



**Working document**

**REPORT OF THE ad hoc COMMITTEE ON THE SABC BOARD INQUIRY INTO  
THE FITNESS OF THE SABC BOARD, DATED \_\_\_\_\_.**

The ad hoc Committee on the SABC Board Inquiry having inquired into the fitness of the SABC Board, reports as follows:

**1. INTRODUCTION**

To be completed once the draft/interim report's structure and content has been agreed to.

**PART A**

**2. Background**

**2.1 Terms of reference**

2.1.1 The inquiry was instituted on 3 November 2016 per a resolution of the National Assembly.

2.1.2 In line with section 15A(1)(b) of the Broadcasting Act (No 4 of 1999) the Committee was charged with inquiring into the ability of the SABC Board to discharge its duties as prescribed in that act. Its terms of reference was limited to considering:

- the SABC's financial status and sustainability;
- the SABC's response to *Public Protector Report No 23 of 2013/14: When Governance and Ethics Fail*;
- the SABC's response to recent court judgements affecting it;
- the SABC's response to Independent Communications Authority of South Africa June 2016 ruling against the broadcaster's decision to ban coverage of violent protests;
- the current Board's ability to take legally-binding decisions following the resignation of a number of its non-executive Board members;
- the Board's adherence to the Broadcasting Charter;



- the Board's ability to carry out its duties as contemplated in section 13(11) of the Broadcasting Act (No 4 of 1999);
- human resource-related matters such as governance structures, appointments of executives; and the terminations of services of the affected executives; and
- the decision-making processes of the Board.

2.1.3 In terms of the resolution the Committee must complete its business, and report to the National Assembly by 28 February 2017.

## **2.2 Membership**

2.2.1 The multi-party Committee's membership comprised eleven members, selected from the following political parties: African National Congress (6 members); Democratic Alliance (2 members); Economic Freedom Fighters (1 member); and from other parties (2 members).

2.2.2. The following members were selected to serve on the Committee:

Mr HP Chauke MP (ANC); Dr MB Khoza, MP (ANC); Ms JD Kilian, MP (ANC); Ms FS Loliwe, MP (ANC); Mr JL Mahlangu, MP (ANC); Mr Vincent Smith, MP (ANC); Ms P van Damme, MP (DA); Mr M Waters, MP (DA); Mr MQ Ndlozi, MP (EFF); Mr LG Mokoena\*, MP (EFF); Mr N Singh, MP (IFP); Prof. NM Khiubisa, MP (NFP); \*Mr S Swart, MP (ACDP); and \*Mr NL Kwankwa (UDM)

## **2.3 Process**

2.3.1 The Committee unanimously elected Mr VG Smith as its chairperson on 15 November 2016, and adopted the process the inquiry would follow.

2.3.2 The Committee agreed to adopt an inquisitorial approach, with evidence being gathered from the relevant state institutions and witnesses, and relevant information/documentation.



2.3.3 The Committee agreed to appoint Adv. Nthuthuzelo Vanara (Parliamentary Legal Adviser)—who had conducted a series of interviews with potential witnesses in anticipation of an inquiry which would have been conducted by the Portfolio Committee on Communication—as its evidence leader.

#### **2.4 Witnesses**

2.4.1 The Committee invited briefings from state institutions, and evidence from former and current board members and chairpersons, former and current SABC employees, the Minister of Communications, as well as civil society organisations. The hearings took place from 7 December 2016 to 13 January 2017.

2.4.2 The Committee received briefings from the following state institutions:

- the Auditor General of South Africa, on the SABC's financial performance and audit outcomes for the period 1 April 2013 and 31 March 2016;
- the Independent Communications Authority of South Africa, on the Complaints and Compliance Committee's 3 July 2016 decision in relation to the Media Monitoring Project Benefit Trust, SOS Support Public Broadcasting Coalition and the Freedom of Expression Institute complaint regarding the SABC's decision not to cover violent protests, and the SABC's response in this regard;
- the Public Protector of South Africa, on *Public Protector Report No 23 of 2013/14: When Governance and Ethics Fail*, and the SABC's response to the remedial actions contained in it.

2.4.3 The following former Board members were invited to give evidence relating to their tenure: Prof Bongani Khumalo, Mr Tembinkosi Bonakele, Ms Rachel Kalidass, Ms Nomvula Mhlakaza; Mr Ronny Lubisi, Mr Vusi



Mavuso, Dr Aaron Tshidzumba, and Mr Krish Naidoo. Dr Tshidzumba, Ms Mhlakaza and Mr Bonakele declined to participate.

- 2.4.4 Ms Thandeka Gqubula-Mbeki, Mr Voyo Mvoko, Mr Lukhanyo Calata and Ms Krivani Pillay presented evidence on behalf of the eight SABC journalists, known as the “SABC8”. Their evidence related, in the main, to the SABC’s editorial policy and the victimisation of journalists in particular. Ms Sophie Mokoena, the acting SABC Political Editor declined to participate in the proceedings. Mr Vuyani Green had originally declined to participate and could not be accommodated in the inquiry when he indicated a willingness to do so towards the end of the Committee’s proceedings.
- 2.4.5 The following former SABC employees were invited to give evidence related to the SABC’s human resource management; and compliance with the Public Finance Management Act in their financial, and supply chain management: Mr Phil Molefe (former acting GCEO and Head: News) Mr Itani Tseisi (former Group Executive: Risk and Governance); Mr Jabulani Mabaso (former Group Executive: Human Resources); Ms Madiwe Nkosi (former General Manager: Labour Relations); Ms Sipho Masinga (Former Group Executive: Technology); Mr Madoda Shushu (Former Head of Procurement). The SABC’s former Head of News, Mr Jimmi Matthews originally declined to participate, and could not be accommodated in the inquiry when he indicated a willingness to do so towards the end of the Committee’s proceedings.
- 2.4.6 The Group Executive: Governance and Assurance, Ms Theresa Geldenhuys, was invited to give evidence related to her tenure as Company Secretary.
- 2.4.7 Prof. Mbulaheni Maguvhe was invited to give evidence related to his tenure as Chairperson of the Board. After several attempts to delay the proceedings, Mr Maguvhe was summonsed to give evidence before the



Committee. He resigned subsequent to his appearance before the Committee.

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2.4.8 The Minister of Communications, Ms F Muthambi, gave evidence related to her role as shareholder.

2.4.9 The following civil society organisations gave evidence, in the main related to the SABC's role as a public broadcaster, and failures in that regard: Media Monitoring Africa, Right2Know Campaign, and SOS Coalition.

2.4.10 The Organisation Undoing Tax Abuse (OUTA) submitted a detailed report on investigations it had done in relation to the SABC's corporate governance.

2.4.11 In the course of the hearings allegations were made against former Board chairpersons, Dr Ben Ngubane and Ms Ellen Tshabalala. Both were therefore invited to give evidence related to their tenures.

## **2.5 Documentation**

2.5.1 The information listed below was requested from the SABC Board, in preparation for the inquiry:

- the Delegation of Authority Framework (DAF);
- the minutes and transcripts of sub-committee and Board meetings, if any, at which decisions to procure services from SekelaXabiso, PriceWaterhouseCoopers and Vision View were taken;
- the minutes and transcripts of the sub-committee and Board meetings related to the following:
  - the consideration and approval of presentation documents to the relevant parliamentary committees,



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- the consideration and approval of the MultiChoice deal, responding to the above-mentioned Public Protector's report,
  
- the consideration and approval of the 90/10 per cent local content for radio and 80/20 per cent local content for television plan/strategy,
- the consideration and approval of the removal of Mr R Lubisi, Ms R Kalidass and the late Ms H Zinde as Board members,
- the consideration and recommendation for the permanent appointment of Mr Hlaudi Motsoeneng as Chief Operating Officer,
- the consideration and approval of Mr Motsoeneng's appointment as Group Executive: Corporate Affairs,
- the consideration and approval of the bonuses and salary increases paid to Mr Motsoeneng,
- the consideration and approval of the amended Editorial Policy of 2016, and
- board decisions taken through a round robin process.
- the Articles of Association prior to September 2014;
- the Board's quarterly reports to the Minister of Communications;
- the Governance Review Report prepared by Sizwe Ntsaluba-Gobodo Auditors;
- the Recruitment Policy of the SABC;
- the management report in response to Auditor General of South Africa-findings;
- the Chief Audit Executive reports submitted to Audit Committee and Board; and
- the SABC Skills Audit report conducted by PriceWaterhouseCoopers.



2.5.2 The Committee were severely constrained by the SABC Board's failure to comply with the request for information. The documentation which was expected to reach the Committee by 21 November 2016 but this deadline was not met, nor was the subsequent summons to compel the relevant office to submit the documentation complied with. The SABC eventually submitted in excess of 500 electronic documents on 9 and 10 December 2016.

2.5.3 It should also be noted that Prof. Maguvhe indicated—through his legal representatives—that several documents could not be submitted as they related to commercially sensitive information.

2.5.4 In addition to the documentation referred to in paragraph 5.1 the Committee received additional written input from several witnesses and interested/affected parties.

## **PART B: SUMMARY OF EVIDENCE/TESTIMONY**

### **3. Governance and Compliance**

#### **3.1 Board Fiduciary Duties**

3.1.1 Testimony during the inquiry revealed what to many has been an open secret i.e. for several years new boards were confronted with challenges that predated their terms. These challenges included instability and dysfunctionality at board level which impeded the Board's ability to hold SABC executives accountable. Coupled with this, instability at senior management level has had a significant impact on the SABC's ability to fully execute its mandate. Testimony suggested that Mr Hlaudi Motsoeneng was at the centre of the divisions within all boards between 2009 and 2016.



3.1.2 Testimony from all former members, including former group chief executive to the people officers, of the most recent Board revealed that the boards were often divided along two lines: those who were concerned with discharging their fiduciary duties, and those who were seemingly pursuing their own agenda which was not necessarily in the public broadcaster's best interest. intent on achieving certain outcomes which were not necessarily in the interest of the public broadcaster.

## **4 Articles of Association and Memorandum of Incorporation**

### **4.1 Applicable legislation**

- 4.1.1 The common law and legislative interpretation principle of *lex specialis derogate legi generali* is a generally accepted technique of interpretation and conflict resolution in both national and international law. In short, the principle states that whenever two or more pieces of legislation deal with the same subject matter, priority should be given to the legislation that is more specific to the subject matter.
- 4.1.2 The application of the special law does not normally extinguish the relevant general law: the general law remains valid and applicable and, in accordance with the principle of harmonisation, continues to give direction for the interpretation and application of the relevant special law and will become fully applicable in situations not provided for by the latter.
- 4.1.3 The rationale of the principle that special/specific law—i.e. the Broadcasting Act 4 of 1999—has priority over general law—i.e. the Companies Act— as it relates to the SABC Board is justified by the fact that such law, is often more concrete and often takes better account of the particular features of the context in which it is to be applied than any applicable general law.

### **4.2 Articles of Association and the Memorandum of Incorporation**

- 4.2.1 The Articles of Association is an important document as it is the supreme legal document related to the company and forms the constitution of the company. It is therefore important that the Memorandum of Incorporation be



- 4.2.2. During its evidence gathering, the ad hoc Committee received three MOIs: one, undated and unsigned; a second, dated 20 September 2013 and signed by the Minister; and a third, dated 20 September 2013 and signed by the Minister and Prof. Maguvhe.

## **5. Separation of powers**

### **5.1 Political interference**

- 5.1.1 The SABC has since 1994 become an important medium through which freedom of expression is realised as envisaged in the Constitution. It also plays an important role as far as ensuring that South Africa has an informed and engaged citizenry. The SABC has however faced with a plethora of challenges over the last ten years. These include ensuring its independence from government.
- 5.1.2 Witnesses suggested that the Minister of Communications often interfered in the Board's business in the guise of holding the SABC accountable to the shareholder and in so doing disregarding the Board as the primary mechanism to promote accountability.
- 5.1.3 Testimony from witnesses including the Minister, demonstrated that in many instances the Broadcasting Act 4 of 1999 was disregarded as the principal act governing the affairs of the public broadcaster in favour of the Companies Act so as to empower the Minister to implement disciplinary measures against SABC Board members and to directly participate in the affairs of the board. Many witnesses also gave testimony to illustrate the use of the MOI to trump the Broadcasting Act and for the same purpose as mentioned above.



According to Section 13 of the ~~Broadcasting Act No 4 of 1999~~ <sup>the Broadcast Act No 4 of 1999</sup> the appointment of the board chairperson, as well as other non-executive directors' rests with the President on the recommendation of the National Assembly. Section 15 (1) of the Act empowers the President to remove a member from office on account of misconduct or inability to perform his or her duties. This section also empowers the President to remove board members in an event that a committee of the National Assembly has made a finding and recommended that a member be removed from office.

5.1.5 Section 8 (a)(5) states that with effect from the date of conversion the Companies Act applies to the Corporation as if it had been incorporated in terms of the Companies Act applies to the corporation as if it had been

incorporated in terms of the Companies Act on that date, save to the extent stipulated in the Broadcasting Act. This reaffirms that the application of the Companies Act over the Broadcasting Act is unlawful.

## **6. Financial management**

### **6.1 Auditor Findings**

6.1.1 The Auditor- General (A-G) highlighted the audit outcomes of the SABC for the last three financial years. The SABC consistently received qualified outcome with findings for the 2013/14; 2014/15 and 2015/16 financial years. A qualified opinion refers to an outcome where the entity failed to produce credible and reliable financial statements and in addition, the entity had material misstatements on specific areas in their financial statements which could not be corrected before the financial statements were published.

6.1.2 Although there is an improvement in 2015/16 shown by a reduction in the number of qualification areas however, irregular, fruitless and wasteful expenditure remains an area which has been highlighted regularly over the past years and has escalated considerably.

### **6.2 Irregular Expenditure**



6.2.1 Irregular expenditure refers to expenditure incurred without complying with applicable legislation and incurred when proper processes were not followed<sup>1</sup>.

Such expenditure does not necessarily imply that money was wasted or that fraud had been committed, but is rather an indication that legislation and prescribed processes are not followed. This legislative requirement is aimed at ensuring that procurement processes are competitive and fair.

6.2.2 Irregular expenditure was misstated as follows: -

- The SABC and group incurred expenditure in contravention with supply chain management (SCM) requirements for both the current and prior years that were not included in irregular expenditure note. The

understatement amounted to R35,1 million. This contravened Section 55 (2) (b)(i) of the Public Finance Management Act (PFMA) which states that the annual report and financial statements must include particulars of any material losses through criminal conduct and any irregular, fruitless and wasteful expenditure that occurred during the financial year;

6.2.3 The SABC did not have supporting documents in place to identify irregular expenditure. Supporting documents to verify the disclosed irregular expenditure of R141,4 million to test these for compliance with SCM regulations were not provided for audit purposes. Irregular expenditure incurred in periods prior which was not disclosed was also relooked. In 2015, supporting documents to the value of R23,9 million to test compliance against supply chain management regulations were not provided for audit purposes. This is in contravention with Section 55 (1)(a) which states that the accounting authority must keep full and proper records of the financial affairs of the public entity. Section 28(1) (a) of the Companies Act states that a company must keep accurate and complete accounting records in one of the official languages of the Republic;

6.2.4 The table below shows irregular expenditure incurred in 2014, 2015 and 2016. In 2014, irregular expenditure incurred by SABC was R990,7 million, R2,4 billion was incurred in prior years but discovered in 2014 resulting to a

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1 PFMA, Act No 1 of 1999.



cumulative figure of R3,4 billion. R441,2 million was incurred in 2016. In addition to this, R322,3 million was incurred in prior periods but identified in 2016, resulting in the escalation of irregular expenditure to R5,1 billion.

	2014 (R'000)	2015 (R'000)	2016 (R'000)
Opening balance	1 231	3 376 809	4 385 138
Add: Irregular expenditure identified in the current year relating to prior years	2 399 775	1 732 127	322 282
Expenditure previously disclosed as irregular re-verified in the current year		(1 113 081)	
As restated		3 995 855	4 707 420
Add: Irregular expenditure-current year	990 694	389 283	441 223
Irregular expenditure not condoned		4 385 138	5 148 643
Less: Amounts recoverable	(14 891)		(117)
<b>Irregular expenditure awaiting condonation</b>	<b>3 376 809</b>	<b>4 385 138</b>	<b>5 148 526</b>

### **Irregular expenditure for the SABC Group**

6.2.5 The SABC incurred the following types of irregular expenditure: -

- No original tax clearance on the date of the award;
- Payments without contracts;
- Inadequate contract management;



- Procurement process not followed/ ~~inadequate deviation from the SCM policy and~~  
SCM policy and
- Deviation from the Delegation of Authority Framework.

6.2.6 The SABC incurred the following types of irregular expenditure: -

- No original tax clearance on the date of the award;
- Payments without contracts;
- Inadequate contract management;
- Procurement process not followed/ inadequate deviation from the SCM policy and
- Deviation from the Delegation of Authority Framework.

### 6.3 Fruitless and wasteful expenditure

6.3.1 Fruitless and wasteful expenditure is expenditure that was made in vain and that would have been avoided had reasonable care been taken<sup>2</sup>. The table below shows fruitless and wasteful expenditure for the SABC for 2014;2015 and 2016. An amount of R34,7 million of fruitless and wasteful expenditure was incurred in 2016 and a total of R92,5 million of fruitless and wasteful expenditure awaits condonation.

	2014 (R'000)	2015 (R'000)	2016 (R'000)
Opening balance		42 000	58 299
Add: Fruitless and wasteful expenditure- current year	54 600	16 154	34 678
Add: Fruitless and wasteful expenditure- prior years		1 014	
Fruitless and wasteful expenditure not condoned		58 168	92 977
Less: Amounts recoverable	(12 600)	(869)	(516)
<b>Fruitless and wasteful expenditure awaiting condonation</b>	<b>42 000</b>	<b>58 299</b>	<b>92 461</b>

**Fruitless and wasteful expenditure for the SABC Group**

### 6.4 Compliance with laws and regulations

2 Ibid



**6.4.1** The SABC failed to comply with applicable laws and regulations in its financial management. The A-G noted instances of non-compliance with laws and regulations. The following instances were identified:-

- The financial statements submitted for auditing were not prepared in accordance with International Financial Reporting Standards (IFRS) as required by Section 55 (1)(b) of the PFMA and Section 29 (1)(a) of the

Companies Act. Material misstatements identified by auditors were subsequently corrected, but the uncorrected material misstatements and supporting documents that could not be provided resulted in the financial statements receiving the qualified opinion;

- Goods, works or services were not procured through a procurement process which is fair, equitable, transparent and competitive as required by the PFMA section 51 (1)(a)(iii). Sufficient appropriate audit evidence could not be obtained that the procurement systems or processes complied with the requirements of a fair SCM system according to Section 51 (1)(a)(iii) of the PFMA;
- Section 51 (1)(b)(ii) of the PFMA requires that effective steps are taken to prevent irregular, fruitless and wasteful expenditure;
- Proper control systems to safeguard assets were not implemented as required by Section 50 (1)(a) of the PFMA which states that the accounting authority must exercise the duty of utmost care to ensure reasonable protection of the assets and records of the public entity;
- Disciplinary steps were not taken against officials who made and permitted irregular, fruitless and wasteful expenditure as required by Section 51 (1)(e) (iii) of the PFMA.

## **6.5 The role of the Board**

**6.5.1** The Board of the SABC has failed to discharge the following duties:-

- It is the role of Board to investigate all irregular, fruitless and wasteful expenditure to determine whether it constitutes misconduct, fraud or losses that should be recovered and, where deemed necessary, to recover these expenditures. Section 50 (1) of the PFMA highlights the fiduciary duties of accounting authorities and Section 51 (1)(b)(ii) lists the responsibilities of accounting authorities of public entities including taking effective and appropriate steps to prevent irregular, fruitless and wasteful



expenditure as well as losses resulting from criminal conduct. Section 51 to the people

(1)(e) states that accounting authorities must take effective and appropriate disciplinary steps against any employee who:-

- contravenes the PFMA;
- commits an act which undermines the financial management and internal control system; and
- makes or permits irregular, fruitless and wasteful expenditure.
- The Board of the SABC failed to discharge its duties as contemplated in the PFMA by failing to take effective and appropriate steps to prevent irregular, fruitless and wasteful expenditure as well as failing to act against employees that incurred these expenditures.
- The Board failed to ensure that an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective exists as required by Section 51(1)(a)(iii);
- The Board has a responsibility according to Section 51(1)(c) of the PFMA to ensure that all assets are safeguarded. The A-G highlighted that proper control systems to safeguard assets were not implemented as required by Section 50 (1)(a) of the PFMA;
- The Board failed to ensure that the SABC has and maintains an effective and transparent system of financial and risk management and internal control as required by Section 51 (1)(a)(i). The internal control environment is weak which allowed employees to permit irregular expenditure;
- The Board failed to submit necessary documents to the A-G which limited the scope of the audit into irregular expenditure. Section 54 (1) obligates the accounting authority to submit to the Treasury or the A-G documents, explanations and motivations as may be prescribed or as the A-G may require.

## 6.6 Root causes

6.6.1 The A-G highlighted several root causes for challenges at the SABC. These include:

- Instability or vacancies in key positions or key officials lacking competencies;
- Ineffective implementation and monitoring of action plans, especially on irregular, fruitless and wasteful expenditure;
- Lack of consequences to ensure implementation of action plans;



- Slow response to address weaknesses identified in the systems and processes for reporting of performance management;
- Inadequate consequences for poor performance and transgressions; and
- Inadequate record management system to support financial and performance information.

## **7. Supply Chain Management-related matters**

7.1 The testimony presented by the former Group Executive: Procurement pointed to the following contraventions:

- circumvention of supply chain processes and regulations: certain contracts such as that of SekelaXabiso which was appointed to deliver for audit services, were awarded without following due process;
- payments in some cases being made without contractual obligations having been fulfilled, and in others without valid contracts;
- irregular payments made to certain providers;
- procurement transactions in which supply chain specialists were excluded;
- the Board's interference in operational supply chain matters;
- the approval of supply chain management-deviations for transactions which did not warrant the use of an emergency clause such as the *Lorna Vision* contract;
- the complete collapse and ineffectiveness of assurance providers such as the Internal Audit unit, the Audit Committee and the Board;
- abuse of power by certain executives in order to change reporting lines, so as to render the SABC's governance structures weak.

## **8. Human Resource-related matters**

### **8.1 Executive Appointments**

8.1.1 Testimony revealed that the process to appoint the then acting COO, permanently was a hasty one, which had highlighted the above-mentioned division among Board members. Many witnesses expressed disbelief that despite the Public Protector's damning findings against the then acting COO, the majority of the members voted for his appointment. The then Group Executive: Human Resources' evidence confirmed that he had not been included in discussions around this appointment.



- 8.1.2 Evidence presented suggested that the hasty appointment was done in contravention of the SABC's recruitment policies and procedures. Many witnesses further alluded to undue pressure having been applied by the Minister of Communications.
- 8.1.3 The Minister, in her own testimony, could not allay suspicions that the Board was pressured to make the appointment, and in so doing had failed to uphold its fiduciary duties. While she had been justified in emphasising the urgency with which the acting senior management posts had to be filled, little evidence was presented that confirmed her insistence that the appointments be done in accordance with the applicable recruitment policies and procedures. The Committee received no evidence that adequately explained why the Minister had confirmed the board's recommendation that an individual without the requisite qualifications, and against whom the Public Protector had made a series of adverse findings, be appointed.
- 8.1.4 The evidence suggests that the Board was deeply divided on this matter, not least because some were of the view that Public Protector's findings and remedial action had to be accepted and implemented.

## **8.2 Suspensions and Dismissals**

- 8.2.1 The SABC has over the years lost highly-skilled, highly-experienced and highly-qualified staff as result of the abuse of power and systematic governance failures involving irregular termination of employment of several senior employees at the SABC. The Public Protector's report detailed how the systematic purging of senior staff members had resulted in the loss of millions of Rands which were paid out in settlement agreements where contracts were terminated irregularly. Evidence heard corroborated the Public Protector's findings.
- 8.2.2 Testimony from the former General Manager: Labour Relations indicated that labour relations specialists' advice would be ignored, and that those senior employees who refused to cooperate would be dismissed **unprocedurally**, with the Board's approval of the dismissals being sought. Although the Board



was aware of the ‘purge’ it did not speak out against the self-inflicted brain drain. Some the dismissals would be challenged at the Commission for Conciliation, Mediation and Arbitration (CCMA), and others would be settled out of court with the SABC still paying enormous amounts in settlements.

- 8.2.3 Many witnesses linked the unlawful dismissals to the new Memorandum of Incorporation (MOI) which conferred the powers of the Board to the executives thereby reducing the board to an instrument that merely ratifies the decisions taken by the executive.
- 8.2.4 The unprocedural dismissals were not restricted to the administration, but extended to the news room too. The most recent dismissals took place in July 2016 when eight experienced and skilled journalists were dismissed after disagreeing to implement an editorial decision to not broadcast images of violent protests which involved the destruction of public property, and which in these experienced journalists’ opinion amounted to self-censorship.

### **8.3 Performance management system**

- 8.3.1 Testimony from the former Group Executive: Human Resource revealed that the SABC did not have a performance management system or recognition and award policies. Despite this millions of rands in bonuses have been paid out to senior and junior employees.

## **9. Editorial Independence**

### **9.1 Editorial Policies**

- 9.1.1 Editorial independence is central to quality journalism. Editorial interference undermines prescripts of the Broadcasting Act, inhibiting citizens from making informed judgments on topical issues. Editorial independence and institutional autonomy are absolutely essential components of public broadcasting, and therefore the safeguards in place to ensure ethical and quality journalism should not be compromised.



- 9.1.2 Subsections 6(8)(d), (e) and (f) of the Broadcasting Act states that the corporation must develop a code of practice that ensures that the services and personnel comply with the rights of all South Africans to receive and impart information and ideas; the mandate to provide for a wide range of audience interest, beliefs and perspectives; and a high standard of accuracy, fairness and impartiality in news and programmes that deal with matters of public interest.
- 9.1.3 The inquiry heard chilling evidence of the blatant disregard of journalistic values and ethics. Testimony from the “SABC 8” gave an account of how the announcement in 2013 that the SABC would henceforth report “70 per cent positive news and 30 per cent negative news” had affected unbiased reporting and contravened the most basic of journalistic ethics. This policy undermined core principals of truth and was one of the many attempts by senior management to undermine quality journalism in favour of content that would yield positive spin-offs.
- 9.1.4 The crisis as far as providing independent and credible news and current affairs programmes to the vast majority of citizens and residents has been present for a long period. The crisis was particularly pronounced through the month of July 2016 which preceded South Africa’s local government elections. In this period journalists were suspended and summarily dismissed for challenging editorial directives required journalists to self-censor. Although seven of the eight journalists were reinstated shortly after their dismissal, they informed ICASA that the editorial was continuing unabatedly.

## **9.2 Regulatory compliance**

- 9.2.1 Section 4(3)(d) of the ICASA Act states that the Authority must develop and enforce license conditions consistent with the objects of this Act and the underlying statutes for different categories of licenses. The Act empowers the Complaints Compliance to direct the licensee to desist from any contraventions; to direct the licensee to take such remedial or other steps in



conflict with the Act or underlying statutes as may be recommended by the  
CCC as per section 17E(2)(b)(c).

- 9.2.2 The SABC's decisions to revise editorial policies without consultation and approval is in contravention of not only the Broadcasting Act and the ICASA Act; but also of the prescripts of the Constitution of the Republic.

## **10. “Suspicious deals”**

### **10.1 MultiChoice**

10.1.1 The deal between pay-tv channel *MultiChoice* and the SABC has been surrounded by controversy since its inception. Three main issues sparked the controversy around the deal; namely the lack of transparency with how the deal was processed; the sale of SABC archives that would result in the establishment of an entertainment channel *SABC Encore* and lastly the extent to which *SABC Encore* and the SABC 24 News Channel would be accessible to citizens given that both channels were on a pay-tv platform.

10.1.2 It is a foregone conclusion that the MultiChoice agreement with the SABC was well underway by the time the interim board of 2013 was appointed. Testimony by a former Board member indicates that upon their appointment to the interim board, they were presented with numerous documents for the Board's information which included amongst others the commercial and master channel distribution agreement between the SABC and MultiChoice. The set of documents included the 12 June Board minutes of the meeting of 12 June where the proposal was conditionally approved by the then interim Board.

10.1.3 Board members raised concerns around the legal aspects of the contract between the SABC and MultiChoice, drawing attention to section 8 read with section 2 of the Broadcasting Act 4 of 1999 which related to the powers, objectives and parameters within which the SABC could operate, in particular. Based on these provisions it was suggested that the deal was unlawful.



10.1.4 In light of the above, the then Chairperson of the Board proposed that a second opinion, which ultimately contradicted the Board members' opinion, be sought.

10.1.5 Per testimony heard the contract was purportedly an agreement whereby MultiChoice would use the SABC's archived material on condition that a particular position on set-up control. This condition rendered the contract unlawful. Secondly, the person who signed off on the agreement on behalf of the SABC was not authorised to do so.

10.1.6 There were other defects too. The downturn in the economy meant that the SABC generated less revenue. There was a downturn in the payment of licences, with around R2 billion of uncollected license fees. That debate around whether prescription of debts happened after three years went on for a year before the prescriptive period was determined at three years, which meant that SABC had to write-off R2 billion in debt. There were also issues concerning. Many of these issues were addressed with some success.

10.1.7 Given this context and considering that as of the end of 2015 DSTV's total subscribers stood at 5,4 million<sup>3</sup> it is clear that a significant section of the country's population has no access to DSTV, and therefore no access to two channels of the public broadcaster namely *SABC Encore* and *SABC News*. This particularly problematic because these channels

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<sup>3</sup> Article accessed from *My Broadband*. Title: *The impact of Netflix on MultiChoice and the South African TV market*. Accessed from the world wide web: <https://mybroadband.co.za/news/broadcasting/152433-the-impact-of-netflix-on-multichoice-and-the-south-african-tv-market.html>



are funded directly from the public purse—3 per cent of SABC's appropriation is to the people from the publics purse—but also because the SABC has a public mandate to educate, entertain and inform.

10.1.8 Section 8(j) of the Broadcasting Act requires the SABC to establish and maintain libraries and archives containing materials relevant to the objects of the Corporation and make available to the public such libraries and archives with or without change. Therefore the agreement potentially contravenes the provisions of the Act too.

10.1.9 The Committee could not establish with confidence whether the content archives of the public broadcaster remained in the SABC's possession, or the extent to which MultiChoice has access or pays for access to the archives. Per the former Company Secretary MultiChoice has purchased the right to air the material, but does not own the archives. This contradicts most testimonies by former executives and Board members.

## **10.2. New Age Media**

10.2.1 The then Corporate Executive: Technology testified that a meeting had been arranged between himself and a representative from New Age Media, the parent company of ANN7. During the meeting attempts were made to 'sell' an agreement which would effectively allow New Age Media to take over SABC news and rebrand it.

10.2.2 The Committee could not establish beyond doubt whether the distribution of the New Age Newspaper was still the norm at the SABC, nor could it establish the financial worth of the agreement with New Age Media.

10.2.3 What is obvious is that the SABC, while it was facing financial difficulties, appeared to have signed exclusive contracts to distribute a newspaper subscription at a national scale over and above those of other media newspapers.



10.3.1 A recurring theme in the inquiry was how the contract between *MultiChoice* and the SABC was the impact it had on the SABC's policy on Digital Terrestrial Television, particularly set-top box encryption. Evidence

suggests that the SABC, along with the government, had supported encryption.

10.3.2 In 2007 the SABC developed a strategy for encryption which it presented to government, after which the encryption policy was adopted. Testimony from a variety of witnesses further revealed that the *MultiChoice* deal required that the SABC changes its original policy of supporting encryption on set-top boxes. The SABC acceded to this demand in spite of the significant benefits such encryption would have for free-to-air broadcasters, including itself, in terms of giving it a competitive edge against their biggest rival – *MultiChoice*'s DSTV. By 2014, the SABC had begun to advocate for non-encryption of STB's.

10.3.3 The about turn by the SABC on its position, apparently due to pressure from *MultiChoice* agreement conditions is of grave concern. It can further be insinuated that the purging of the Group Executive: Technology was partly due to his implementation of a Board-approved strategy supporting encryption which he had opposed.

## **11. Public Protector Report No 23 of 2013/14: *When Governance and Ethics Fail***

### **11.1 Response to the report**

11.1.1 All former Board members confirmed that the Public Protector's interim report which the then Chairperson had received in December 2013, was never tabled in the Committee. When the matter was raised in a meeting of the Board in February 2014 shortly after members became aware—through the media—of the release of the final report, the then Chairperson confirmed that she had received the interim report but had thought that as it was addressed to her, it was not for the entire Board's consumption.



11.1.2 Per testimony from former Board members, the Chairperson at the time ruled that each of the Board sub-committees would consider the findings and recommendations relevant to them, and make recommendations to

the Board as to how to respond. Consensus could not be reached as to how to respond to the remedial actions contained in the report: some

board members thought that they should be implemented, while others disagreed. This uncertainty was further fuelled by the public debate at that time about the binding nature of the Public Protector's remedial actions.

11.1.3 The Human Resource Committee had recommended that disciplinary proceedings be instituted against the then acting COO as most of the Human Resource-related findings contained in the report related to him. In relation to the finance-related remedial actions, the former Chairperson of the Audit Committee, confirmed that that Committee had agreed that further investigations be undertaken before disciplinary action could be instituted.

11.1.4 Approximately one month after the final report's release, the then Chairperson—without the matter having been discussed and agreed to by the Board—declared that each Board sub-committee would consider the sections of the report relevant to it, and make recommendations as to how those findings would be addressed.

11.1.5 According to some Board members, the Chairperson had unbeknownst to them, appointed to provide a legal opinion on the report and that this. Although former board members agreed that the Board had at the time agreed to request a legal opinion as to whether the recommendations were binding, the Board had not agreed that the legal opinion—which in reality was not a response, but countered all of its findings—be submitted as the SABC's formal response to the Public Protector.



11.2.1 Many of the findings related directly to the actions of the then acting COO, and the Board agreed that disciplinary charges would be instituted against him. The appointment of a chairperson and an evidence leader to preside over the disciplinary hearing was done via round-robin. The members of the disciplinary committee were also changed about three times before the

hearing commenced. The evidence file the Office of the Public Protector had compiled to support the disciplinary proceedings, and which the SABC had requested, was never collected or referred to during the proceedings. The outcome—an acquittal on all charges—appeared to have been a foregone conclusion even before the proceedings started.

## **12. Evaluation of Testimony**

- 12.1 There was corroboration in a majority of the testimony presented by witnesses. Some matters would require further deliberation.
- 12.2 As mentioned under the section of the memorandum of incorporation, the Committee had its disposal three documents that were the MOI. The first copy was undated and unsigned, the second copy was dated and signed by both the Minister and Board Chair and the other document signed by the Minister only. During testimony the Minister denied that she had signed the MOI.
- 12.2 The Minister also denied that she interfered in editorial policy. This was in response to testimony by the “SABC 8” journalists who gave an account of the Minister dictating newsroom procedure to a journalist covering an imbizo in Limpopo. She further pointed out that Mr. Masinga had failed to point out that he challenged the implementation of the MOI which is contrary to Mr. Masinga and Ms. Kalidass’s statements what he had utilised his own resources to challenge the MOI as a matter of principle.



12.3 When asked about the decision not to submit the documents requested by the Committee, the Company Secretary Ms. Geldenhuys stated she could not release the documents as she was not the owner of the documents. Later on in her testimony she then stated however that she had advised the then Chairperson to submit the documents which had been requested. To date the Committee has not received all the documents it requested. Furthermore, on the 6<sup>th</sup> the Committee received a letter from the SABC's legal representatives stating that the documents would not be sent.

12.4 A comparison the minutes submitted by Ms Rachel Kalidass who is a former executive Board member and the former Company Secretary reveal some discrepancies which should be considered in more detail. It is also worth mentioning again that the Committee has not received all the documents it has requested, and that the minutes which were submitted were censored.

## **PART D: OBSERVATIONS AND RECOMMENDATIONS**

### **13. Observations.**

#### **13.1 Fitness of the Board**

13.1.1 At the time of adopting this report all non executive board members has resigned and the executive board members were all operating in an acting capacity.

13.1.2 The Public Broadcasting Act situpulated that the quorum of the board is made up of nine members which must include the chairperson and the deputy chairperson. In light with the resignations the board was dysfunctional.

13.1.3 The SABC Board , as the Accounting Authority, failed to discharge its duties as required by the Public Finance Management Act in as far as no effective measures were in place to prevent irregular, unauthorised and fruitless and wasteful expenditure as highlighted in the Auditor General South Africa report in the Annual Report for the 2015/16 financial year. Futhermore the AGSA



highlighted instances of non compliance with Supply Chain Management prescripts.

**13.1.4** Fruitless and wasteful expenditure incurred with a cumulative value of R5.1 billion is reported in the 2015/16 financial year by the AGSA.

**13.1.5** The Board and or its sub committees failed to exercise effective oversight over the administration specifically in relation to adherence to Financial and Human Resource management.

**13.1.6** The Board failed to fully implement the remedial action of the Public Protector report “When Governance and Ethics Fail” and furthermore also failed to take the report on review if there was disagreement with recommendation stipulated in the report.

**13.1.7** The SABC Board made no meaningful intervention or worst were unaware of the intimidation and threats experienced by the “SABC 8”.

**13.1.8** The scheduling of Board meeting and preparations and necessary timely issuing meeting documentation including the agenda notices was inconsistent with normally acceptable practise.

**13.1.9** The regular scheduling of “special Board meetings” and the practise of decision taken through the “round robin” method is further indication of the dysfunctionality of the SABC Board.



The Company Secretary actively and deliberately acted in an <sup>to the people</sup> obstructive manner when required to provide documentation as requested, citing lack of Board/Chairperson's authority to comply with the request.

### **13.2 Role of the shareholder**

13.2.1 Evidence provided during testimony indicated that the Minister had direct interaction with certain Board members in an attempt to have them resign or removed as Board members without any involvement of Parliament.

**13.2.2** There were allegations that the Minister was actively involved in the appointment of the COO disregarding standard HR procedure, as reflected in Board minutes provided.

13.2.3 The process of amending the Memorandum of Incorporation and the result of the final signed document resulted in powers normally resident with the SABC Board were systematically transferred to SABC senior management thereby undermining the Board authority and responsibilities.

13.2.4 The amendment initiated or signed off by the Minister to the MOI were in conflict with the Public Broadcasting Act.

### **13.3 Legal Status and Governance**

13.3.1 There is an urgent need for clarity on legislation that takes precedence in relation to the appointment and dismissal of Board members. It is evident that the Public Braodcasting Act and the Companies Act of 2008 have been used inter-changeably to suit the desired outcome of the Executive Authority.



13.3.2 The MOI as it currently stands empowers the Minister, as the appointing authority, with the power to remove Directors in line with the Companies Act. The MOI also gives the Minister undue access to the SABC thereby compromising the independence of the institution.

13.3.3 The level of Ministerial involvement in matters normally reserved for the SABC Board was evident with specific regard to the appointment of a permanent COO.

13.3.4 The funding model of the SABC which operates both as a Public broadcaster and a Commercial entity is unsustainable in its current form.

13.3.5 There is a lack of common understanding with regard to the management or lack thereof of public assets. This manifested itself with the agreement that transferred portions of the archives to a private monopoly which is in direct contravention of section 11 of the Broadcasting Act that obliges the SABC to establish and maintain a library and archives.

#### **13.4 Corporate Governance**

13.4.1 The role and the responsibilities of the Group Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer was not always clear or adhered to.

13.4.2 Compliance with existing legislation inter-alia the Public Finance Management Act or regulations with regard to Contract Management, Financial Management, Supply Chain Management and Human Resource Management was not adhered to.



13.4.3 Policy, with specific regard to Censorship or Editorial autonomy, was undermined under the guise of editorial decisions. Examples of such actions were the policy on media coverage of political parties during election campaigns.

13.4.4 Major operational decisions that impacted directly of the public broadcaster mandate, the finances and competitiveness of the SABC were not ratified by the Accounting Authority.

13.4.5 The SABC Board approval of the deal that resulted in the transfer of SABC property to a private monopoly in exchange for a 24 hour news channel has legal uncertainty.

13.4.6 Certain executives managers of the SABC changed the reporting lines of the administration in order to render the SABC's governance structures weak. This

is blatant abuse of power. This had the added effect of creating an environment of intimidation within the SABC.

13.4.7 The SABC employees were subjected to Security Agency (SSA) interference whilst the more important task of vetting of employees was neglected.

## **13.5 Accountability**

13.5.1 The SABC administration leadership did not feel the need to account to Parliament owing to the fact that the funding from the National fiscus was minuscule relative to funding raised through other means.



13.5.2 The walk-out by the SABC Board on 7 December 2016 had shown total <sup>to the people</sup> disregard and disrespect for Parliament and the Constitution.

13.5.3 The reluctance of the SABC to provide Parliament with information siting commercial sensitivity and the result issuing of summons by Parliament is an indication of the lack understanding or acceptance of accountability to Parliament.

13.5.4 Compliance with existing legislation inter-alia the Public Finance Management Act or regulations with regard to Contract Management, Financial Management, Supply Chain Management and Human Resource Management was not adhered to.

13.5.5 Policy, with specific regard to Censorship or Editorial autonomy, was undermined under the guise of editorial decisions.

13.5.6 Major operational decisions that impacted directly of the public broadcaster mandate, the finances and competitiveness of the SABC were not ratified by the Accounting Authority.

## **13.6 Journalistic Matters and related matters**

13.6.1 Testimony was provided under oath that there was a management decision taken and communicated to staff by the COO to the effect that the SABC will air 70% “positive” news and 30% other news and this is construed as undermining the journalistic principals of providing news that is truthful, fair, accurate and impartial.

13.6.2 Senior management undermined Editorial independence in instances where decision were taken with regard to coverage of developments within Parliament and public service delivery protests.



13.6.3 The presence of the State Security Agency within the working environment at <sup>to the people</sup> the SABC created an environment of fear and intimidation especially amongst SABC journalists.

### **13.7 Parliamentary oversight**

13.7.1 The Portfolio Committee on Communications lacked the urgency in addressing the removal of the three Board members without the involvement of Parliament contributed towards the dysfunctionality of the SABC Board.

### **13.8 Testimony**

13.8.1 Testimony given under oath in certain instances was contradictory resulting in possible purjury.

13.8.2 Claims by SABC Board of gross political interference was noted, however this is in direct contradiction of other claims of no political interference by politicians on the operations of the SABC Board.

13.8.3 Minutes of the 07 July 2013 provided by the Company Secretary differ from minutes of the same Board meeting provided by an ex Board member indicating possible censorship of information provided.

## **14. Recommendations**

### **14.1 The Board**

14.1.1 The Adhoc Committee recommends that the dissolution of the SABC Board be expedited and finalised urgently.

14.1.2 The Interim SABC Board must institute an investigation into all irregular, fruitless and wasteful expenditure and on conclusion of such investigation appropriate steps must be taken against employees who incurred or permitted irregular, fruitless and wasteful expenditure.

14.1.3 Steps must be taken to recover irregular, fruitless and wasteful expenditure in instances where it can be recovered.



**14.1.4** The Accounting Authority must ensure that all vacant critical senior management positions related to Financial Management and Human Resource management are filled.

**14.1.5** The appointment and removal of the SABC Board or its members must be in compliance with the Public Broadcasting Act with involvement of Parliament.

**14.1.6** The appointment and removal processes of Board members must be transparent thereby ensuring credibility.

**14.1.7** On conclusion of the court action initiated by certain Board members challenging the legality of their removal, the appointing authority must implement all reasonable corrective action speedily.

**14.1.8** The establishment of Board sub-committees must be in keeping with the Companies Act of 2008 and in keeping with relevant good governance codes.

**14.1.9** The Accounting Authority must facilitate the implementation of the Public Protector's remedial action and the Court judgement in full.

**14.1.10** The Company Secretary must be compelled to fulfil all duties as stipulated in the relevant legislation in addition to total accountability compliance with Parliamentary requests that relate to the exercise of oversight.

## **14.2 Role of the Shareholder**

**14.2.1** The role and responsibility of the Shareholder representative need to be clarified to ensure that there is no undue encroachment into the daily operations of the SABC or undue encroachment into the responsibilities of SABC Board.

**14.2.2** The Shareholder representative should assume a more pro-active role in ensuring that good corporate governance and compliance with all relevant policy and legislation specific to the SABC is maintained at all times.

**14.2.3** The Shareholder representative must fast tract the amendment to the Public Broadcasting act to ensure its supremacy to all other legislation governing the operation of the SABC and furthermore align the MOI and the Shareholder compact to the amended legislation.



### **14.3 Legal Status and Governance**

- 14.3.1 The Executive and Parliament must clarify which legislation takes precedence in relation to the appointment and dismissal of Board members in order to remove any confusion with regard to overlaps between the Public Braodcasting Act and the Companies Act of 2008 or any other legislation.
- 14.3.2 The Memorandum of Incorporation and the Shareholder compact must be ammended to be aligned to the principal legislation that governs the operations of the SABC.
- 14.3.3 The Shareholder involvement must be regulated so as to ensure that there is no undue encroachment in matters normally reserved for the SABC Board.
- 14.3.4 The funding model of the SABC which operates both as a Public Broadcaster and a Commercial entity needs to be reviewed with the aim of ensuring financial sustainability.
- 14.3.5 The Executive and Parliament need to consider policy with regard to the management and custodianship of SABC archives and libraries which is in line with the Public Broadcasting Act.

### **14.4 Corporate Governance**

- 14.4.1 The SABC Board must institute a forensic audit into the agreement that resulted in the transfer of part of the archives to a priviate monoploy with the specific aim of considering annulment of the agreement in the event of evidence of any improper activities by the contracting parties.



- 14.4.2 The Accounting Authority must ensure that all instances of fruitless and <sup>to the people</sup> wasteful expenditure as identified by the AGSA in the 2015/16 financial year must be recovered.
- 14.4.3 The appointment of permanent staff to all senior management post including that of GCEO, COO and Company Secretary must be embarked upon and finalised as soon as is possible.
- 14.4.4 Compliance with existing legislation inter-alia the Public Finance Management Act or regulations with regard to Contract Management, Financial Management, Supply Chain Management and Human Resource Management must be adhered to.
- 14.4.5 The SABC Accounting Authority and ICASA must finalise all remaining issues related to policy implementation and or corrective action, where necessary, with specific regard to Censorship and Editorial decisions taken.
- 14.4.6 Reporting lines of the administrative staff of the SABC must be reviewed with the intended aim at strengthening corporative governance.
- 14.4.7 The SABC Accounting Authority should revisit the reasons and acceptability for the involvement of the Security Agency (SSA). The task of vetting of senior employees of the SABC must be fact tracked.

## **14.5 Accountability**



14.5.1 Witnesses found guilty of providing misleading or false information or <sup>to the people</sup> testimony to parliament whilst under oath must be identified and the appropriate sanctions must be implemented.

14.5.2 The SABC is a Public Broadcaster and therefore the Accounting Authority must be held accountable by Parliament notwithstanding the fact that the SABC is only partly funded from the National fiscus.

14.5.3 Parliament, in the process of exercising oversight, must insist that no information is withheld from including potential commercially sensitive information.

14.5.4 Compliance with existing legislation inter-alia the Public Finance Management Act or regulations with regard to Contract Management, Financial Management, Supply Chain Management and Human Resource Management must be adhered to.

#### **14.6 Journalistic ethics and related matters**

**14.6.1** As a Public broadcaster the SABC must at all time adhere the the highest standards of journalism with editorial independence being uppermost.

**14.6.2 The SABC must ensure that its audience regain the confidence that public interest information, entertainment programmes and educational programs are credible and reliable.**

**14.6.3 The SABC Board must ensure that an enviroment free of fair and intimidation or abuse of power must prevail at all time at the Public Broadcaster**

#### **14.7 Parliamentary Oversight**



14.7.1 The Portfolio Committee on Communications must ensure that the legislative <sup>to the people</sup> framework governing the operations of the SABC is finalised urgently.

14.7.2 The PCC must ensure that the quarterly reporting by the SABC Accounting Authority includes the monitoring of corrective actions with regard to Financial management and Human Resource policy compliance.

14.7.3 All political interference on the SABC Board operations must be condemned and any such interference must be attended to and exposed immediately the SABC Accounting Authority and Parliament.

#### **14.8 Other**

14.8.1 All potential misleading or contradictory evidence relating to SABC Board minutes, Commercially sensitive documentation not provided, cost incurred by the SABC in hosting the TNA breakfast show and the appointment of a service provider/publisist for the GCEO must be further investigated by the SABC interim Board/Parliament and sanctions applied where proof of purjury is proven.

14.8.2 The SABC Accounting Authority must review the feasibility of the business case of entering into agreements with rival TV stations so as to ensure that the SABC is not involved in any cross subsidisation to the competition. In all instances where such deals are in essence diverting resources from the SABC such deals must be terminated.

14.8.3 PCC must play a greater oversight role to ensure that there is clear separation of powers between (i) shareholder and SABC ensuring that the Shareholder is not involved in the day to day operations of the SABC as well as inappropriate

interference with the duties of the SABC Board. (ii) the Board and the operations at the SABC.



14.8.4 Parliament must ensure that all legal costs incurred as a result of the court challenge by the previous SABC Board Chairperson must be recovered from the chairperson's personal funds.

14.8.5 The Attorneys that advised and acted on behalf of the SABC Board chairperson and the Company Secretary in denying Parliament access to the documents requested by the Ad Hoc committee in the correspondence dated 17 November 2016 must face all possible appropriate sanctions.

14.8.6 Allegations of gross political interference are noted, however this is in direct contradiction of other claims of no political interference by politicians on the operations of the SABC Board.

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