents for the roll-over. **2.7 The following was noted:** 2.8 There was apparent non-compliance with the End-User Subscriber Charter Regulations by licensees. 2.9 It was also not evident how the report assisted ICASA on assessing whether the regulations were effective or not; 2.10 The report did not indicate why there was non- compliance with the regulations. 2.11 Management indicted that the referrals to the CCC are ongoing, and they were not brought to Council on the grounds that Council ultimately makes decisions on CCC matters.	

3.	**Submission of Discussion Document on the Review of Must Carry Regulations for approval and publication** The Manager: Content Services presented the item: The purpose of the submission was to request Council to approve the Discussion Document, on the review of Must Carry Regulations for publication in the government gazette. **Discussion** 3.1 The Must Carry Committee was in the process of reviewing the regulations on Must Carry obligations published in the Government Gazette no 31500 of 10 October 2008. 3.2 In 2013, the Authority undertook to review the regulations and in 2019, a Regulatory Impact Assessment (RIA) and published a report on the Must Carry Regulations in March 2019, on the Authority's website. 3.3 In June 2019, a Council committee was formed which undertook several benchmarking exercises, which culminated into the discussion document that is presented. 3.4 The SABC is unhappy with the current regulations to the extent that, it must be paid by the Subscription Broadcasters for carrying content of the public broadcasters. 3.5 The issue of payment is contentious to the SABC hence	**The submission was approved for publication on the Authority's website**

	the need for further consultation on this aspect. 3.6 The intention of these regulations is to ensure that there is access to important content by the majority of South Africans. 3.7 There was a historical content as to why there was a need for Must Carry and if this is still relevant to South Africa. 3.8 The purpose of the Must Carry is to preserve the culture and diversity of opinions.	
4.	**Report to Council on the meeting of SADC Ministers responsible for ICT and Information 2019.** The purpose of the memorandum was to provide a report on the meeting SADC Ministers responsible for ICTs and Information 2019,16-20 September 2019 at the Julius Nyerere International Convention Centre in Dar Es Salaam, United Republic of Tanzania. Cllr Zimri presented the item: **Discussion** 4.1 The multi sectoral event was hosted by the government of the United Republic of Tanzania and was attended by Ministers or their representatives. 4.2 The following are issues which ICASA needed to action: 4.2.1 SADC Roaming Project; 4.2.2 SADC Shared Satellite System; 4.2.3 SADC ICT Observatory; 4.2.4 SADC Emergency Numbering Guidelines;	**The report was noted**

	4.2.5 SADC Universal Postal and Access Regulatory Guidelines; and 4.2.6 SADC Harmonised Cyber Security Framework.	
5.	**Amendment of the Radio Frequency Spectrum Assignment Plan for IMT 2600** The purpose of the submission was to request Council to approve; 5.1 The notice regarding the Draft Radio Frequency Spectrum Assignment Plan (RFSAP) for International Mobile Telecommunication in the Frequency band 2500 to 2690 MHz public for consultation. 5.2 The publication of the notice regarding the Draft Radio Frequency Spectrum Assignment Plan for International Mobile Telecommunication in the Frequency band 2500 to 2690 MHz for public consultation in the Government Gazette and on the Authority's website. 5.3 The Manager: Broadcasting Frequency Co-ordination presented the item**:** **Discussion** 5.4 RFSAP provides information on the requirements to the use of a frequency band in line with the allocation and other information in the National Radio Frequency Plan (NRFP). 5.5 That allocation included technical characteristics of radio systems, frequency channelling coordination and details on required migration of existing users of the band and the expected method of assignment	**The submission was approved**

6.	**Recommendation by Complaints and Compliance Committee("CCC") to Council in the matter of Lusindiso Tantsi v Unitra Community Radio(UCR)** The purpose of the submission was to table the recommendation of the CCC in the matter between Lusindiso Tantsi and Unitra Community Radio. 6.1 That was a re- submission to Council. The matter was approved but Council at a previous meeting, but Council sought clarity on the criteria used by the CCC to appoint the above-mentioned individuals as Action Committee Members. 6.2 And whether the CCC had powers to prescribe appointment of committee members, and if the recommendation was not *ultra vires or not acting beyond its powers.* 6.3 The matter was taken back to the CCC and a revised order was issued which recommended the following on page 16 of the order. **Recommendation to Council.** The CCC made the following recommendation: 6.4 That the current board upon receipt of the order must invite the community to elect an Action Committee Members. 6.5 A quorum will be three and meetings must be called by the Chairperson with seven days 'electronic notice. The	**The recommendation was approved.**

	Chairperson will have an extra vote where the votes were equally divided. 6.6 The fees paid to the Action Committee Members by the licensee per meeting will accord with the fees payable to the Board per meeting in 2019.Where three members request a meeting, such a meeting must be held by the Chairperson within seven calendar days.	
7.	**Publication of Erratum Notice Regarding the Intention to Review the Price Cap Regulations** The purpose of the submission was to request Council to approve an Erratum Notice, regarding a gazetted intention to review the Price Cap Regulations Notice (GG 42657) to be published in the Government Gazette, which seeks to rescind Phase 2 of the Review Process 7.1 ICASA was in a process of conducting a review of the Price Cap Regulations for Reserved Postal Services, 2013. 7.2 The purpose of the review was to impose effective controls in the reserved postal services and ensure that regulation of the reserved services space remained appropriate and enough to secure the efficient and financially sustainable provision of the reserved postal services. 7.3 On the 23rd August 2019, the Authority published a notice of ots intention to review the Price Cap Regulations in the Government Gazette.	**The request was approved.**

	7.4 The Authority was now on Phase 2 of the review process as per the notice of the intention, which entailed the drafting and eventual publication of the Discussion Document. 7.5 From the response to the Questionnaire provided by the stakeholders, the Price Cap Regulations Review Council Committee determined that the Authority had enough information to determine whether the imposition of price controls was still relevant or proposed an alternative form of regulation. That rendered the need to solicit further information from stakeholders (through the publication of the Discussion Document) superfluous. 7.6 In light of the above the Price Cap Regulations Committee in November 2019 resolved to rescind phase 2 of the review process. The detail of the retraction was contained on the Erratum Notice.	
8.	**Public Hearings on the Draft Findings Document: Inquiry into Subscription Television Broadcasting Services.** The purpose of the submission was to appraise Council of the Subscription Inquiry Committee 's decision not to conduct a second round of public hearings on the Draft Findings Document: Inquiry into Subscription Television Broadcasting Services. Cllr Nomonde Gongxeka-Seopa presented the item:	

	8.1 MultiChoice wrote to ICASA requesting that there should be another round of public hearings post the final analysis of the findings document to make further representations. 8.2 The Authority obtained a legal opinion form both internally and externally, on whether the Authority has an obligation to conduct a second round of public hearings, as the committee was of the view that it has received sufficient submissions to come to a final analysis. 8.3 The outcome of the legal opinion was that the Authority is not obliged to conduct another round of public hearings, which is now the position and decision of the committee. 8.4 The committee indicated that it is ready to publish the final findings document after it has considered both the written and oral submissions. The committee indicated that it is guided by section 4B of the ICASA Act and that the provisions of that section do not call for a further round of public hearings. In addition, the committee submitted that according to the provisions of PAJA, MultiChoice has failed the test for making a case for public hearings. 8.5 The committee indicated that in terms of the analysis, there is nothing further that MultiChoice can put before the committee orally, that will influence the analysis and such exercise to conduct further hearings will amount to over consultations.	

	8.6 The committee indicated that it is the Authority's discretion to decide on a further round of consultation, and it is almost ready to consolidate its findings Council will make a final determination January 2020.	
9.	**Application by SABC-Exemption from Compliance with Licence Conditions to Broadcast Sport of National Interest- "Inbound Tour by the England National Team from 26 December 2019 to 28 January 2020** 9.1 The purpose of the submission was to request Council to approve the application by SABC, in terms of its licence and the Sport Broadcasting Service Regulations,2010 and 9.2 To provide Council with an analysis of the application by the SABC for exemption from compliance with licence terms and conditions on SABC 3 television services. **Discussion** The application was for the exemption from compliance with its licences, in terms of clause 4.6 of SABC 3 Television service licence and the Sports Broadcasting Service Regulations of 2010	**The application was approved**

ISSUED BY: Secretariat Office on behalf of Council