



MINISTRY OF COMMUNICATIONS

BRIEFING TO THE PORTFOLIO COMMITTEE ON COMMUNICATIONS ON ACTION TAKEN IN RESPONSE TO THE PUBLIC PROTECTOR'S REPORT ON THE SOUTH AFRICA BROADCASTING CORPORATION (SABC)

**Dated: 26 August 2014
TIME 9:30**

**Presentation by: Ms. Faith Muthambi, MP
Minister of Communications**



DEPARTMENT OF COMMUNICATIONS



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1. INTRODUCTION

- ❑ The Public Protector issued a report on the 17 February 2014 entitled: **“A report on an investigation into allegations of maladministration, systemic corporate governance deficiencies, abuse of power and irregular appointment of Mr Hlaudi Motsoeneng by the South African Broadcasting Corporation”** (SABC).
- ❑ The Public Protector requested the Board of Directors of the SABC (“the Board”) and the Minister of Communications to finalise the remedial action recommended in the Report within Six months and a final report to be presented to her office by 16 August 2014.
- ❑ The SABC and the Minister of Communication have respectively submitted their remedial action plan to the office of the Public Protector. The following is a brief summary of Public Protector’s findings, SABC and the Department of Communications responses on remedial actions recommended. In light of the pending review application brought by the DA in the Western Cape High Court, it will not be proper for me to go into details for fear of infringing of *sub judice* principle.

2. COMPLAINTS & ALLEGATIONS INVESTIGATED BY THE PUBLIC PROTECTOR

The investigation by the Public Protector was conducted based on the complaints lodged by former SABC employee, Ms Phumelele Ntombela-Nzimande, former Group Executive: Human Capital at the SABC (‘Ms Ntombela-Nzimande’) and Ms Charlotte Mampane, former Acting Chief Operating Officer at the SABC (‘Ms Mampane’), between 11 November, 2011 and 26 February 2012.

The essence of the complaint focuses on the alleged irregular appointment and conduct of Mr Motsoeneng the Acting Chief Operations Officer (COO) and systemic maladministration mainly relating to human resources and financial management, governance failure at the SABC, the Public proceeded with her investigation of the following allegations:

- ❑ *That the appointment and salary progression of Mr Motsoeneng, the Acting (COO), were irregular and accordingly constitute improper conduct and maladministration;*

2. COMPLAINTS & ALLEGATIONS INVESTIGATED BY THE PUBLIC PROTECTOR (Cont.)

- ☐ *That Mr Motsoeneng fraudulently misrepresented his qualifications to the SABC, including stating that he had passed matric when applying for employment;*
- ☐ *That the appointment(s) and salary progression of Ms. Sully Motsweni and Thobile Khumalo were irregular and accordingly constitute improper conduct and maladministration;*
- ☐ *That the appointment of MS. Gugu Duda as CFO was irregular and accordingly constitutes improper conduct and maladministration;*
- ☐ *That Mr. Motsoeneng purge senior officials at the SABC resulting in unnecessary financial losses in the CCMA, court and other settlements and, accordingly, financial mismanagement.*
- ☐ *That Mr Motsoeneng had irregularly increased the salaries of various staff members, including a shop steward, resulting in a salary bill increase in excess of R29 million and this amounted to financial mismanagement and accordingly constituted an improper conduct and maladministration;*
- ☐ *That there were systemic corporate governance failure at the SABC.*
- ☐ *That the Department and former Minister of Communications unduly interfered in the affairs of the SABC, giving unlawful orders to the SABC Board and staff.*

3. PUBLIC PROTECTOR'S FINDINGS

- ❑ The Report contains the following findings:
 - ❑ The Public Protector found that the appointment of Mr Motsoeneng as the Acting COO was irregular, and that his salary progression was irregular.
 - ❑ The SBAC Board's failed to exercises its fiduciary obligations in the appointment and appropriate remuneration for the Acting Chief Operations Officer for the SABC was improper and constitutes maladministration.
 - ❑ That Mr Motsoeneng committed fraud by stating in his application form that he had completed matric from Metsimantsho High School.
 - ❑ That the appointment of Ms Sully Motsweni to the position of General Manager was irregular, and therefore this constitutes abuse of power and maladministration.
 - ❑ That Ms Gugu Duda was irregularly appointed to the position of CFO, through the interference of the Department of Communications.

3. PUBLIC PROTECTOR'S FINDINGS (Cont.)

- ❑ The Report contains the following findings:
 - ❑ That the conduct of Ms Pule as Minister of Communications was accordingly improper and constitutes ,maladministration.
 - ❑ That the allegations in respect of purging of staff shows the involvement of Mr Motsoeneng in most of these matters and the history of conflict between him and the majority of the employees and the former employees makes it difficult to rule out the allegations of purging. Even if purging is discounted, recklessness appears to have been endemic supporting the narrative on the culture of expediency;
 - ❑ That Mr Motsoeneng irregularly increased the salaries of various staff members namely, Ms Sully Motsweni, Ms Thobile Khumalo. These irregular and rapid salary progression contributed to the National Broadcaster's unprecedented salary bill escalation by R29 million;
 - ❑ That there is failure by the SABC Board to provide oversight to the National Broadcaster as provided for in the SABC Board Charter and King III Report.

4. PUBLIC PROTECTOR'S FINDINGS IN RESPECT OF THE DEPARTMENT OF COMMUNICATIONS

- ☐ That the Department and the former Minister of Communications unduly interfered in the affairs of the SABC.
- ☐ That former Minister Pule acted improperly in the handling of her role as the Shareholder Representative in the SABC.
- ☐ That Mr Phiri, the Acting DDG of the Department of Communications, acted unlawfully in submitting Ms Duda's CV to Mr Motsoeneng for her inclusion in the subsequent interview by the Board after the selection process had been concluded and recommendations have been already submitted to the Minister for approval of the CFO's appointment and his conduct in this regard was improper and constitutes maladministration.

5. PUBLIC PROTECTOR RECOMMENDED THE FOLLOWING REMEDIAL ACTION TO BE TAKEN BY THE SABC BOARD.

- ☐ That all monies are recovered which were irregularly spent through unlawful and improper actions from the appropriate persons.
 - ☐ *Summary of the SABC response to this proposed remedial action:-*
 - ☐ *The funds were spent correctly and all the necessary approvals were given.*
- ☐ Appropriate disciplinary action be taken against the following:
 - ☐ Mr Motsoeneng for his dishonest relating to the misrepresentation of his qualifications, abuse of power and improper conduct in the appointments and salary increments of Ms Sully Motsweni, and for his role in the purging of Senior staff members resulting in numerous Labour disputes and settlement against the SABC;
 - ☐ *Summary of the SABC response to this proposed remedial action:-*
 - ☐ *The SABC could not disciplining Mr Motsoeneng since it knew at the time of employing Mr Motsoeneng that it did not have matric and had never lied about it.*
 - ☐ *That the salary increments were implemented through the relevant human resource guidelines of the SABC.*
 - ☐ *That there was no purging of staff, the staff members left for various reasons.*
 - ☐ Ms Lulama Mokhobo, the outgoing GCEO for her improper conduct in the approval of the salary increment of Mr Motsoeneng;
 - ☐ *Summary of the SABC response to this proposed remedial action:-*
 - ☐ *Ms Lulama Mokhobo does not work for the SABC.*

5. PUBLIC PROTECTOR RECOMMENDED THE FOLLOWING REMEDIAL ACTION TO BE TAKEN BY THE SABC BOARD (Cont.)

- ❑ Any fruitless and wasteful expenditure that had been incurred as a result of irregular salary increments to Mr Motsoeneng, Ms Motsweni, Ms Khumalo.

- ❑ ***Summary of the SABC response to this proposed remedial action:-***

- ❑ *The salary increments were approved in terms of the Human Resource Policies and procedures of the SABC.*

- ❑ That the SABC Board members should work as a collective and not against each other, in compliance with the relevant legislations, policies and prescripts that govern the National Broadcaster;

- ❑ ***Summary of the SABC response to this proposed remedial action:-***

- ❑ *The Board has tasked the company secretary to arrange training for the members of the board.*

- ❑ That a Public apology should be made to MS P Ntombela-Nzimande, Ms S Mampane and all its former employees who had suffered prejudice due to the SABC management and Board's maladministration involving failure to handle the administration of its affairs in accordance with the laws, corporate policies and principles of corporate governance;

5. PUBLIC PROTECTOR RECOMMENDED THE FOLLOWING REMEDIAL ACTION TO BE TAKEN BY THE SABC BOARD (Cont.)

- ☐ *Summary of the SABC response to this proposed remedial action:–*
 - ☐ *The SABC sees no reason to make a public apology in this regard since it had amicably parted ways with the said individuals or due process were followed in respect to partying ways in respect to the said individuals*
- ☐ That all HR processes pertaining to creation of new posts, appointments and salary scale and progressions are reviewed to avoid a recurrence of what happened
- ☐ *Summary of the SABC response to this proposed remedial action:–*
 - ☐ *The internal HR procedures and policies are under review by Sub Committee of the Board on HR.*
- ☐ That the role and relationship of the SABC Board and COO are defined, particularly in relation to the role of a relationship with the GCEO to avoid the paralysis and premature exit of GCEO's while adhering to established principles of corporate governance.
- ☐ *Summary of the SABC response to this proposed remedial action:–*
 - ☐ *The role of the GCEO and COO are clearly defined in terms of the HR policies and procedures of the SABC*

6. REMEDIAL ACTIONS PROPOSED BY THE PUBLIC PROTECTOR IN RESPECT OF THE DEPARTMENT OF COMMUNICATIONS

- ☐ That the Department of Communications institute disciplinary proceedings against Mr Themba Phiri in respect of his conduct with regard to his role in the irregular appointment of Ms Duda as the SABC CFO.
- ☐ *Summary of the Department of Communications response to this remedial action;–*
 - ☐ *Mr Themba Phiri is an employee of the Department of Telecommunications and Postal Services.*
- ☐ That the Minister of Communications take urgent steps to fill the long outstanding vacant position of the Chief Operations Officer with a suitably qualified permanent incumbent within 90 days of this report and to establish why GCEO's cannot function at the SABC and leave prematurely, causing operational and financial strains.
- ☐ *Summary of the Department of Communications response to this remedial action:–*
 - ☐ *Mr H.G Motsoeneng was appointed as the permanent Chief Operations Officer.*
 - ☐ *The Group Chief Executive Officers have left the SABC for various reasons, some of the reasons being, changes of Board of Directors, changes of Ministers, personal and business reasons.*
- ☐ That the role and authority of the COO in relation to the GCEO be defined to ensure that overlaps in authority are identified and eliminated.

6. REMEDIAL ACTIONS PROPOSED BY THE PUBLIC PROTECTOR IN RESPECT OF THE DEPARTMENT OF COMMUNICATIONS (Cont.)

- ❑ *Summary of the Department of Communications response to this remedial action:–*
- ❑ The role of the COO is defined as follows:–
 - ❑ *Ensure adherence to key performance areas, i.e. revenue, cost and quality;*
 - ❑ *Ensure that the corporate strategy and the operational plans work in tandem and are geared toward positioning the SABC to being the best public broadcaster;*
 - ❑ *Working closely with the Group Chief Executive Officer and take direct corporate strategy for the operational growth of the corporation in order to improve probability and quality of the service offering;*
 - ❑ *Building the digital and new media capabilities of the organisation; and*
 - ❑ *Leading the various cross-functional teams across the organisation;*
 - ❑ *In respect of whether there is overlapping of roles between the COO and the GCEO. The board has indicated that there is no overlapping of roles and in the event such happen, the board shall address it.*
- ❑ To expedite finalization of all pending disciplinary proceedings against the suspended CFO, Ms Duda within 60 days of this report”.
- ❑ *Summary of the Department of Communications response to this remedial action;–*
 - ❑ *Duda’s contract was terminated as a result of the forensic audit findings against her. She was subsequently found guilty of all charges against her by the CCMA.*

7. CONCLUSION

- ❑ As a representative of the shareholder (State) of the SABC, it is my priority that there is stability and adherence to corporate governance at the SABC.
- ❑ In my introduction meeting with the SABC board, on the 2nd July 2014, I have made the position of the shareholder clear to the members of the board, that the shareholder will not tolerate maladministration, corruption and failure to uphold good governance at the SABC.

THANK YOU