

PRESENTATION TO PCC

1 AUGUST 2017

CAPE TOWN

**PROGRESS REPORT ON IMPLEMENTATION
OF RECOMMENDATIONS OF FINAL AD-HOC**

COMMITTEE REPORT



the voice of the nation Entertainment
Official Broadcaster TV
Conversations **Informing** RADIO
11 Languages **Partnerships**

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

- The final report of the Ad-Hoc Committee on the SABC Board inquiry into the fitness of the SABC Board to hold office was adopted by the National Assembly in March 2017.
- The committee found, in the main, that the Board had for sometime prior to its collapse, failed to discharged its fiduciary duties, adhere to the Board charter and carry out its duties as contemplated in Section 13(1) of the Broadcasting Act.
- The final report contained 33 recommendations – 24 of which was expected to be implemented by the Interim Board and 9 by Parliament.
- On 10 May 2017 the Board provided the PCC with a Report on progress made in implementing the recommendations of the Ad Hoc Committee Report.
- This report details additional progress made since the last report.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

1. Recommendation

Investigate validity of MOI signed in October 2014 and recommend amendments to align it to the Broadcasting Act

Action Taken

- It has been established from CIPC that the last lodgement of the SABC MOI was done in 2013 (with a special resolution that was passed by the then Minister of Communications, Hon Yunus Carrim).
- CIPC approved the MOI with effect from 14 May 2014 and provided the SABC with a copy.
- The Board will review the MOI to ensure that it is aligned with the Broadcasting Act.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

2. Recommendation

Company secretary should ensure that members of the interim Board are inducted within a reasonable time

Action Taken

Done - Induction was conducted over a period of 3 days between 9 and 11 April 2017.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

3. Recommendation

Board takes reasonable steps to regularise previous decisions that may pose a financial or legal risk

Action Taken

The Interim Board had taken the following decisions:

- Rescinded the decision to ban the broadcast of violent footage from SABC platforms and informed ICASA accordingly.
- Set in motion a process, including a national consultative process, to review the Editorial Policy and to align it with legislation requirements.
- Reviewed the 90/10 local content directive to align with ICASA rules, with particular reference to those stations which suffered audience and revenue loss.
- Withdrew the court application to review the Public Protector's Report

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

4. Recommendation

Establish Board subcommittees

Action Taken

The Interim Board established the following Board subcommittees which meet on a regular basis :-

- Audit & Risk
- Human Resources Governance & Nominations
- Social & Ethics
- Finance Investment Procurement & Technology
- Joint PBS/PCS Committee.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

5. Recommendation

Initiate disciplinary action against any official who made and permitted irregular, fruitless and wasteful expenditure section 51(e)(iii) of PFMA)

Action Taken

- The Board commissioned the SIU to conduct a forensic investigation into fruitless and wasteful expenditure incurred in the period 1 April 2012 and 31 March 2017.
- The Internal Forensic Unit has commenced an investigation into irregular expenditure and, after inquiry, the Board has recommended to National Treasury that R2,1bn in relation to Tax Clearance Certificates for Sport and Television be condoned.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

- The Board has sought legal opinion on the liability of Board members, group executives and officials who knowingly participate in the making of decisions or accede to decisions being made which are contrary to the policies of the Corporation, principles of corporate governance contained in the King Code of Governance and in breach of the legislative framework governing the Corporation.
- The Internal Forensic Audit completed a report on the questionable contracts identified by the Ad Hoc Committee and held with Infonomix, Mott MacDonald, Asante Sana, Foxtan Communications (Pty) Limited and Lesaf Consulting. The Report was adopted by the Board and handed over to SIU for further action and implementation.
- The Board has commenced legal action to recover monies from Messrs Motsoeneng and Aguma which they received irregularly.
- The Board is currently considering the institution of criminal charges against those employees who allegedly participated in criminal activity.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

6. Recommendation

Institute independent forensic investigation into questionable and irregularly-awarded contracts

Action Taken

- The SABC has terminated the contracts with Lornavision and ANN7.
- The contract with Sekela Xabiso is on suspension.
- The MultiChoice contract is under review on the grounds that the important aspects are disadvantage to the SABC and contrary to the public interests.
- The remaining questionable contracts identified by the Ad Hoc Committee have been referred to the SIU for forensic investigation.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

7. Recommendation

Evaluate the feasibility of entering into agreements with rival broadcasters (ANN7 and MultiChoice (DSTV))

Action Taken

- The SABC terminated the contract with The New Age and the 9 June 2017 was the last business breakfast show to be broadcast .
- The MultiChoice contract is under review.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

8. Recommendation

Take appropriate action against current and former employees and Board members who are found to have been complicit in the SABC incurring wasteful expenditure as a result of irregular activities.

Action taken

The SABC is seeking legal opinion on the liability of Board members, officials, group executives and employees who participated in meetings where decisions were taken contrary to the policies of the Corporation, the King Code of Good Governance and the legislative framework governing the SABC.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

9. Recommendation

Submit progress report to Parliament

Action taken

ONGOING

10. Recommendation

Fill top executive positions with suitably qualified people

Action taken

- The process to recruit the GCEO and COO is almost finalised. A copy of the Contract and Terms and Conditions of Employment of the GCEO and COO have been submitted to the Minister and awaiting her approval prior to completion of the process.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

Continued action taken -Recommendation 10:

- Advertisements have been placed and interviews for the Group Executive Radio and Chief Audit Executive are scheduled to take place in due course.
- The recruitment of the GE: Human Resources and GE: News and Chief Financial Officer (after the resignation of Mr Aguma) will commence in due course.

11. Recommendation

Enter into performance agreements with employees within 60 days

Action taken

The Board has contracted with the AGCEO to finalise Performance Contracts with all employees. The target date to complete contracts with GEs and Senior Management is 31 August 2017.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

12. Recommendation

Start the process of appointing a new Company Secretary

Action Taken

After investigation, it is the Board's understanding that a Company Secretary was legitimately appointed on 19 August 2016, while the previous Board was still quorate. Minutes of the meeting where the appointment was approved were provided to the Interim Board and the Speaker of Parliament was informed accordingly.

The Board is satisfied that no further action is required of it in this regard.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

13. Recommendation

Ensure that all legal costs incurred as a result of the court challenge by the previous SABC Chairperson in his personal capacity is recovered as per Court Order

Action Taken

- The matter has been investigated with the Corporation's Insurance Division. In line with the Companies Act. The SABC has an indemnity insurance cover for its Directors and Officers and that the legal costs of the previous Chairperson was paid by the insurance and not the SABC.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

14. Recommendation

Ensure all senior management appointees are vetted by SSA

Action Taken

The Board has taken the decision that all employees should be vetted. The starting point is the employees in positions where they handle sensitive or classified information. The process is intended to be rolled out to all employees in time. New staff Members will be vetted and has been made a condition of employment for future employees.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

Roll-out Schedule		
Employee Category	Number of Employees	Planned Vetting
Executives	3	June 2017
Group Executives	8	June to July 2017
Procurement Employees	47	July to August 2017
Senior Managers	57	August to October 2017
Middle Management	174	November 2017 to March 2018
Middle Management	288	April to July 2018
Middle Management	1	April to July 2018
Grand Total	531	

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

15. Recommendation

Review Human Resource policies to ensure compliance with legislation

Action Taken

An HR Policy Review Team has been established with the purpose of reviewing all HR policies and to align same with legislative provisions and best HR practices. Policies have already been categorised as follows:

- those that need to be reviewed;
- those that need to be rescinded;
- those that need to be submitted to Organised Labour requesting final input;
- those that need to be submitted to Board for approval.

It is projected to have all policies approved by the SABC Board by 31 March 2018.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

16. Recommendation

Investigate the nature of SSA's activities within the SABC

Action taken

- The Board reviewed the transcripts of the Ad Hoc Committee inquiry in order to identify the individuals that were alleged to have been put under surveillance.
- It had been established that the individuals who were alleged to have been put under surveillance were no longer with the SABC and the Inspector General of Intelligence, who had raised a query regarding the matter, was informed in this regard.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

17. Recommendation

Perform an audit of all remedial action, recommendations and orders that have been issued over the last 3 years to determine SABC's compliance in this

Action Taken

- SIU and Internal Forensic Unit have been tasked to deal with all matters that were raised by the Auditor General, Public Protector, ICASA and the courts of law and the following actions have taken place:
- The findings of the AG are being addressed by strengthening the corporate governance and financial management framework of the Corporation and by dealing with the irregular, fruitless and wasteful expenditure incurred between 1 April 2012 and 31 March 2017. The SIU has been commissioned to conduct a forensic audit on the fruitless and wasteful expenditure incurred and the SABC's internal forensic audit unit is conducting an audit on the irregular expenditure in that period.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

18. Recommendation

Evaluate financial and legal implications of unilateral changes to policies

Action Taken

- This is on-going. Thus far it has been established that the 90/10 local content directive has cost TV R183m (unaudited) and Radio R29m (unaudited) loss in advertising revenue. These figures exclude the additional costs of R72 million for the replacement of local content, and losses due to unused foreign rights already contracted.
- Proceedings have commenced to exercise a lien over pension payments due to Messrs Aguma and Motsoeneng and arrangements are underway to institute urgent legal action if necessary.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

19. Recommendation

Implement PP's remedial action outlined in the Report, "When Governance and Ethics Fail"

Action Taken

- The Interim Board has rescinded the previous Board's decision to review the Public Protectors Report in the South Gauteng High Court.
- Charges were preferred against Mr Motsoeneng and a date for the disciplinary hearing was set. However, Mr Motsoeneng was dismissed from employment prior to the hearing date..

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

- Management has been tasked to conduct an analysis and provide the Board with a report on whether the payments that were recommended for recovery by the Public Protectors' Report from certain staff employees were made legitimately and in accordance with the SABC's processes and procedures and compute those amounts.
- The Interim Board has rescinded the previous Board's decision to review the Public Protectors Report in the South Gauteng High Court.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

20. Recommendation

Adhere to the highest standards of journalism with editorial independence being of uppermost importance. Restore public confidence in its reporting on current affairs, entertainment and educational programmes and seek to recover revenue lost as a result of inadequate editorial policies

Action taken

- The Interim Board has held two sessions with the News department and stressed the importance of balanced reporting as expected of a public broadcaster and that journalists should adhere to credibility, professional standards and a culture which is designed to protect journalists against intimidation. The Board has also declared that intimidation must be stamped out.
- The SABC has embarked on a review process of its 2004 Editorial Policies, which were developed through a consultation process with the public at large.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

- The SABC is required, in terms of Section 6 of the Broadcasting Act No 4 of 1999, as amended, to develop policies that are intended to ensure compliance with the:
 - Broadcasting Complaints Commission of South Africa (BCCSA) Code of Conduct;
 - The Advertising Standards Authority of South Africa (ASA) Code of Conduct;
 - The Corporation's licence conditions and
 - The provisions of the Broadcasting Act No 4 of 1999.
- The SABC will hold public hearings in each of the provinces, where audiences and the general public will be afforded a chance to contribute to shaping the SABC's Editorial Policies through oral or written submissions. The deadline for written submissions is the 31st of August 2017.
- All inputs received from the public will be consolidated and will inform a revised Editorial Code and Policies document, which will then be released for public comment before being finalized.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

The Board continues to ensure a compliance culture that focuses on consequence management, monitoring of decisions and implementation and that Management deals with staff grievances.

21. Recommendation

Ensure an environment free of fear and intimidation or abuse of power

Action Taken

- This is on-going and reinforced at re-diffusion sessions with staff. The Board has visited all the SABC provincial offices to listen to staff issues and reassure staff of the Board's protection.
- The Board is committed to ensure that intimidation is addressed and that consequence management is enforced for any conduct which is inconsistent with a free editorial environment.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

22. Recommendation

Implement action against the Acting GCEO for defying Parliament

Action Taken

- The AGCEO has resigned. The Privileges Act can only be invoked by Parliament.

23. Recommendation

Investigate former Company Secretary's conduct and if necessary charge her in terms of Section 17(2)(e) of the Privileges Act

Action Taken

The Privileges Act can only be invoked by Parliament.

IMPLEMENTATION OF AD-HOC COMMITTEE RECOMMENDATIONS

24 Recommendation

Attorneys and company secretary should face appropriate consequences for denying Parliament access to documents

Action Taken

Correspondence has been addressed to the Speaker of the National Assembly seeking clarity in this regard. It is the Board's understanding that Parliament has instituted legal proceedings in this regard. It is Parliament's prerogative to invoke the Privileges Act.

WORK CURRENTLY UNDERWAY

- The Board established a Task Team to apply to National Treasury for a Government Guarantee and a decision in imminent.
- In order to manage payment of Creditors and Service Providers, the Board has established a Payments and Commissioning Task Team to approve the commission of contracts and prioritise payments of salaries, statutory payments and payments to service providers.
- There are continuous consultations with staff and stakeholders regarding the status of the Corporation and to build public confidence.

WORK CURRENTLY UNDERWAY

- Through the Shareholder, the Board has requested the withdrawal of the 2017 to 18 and 2019 to 20 Corporate Plan that had been submitted by Management in the absence of the Board. During Induction, the Board considered the Corporate Plan taking into account the current financial status of the SABC and observed that the document was not reflective of the SABC's financial crisis, how the internal dynamics contributed in the manner in which the SABC operates and how these will be dealt with. Further, the Corporate Plan had been viewed to contain unrealistic budgets.
- Together with Management, the Board worked on a revised Corporate Plan, which has been approved by the Board and submitted to the Shareholder and National Treasury together with the application for a guarantee.

WORK BEYOND THE RECOMMENDATIONS OF THE FINAL REPORT

- In an endeavour to strengthen the corporate governance and financial management framework of the SABC, the Interim Board has deliberated and approved the Terms of Reference of the all the Board subcommittees.
- The Board is in the process of investigating the appointment of all Group Executives and Provincial General Managers made during the period January 2011 and December 2016.

PLANS FOR AUGUST AND SEPTEMBER

- The Board and subcommittee meetings have been scheduled until the end of the Board's term
- The AGM is scheduled for 24 August 2017.
- The Board intends to handover and make final presentations to the Minister, SCOPA and the PCC in September .

THANK YOU