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PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES

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The Council met at 14:04

The Deputy Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members I would like to remind members of Council Rule 247(1) that the sitting will be dedicated for questions. However, members would remember that in one of the sitting during this week I had committed to come back to the House with a ruling on the matter that created some discomfort in the House.

**DELIBERATELY MISLEADING THE HOUSE**

**RAISING POINT OF ORDER WITH THE AIM OF DEBATING**

(Rulings)

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I would to make a ruling on a point of order raised on 30 October 2018 during the Oral Question session to the Minister of Women in the Presidency. Hon Mokwele rose on the point of order and said the following:

The DA does not govern Johannesburg. You are not governing Johannesburg; it is not true. You must not mislead the country. You have a Mayorship.

This point of order was directed at the statement made by hon Engelbrecht that said:

In Johannesburg, where the DA governs, we have a woman, an elderly subunit where we have a mandate to create opportunities for women.

Later during the sitting hon Engelbrecht stated, and I quote the relevant part:

Minister, I would like to once again, invite you to Johannesburg, our DA-led Coalition Government.

Hon Mokwele rose again and said:

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Chairperson, this question she wants to bring or advise she wants to bring on. The Minister has already responded to it. She has already made a point about the arrangements of Johannesburg.

I then responded that the statement made by hon Mokwele could not be regarded as a point of order but more of a political statement. I requested the House to allow me to verify and come back with a ruling so that we are all factual in the House. I also cautioned hon Engelbrecht to refrain from making statements that can be contested during the session.

The question is whether hon Engelbrecht deliberately misled the country and the House? The analysis of that statement then goes as follows:

The statement which is relevant in determining whether hon Engelbrecht indeed misled the House is the following:

In Johannesburg, where the DA governs, where the woman and an elderly subunit and where we have given a mandate to create opportunities for women.

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The rule which is allegedly transgressed is Council Rule 46(b) which provides as follows: No member may deliberately make a statement in the Council which the member knows it is false.

The rule requires that a member should have acted deliberately and further that, the member should have known that the statement is false. The above requirement is very serious and speaks to the intention of a member. Hon members, we are all aware that one of the main objectives of members is to make political statements in the House. Members therefore, use language that is politically charged and motivated, and often not well thought through.

It is important that members understand the content and implications of a rule when they evoke it. It is similarly important that members exercise care when expressing their views. To raise points of order with the purpose of debating with another member is not allowed in the House. It is similarly not allowed to use words carelessly which may lead to contestations.

I therefore rule as follows: As stated above, the deliberate misleading of the House involves and intends to mislead and or acknowledge that the statement is false and would mislead. This is very difficult to prove given the requirements of intention. I

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therefore rule that, given the requirements of Rule 46(b) I am able to rule that hon Engelbrecht deliberately misled the House. However, as Presiding Officers often we are made or put in situations to pronounce on arrangements made by parties outside the House which makes the work of Presiding Officers very difficult. Therefore, we need to refrain from doing exactly that. Thank you very much hon members. I made a ruling.

**CONSIDERATION OF REPORT OF THE AD HOC COMMITTEE ESTABLISHED TO  
INQUIRE INTO THE INTERVENTION IN TERMS OF SECTION 100 OF THE  
CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 IN THE NORTH WEST  
PROVINCIAL GOVERNMENT**

(Consideration of Report)

The CHIEF WHIP OF THE NATIONAL COUNCIL OF PROVINCES: Hon Deputy Chair, I move that, notwithstanding Rule 247(1), which provides that a sitting of the Council will be dedicated to oral questions, the Council considers the Report of the Ad Hoc Committee on the Intervention in the North West Provincial Government.

Question put: That the motion be agreed to.

Voting

Motion accordingly agreed to in accordance with the Section 65 of the Constitution.

**CONSIDERATION OF REPORT OF THE AD HOC COMMITTEE ESTABLISHED TO  
INQUIRE INTO THE INTERVENTION IN TERMS OF SECTION 100 OF THE  
CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 IN THE NORTH WEST  
PROVINCIAL GOVERNMENT**

Mr C J DE BEER: Hon Chairperson, hon Minister and hon members, the Ad Hoc Committee when looking into the intervention in the North West province, having considered the intervention by the National Executive in terms of section 100(1) of the Constitution, referred to it, reports as follows:

Due to several governance and service delivery challenges that were observed in the North West province, the Cabinet resolved, on 9 May 2018, to invoke section 100(1) of the Constitution in the North West provincial government. The Cabinet set up an Inter-Ministerial Task Team, on the North West province to conduct performance assessments. Pursuant to the IMTT's assessment on the 23 May 2018, Cabinet

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approved the invocation of section 100(1) (a) and section 100 (1) (b) on the following 10 departments in the North West province:

Under section 100 (1) (a) is the Department of Finance, Economy and Enterprise Development; Department of Local Government and Human Settlement; Department of Rural, Environmental and Agricultural Development and the Department of Social Development and Department of Tourism.

Section 100 (1) (b) is the office of the premier; the Department of Community Safety and Transport Management; Department of Basic Education and Sports Development; Department of Health and the Department of Public Works and Roads.

The mandate of the NCOP is in terms of section 42 (4) of the Constitution that states that we represent the provinces in the national sphere of government and are here to contribute to the realisation of the constitutional commitments to cooperative governance and effective government.

Furthermore, it is imperative to point out that the committee has been established to facilitate inquiries and conduct oversight in terms of section 100 of the Constitution in order to pronounce on

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whether the intervention in the North West provincial government is indeed warranted.

We also find further constitutional privations in terms of section 100(1) (b) that was invoked in the province in five departments. What does it tell us? That the national executive assumes responsibility for the relevant obligation in that province to the extent necessary to maintain essential national standards or meet established minimum standards for the rendering of a service.

Maintain economic unity; maintain national security or prevent the province from taking unreasonable action that is prejudicial to the interests of another province or to the country as a whole.

We have the sequence of events following the notice on the intervention by the National Executive in the province. The Ad Hoc Committee was established by the NCOP on 17 May 2018.

On the 29 May 2018, members of the committee were appointed and the committee had its first meeting on the 30 May 2018 to elect the Chairperson. The committee had a meeting with the IMTT the first meeting engagement on the 14 June 2018, and after that with the North West provincial delegation led by the hon Premier Job Mokgoro

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on 27 June 2018. During this meeting, the committee also received input from the National Treasury and the Auditor-General.

The follow up meeting with the IMTT was held on the 16 August 2018, to receive a progress report. The committee further conducted an oversight visit to North West during the period of the 15-19 October 2018. During this visit, the committee conducted site visits around Mahikeng and Klerksdorp. The site visits included provincial departments, which were under section 100 (1) (b) intervention as indicated previously in the statement.

Hon Chair, if we look at the first composition of the province the picture is as follows: The cash balances for the province have been positive for the past seven years. The province had a cash balance of R1, 4 billion at the end of the 2017-18, financial year.

Underspending on the Human Settlement Development Grant and Provincial Roads Maintenance Grant was a concern that these grants have been consistently underspending in the past two years due to poor planning and challenges in supply chain management processes.

Resource allocation to the office of the premier has increased significantly in recent years. The growth of this office is largely

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due to that office, assuming the role of implementing the body in addition to developing policies and managing institutions.

Poor compliance with laws and regulations on supply chain management; Accumulated irregular expenditure that came to an amount of R15, 3 billion. Accumulated fruitless and wasteful expenditure of R174 million and accumulated unauthorised expenditure totalling to R384,8 million. Accruals amounted to R1, 1 billion. While consequence management and investigations were in progress, it was found, however, that in most cases no disciplinary steps were taken.

On the 16 August 2018, the IMTT gave a progress reported to the Ad Hoc Committee indicating the signing of the Memorandum of Understanding between the national government represented by the hon Dlamini-Zuma, the convener and leader of the IMTT and the provincial government led by the hon Job Mokgoro, the hon premier.

This event reportedly marked a major milestone in the intervention shifting from an assessment and planning phase to the inception stages of implementing the interventions. Administrators were also appointed and deployed to the relevant departments under section 100(1) (b).

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The monitoring system was introduced and focused on six key result areas that have been developed. Directives have also been issued to those departments under section 100 (1) (a) as mentioned previously in this report.

The committee conducted its oversight visit during the week of the 15-19 October 2018. Visited hospitals, visited schools, visited sites that fall under public works, issues related to transport as well as the Lichtenburg wastewater treatment works.

Further engagements were held with Nehawu provincial leadership as well as community meetings in Mahikeng and Klerksdorp where stakeholders made presentations. It is captured fully in the report of the Announcements, Tablings and Committee Reports, ATC. The sentiments received during the community engagements were that the intervention is necessary, but it must lead to improved service delivery and the ethical conduct within the government.

Hon Chair, the committee came to the following conclusions: That the provincial government failed to perform its constitutional duties in that supply chain management and internal control management processes within the province have been weakened and in some cases have collapsed.

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As a result, most of the contracts were found to be irregular by the Auditor-General and the National Treasury. Poor workmanship by some contractors has been evident in some of the project sites, which were visited by the committee.

Most contractors were paid in advance without delivering according to the agreed terms of the contract, and no penalty clauses were invoked, for example, Ayama Consulting that was fixing roads. In some cases, the provincial departments were paying double and or were being overcharged by contractors without any consequence management.

Of much concern, is the outsourcing of the EMS to private companies such as Mediosa High Care and Buthelezi EMS, with the latter being paid R20 million per month, which is an irregular contract running until March 2019. Most departmental budgets were centralised and made it difficult to make timeous payments to service providers, including medical supplies, which led to a shortage of medical supply.

Hon Chairperson, we came to the following resolutions: That the Inter-Ministerial Task Team should seriously consider the need to ensure that appointed administrators do not have any conflict of

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interest. It is recommended that the disciplinary action is instituted forthwith on employees or officials who are alleged to have committed acts of misconduct.

Criminal proceedings should be instituted forthwith against all people who are implicated and who are alleged to have committed any criminal offences and that legal processes are initiated to recover any loss suffered by the state as a result of the criminal conduct of any such persons.

The committee reaffirms its recommendations as cited per sector as captured in the report. Compliance with legislation should be enforced to enhance good governance, sound financial management, accountability and robust oversight.

The monitoring and evaluation function centred in the office of the premier should be extended to the district offices to improve coordination between all departments in terms of the Intergovernmental Relations Act, as well as to restore service delivery in the province.

Hon Chairperson, the Ad Hoc Committee hereby recommends that the intervention should be approved; and that the Ad Hoc Committee as

established by the Council, must while the intervention continues, review the intervention regularly and make any appropriate recommendations to the national executive in terms of section 100 (2) (c). Hon Chair, I table this report for consideration by the House. I thank you.

Debate concluded.

*Declarations of vote:*

Mr D M MONAKEDI: Thank you, very much, Chairperson. In response to the report indicating serious governance challenges in the North West province that the Cabinet received, on the 9 May 2018, to invoke section 100(1) of the Constitution in the North West provincial government.

The Cabinet set up an Inter-Ministerial Task Team to conduct performance assessments. Following the IMTT's assessment on the 23 May 2018, Cabinet approved the invocation of section 100(1) (a) and section 100 (1) (b) on 10 departments in the North West province.

The Ad Hoc Committee was established by the NCOP on the 17 May 2018, to facilitate inquiries and to conduct oversight in terms of section 100 of the Constitution in order to pronounce on whether the

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intervention in the North West provincial government was indeed warranted. Of course, as already indicated, on the 29 May 2018, members of the committee were appointed.

The Ad Hoc Committee was tasked in this context to come up with recommendations to give effect to its purpose and mandate. To that end, section 102 of the Constitution provides that the NCOP must, while the intervention continues, review the intervention regularly, and may make any appropriate recommendations to the national executive.

In terms of section 100, national intervention in a provincial administration may take place when a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation.

Of great concern to the Ad Hoc Committee, is section 100 (1) (b), that reads: Assuming responsibility for the relevant obligation in that province to the extent necessary to maintain essential national standards or meet established minimum standards for the rendering of a service.

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Rule 254 (4) of the NCOP provides that: The committee must investigate whether or not the intervention was necessary; offered the provincial administration concerned and the national executive each the opportunity to state their case; report to the Council within 180 days of the report having been referred to it.

Pursuant to our mandate as the Ad Hoc Committee, the committee met with the IMTT and also the provincial government, and received reports from the Auditor-General and...[Interjections.]

Mr M CHETTY: Is this the faction of facts... [Inaudible.]

Mr D M MONAKEDI: May I be protected Chair?

Mr M CHETTY: What do you need protection about?

The DEPUTY CHAIRPERSON OF THE NCOP: You don't need protection, in actual fact, you are interfering. No, don't do that.

Mr M CHETTY: There is a declaration for the time limit as well.

Mr D M MONAKEDI: The committee further conducted an oversight visit to North West during the period of the 15-19 October 2018. During

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the oversight, the committee conducted site visits around Mahikeng and Klerksdorp. As Limpopo, we support the report.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member let me just remind you. No matter how irritated, you can be. I'm guided by the rules of this House, and the time that is allocated for a declaration of votes. Here is a monitor in front of me, and this monitor will guide me. For so long as it doesn't say zero-zero. I can't stop the member. I can't. Just learn to be patient don't be irritated. You must read your rules.

Ms T J MOKWELE: Thank you, very much. As the delegate from North West, we do accept the report. We do accept the report and ...

[Interjections.]

Mr B G NTHEBE: Chair, as the leader of the delegation I rise to declare that hon Mokwele is not empowered, either by me or any other authority to be speaking on behalf of North West.

Ms T J MOKWELE: You have been absent for a very long time that's why you don't know what is happening.

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The DEPUTY CHAIRPERSON OF THE NCOP: Hon Mokwele, I have not given you an opportunity to speak. Can you take your seat? There is a head of the delegation who is saying that North West does not have a declaration to make.

Ms T J MOKWELE: I rise on a point of order Chair, I don't contest your ruling, but it must be recorded that the leader of delegation of North West has been absent for quite some time. Therefore, I got the authority from another leader who was appointed by the party during the absence of the leader. So, it must be noted. I don't dispute your ruling. I take it, but it must be noted. Thank you, very much.

The DEPUTY CHAIRPERSON OF THE NCOP: Thank you, very much. The ruling is not contested.

Mr J W W JULIUS: Thank you, Deputy Chairperson um...

[Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, order!

Mr J W W JULIUS: Hon Chair...just on a point of order, that you have just ruled that you did not give hon Mokwele an opportunity to

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Speak, but you did. You gave her an opportunity to speak. While she was on the floor, there was a point of order from the head of the delegation.

So I would urge you as the presiding officer of this House to also know the rules like you just said now that she was not supposed to speak so it was up to you and not the delegation head to stop her from speaking but you gave her an opportunity.

Therefore, you need to rectify that because I was also confused about the rules and I look to you, you are a guardianship in this House. Thank you, House Chair.

The DEPUTY CHAIRPERSON OF THE NCOP: No, no, no, there is nothing that you should correct, absolutely nothing. You should have known better, that the leader of the delegation to the NCOP is the premier of the province, and the premier of the province, therefore, confers or delegates that responsibility to a delegate delegated by the province to the NCOP.

In the absence of the head of the delegation in the Council, the head of the delegation can do that. In terms of this Council, we recognise the hon Nthebe. So if hon Nthebe stands up to object from

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a declaration made by any member that he has not mandated, I must recognise him and that is exactly what I did.

So you are not correcting anything. No, it is fine, if you are confused about the rules and what the Constitution mandates you to do, that's another matter.

Ms T J MOKWELE: Thank you. That is why I say you are always absent. You want to go home, you just came in and now you want to go home. Chair, I just want to make it clear again as I said before. I don't dispute your ruling at all and I thank you, but it must be recorded that even the premier of North West, that old man, is a shame he does not know what is expected from him.

The DEPUTY CHAIRPERSON OF THE NCOP: No, no, no, can you take your seat hon Mokwele, and I am going to order you to withdraw the statement referring to the premier of the province as "that old man." Can you withdraw that?

Ms T J MOKWELE: Chair, it is fine, I will withdraw, but all of us know that a premier is an old man. I withdraw.

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The DEPUTY CHAIRPERSON OF THE NCOP: Okay, thank you very much. Take your seat then. I recognise Mpumalanga.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Thank you, the ruling is not concluded. Hon Julius.

Mr J W W JULIUS: Did you just rule that you didn't give hon Mokwele an opportunity to speak, but you did. You gave an opportunity to speak while she was on the floor. There was a point of order from the head of the delegation so I would urge you as a presiding officer of this house to also know the rules like you just said now that she wasn't supposed to speak. So, it was up to you and not delegation head to stop her from speaking but you gave her an opportunity. You need to rectify that because I was also confused about the rules and I look to up to your guardianship in this house.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: No, there's nothing that you're correcting, absolutely nothing that you're correcting. You should have known better that the leader of the delegation to the NCOP is a premier of a province. And the premier of the province therefore confers or delegates that responsibility to a delegate, delegated by the province to the NCOP.

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In the absence of the head of delegation in the council, the head of delegation can do that. In terms of this council we recognise hon Nthebe. So, if hon Nthebe stands up to object from a declaration made by any member that he has not mandated, I must recognise him and that's exactly what I did. You're not correcting anything. If you're confused about the rules and what the constitution mandates you to do, then that's another matter.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon Mokwele,

Ms T J MOKWELE: That's why I say you're always absent. You want to go home, you have just arrived but you want to go home. Chair, I just want to make it clear again like I said before. I don't dispute your ruling at all. But it must be recorded that even the premier of North West, that old man is a shame, he doesn't know what is expected of him.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: No, can you take you seat hon Mokwele. I'm going to order you to withdraw the statement referring to the premier of the province as that old man. Can you withdraw that!

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Ms T J MOKWELE: Chair it's fine. I'll withdraw but we all know that ... [Interjection]

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon Mokwele ... hon Mokwele

Ms T J MOKWELE: I withdraw ... I withdraw.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Thank you, take you seat then. I recognise Mpumalanga.

Mr A J NYAMBI: The executive section 100 into the governance and performance of North West province through the interministerial task team has provided NCOP with a stuck reality against rich who constitutionally required to recommend on such intervention. The facts that have been laid before the NCOP reveal that the provincial government failed to perform its constitutional duties in that supply chain management and internal control management processes within the province have been weakened. In some instances they have totally collapsed. There was little or no consequences management against the officials who were implicated for wrongdoings.

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The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon Nyambi can you take your seat. On what point are you raising hon member?

Mr J W W JULIUS: On a point of order: On the same point as previously. Hon Nyambi is not the delegation head unless we have got written communication that he is. There's no written communication. We have another delegation head from his province. They know him... they know him.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members... hon members, I'm supposed to make a ruling ... I'm supposed to make a ruling on the point of order as raised. And my ruling is very simple it's not sustained. Hon Nyambi can you continue?

Mr A J NYAMBI: Do you want to relocate to be part of Mpumalanga? There was little or no consequence management against the officials who were implicated in wrongdoings, particularly the violation of financial management legal prescripts. With this body of evidence placed before us, we agree with a report read to us by hon De Beer.

We also want to put it that dismally action be instituted against all people implicated that criminal proceedings will be instituted

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against all politicians, officials or any other person who are alleged to have committed any criminal offences. That compliance with legislation should be enforced to enhance good governance, sound financial management, accountability and robust oversight of monitoring an evaluation function of the intervention centred in the office of the premier extended to district to improve coordination between all departments in terms of Intergovernmental Relations Act as well as to restore service delivery in the province.

The ADO committee having objectively considered the criteria decision of the National Executive Committee (NEC) in invoke Section 100 (1a) and 1(b) of the constitution in some departments in the North West provincial government and various reports that were submitted to the NCOP and the ADO committee relating to the intervention together with the in law core investigation.

We support that the intervention be approved as Mpumalanga. Secondly, while the intervention continues, the ADO committee of the NCOP must review the intervention regularly and make an appropriate recommendation to the NEC. Having outlined the key findings, the recommendation of the report, I move on behalf of Mpumalanga the acceptance of the report.

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Question put: That the Report be adopted.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.

Report accordingly adopted in accordance of section 65 of the Constitution.

**QUESTIONS - CLUSTER 4C: ECONOMICS**

Question 259:

The MINISTER OF COMMUNICATIONS: Deputy Chair, hon members, with regard to the auction of batches of radio frequencies upon the policy pronouncement that has been made by government, Independent Communications Authority of South Africa, Icasa, which is the authority, will now be embarking on a consultative process guided by the policy directive that has already been issued by the Department of Telecommunications and Postal Services. I thank you.

*IsiZulu:*

Mnu E M MLAMBO: Sekela Sihlalo, asibonge Ngqongqoshe, ngiyabonga ngempendulo yakho, iqondile.

*English:*

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Thank you, Chair.

Mr J W W JULIUS: Deputy Chairperson, I noted that this question was actually in another department's questions and hon Mlambo nevertheless was covered so I don't know as there was no answer to the question. The background to this is that the Minister of Telecommunications and Postal Services interdicted Icasa last year when it wanted to auction off batches of spectrum; this led to many challenges such as the unlikelihood of cheaper data and 4G services. And on top of that, rural communities have to wait longer for cheaper internet connectivity.

There is a change now to auction off batches of spectrum and certainly this has an impact on the Department of Communications, as a cluster of Ministers, I want to know if the Minister is aware of what led to this sudden "Mantash" or change in Cabinet? [Laughter.]

The MINISTER OF COMMUNICATIONS: Deputy Chairperson, hon members, yes we know that there was once court action between the department and Icasa, in the process of dealing with this particular matter of the spectrum, the two departments have interacted and consulted with Icasa and all issues that were before the courts have since been removed from the court processes and there has now been an agreement

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in line with the Cabinet decision on how Icasa has to deal with these matters and these consultations will then will accommodate the concerns that were there in the interest of the service providers including access for rural communities and those that have never had access before so that this process does not become inaccessible because of the costs and secondly, in terms of prioritising only on the receiving end, so it is what we all have embraced and already, as we are rolling out the digital migration programme, you can see how Icasa has started to co-operate, but also with the Department of Telecommunications and Postal Services and Sentech in terms of the release of the spectrum. Thank you.

Mr O J SEFAKO: Deputy Chair, thank you Minister, what has been the state of progress up to now, is the department still sticking to the timeframe it set for April 2019 for the project? Thank you Deputy Chair.

The MINISTER OF COMMUNICATIONS: Chair, with the delays that were related to the court proceedings, that particular is the ideal, however, the consultation processes may impact on that timeframe but, as matters stand, any other plan that has been developed was also developed within the timeframes of April 2019 and now, because

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of the engagements between Icasa and the Department of Telecommunications and Postal Services, we are also hopeful that the consultations ... the fact is the consultations are going to shift the deadline.

Mr A S SINGH: Chairperson, hon Minister, how will the auction of batches of radio frequencies for 4G services and the establishment of the wholesale open access network benefit the disadvantaged and rural communities.

The MINISTER OF COMMUNICATIONS: Deputy Chairperson, the two things that would benefit our communities are, firstly, those communities that are yet-to-be reached in terms of connectivity would be amongst the first to benefit because we do know that there has been serious challenges around the frequency in rural area, in the areas where the landscape makes it difficult for access including the installation of centres of communication.

Secondly, in this process we also have agreed that there must be localisation in terms of empowerment, reskilling young people who come from rural far-flung areas so that then they themselves become the ones who will deal with the further installations of

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infrastructure, the distribution including the establishment of new contact points and service sites by the service providers.

Already two of the service providers have started to embark on a consultation with us as the Department of Communications but also with local government in terms of localisation and youth development and skilling taking primarily the unemployed graduates and those who have studied between Grades 10-12 for them to be trained as the ones then that the service providers will utilise. Thanks.

Question 269:

*IsiZulu:*

UNGQONGQOSHE WEZOKUXHUMANA: Niyazithanda izindaba baba uKhawula.

*English:*

The packages for the previous executive directors of the South African Broadcasting Corporation, SABC, are as follows: The group chief executive officer was receiving R7,2 million if you take into consideration payment in lieu of premature termination of contract of employment; for the chief operations officer it was R15,4 million, with R3,9 million if you exclude the R11 million bonus payout; and the chief financial officer at R4,1 million.

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The annual remuneration packages for each of the current executive directors of the SABC are as follows: R5,1 million for the group chief executive officer, R4,03 million for the chief operations officer and R3 million for the chief financial officer. These packages are significantly lower than those of the previous executive directors; they amount to 1,1% of the current salary bill.

The overall annual remuneration and benefits of the current SABC's 10 group executive amounts to R24,7 million. On average, a group executive's remuneration package is R2,47 million per annum.

Previous group executive remunerations have also been contained in the SABC's financial year report of 2017-18 financial year. Thank you, hon member.

*IsiZulu:*

Mnu M KHAWULA: Ngiyathokoza Sihlalo ohloniphekile, Khabazela, ngiyathokoza ngezimpendulo zakho. Manje mhlonishwa Ngqongqoshe, nje, njengezwe, njengoHulumeni - akasihlebe nje la eNdlini kungezwa muntu.

*English:*

How do we justify this in view of the current financial situation that is pertaining at the SABC where thousands of employees are

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threatened with job losses because there is no money but there is somebody who is earning R5,1 million a year in the same company? People are losing jobs because there is no money but there is somebody who is earning R4,3 million and somebody earning R3 million. How do we justify this as government? What is the government planning to do in view of this financial situation that is pertaining at the SABC? Thank you Deputy Chair.

The MINISTER OF COMMUNICATIONS: Hon Khawula, this is exactly the issue that we are engaging the SABC board on. The turnaround of the SABC cannot just be through the laying off of workers; there has to be a review of the entire model of running the SABC. We, as law makers, also need to revisit the funding model of the SABC. We definitely have to look at how we attract skills and how to ensure that we are able to have freelancers in addition to fulltime employees at the SABC. That also creates a bulge when it comes to the personnel of the SABC.

We also have to appreciate what exists in the market and the best model. It is on that basis that government agreed that there should be a turnaround task team constituted by National Treasury, ourselves and the SABC and reflect on these matters so that the SABC Board does not move fast on applying section 189. This section has

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also not been applied appropriately because there hasn't been sufficient consultation and sufficient skills audit.

We definitely need a comprehensive turnaround and we will continue to work on this. Minister Tito Mboweni has also agreed that in the coming three weeks the team would have to come back and give us a progress report. Thank you.

Mr F ESSACK: Minister, I will go slowly so that you can digest the question nicely. An amount of R45 million was paid to senior executives last year. The CFO was paid a salary of R3 million. This is in spite of the SABC recording a loss of some R622 million in one financial year.

Furthermore, this government gave the SABC a loan running into billions of rands, which you are aware of. Instead of taking action against failures, top executives are being rewarded by this very ANC-led government while today it was announced that some 2181 SABC staff have lost their jobs due to restructuring, which you will be aware of.

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My question therefore is: Were any actions taken against senior executives for these failures? If so, please explain to the nation the relevant details. If not, then simply why not? Thank you.

The MINISTER OF COMMUNICATIONS: Just to correct a very important point: No one has been laid off yet. It is the intention of the SABC management to lay off staff. It is for that reason that we are continuously advising and instructing the SABC Board that they can't do that until they complete the entire section 189 process. Therefore, the pronouncements have been very pre-emptive of what is supposed to be done through a mediator and I hope that all of us share the same sentiments around this matter.

Action has been taken; all the new executives, the CFO, COO and the group CEO are all new appointees who are now implementing even the reports of the parliamentary process and the report of the Special Investigating Unit, SIU. We know that there are issues that are before the Commission for Conciliation, Mediation and Arbitration, CCMA, around the former COO of the SABC and there are disciplinary measures and reviews of some of the tenders that have been issued.

The question that has been asked about the current executive directors applies to all the new appointees that have been appointed

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post what has happened at the SABC. If you ask me, yes, there has to be a reflection and a comparison and hence I will urge hon members of this House that we put all these things as part of the package to the turnaround of the SABC.

The concerns are quite fair and require the tripartite engagement that is going to be done to deal with finances and costs that are incurred. As I have indicated before, the packages of the new senior management of the SABC amount to R1,1 million of the current salary bill. Thank you.

Ms K PHOKONTSI: SPECIAL DELEGATE: Hon Minister, I heard you say that you are in the process of developing a recovery plan and a strategy to make sure that whatever happens in the party is not going to repeat itself.

Hon Minister, it has been raised that the staff morale is slow and SABC has an interns programme that is supposed to kick start. What do you think the impact of that programme is going to be versus the process of the staff that is intended to be laid off? Thank you.

The MINISTER OF COMMUNICATIONS: There are serious challenges in the SABC, both ... [Interjections.]

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The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members, can we not interrupt the Minister?

The MINISTER OF COMMUNICATIONS: There are serious challenges in the SABC, both financially as well as in their own capacity to execute their mandate. I also want to bring it to this House that even as a self respecting House and law makers, we definitely have to appreciate that we are making an insignificant contribution to the functioning of the SABC.

We contribute at least 3% to a budget that requires almost R11 billion for the running of the SABC. Therefore, the public interests are not necessarily funded through the public fund. As we deal with the turnaround and repositioning of the SABC for the future, we need to look at everything that has to do with the SABC.

The issues of staff morale are very important; issues of re-skilling the staff and the need for consultation are very important. We keep reminding the SABC that they cannot go through section 189 and go announce publicly when their first consultation with labour actually collapsed and did not reach any consensus. There is no consensus on the implementation and we are making an intervention.

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As the shareholder, we have not agreed with what the SABC says. They have not started to comply with section 189, hence the outcry from labour - the two unions that are in existence in the SABC. I hope that with this meeting that will be taking place between Treasury, ourselves and the SABC Board will be able to make the board appreciate that they cannot pre-empt the laying off of staff or threatening staff that you are going to retrench before they develop a better vision or a future plan of the SABC. Thank you.

Ms L C DLAMINI: Hon Deputy Chair, we understand that there are challenges in the SABC but at the same time as a country we have a challenge of high unemployment rate. As we do whatever we do as SABC, we should take that into consideration.

My question to you hon Minister is: Does the department, together with the SABC, have any intervention strategy to avert the looming retrenchment or retain as many staff members from retrenchment and how do you plan to utilise the staff affected by the retrenchment given South Africa's experience in high unemployment rate? How do we balance the two?

The MINISTER OF COMMUNICATIONS: A few things are quite important: Retrenching of employees must also go with the tasks that employees

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have to do. You can only look at retrenchment after you have satisfied yourself that you have redundancy in your employment. That is exactly what we are engaging the SABC management on.

In view of digital migration, there is a lot that is part of the public mandate of the SABC that is not done. For example, issues of health, education and additional channels that the SABC might have that are more developmental and that are of public interest. You definitely have to deal with that particular aspect when you look at warm bodies.

Secondly, the issues around recruitment of freelancers over time. We told the SABC that you cannot have a freelancer for 10 or 15 years and they become part of the establishment yet you also have people fully employed. It is very important for the SABC to adhere to section 189. for one to apply section 189, one should have identified through a skills audit what they currently need and what they will need in the future; secondly, one should have looked at training and re-skilling and thirdly, there should have been a consensus that says you have tried everything and anything and now you have arrived at this point.

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Our call is that they cannot proceed and as a shareholder we have not come out to say the SABC is correct in doing this; we have not signed. As it has been pronounced by the President, the Minister of Finance and I - retrenchment must be the last resort after you have dealt with everything.

So, it is those issues. The shareholder has not committed, has not given a go ahead and the SABC itself has not complied with section 189.

Question 260:

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, we then proceed to Question 260, asked by the hon Parkies. However, I am informed that the hon Prins will stand in for the hon Parkies. Hon Minister.

The MINISTER OF COMMUNICATIONS: Hon members and hon Deputy Chair, with regard to the expenditure to date on dealing with digital migration: Firstly, government has spent R5,45 billion on the programme thus far. We are currently operationalising the new delivery model that includes calculating the value of the voucher subsidy and by the end November, we will know how much we will require to complete the migration programme.

Secondly, one of the objectives of the Broadcasting Digital Migration policy is to stimulate local manufacturing.

Thirdly, our approach is not to dispose of the set-top boxes and render them redundant. We have started to do an audit. There is a number that is already in the Post Offices and different warehouses that is now being utilised to connect and digitalise the province of the Free State.

Fourthly, we are also training local people so that we do not have people coming from outside of a province to be the ones who are doing the installations. Precisely because part of what we are seeking to do is to ensure that we create job opportunities and future employment going beyond the installation to maintenance.

The new revised model ensures execution happens more at a localised level, involving local installers, but also bringing the private sector into the party. For what was a weakness with the previous model, government assumed a responsibility of being a procurer, a retailer, an installer and also an enabler in terms of regulations, norms and standards. Yet our responsibility is to deal with norms and standards, regulations and co-ordination of different departments so that then the private sector and communities at a

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local level become the owners of the programme and it actually becomes much more cost-effective as we are now looking at working with the manufactures and the retailers in getting the new Digital Televisions, DTVs, that are going to be much more cheaper compared to an installation of a set-top box which may not actually be sustainable beyond a particular period because of its duration of stay in the different warehouses. So it is a hybrid model that really takes us to another level of ensuring that we together with the private sector we take ownership, by the way, only to the targeted number of indigents and not to me and you.

That is part of what we are dealing with, with the private sector, with communities and with body corporates to therefore ensure that any one then who procures an appliance moving forward, you have to get a digitalised television set. Those who still have the old ones would then use the set-top box. Those who are indigent and require our interventions moving forward, they would be given a voucher where they can then go to a retailer who is part of the process who would then give them at a very cheaper and agreed upon cost that together with the Department of Trade and Industry, DTI, we are working on. Thank you.

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Ms E PRINS: Hon Deputy Chairperson, my question for the hon Minister is and thank you for the answer. I thought you partly answered it; however, I am going to raise the question: To what extent does the revised delivery model on the implementation of the broadcast digital migration project beneficial to the government and the economy of the country? Thank you, Chairperson.

The MINISTER OF COMMUNICATIONS: We benefit in various forms. The immediate one is on the basis of what we are doing now. We are doing it on the basis of a study that was done and delivered by the Council for Scientific Industrial Research, CSIR, that demonstrate the capacity in South Africa to provide all the appliances required for digital migration. So that is a tick, because then the whole process can be localised. It will increase capacity in the manufacturing and it will increase capacity in the retail, but it will also create more agents. I think those of us who are on the pay TV, you know now that MultiChoice does not employ agents, but it rather utilises people that they call for them to come and connect. It is this young people that public works and the Sector Training and Authority, Setas, have trained.

As we speak now, a number of them in the Free State have been trained, have been vetted and have been accredited. They are the

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ones now who are doing this installation. The creation of local industries and storages as compared to us having the Post Office keeping this stock, in fact you then create your new Small, Medium and Micro Enterprises, SMMEs, in a township to store, to distribute and to then also go back to the retailer and let the retailer pay the agent who are our young people.

So that is what the CSIR study has been able to help us to say this can be a South African process from cradle to grave, through manufacturing, through distribution, through installation and through acquisition by every household. It can happen ward by ward, local municipality by local municipality and province by province. Unlike when we were just going everywhere distributing set-top boxes. Thank you.

Mr E M MLAMBO: Hon Chair, the Minister has covered the issue of the SMMEs of which I was going to ask about them. Thank you.

Mr L V MAGWEBU: Hon Chairperson, I do not know, maybe you should protect me from the leader of the delegation from the Eastern Cape province the hon Wana. She is making me very upset. I do not want to repeat what she has said. [Interjections.]

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The DEPUTY CHAIRPERSON OF THE NCOP: Do not be upset.

Mr L V MAGWEBU: Be that is it may Chairperson, the question is: Minister, the Free State analogue will be switched off on 31 December this year and people like the Chief Whip from the Free State and many others will be adversely affected and many South Africans living in that beautiful province because they have to switch now to digital enabled TV sets. Now my question is in your response you have indicated that this will cost money. Now the poor who would not be able to afford you know to switch off from analogue to digitally enabled TV sets you said they will be assisted. Can you explain what do you mean by being assisted? Do you have a budget for this, if so what is the amount and what is the budget set aside to enable the South Africans to access digitally enabled television sets? I thank you.

*IsiZulu:*

Uyazi wena uyahlupha.

*English:*

The MINISTER OF COMMUNICATIONS: Alright. I was waiting for the hon member to take his seat. Thank you very much, hon member. Firstly, the Chief Whip will never suffer because he is not our client and he

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is not our target. What we are doing with the Chief Whip is to raise awareness. All of you gathered here to say go digital.

[Interjections.]

Mr L V MAGWEBU: [Inaudible.]

The MINISTER OF COMMUNICATIONS: Can I finish speaking.

The DEPUTY CHAIRPERSON OF THE NCOP: No, no, hon member. We listened to you.

The MINISTER OF COMMUNICATIONS: Thank you very much. The target for government are those people who are in the SA Social Security Agency, Sassa, data base, who are indigent and who are dependent on government. All other South Africans are being encouraged through communication and by the way anyone who has a flat screen kind of a television is already digitalised. When the switching off happens, you automatically go in because it has an high definition, HD, platform. It is that that is important for all of us to understand so that we ourselves do not put everybody into a panic mode.

As we speak now, areas that are quite important for us to deal with are those areas that through our work with MultiChoice, the door-to-

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door work that is being done and most importantly the applications and the registrations in the Post Office we already know that these are the numbers that we now are left with. The reason why we went to the Free State as a study to roll out this high breed model is because already the Free State is ahead. It is ahead and it is possible that things can be done differently. We are now dealing with segregating the Free State on the bases of city to city as well as to linking them with the Sentech connectivity as it has happened with Senegal that is almost 100% migrated.

We are now in Lejweleputswa. We are very sure that in the coming week or so Lejweleputswa would have migrated. We are very sure that in the coming week or so Lejweleputswa would have migrated. Precisely because this is a scientific kind of an approach and as I have previously said the initial cost going into the future was going to be in the range of R7 billion. The revised model on what the public would have to contribute is not even more than R2 billion. It is in the range of R1,8 to R2 billion which actually reduces the liability on government precisely because now government is not looking at going out, buying set-top boxes, packing them in different places and then going out to install. It must be the manufacturing sector, it must be the retail sector, it must be the communities that are empowered and those who are suppliers of the

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goods must actually pay because they actually stand to make profit. So, capital must be the one that pays. The manufacture of a 67cm television must actually give to woo the community of Botshabelo by actually making sure that the installer or government does not carry the burden of installing to an old lady in that community, but they do that. The retail shop must also do that.

These agents that we are now building and drawing the Department of Labour on are accredited, they are vetted and of importance they are now being created as new companies and new co-operatives that must then run this particular business because ordinarily this is just a business model.

As I sit down Chair, let me remind South Africans, nobody was subsidised to move when we were entering the year 2000, unless you were not yet in the space of politics and therefore you think this is a shocking thing. We were told about the Y2K project, we embarked on it and that is part of the experience that we have. Our computers, our systems and our servers did not crash precisely because we had a high breed model, we were able to protect our networks and we were able to also make sure that we do not lose data. However, we targeted the most important it was hospitals, it was schools and it was police stations that government prioritised.

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Any other thing people actually adapted to Y2K on their own. Thank you.

Question 277:

The MINISTER OF COMMUNICATIONS: I was watching Minister Hanekom last night. I thought it will be easy for me today.

The DEPUTY CHAIRPERSON OF THE NCOP: If they can switch on these air conditioners?

The MINISTER OF COMMUNICATIONS: It will be worse.

The DEPUTY CHAIRPERSON OF THE NCOP: That will be trouble.

The MINISTER OF COMMUNICATIONS: Deputy Chair, the headline standard voice of prepaid tariffs for Vodacom and MTN have increased by 2,5% and 25,3%, respectively. The changes were mainly due to commercial reasons and the 1% point value-added tax that has increased from 14% to 15%, with effect from April 2018. Vodacom's Anytime per second has been at R1,20 from 2013 to 2017 and recently increased to R1,23 cent due to the vat increase. Vodacom also increased the tariff for the daily free tariff plan by 2,5%, from R1,20 to R1,23. The 1% VAT increase was one of the factors for this tariff increase.

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Vodacom has also increased its 4 Less voice per minute by 1,5%, from R2,60 to R2,64 due to the 1% VAT increase. Vodacom has also amended the enterprise business tariff plans by affecting a tariff increase in line with the VAT issue.

MTN has increased all its postpaid subscription plans with the alignment of 1%. There have also been changes to prepaid data bundles, where Telkom mobile also increased its bundle prices to cater for the 1% increase in the VAT. What is it that Independent Communications Authority of South Africa, Icasa, is doing in this regard? One of the things that we are looking at is the planned market reviews. I do believe that the consultations that would unfold, all of us must have an interest in because the cost of data in South Africa is extremely high and yet both the red and the yellow family outside of South Africa, their cost are actually quite reasonable.

So, we definitely have to deal with this and I want to remind hon members of this House that this is but one of the issues that have been before the Competition Commission. We have to deal with it because it is not only affecting young people; it also affects the cost of doing business in South Africa because of these high tariffs that are here in our country, and yet, we ourselves when we compare

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with the other areas where both Vodacom and MTN operate, particularly Vodafone, the costs are actually very reasonable.

Therefore, part of what we definitely have to deal with is to fix access so that there is appetite, particularly for our public Telkom. Our take is that once we are able to deal with the whole sale access, we will be able to make sure that there are other relevant and required services that our communities can receive without being over-reliant on buying the data bundles.

Secondly, there is also something that we definitely have to start dealing with, which is the amendment that has to be effected in the End-user and Subscriber Service Charter Regulations during 2018 in order for all of us to address the concerns regarding the unfair data expiry as well as the rules of the business.

The last issue is on the high demand of the spectrum. We do believe that as we release the spectrum and give the spectrum for auction, part of it must also be reserved for dealing with the cost of data but also for rolling out access that hon members were asking about reaching out to the areas that have never been serviced before.

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Lastly, one of the things that we also have to deal with in this regard is the inquiry that the Competition Commission is actually dealing with. Icasa and the commission have recently reviewed their memorandum of agreement so as to strengthen the collaborative efforts between the agencies. That's part of what has been resolved and took the two parties out of court to deal with this particular matter.

If I may just raise my own opinion, I do believe that we must all as a nation accept that communication is not a luxury, it must be taken as a tool of trade, but it must also be taken as a means of transformation so that our own communities must not be at pains to have access to means of communication, but also, we must make sure that they themselves can afford to reach out to not only their local communities but can also utilise other opportunities that go with acquisition of a smart phone. Thank you.

Ms T J MOKWELE: Minister, thank you very much for your responds. Observation is that this business of telecommunication, in a way, or those companies that are dealing with data in the country, they are monopolised. It is not because the country is running out of the spectrum, but it's because of the monopoly within the business itself. Now, I am checking with you hon Minister that don't you

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think besides being enquiry with regard to competition, don't you think that now is time for us to investigate the collusion within the monopoly of these companies? Thank you very much.

The MINISTER OF COMMUNICATIONS: Yes, it's those things that are before the commission of enquiry. Secondly, it's that with the processes of release of the spectrum. Part of what we have put as Cabinet is that there must be an inclusion of new players so that then this is not to the benefit of the known. So, this opportunity of the release of the spectrum must also bring new role players; especially contribute into the transformation of this particular sector. It can only happen if amongst others, we amend the regulations and we also begin to consolidate even our own way of doing business in South Africa so that then we don't look at efficiency because efficiency will automatically give opportunity to one. I don't want to mention the name. [Interjections.] It will give just a competitive urge to the one. Yet, we must also look at issues of empowerment, transformation, gender parity and rescaling and scaling and creation of new industries.

So, you are quiet correct, it can't only be dependent on the competitions enquiry. There must also be a policy determination as we release the spectrum that we need new role players. You can't

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only have five and yet in earnest, it is one. This very government only uses one for its entire communication and we know who it is. It just can't be correct. Yet, the South African owned one, is not even acknowledged in the South African business because what we look at in marking the points was to say this one has a reach, this one has the capacity, this one has got the resources and then all the smaller role players are not even accommodated in the subcontracting. So, it's that that we must deal with. Thank you.

Mr J W W JULIUS: Deputy Chair, I think we cannot look at this issue in isolation, you know, from service providers only. You know, the DA is totally against the VAT increase. People in this country are being dried out by the ANC government. Costs increase and people must just pay. Petrol increases by the ANC, electricity, VAT and inflation. The cost of living increases. People must just pay while this ANC government waste and steal our tax money through wasteful expenditure, corruption, state capture, VBS, the least is endless and will not change anytime soon whilst this ANC is in government. On top of that we now have the Special Appropriation Bill that will give the SAA a bailout that we cannot afford. Minister, do you really think that it is fair to push this burden into South Africans because politicians and cronies have been enriching themselves? Thank you.

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The DEPUTY CHAIRPERSON OF THE NCOP: You would note that earlier on when we started, I made a ruling on broad political statement during the question session. But nevertheless, I will allow the Minister to respond to the latter part. Are you rising on a point of order?

Mr E MAKUE: I rise on a point of order, Deputy Chairperson.

The DEPUTY CHAIRPERSON OF THE NCOP: Can we listen to the point of order?

Mr E MAKUE: Hon Julius made a statement that the ANC steal our taxes. He must either prove that or withdraw it because it's untrue.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon member, I came with a ruling even before we started and for members to have enquire to have allow hon Julius to continue with his political broad sweeping statements,

So, hon members, there is a ruling before this House. There is a ruling before this House that we all agreed to. I don't want to go back that truth.

The MINISTER OF COMMUNICATIONS: No, Deputy Chairperson, I would not respond on anything.

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Mr M KHAWULA: Hon Minister, there is another concern that inequality is further exacerbated by the fact that the mobile service providers have this tendency of providing high volume packages with a lot of relieves and then the lower volume packages has turn to cause very few relieves there and the contradiction here is that people who can afford are the ones who purchase high volume packages. The people where relieve should be are punished because what they can afford is where there are no measures of relief. Now, you see this "matashing" of the VAT from 14 to 15%. It also put more strain. What is the government planning to do in respect of this measure of inequality which is deliberately affected by the packages? Thanks, Deputy Chair.

The MINISTER OF COMMUNICATIONS: Hon Khawula, it is precisely because of that that there is work been done around amending the regulations so that then we are able to deal with user notification. We are able to deal with the cost structures and the various packages and incentives because the end-user is predominantly never protected. Those that can afford are the ones who are highly cared for. Yet, as I had earlier said hon Khawula that owning a mobile phone is not a luxury but it's also not just a tool of trade but it is also about communication and the right to reach out to every area of our

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country. So, it is that that we would have as part of the amendments of the regulation.

Lastly, there are the following areas that are very key for pro-consumer intervention, the usage notification, the roll over of data, the transfer of data, the out of bundle billing, which is actually the one that we have also been informed through public engagements. That's where it hit mostly the poor and those that are in the remote areas of our areas and can't use any means of communication. Thank you.

Ms N P KONI: Minister, have any attempts been made to retrieve money that was paid to Gupta-owned companies by SABC. Thank you.

The DEPUTY CHAIRPERSON OF THE NCOP: We are aware that that is a new question. It is a new question. No, it's a new question, hon member. If you look into the principal question ... No, no, hon member, can you take your seat. Hon member, can you take your seat. Let me raise an issue again for this House. Supplementary questions are based on the principal question that has been put to a Minister. Based on the principal question, now, this question is a total new question and irrelevant. [Interjections.] No, no, it is for me to make a ruling

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on your question and I am ruling you are out of order. I am ruling you are out of order.

Ms N P KONI: [Inaudible.]

The DEPUTY CHAIRPERSON OF THE NCOP: No, you can't.

Question 276:

The MINISTER OF COMMUNICATIONS: Chairperson, this question relates to monies owed by SABC to service providers, the duration as well as the amounts. The following are the key service providers that SABC owes: SuperSport, Sentech, Forex, which captures sports rights that are related to content production, Southern African Music Rights Organisation, Samro, Chartered Financial Analyst, CFA, Auditor-General, AG, Independent Music Performance Rights Association, Impra, which has to do with regulation of entertainment and staff, and also the International Business Machines, IBM.

These are the service providers owed by SABC, and the total amount is to the tune of R864 million. On the accruals, the average monthly amount that the SABC has to deal with is, R450 to R500 million. Other issues have to do more with the taxes and other statutory obligations. The issues that are still outstanding are the

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contractual commitments, hence, there has been to and fro around the sports rights and also the sports and television rights.

The overall costs are as yet to be captured because the report allowed up to 10 October. So, any report up to 10 October on this particular matter, is yet to be recorded through the SAP process, which is the system that captures the reports of the SABC. These are historical accruals, for example, some accruals that are almost two to three years overdue to the tune of R71 million.

Also, there are accruals that are over 121 days to a year, which are the largest to the tune of R936 000 that the SABC has to deal with. So, all in all hon members, what is in the debt book of the SABC goes beyond even the past five years, because of what have been the challenges. Amongst the other things that I want to raise, it's what is supposed to be a responsibility of the SABC as a public broadcaster.

The SABC never budgeted for events like national days, funerals, live interviews of the meetings of political parties that they would like to be live on air and all the kind of unplanned or unforeseen events which ends up with costs. The last point is around Sentech. We need to look at how the SABC develops a relationship with

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Sentech, which is supposed to be a means that SABC has to utilise as a public broadcaster so that it does not become too costly.

These are the challenges that the SABC has presented before Icasa and the changes that it has. We do believe that as part of the repositioning of the SABC, it needs to be supported. I personally support that there must be a revisit around Sentech and the relationship with the SABC.

I also believe that there must be a user-pay principle and that we must also be in a position as those who want the SABC to remain being a public broadcaster, to honour and pay some of the public obligations that we expect the SABC to do. Thank you.

Mr J W W JULIUS: Through you Deputy Chair, hon Minister, let me first thank you very much for that explanation. I wonder if it's possible for us to get it in writing, but we will get it in writing in order to look through all those figures. Thank you again, Minister. But I think what we need to add to the failures of SABC is management also that led to the failures in SABC.

We all know that when the famous or infamous Hlaudi Motsoeneng, your predecessor, who was the Minister of Communications, Faith Muthambi,

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who was sent to lead that entity by the ANC, caused failures that led to where we are today. We also know that the SABC is in a technical recession.

The question therefore is: Who brought us to this point? But I don't want to go there, hon Minister. My worry is that when we went on an oversight, Sentech actually told us that they rely heavily ...

[Interjections.]

The DEPUTY CHAIRPERSON OF THE NCOP: He's left with 48 seconds to finally ask the question!

Mr J W W JULIUS: I don't like the way you put it; I really do not like the way you put it!

The DEPUTY CHAIRPERSON OF THE NCOP: Allow me ... [Interjections.]

Mr J W W JULIUS: You must put it like you put it for everyone. You are getting irritated with me now!

The DEPUTY CHAIRPERSON OF THE NCOP: Hon members, can you allow the member to ask his follow-up question? Can you ask the question, hon member?

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Mr J W W JULIUS: Yes, but please Chairperson, allow me to ask the question and treat us the same way in this House!

The DEPUTY CHAIRPERSON OF THE NCOP: That's why I'm waiting; I'm listening to you!

Mr J W W JULIUS: I am worried that if SABC doesn't pay Sentech, the whole entity will collapse and community radio stations will also collapse. Hon Minister, when will the SABC pay Sentech? Thank you.

The MINISTER OF COMMUNICATIONS: In fact, Sentech is one of the key items that the SABC has to pay. But as I have said that as part of what we definitely have to deal with on Sentech, are the regulations that Icasa has put on SABC. So, I agree that SABC has to pay Sentech, and Sentech itself and the regulator have to revisit the core structure.

As a matter of fact I know that on the month-to-month basis SABC rearranges and prioritise payment of Sentech, but the debt will not go away with the current challenges that the SABC is faced with. Until we resolve the funding model of the SABC, then it will happen. We also have to come back and revisit the role of Sentech even on community radios because the cost structure for the community radio

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stations is treated as if we're talking about a commercial radio station.

The costs are the same and yet, a community radio station is a community radio station, hence, this whole issue that says, let's revisit these issues. It can't be a one size fits all. It is us who are in the policy space. Therefore, let's review the broadcasting space to say that it can't be one size fits all. On its own, a community broadcaster can't afford paying Sentech, but worse also, it is the SABC that has to honour its public obligation.

SABC may not need money to meet that obligation, hon Chair, but it may need a change of the regulations, so that it is not held financially liable when it comes to what is supposed to be an ordinarily function of Sentech. I'm also happy that hon Julius has raised the issue of community radios. I'm also raising the issue of SABC.

But moving forward, my take is that the broadcasting policy must disaggregate broadcasting, so that there can be broadcasting for public responsibility, commercial interest and for community development. Thank you.

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*Setswana:*

Moh N P KONI: Modulasetilo, ke rata fa Tona a ka nkutwelela, gape ke rata go botsa Tona gore a dipatlisiso di kile tsa nna teng ka kgang ya madi a a neng a tsewa kwa SABC go isiwa kwa ditheong tsa barra Gupta? Ke a leboga.

The DEPUTY CHAIRPERSON OF THE NCOP: Hon Minister, it is up to you if you want to respond to a new relevant question.

The MINISTER OF COMMUNICATIONS: Let me dispose this. There has been an inquiry of Parliament about this issue and it would be important that we look at what the inquiry came out with, so that we don't sustain what has actually been attended to and has been cleared. Secondly, there is a Special Investigating Unit, SIU, report, but now the new board is implementing its recommendation. As far as that issue, it has been raised here and it has been addressed in this House, it is not one of those items that the SIU has picked up. Thanks.

Mr J M MTHETHWA: Through you Chair, Minister, does the department has any plan in place to monitor and evaluate the remuneration of SABC employees to avoid bankruptcy in the cooperation? If the answer

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is yes, please give the relevant details, if not, what are the challenges?

The MINISTER OF COMMUNICATIONS: Chairperson, let me thank the hon member. What we have done as parliamentarians at the last term of office was to reduce the role of the executive in the management of the SABC. This is also one of the issues that made my predecessors to end up in court, where then it was resolved that the executive must deal with the shareholder compact.

The strategic issues like management must be left to the board and the executive. It is precisely that which has led to a situation that the shareholder is unable to comment or to make a determination on what must be the salary structure in the management of the SABC. I would urge members of this House, even in the National Assembly to never set rules to deal with individuals. Rules never change in the middle of a game.

Never change rules in the middle of a game because it will come back to haunt you. So, that is what I would like to say. Currently, the Minister nor the President has no say on what the salary determination of the management of the SABC is. But you can only

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talk about shareholder compact of what is expected of SABC in terms of its mandate and hold them on the basis of that.

Concerning operational issues and staff remuneration, it has been left to be done by the SABC, because in the middle of a game, the rules are never changed.

Question 262:

The MINISTER OF COMMUNICATIONS: It is one question, but very long. Thank you very much, Chair, the question has to do with the intervention to address performance challenges in the SA Broadcasting Corporation, SABC, in Brand SA, Film and Publication and in Independent Communications Authority of SA, Icasa. On the SABC, one of the things that one would want to respond to is the instability of the leadership, both at the board and the executive levels in the financial year 2017-18. Hence now in the financial year 2018-19, there has been a team called the turnaround task team comprising of ourselves, National Treasury and the SABC, to ensure that we make the SABC to adhere to the public mandate.

We have also instructed the SABC to act on the issues raised in the previous Auditor-General's, AG, report as well as to provide the department with the quarterly update on the implementation of the

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action plan. I must hasten to say the AG has been quite satisfied with how the new board has been trying to deal with those matters.

The Brand SA has not had any challenges to indicate that there have been issues around chief executive officer, CEO, currently, which is not something that happened in 2017-18. We have communicated with the board that the sooner the issues of the CEO are resolved, the better so that then there is stability in Brand SA. He was charged with sexual harassment and got vindicated through a due process. We have now been told by the Chair of the Brand SA that they have instituted further charges. When I grew up, there was something called further charge. In engaging with them is that, why would we always keep things and wait for the outcome of the initial charge and throw another charge because that on its own looks like there has been a witch hunt of some nature. We are going to be meeting with the board to really understand what its intentions are, and find a way that we can expedite the issues that are creating a fall out between the board and the CEO.

On the Film and Publication, Chairperson and hon members, the Film and Publication Board has achieved 76% of its targets and we also have been able to work together with them through our Deputy Minister to fill in the following vacancies - that of the chief

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financial officer, the chief operating officer, the chief information officer and the shared service executive. The appointment has brought much needed stability and hence one can then indicate that the entity itself has developed an action plan to respond to some of the things that were raised previously by the AG and even by Parliament.

We would know that there have been issues about the chairperson of Icasa. Again, that responsibility of dealing with the faith of the chairperson of Icasa doesn't rest with the Minister, it actually rests with Parliament. At the time when Parliament was supposed to act on the chairperson so that the Minister can execute the decision of Parliament, the chairperson actually interdicted Parliament and since Parliament has been interdicted the chairperson is still in office. Only after the due process that would have come via Parliament will the executive again deal with this matter. It is a tedious process, but I just say again, it is these issues that we definitely have to look at them. At the end of the day, we don't create rules that tie our hands and our inability to act because of a particular moment.

Chair, we have a vacancy rate in the Media Development and Diversity Agency, MDDA, and the filing of the board of the MDDA rest with the

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parliamentary process, which has been reversed over two instances. We do hope that the parliamentary process will help us in dealing with those issues. Linked to that is also the issue of the CEO of the MDDA. We do wish to see a situation where we finally appoint and the current board with its own challenges has started to deal with this issue. The AG himself has asked us to deal with some of the consequence management issues that had affected the MDDA previously. We can safely indicate that the staff turnover and the staff moral have been one of the areas that we have to deal with. We have since appointed the CFO and we do believe that then issues of finances that the AG was concerned about would actually be addressed. What remains a challenge is out of our hand - the filing of the vacancies in the board which rest with the National Assembly Portfolio Committee on Communications. I thank you, Chair.

Mr A S SINGH: Thank you, hon Minister for the answers. How does the department consider the application of monitoring and evaluation system as part of resolving and avoiding future challenges in the entities?

The MINISTER OF COMMUNICATIONS: One part of the department that has been quite weak is the oversight capacity, hon member - oversight on entities. What we have agreed on working with the Department of

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Public Service, Chair, is to look at this as a capacity outside of what is required in terms of the Public Service - get a chief director and three directors and they must do this. You need a specialised team and we are in discussion with the Department of Public Service so that then your ability to monitor and evaluate the SABC cannot be done by individuals or capacity that is so undercapacitated or even not smart in terms of execution of the responsibility as compared to the capacity in the entity like the SABC. So, we are dealing with that. When one got into the portfolio, there were only three people and one had since resigned. That is what has made us to go to the Department of Public Service together with the Department of Planning, Monitoring and Evaluation and said lets look at how the shareholder holds accountable these entities in line with the shareholder's compact, as compared to just depend on the quarterly reports and the annual plan. I want to submit here that if you ask me, that is what government must appraise itself on - that capacity to deal with these issues. Then you could be able to foresee the risks and the challenges that are coming through. Thank you.

Ms PHUKONTSE: Hon Minister, how does the department ensure that there is a sustainable stability on these affected entities?

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The MINISTER OF COMMUNICATIONS: We need to make sure that one looks at the regulations for the establishment of our entities, for example the MDDA. You can't continuously have a board that has got one person who's left with five years, another person with two years and another person with two months. You rather have a board that comes and serves for a particular duration and don't feel the missing gaps because that on its own creates instability and failure to understand what has been happening over time. That is one of the things that we are dealing with in the portfolio committee, to say let us revisit. If a board ends up with fewer than 30% of board members, why must we continue to top up, rather than dissolving the board and bringing in a new board? I think that has been one of the challenges between us and the portfolio committee - that matter is part of what we are looking at even as we move forward on the review of state-owned entities, SOEs, that this thing of some of the boards being allowed to top up is just not sustainable. I think that is one of the immediate things.

Chairperson, the second thing, some of these entities require highly technical people who understand the sector. Therefore, our own processes, say for example: How we appoint the SABC board? There will be cameras, people who have been nominated and then there will be Members of Parliament sitting there. Members of Parliament will

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talk to each other and thereafter decide who gets to the board. It is politically managed and therefore what you will find is a product of a politically managed process that will catch up with the functioning of that particular board. Other board members, for an example will believe that they were supported by three of those parties in Parliament and therefore think that those parties are their friends (skeem saam). We need to reflect on those things, hon members, so that the credibility is not about who was favoured by us, legislators, but it must be on what is the mandate. I dare say I do believe that that process on its own does dilute with the development and maturity of democracy, but also with the dynamics of our politics. We must guard against boards that are politically appointed against what is a demand of what that board should be doing. Thank you. [Applause.]

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Thank you very much. That was the last supplementary question and that brings us to the end of the questions for communication. Let me take the opportunity to thank the Minister for having availed herself to this session.

Question 270:

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The DEPUTY CHAIRPERSON of NCOP: Let me take the opportunity to thank Minister of Department of Communication for having availed herself to this session. I welcome the Acting Minister. We are sitting with the problem that, hon L B Geahler whose is the one who is asking the principal question, is not in the House, I do not have a note, we are standing in him and therefore to be consistent with our own program and practice. I would request the Minister to submit the response. We will then hand it over to the member and not respond to the person.

Question 265:

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER IF ENVIRONMENTAL AFFAIRS): Hon Chairperson, the answer is yes, Chapter three section 411 of the constitution, stipulates the principle of cooperative government and intergovernmental relations, applicable to all spheres of government. It states that it should take place within the framework of mutual trust and good faith. The National Environmental Management Act, Act 107 of 1998, further entrenches the concept of participatory cooperative and developmental governance in environmental management. In terms of the constitution, environmental management is a concurrent national and provincial mandate and therefore it is important that proper cooperation and coordination systems are put in place, to realise

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the constitutional imperatives. In line with the intergovernmental relations framework out and intergovernmental forum called Marine Energy Maritime and Environment, MEMEC, which you all aware of, consisting of the Minister of Environment and the MECs responsible for environment, as well as Mayors of metropolitan municipalities, relevant sector departments, as well SALGA, meet on quarterly basis to ensure that policy coordination takes place. Further more MEMEC has established tactical forum consisting of the Director General and provincial heads of department, relevant sector departments, and metropolitan, municipal managers and South Africa Local Government Association, SALGA, called Council for Mineral Technology , Mintek, to provide formal technical support to the Mintek. Mintek, as technical structure informs and advises the Minister and Members of the Executive Councils, MECs. Mintek is informed by working groups, consisting of national, provincial and local government officials. The following working groups are established and meet on quarterly basis. Working group one; biodiversity and conservation, working group two: air quality management, working group three: sector coordination, working group four: compliance and enforcement, working group five: environmental impact management and water affairs, working group six: sector jobs, working group seven : oceans and cost, working group eight : chemical and waist management, working group nine: climate change, working group ten :

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advisory committee on environmental policy and law reform and there is working group on communications as well. These strictures chairperson MEMEC, MINTEK and working groups provide coordination on matters affecting the environmental sector and coordinate policies and legislation, to protect the environment for the benefit of the present and future generations. These fora convene on a quarterly basis. Thank you.

Mr A J NYAMBI: Deputy Chair, let me thank the Minister for the detail response, my follow up question is in connection with the role that you think can be played by the constituency offices of Members of Parliament, MPs in maximising the coordination of all spheres of government.

THE MINISTER OF TOURISM (ON BEHALF OF THE MINISTER IF ENVIRONMENTAL AFFAIRS): Deputy Chairperson, I think as on many other matters, the role of the constituency office will not necessary be confine to improving corporate governance, but the role of constituency officers firstly would to monitor what is happening on the ground, and secondly to play a more active role in enhancing environmental awareness. That could take different form; we have immediate problems in many of our constituency office areas, of litter, of pollution of various types. It is not just about awareness but maybe

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initiating clean up programs. The President will be announcing in just a few weeks from now a national clean up campaign. We would expect that national clean up campaign to involve the citizenry of our country. All ward councillors will be involved in it and at least one day a month when people are expected to be actively involved. The details will be announced but that's the kind of activity that constituency officer can play a critical, in mobilizing and raising awareness on environmental issues. It will include addressing conservation areas, where we have a poaching problem, the communities adjacent to conservation areas are probably most important safeguard against poaching but only if they feel that have real stake in what we are protecting. Mobilising local communities, having them appreciate the value of good environmental management, including the value of conservation, is critical important for us to achieve our environmental and conservation objectives. Thank you.

Ms C LABUSCHAGNE: House Chair, thank you Minister, for the answer. In your answer you are referring to various working groups and also you referring to air quality. My follow up question is based on that the health and wellbeing of our people around the country is compromised by the failure of the department to coordinate effectively with local government to ensure compliance with health

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base national ambient air quality standards. What measures is the government taking to ensure that municipalities or local governments have enough money, as well as dedicated appropriately trained and skilled staff, to ensure proper monitoring and compliance with the standards?

THE MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): That is one of these challenges where functions are given to various spheres of government and the concurrent nature of responsibilities. There is a clearly defined responsibility that local government assumes when it comes to air quality and air pollution. It is a much more general challenge. The capacity of the local governments to carry out their various mandates, and so local governments given that this is one of their responsibilities should budget for it accordingly and should develop the capacity. Having said that, the National Department of Environmental Affairs and provincial departments are not exempted from this, they should take it upon themselves to provide the necessary support and to do monitoring compliance. Linking it to the first question, you as members of parliament you are working through out the country, you therefore have to do your own monitoring and where you have cases where a local government is not complying or not performing its task adequately, your task or responsibility, I am inviting you to do so,

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that in the first place bring it to the attention of the MEC and secondly, at this stage, to the Acting Minister of the environmental Affairs. Thank you.

Question 271:

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): Hon Chairperson, the answer to the question is yes. As a signatory to the Paris Agreement, South Africa is still committed to meeting its targets, as stipulated in the country's nationally determined contribution, known as NDC. No, Minister Mantashe, not NEC, NDC. Nationally determined contribution. It is very important. [Interjections.] Give it to her! Give it to her! Given yesterday's comment, that was very chaffed.

In answering the second part of the question, yes, the government is still committed to the targets of the agreement of curbing greenhouse gas emissions. In relation to mitigation, South Africa's emissions by 2025 and 2030 are proposed to be in the range of between 398 and 614 megatons of carbon dioxide, as defined in the National Climate Change Response Policy - the benchmark against which the efficacy of mitigation actions will be measured.

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As far as adaptation goes, South Africa has committed to the following targets: firstly, developing a national adaptation plan and beginning to operationalise it as part of implementing the National Climate Change Response Policy for the period from 2020 to 2025 and for the period 2025 to 2030; secondly, building the necessary institutional capacity for climate change response planning and implementation for the period 2020 to 2030; thirdly, developing an early warning vulnerability and adaptation monitoring system for key climate vulnerable sectors and geographic areas for the period 2020 to 2030, and reporting in terms of the national adaptation plan, with rolling five-year implementation periods; fourthly, developing a vulnerability assessment and adaptation needs framework by 2020, to support a continuous presentation of adaptation needs, and communicating the past investments in adaptation for education and awareness as well as for international recognition.

The climate change adaptation strategy, which is currently being finalised will firstly, provides for fulfilment of the rest of the nationally determined contribution targets, by making provision for the implementation of institutional capacity at all spheres of government and sectors of government, including organisation outside government.

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Secondly, guide the implementation of climate change adaptation into various sector policies, strategies and programmes, and this will facilitate the mainstreaming of climate change adaptation.

Thirdly, provide for the development of the vulnerability framework. This work will build on the work already done with various sectors that had done vulnerability assessment for that sector with the support of the Department of Environmental Affairs and the work done in partnership with the Department of Water and Sanitation on the Vulnerability Assessment Framework for the nine water catchment areas.

Fourthly, provide an anchor for developing an early warning system. In addition, the department is also developing the National Framework for Climate Services, which will enable South Africa to develop the capability for an early warning system to be implemented and to support monitoring and evaluation.

Part of the work on early warning is being demonstrated on some projects funded through the adaptation fund for example the Umngeni Resilience Project.

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Fifthly, to fulfil other obligations, including developing capacity-building and awareness and tracking of climate investment, as part of the climate change monitoring and evaluation work. Thank you.

Mr F ESSACK: Chairperson, hon Acting Minister, why does your department repeatedly give Eskom exemptions from greenhouse gas emission targets without setting conditions and clear limits on such exemptions, including firm time frames for compliance? So, what, in essence, I am asking is, will you then commit to enforcing compliance by Eskom without further delay?

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): I suppose that you will bear with me knowing that I have been in this position for the last few weeks only. I am not aware of what you raise with me. So, I would appreciate more information. I am not aware. I heard some murmurings from my leader on my left that Eskom has been exempted from emission targets. If you have more information, please forward that to me. For us, it is not negotiable. Unless there is a good case for exemption, compliance is not negotiable, whether it is compliance by a state-owned company or compliance by the private sector. In the event that you have information that I am clearly not aware of, please forward it to me,

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so that I can give you a proper and adequate written reply or even have a discussion. Thank you.

Ms T MOTARA: Chair, hon Minister, what is the relevancy in terms of the 2011 declaration in Durban? Does it speak the same language as the indigenous people's declaration in terms of mitigation? Thank you.

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): I am not supposed to answer a question with a question. Maybe, the hon member can just elaborate a little bit to help me understand exactly what she is interested in.

Ms T MOTARA: In terms of the Paris Agreement, do municipalities, as the sphere of government that need to play a role, also contribute in terms of their own declaration that they actually agreed to.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon members, I guess that you know that you are out of order.

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): The best way for me to provide the hon member with a response is to give a three-word answer - I don't know. I will make

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it my business to find out because off the cuff, I simply cannot answer that question. I am not quite sure what declarations local governments were meant to have made following 2011. So, as I stand here, I am not able to answer the question. Again, the same thing, I will get the answer to the member in writing.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Thank you very much. Maybe, one must bear with the Acting Minister. There will be certain things that he will not be able to respond to in confidence, in detail, and there are things that he might not know, as yet. As he continues acting, he will then be able to dig out some other things and understand them better.

Ms T J MOKWELE: We acknowledge that the hon Minister is acting, but I assume that there is a Deputy Minister. Maybe, it would have been appropriate if the department sent a person who has knowledge.

Remember, we agreed that the aim is not to humiliate Ministers or Deputy Ministers, but it is advisable that when the executive sends people to the House, it must be people that will be able to assist with our oversight. So, we will appeal that Minister ...

*Setswana:*

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... re tla go itshwarela ka sebaka seno mme o itsi fa motlatsaTona a ka bo a fana ka dintlha tse di maleba. Modulasetilo, ke rata go tlhagisa ntlha ya bobedi gore motl Nthebe ...

*English:*

... is not always there. He only came to vote and now he is gone. So, he is not aware of most of the things that are happening in the province. Just note it. It is fine.

The DEPUTY CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES: Hon member, when you rose, you rose on a point of order. Therefore, my ruling or response will be based on a point of order, not on a statement that you made. I am not going to carry that point of order. As presiding officer, I would appeal that whatever happened with the delegation of the North West, should not be dragged into the issues of the North West.

The first part of your concern is not necessarily a point of order. There is a difference between a point of order and raising a concern. We know the structure of our executive and how the executive is structured in the absence of delegated Ministers, and that someone then takes authority in that particular Ministry. I don't want to reduce this sitting into a workshop where we will

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discuss how the executive is structured, the functions of the executive in the absence of the executive authority and who then takes authority and so on. So, once more, your point of order is not carried; rather a note in the form of statement or concern. We will then proceed with that understanding because I did not hear any objection.

Question 266:

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): Chairperson, let me just say that the hon members, especially those that are working on environmental matters, will probably be aware that there is a host of legislative institutions and even more regulations. Even if I am in the portfolio, I don't think it is a matter of being humiliated. I am not! I think it is better for any Minister to say: Look, you know, I actually don't have that information. It is not a humiliating thing to say rather than try to stumble and trying to pretend that you know something, yet you don't know.

You can be in this portfolio for two or three or ten years and there will be some things that you simply won't have information on off the cuff. Having said that, the reply to this question is: Yes! The department can confirm that there are plans and actions being

undertaken by the Department of Environmental Affairs to review and amend Chapter 6 and other chapters of the National Environmental Management: Biodiversity Act in order to ease compliance with the Bioprospecting Access and Benefit-Sharing Permitting System.

If anyone here is an expert on the Bioprospecting Access and Benefit-Sharing Permitting System, put up your hand. This is because it illustrates my point. It is complex. There are many areas that we are working on. No Minister will be an expert on all of the areas. No director general will be an expert on all of these areas. However, they all are very important. That is why we have teams of experts working on these areas.

This review that we are talking about will also assess whether the National Environmental Management Biodiversity Act, which is informally referred to as Nemba, is achieving the desired objectives, namely: Identifying areas needing improvement; to ensure effectiveness of the implementation of its provision; and to address gaps that affect compliance.

So far, the review process has constituted stakeholder engagement to solicit inputs in the amendment process. This is the amendment to the National Environmental Management: Biodiversity Act. The

engagement includes provincial authorities, as they are responsible for some aspects of permitting. The Department of Environmental Affairs prioritised bioprospecting in its biodiversity economy strategy, the Operation Phakisa approach. I think you would probably know that there are a host of economic opportunities that lie in bioprospecting.

The bioprospecting segment on this work identified initiatives to increase both the demand and supply, as well as highlighting the importance of enabling legislation and improved efficiencies in bioprospecting permitting. The draft National Environmental Management: Biodiversity Bill has been referred to the Office of the Chief State Law Advisor, Ocsla, for certification prior to further processing.

Subsequent process will focus on the amendment of the current Bioprospecting Access and Benefit-Sharing Regulations in order to give effect to the new provisions that are aimed at easing compliance with the Bioprospecting Access and Benefit-Sharing Permitting System. The department has appointed a team of experts and transactional advisors to assist in the evaluation of biotrade and bioprospecting permit applications.

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The main aim is to ensure fairness in benefit sharing models, especially the protection of indigenous and local communities who are the custodians of indigenous biological resources and the associated traditional knowledge. Thank you.

Mr O J SEFAKO: Hon Chair, hon Minister, you have indeed succinctly responded to the question. However, I will be making a follow up, as to whether: If the Act is not amended, is it not negatively going to impact on rural communities, who in majorities depend on their knowledge system, particularly on the utilisation of a variety of merogo [spinaches], therapeutic and medicinal plants? I am however covered though and thank you very much.

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): Chairperson, this matter of indigenous knowledge - the protection and recognition of indigenous knowledge, as it happens - it is a matter close to my heart. The Department of Environmental Affairs will have to liaise closely with communities because of copyright issues in some cases and the due recognition of indigenous knowledge, which is not so easy by the way because the knowledge holder is not that easy to identify.

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Very often the knowledge which has been held for a very long time in a community or amongst a group of people is actually stolen by others and no benefits flow to the community that held their knowledge originally. It is sometimes quite difficult to say who the original holders of that knowledge are. Be that as it may, the liaison with Trade and Industry and Science and Technology is critically important because we believe that the indigenous knowledge that we have in our country can be translated into commercial benefit.

It becomes our first challenge to ensure that products are produced, flowing or arising from our indigenous plants, our indigenous animals and the indigenous knowledge which is held, and that the necessary protection is given to the knowledge holders, if they are clearly identified.

So, the first thing is to commercialise it and the second thing is to make sure that the benefits flow to the knowledge holders and flow to the local communities, as much as possible. Thank you.

Ms C LABUSCHAGNE: Chairperson, Minister, I know that this question might be a little bit unfair but let us try. You refer to the experts that are brought in by the department, and you refer also to

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the indigenous knowledge. I know that there is a Bill being passed which will become an Act on the protection of the indigenous knowledge.

However, I would like to know: Do you have the knowledge if the department conducted or commissioned a study to assess the extent of the contractual commitments of permit holders to grant access to and transfer of technologies necessary for the consideration and sustainable use of biodiversity to the stakeholders they partner with; and to confirm whether these essential transfers are in fact happening and providing the anticipated benefits to local stakeholders under the United Nations Convention on Biological Diversity?

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): Yooh! Yooh! I mean yooh again! Your question is quite a mouthful, but essentially it is about: Whether I am aware of the work done by the team of experts in the areas that you then go on to list; whether the contractual commitments and transfers of technology are happening; or whether the department or these experts have made it their business to scrutinise that environment and to see whether in fact this is happening.

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Again, the answer is that I wouldn't know the full spectrum of work done by these teams of experts, but we can certainly find out. The issue is an important issue though, bearing in mind that what we are talking about here is the amendment of the Bill or to the Act.

So, it will come to you eventually in any even, having gone through the processes.

As I said, it is with the Office of the Chief State Law Advisor at the moment, and then it will go through the other processes.

Ultimately, it will lend up with you and you will be able to put all of these questions to the officials that have worked on the amending Bill and identify any shortcoming in the Bill.

I think the question is a good question and I have certainly replied. If you can just understand because I was just trying to capture your question as you were saying it. Couldn't you just give it to me in writing so that I can then interact with the department on the full details of your question? Thank you.

Question 278:

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): House Chairperson, the question has to do with again with

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the compliance by South African National Roads Agency, Sanral. So, it is a compliance issue once more and the answer is that at this stage is unclear why there has been noncompliance to certain conditions of the environmental authorisation.

The representation which the Sanral is allowed to submit in response to the pre-compliance notice recently issued, should provide and indication on the reasons for the lack of compliance. Now, this is the answer that I get, but clearly in reading in the reply is that, that is already a given that there seems to be evidence that there wasn't compliance. What we want to find now is what were the reason and get the representations from Sanral.

So, the second part of the question goes as follows: the noncompliance by Sanral were initially investigated by the compliance team in the department and the matter was then referred to the enforcement chief directorate to take enforcement action and enforcement notice as contemplated in section 31(1) of the National Environment Management Act 107 of 1998, has been prepared and recently issued to Sanral.

In order to undertake this process, the department must comply with the provisions of the Promotions of Administrative Justice Act 3 of

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2000, as well as sub-regulation 8(2) of the Environmental Management Inspectorate, EMI, regulations by providing Sanral with an opportunity to make representations in response to the allegations of noncompliance, as well as the intended instructions prior to moving forward with further enforcement action.

In other words, enforcement action is being contemplated, but there is an opportunity ... bye my dear. Oh, you know I told her yesterday how much I love her. Now, she just walks out on me. Can you imagine? [Laughter.] So, I mean clearly to put it in simpler words, yes, there is evidence of noncompliance, but before any enforcement action is taken, opportunity is been given to Sanral to respond and to explain why there were noncompliance.

So, the decision as to whether and also what type of final enforcement action will be taken is dependent on various factors such as the submissions that were made by Sanral in response to the enforcement notice and whether not the areas of noncompliance have been addressed. So, we are waiting for the response from Sanral in this regard. Thank you.

*Xitsonga:*

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Man B T MATHEVULA: Ndza khensa Mutshamaxitulu na Holobye hikuva ndzi hlamulekile.

Question 272:

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): House Chairperson, the question is raised to the mandate of the department in various areas, the extent to the mandate and what are the limits to the mandate and the answer is as follows: the mandate of the Department of Environmental Affairs relates to firstly, to the maintenance of safe healthy and sustainable managed environmental and natural resource base through the development and implementation of swift of policy and legislative tools as well as mechanism that are aimed at ensuring the conservation protection and sustainable utilisation of biodiversity and ecosystems in line with provisions laid out in section 24 of the Constitution.

Secondly, it is the protection of our rich species, ecosystems and natural heritage are addressed through specific legislation that has been developed under the framework National Environmental Management Act 107 of 1998, namely the National Environmental Management Protected Areas Act 21 of 2014 and the National Environmental Management Biodiversity Act 10 of 2004.

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The National Environmental Management Protected Areas Act 21 of 2014 is aimed at providing for the protection and conservation of ecologically viable areas that are representative of South Africa's biological diversity. This objective is accomplished as most members would know through the declaration and management of protected areas in a form of national parks, special nature reserves, marine protected areas and protected environments.

These identified areas are protected to ensure a fair representation of the diverse biomes of South Africa. The biomes are the vegetation types in the form of fynbos, grasslands, savannah, forests, succulent karoo, ebony thicket, Nama karoo and Indian Ocean Coastal Belt.

This legislation also establishes South African National Parks, SANParks, a state-owned entity responsible for the management of the twenty one national parks and across the landscape of South Africa and the provincial portfolio protected areas which comprise about no less than 1359 registered nature reserves that are managed through provincial conservation management authorities and agencies.

A national system of registration, declaration and performance managing exists to ensure effective management. This is affected in

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the context of limited resources available for conservation and natural resource management. I think in by and large we can say with some pride that our country is doing a very good job, when it comes to the conservation of our environment and our natural resources.

The National Environmental Management Biodiversity Act 10 of 2004, Nemba, provides the legal foundation to enforce international biodiversity related multilateral environmental agreements in South Africa and to regulate the trade in threatened and protected species, alien and invasive species and bioprospecting access and benefit sharing, which we spoke about a moment ago.

Nemba strives to provide for the management and conservational biological diversity within South Africa and of the components of such biological diversity, the use of indigenous biological in a sustainable manner diversity within South Africa and of the components of such biological diversity, the use of indigenous biological resources in a systematically manner and the fair and equitable sharing amongst stakeholders of benefits arising from bio-prospecting involving indigenous biological resources.

Nemba provides for cooperative governance in biodiversity management and conservation and establishes a scientific authority as well as

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the South African National Biodiversity Institute, SANBI, which is responsible for all of the beautiful wonderful botanical gardens we have in our country to assist in achieving the objectives of Nemba.

The World Heritage Convention Act 49 of 1999, provides for the incorporation of the world heritage convention into South African law, the enforcement and implementation of the World Heritage Convention in South Africa, the recognition and establishment of World Heritage Sites, of which we now have ten, the establishment of authorities and the granting of additional powers to existing organs of state and the powers and duties of such authorities, especially safeguarding the integrity of our World Heritage Sites.

The Department of Environmental Affairs is also mandated to give effect to the right of citizens on an environment that is not harmful to their health or wellbeing and to have the environment protected for the benefit of present and future generations.

The extent of this mandate includes; national protected areas, terrestrial and marine, world heritage sites, national botanical gardens and ramsar wetlands of international importance. This mandate extends to the management of ecosystems that are outside

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designated protected areas as well and also the protection of species of plants and animals.

This mandate is managed within the context of concurrent competency with provincial conservation authorities. The national department sets national norms and standards and provides a uniform approach to issues of national and international importance. I am nearly finished. There are also numbers of external considerations at that affect the mandate of the department. This results from other economic factors such as mining, water and agriculture, forestry and fisheries, where they are interfacing mandates for natural resource management.

In addition, the biggest drivers of biodiversity loss, namely; land use change, climate change, land degradation, poaching, wildlife trafficking, alien and invasive species also create limits to the effectiveness of policies and strategies developed and implemented by the department. Thank you.

Ms C LABUSCHAGNE: Chairperson, you had a very comprehensive outlay of the mandate of the department and in your answer you specifically referred to a few things that are very important about limited resources, about the protection of species and the environment for

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the current and future generations and a unified approach between various sectors and national and international and on various levels.

Now, the background for this follow up question is a court case and the question here is, why is the department of environment at the moment abdicating the responsibility as a custodian of our environment and species conservation in particular living civil society organisations to bear the cost of litigation against the decisions of the Department of Agriculture, Fisheries and Forestry, that threaten to the continued sustainability of our marine resources and the reference here is the case that the world wildlife forum had against the quotas issued by the Department of Agriculture, Fisheries and Forestry on the West Coast Rock lobster quotas that is on the mining, the stokvel and endangered species?

This is the issue that has been driven by various organisations for long and it ended up being a court case that the department lost. Now, there are a lot of questions and yesterday or previously, in the question session on the Department of Agriculture, Fisheries and Forestry, there was a question about small scale fishers and fishing quotas and all this things. This is why I am asking this question.

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Why is the department abdicating their custodian role and why they don't interfere where it is necessary? Thank you.

The MINISTER OF TOURISM (ON BEHALF OF THE MINISTER OF ENVIRONMENTAL AFFAIRS): Chairperson, no, I accept that as valid question. I suppose the response is that the department is not abdicating its responsibilities and the department is not responsible for the implementation of the total allowable catch or the fishing quotas as they are known.

I don't mind the follow up question at the moment. That responsibility did reside with the Department of Environmental Affairs previously. I think there is policy question here, because if you just reflect for a moment, the responsibilities of the department of Agriculture, Forestry, and Fisheries. What kind of fisheries would constitute almost an agricultural related or productive activity and that will be essentially aquaculture where it is fish farming if you like. The fish that are found in our ocean or the marine life essentially it is not dissimilar from the terrestrial animals if you like and the conservation of wild life on the land.

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So, if the Department of Environmental Affairs takes responsibility, as we had recently announcing twenty marine protected areas takes responsibility for our maritime biodiversity plant and animal life, fish and mammals and plants in our coastal areas and in our oceans, then we to have the power to ensure that, the quotas are carefully determined that will not result in the diminishing of that resource.

On the West Coast Rock lobster, as it happens I had a discussion with the World Wildlife Fund, WWF, Morné du Plessis, this morning, so, I am sort up in being kept abreast of the situation. It is critically endangered now. So, we have gone way beyond the stage, where it has just been over harvested and I use the word harvest, because that what it is as opposed to fish farming where you produce the fish. So, we are harvesting the fish quotas and the scientific allocation of quotas is practically important, otherwise you will get what you are seeing with the West Coast Rock lobster crayfish.

The court case against Department of Water Affairs and Forestry, Dwaf, I can't really comment on it. The Dwaf will have to respond to that, but I would assure the hon member Labuschagne that I will have a meeting with my counterpart, the Minister of Agriculture, Forestry and Fisheries in the near future, because this is one part of it. The other part of it is the depletion of our marine resources not

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through inappropriate allocation of quotas, but through poaching. The poaching of abalone, for example is happening with impunity and they are links to organised crime and drug dealing if you like.

So, that requires strong enforcement, strong application of law because that is illegal, whereas the quota allocation are done within a legal framework but should be guided by a scientific authority and by proper research and of course it is well known that what we are seeing now is over harvesting of many of our fish species, including crayfish.

So, it will be the subject I think of an engagement between me and the Minister, but it is not abdication of responsibility that resides with the Department of Environmental Affairs. It is of concern to environmental affairs. There is a court action against Dwaf. So, Dwaf will have to respond to that court action, but a discussion with my colleague responsible for agriculture, forestry and fishery will happen in the near future. Thank you.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members, allow me on behalf of the leadership of the NCOP to thank the Minister Hannekom who is the Acting Minister of Environmental Affairs for availing yourself to take questions in the NCOP. Thank you.

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Question 256:

The MINISTER OF MINERAL RESOURCES: Hon Chairperson, when there is a notice for retrenchment sections 51 and 52 of the Mineral and Petroleum Resources Development Act, MPRDA, gives us the authority to intervene. That intervention is not limited, it includes the question of withholding the right if you go to section 51. However, what is important is not to look into that section in the first instance. The first thing is that, once the right owner gives us that notice, the notice is referred to a board which is set in terms of these two sections. That board should look and scrutinise the reasons for retrenchments and make recommendations to the Minister.

When you make those recommendations, in section 52, the ordering is a little bit awkward in the sense that it allows the rightful owner to start with section 189 of the Labour Relations Act, and then section 52. Our view is that, by the time it comes to section 52 it is late in the process. We prefer that mining companies notify us at the same time and engage us at the same time as they deal with section 189 because that intervention make recommendations which becomes enforceable once the Minister communicates it to the right owner in terms of what to do. Most of the time the recommendations talk to remedial actions, for example, if a company want to retrench in terms of the cost structure, it may recommend that a smaller

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company with less overheads may be given and subcontracted to operate a section.

Basically, the actions that we recommend are to help a company to survive and go through that period. However, more important to us is that those interventions do not necessarily become full proof in terms of people being retrenched. In our view is that, that is the nature of the industry that it has a lifespan. When the mineral is mined out mining does stop or gets scaled down but we must scrutinise if the pace and the amount is a necessary one. So, we do intervene in those situations. We are receiving a number of section 52 applications from a number of companies and recommendations from the board.

Mr O J SEFAKO: Hon Chair and hon Minister, thank you. My follow-up is, are there any mechanisms that create the awareness of the plans so that certainty, reliability and predictability can be created? This awareness should be it to the mineworkers as well as the mining bosses. Thank you very much.

The MINISTER OF MINERAL RESOURCES: In the industry the lucky part of it is that it is a highly unionised sector. The unions have a responsibility to raise the awareness to its members. That is why it

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is easy for us to communicate with the various unions when these notices are issued and try to compare notes because they are dealing with the same problems in terms of section 189 of the Labour Relations Act, as we deal with it in terms of section 52. That communication between us and the unions is raising the awareness. The number of section 52s that we are receiving indicate to us that that awareness is on the rise because we have a responsibility to ensure that you don't retrench workers for petty issues. There must be real reasons for that and they must be tested. If the mineral is mined out you can't do much about it. But if you want to cut costs as the primary reason, then you must be interrogated and be made to account fully for your reasons.

As you know, we are currently sitting with two of those section 52s from Impala and Goldfields. One of those companies is quite co-operating with us. It is dealing with issues in details. The other one is reading the law, it says we will talk to you after we have dealt with section 189. This is where we are actually looking at very closely and use the provisions of the Act to withdraw a licence if it is reckless.

Ms C LABUSCHAGNE: Minister, thank you for that answer. I want to ask and say that there are various factors and reasons for retrenchments

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in the mining industry, and we all know it. Automation is one of them and will inevitably lead to more retrenchments as technological advances make it possible to perform mainly unskilled labour as they are faster and cheaper. This will worsen the threat posed by unemployment, poverty and inequality in South Africa. Has the government or your department made any attempts to foster partnerships with countries that have advanced extractive industries to facilitate skills transfer programmes as a means of avoiding retrenchments and of ensuring that more South Africans are qualified or skilled work in the mining industry?

The MINISTER OF MINERAL RESOURCES: Hon Labuschagne, naturally, technology should not pose a threat to employment because its an advancement. If you trace it back it has never translated into being a threat to employment. However, it requires skilling of workers and prepare for the advancement of technology. The trend in South Africa is to use it as a threat that we are going to retrench you because there is new technology. That is reckless management from where I am seated. Rather than to say that we are going to introduce this kind of technology and these are the opportunities for retraining and reskilling, prepare workers for these new technologies.

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Mining industry is not the same in South Africa. If you go to deep gold mines, for example, it is very difficult to highly mechanise it because of the shallowness of seams, but if you go to the collieries, copper mines, manganese and iron ore those are highly mechanised. That is why one site of a company will employ about 18 000 in a coal mine and employ 3 000 in a colliery because collieries are close to the surface and most of them are open cast and they are highly mechanised. From where we are seated, that does not pose a threat. It enhances productivity but the benefits out of that productivity should be invested in growing the economy and the mining industry. But if you put that as a threat, you are going to cause a lot of problems and anxiety among the workers and begin to develop an attitude that sees technology advancement as a threat. It is the language that management is using in projecting technology advancement as a threat to employment, and it should not be. It should be accompanied by reskilling and workers should be prepared for the new technology.

Ms T K MAMPURU: House Chair and hon Minister, does the department have a plan to create positive working relations with mind in a bid for collective economic revival and development of the country? How does the mining industry respond to that?

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The MINISTER OF MINERAL RESOURCES: The environment in the industry has changed dramatically over the last seven months, precisely because we made it our business to engage the industry, talk to them and make them appreciate that we are an economic sector that should contribute to the economy positively. However, it is only positive when we work together, but if we pull to different directions the industry itself pays the price. The environment is there and the relationships are warm. I would imagine that if you have monitored last week's investment conference, you would have seen the positive contribution of mining which would not be the case a few months ago. All of them are positive and they want to come and contribute positively to the economy. That is the work of talking together and appreciating that we are in the sector together.

Ms E PRINS: Hon Minister, does the department create a platform for the mines and other stakeholders to share their challenges, success stories and commit to assist or bail out one another for sustenance in the industry?

The MINISTER OF MINERAL RESOURCES: I haven't heard that question.

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The HOUSE CHAIRPERSON (Mr A J Nyambi): The question is about mines sharing the challenges and lessons so that they can share their experiences.

The MINISTER OF MINERAL RESOURCES: My understanding of the Minerals Council South Africa is a body of mining companies. They are organised into that. Now it has been extended to cover even junior miners in the membership. There is also some on the other side which is organisation of small scale mining. The purpose of such bodies is sharing of experiences. We meet them regularly so that we also participate in the sharing of those experiences.

Question 273:

The MINISTER OF MINERAL RESOURCES: If you go to section 3 of the Mining Charter that is dedicated to junior miners, you will find that the section is actually categorising junior miners into those who have a turnover of less than R10 million and those who have a turnover of between R10 million and R150 million. All of those is that ownership has been left undefined in both categories. The reason for them to be left undefined is that we wanted to give junior miners a scope to be part of the economy and grow. Once they grow to a particular level, then they will be required to comply

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with the requirements of the Mining Charter. The current Mining Charter has a section dedicated to junior miners.

Ms C LABUSCHAGNE: Thank you very much Minister for the answer and for that reassurance that the case of junior miners has been looked at, as we know that the job crisis in our country is very big and the unemployment rate, especially under the youth, is more than 35%. I would like to know from your side as the Minister with regard to the charter: "How would you as a Minister of Mineral Resources guarantee and ensure greater investment and job opportunities for the South African junior miners taking into consideration the investment and the job summit that the President referred to?" Thank you.

The MINISTER OF MINERAL RESOURCES: I think that to be a junior miner is not a destination; it is a state in development. So, as junior miners are in the industry, they grow their business and will graduate from being junior miners to major miners. Our responsibility is to create an environment for them to grow; that is why in the charter we have made specific provision for junior miners. Our view is that they should grow and outgrow junior miner status and be big miners. Our view also is that major mining companies are big today because they have grown and have merged and

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acquire other mines. These junior miners should be supported and we should create an environment for them to operate; that is why we have created that section in the Mining Charter to ensure that they create a conducive environment for them to grow - but they cannot be left totally unregulated. The regulations should be helping them to grow. [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Don't worry, hon Minister. Hon Mlambo, you are protected.

Mr E M MLAMBO: Thank you hon House Chair. Minister, to what extent is the new Mining Charter promoting the attraction of other new business sectors of mining and encouraging the sustainability of emerging miners and how is it preparing the disadvantaged for the Fourth Industrial Revolution?

The MINISTER OF MINERAL RESOURCES: With regard to the Fourth Industrial Revolution, I always tell people and I want them to understand this, there is no technology that exists outside of mining, every technology is based on what is mined or planted, it doesn't matter what it is. The mining industry must prepare to be a player and a driver of the Fourth Industrial Revolution, but even if it runs for cover, it is going to lose that opportunity. Let me give

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an example of a small mineral that nobody pays attention to, which is called fluorspar. It is very small and it is an industrial mineral. If you have a telephone in your hand, you have fluorspar in it, and if you have a TV in your house, you have fluorspar in it.

There are quite a number of those industrial minerals that actually contribute to the advancement of technology and therefore mining will be at the core and at the heart of the Fourth Industrial Revolution. It must just prepare for it, not only to provide and be a supplier, but to also position itself to be a beneficiary of the Fourth Industrial Revolution - which is a technological advancement, that is all it is ...

Question 257:

The MINISTER OF MINERAL RESOURCES: That is the question about Xolobeni whether we are prepared to help in addressing the disputes in Xolobeni. Xolobeni has got interesting case study. In three years time or in 10 years time sociologist will write volumes about it because Xolobeni is not a problem of mining, it is a problem of development. It is Ward 25 of Bizana; it is the poorest ward in that municipality; it is sitting on a mineral deposit; and it has no access. Therefore, what is needed in Xolobeni is not just the mine; it is a developmental strategy that will include mining access. For

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example, many people who talk about tourism as standing against mining are missing the point that you cannot have tourism and there is no access. Roads are bad and you can't access the area. Therefore, at this point in time it needs to be developed and that development should include mining.

*IsiXhosa:*

Nks T WANA: Sihlalo weNdlu, umbuzo olandelayo uthi, njengokuba phaya kwiwadi yama-25 phaya kuMasipala wesiThili sase OR Tambo, eMbizana abantu besilwa, sithini isicwangciso sokuqala phambi kokuba kombiwe? Kuyafuneka ukuba abantu aba, bakhe bayiqonde le nto bajongene nayo. Ingaba isebe lizakuthatha iminyaka emingaphi ukomba phaya? Sithini isicwangciso sikarhulumente kula nto yombiwa phaya? Kunganjani ukuba ingalungiswa apha ekhaya ukuze ithi ithengiswa ngaphandle ibe seyigqibelelele. Kaloku kwimihla yangaphambili bekusombiwa kulomhlaba woobawo ze izimbiwa ezo zithunyelwe komaBritain njalo, njalo. Enkosi.

The MINISTER OF MINERAL RESOURCES: The hon member is referring to beneficiation but let us not start there. Let us start by saying that mining in Xolobeni will be mined when people are ... at this point in time there is no mining license that has been issued for Xolobeni. Many people talk about mining in Xolobeni, there is no

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license yet. There is exploration licensing that is there and that company is expected to consult with the various people in that community. One of the issues that many people are asking is that, have you talked to people of Xolobeni. Did they ... [Inaudible.] ... at Xolobeni. We actually talked to nine organisations that spoke for themselves not the TV in the meeting, and only one objected to mining is called Xolobeni Crisis Committee.

We will be meeting that crisis committee in November. We are having a meeting we are setting up with the crisis committee so that we can talk to them to understand that mining is not under tourism. Now, once we produce that mineral it should be beneficiated. If you want to understand go to Richards Bay mineral. It hasn't get exported as send, it gets processed because the nature of the mineral is not like magnesium coal where you put it on the ship and export it. You add value to it. Therefore, in Xolobeni the logic is that value will be added to the mineral before it is exported.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Thank you. Hon Koni, refrain from a disorderly behaviour. Hon Mokwele, you are the second in the supplementary question. Hon Mokwele!

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Ms T J MOKWELE: Hon Chair, through you to the Minister, I understand that the issue of Xolobeni and the issues of Bakgatla ba Kgafela and Bakwena ba Leema in Moses Kotane Local Municipality are almost the same in terms of disputes on their land and their access to their minerals and those that are illegally mining in their land. Now, I want to check with you because earlier last month, October, there was a court order that was ordered in terms of Bakgatla ba Kgafela on the issues of minerals and land. What is your department intending to do in assisting the community of Bakgatla ba Kgafela together with Bakwena ba Leema. I know Mama it is the same, that is why I made a reference to Xolobeni and Bakgatla ba Kgafela. They are the same thing. Thank you.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele! Hon Mokwele! No, hon Mokwele, don't entertain.

Ms T J MOKWELE: Okay, thank you.

The MINISTER OF MINERAL RESOURCES: I'm answering that question because it is important to clarify society on the outcome of that court order because people who want to be emotional about it distorted. That court order is in line with the law. If you go to section 54(c) of the Mineral and Petroleum Resources Development

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Act, it says that no person must prospect for remove, mine, conduct technical cu-operation operations, reconnaissance operations, explore for and produce any mineral or petroleum or commence with any work incidental thereto on any area without - I will review only one section (c) - and it says notifying and consulting with the land owner or lawful occupier of the land in question.

Therefore, what the court order did was just to affirm the law, the Mineral and Petroleum Resources Development Act. That is what it has done. All we need to do is to ensure that ... and actually in our visit to all the major mining regions which we have done, we have been to every major mining region physically and talked to people. One of the ... [Inaudible.] ... came out of that tour was that mining companies don't talk enough to communities. We have gone back to the Mineral Council South Africa and said to them, if you don't address this issue it is going to come back and bite you, and in the same process it came to us as the department that you are equally not engaging communities enough. We are correcting that that is disposition. Therefore, that judgement is actually just affirming the law as it stands. That is all it did.

*SiSwati:*

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Mk L C DLAMINI: Sihlalo lohloniphekile, Ngibonge kuNgcongcoshe ngetimphendvulo takhe.

*English:*

Hon Minister, when there is such development in areas ...

[Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Can you have the microphone very close to you so that you can be audible, hon Dlamini?

Ms L C DLAMINI: Okay. The expectation is that local communities benefit from such development to avoid accumulation by disposition. Then, in the light of that I just want to check that in the light of the need for South Africa to explore all the avenues for the economic stability and to address triple challenges that includes inequality, poverty and unemployment phased by our people; how soon can we expect that Xolobeni project to benefit our people?

The MINISTER OF MINERAL RESOURCES: In the current charter which I would encourage members to read, I'm encouraging you to read it because if you don't read it you are going to deal with it with ... [Inaudible.] ... 2.1.4 of the charter talks about equivalent benefit for host communities. It is a new provision. That is why in this

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charter we have actually said that there must be a carried interest for workers and for communities that is equate total of 10%, five-five. ... [Inaudible.] ... that you build that into the new charter is because the past charter was silent on that and we only depended on the social labour plan for the benefit to communities. Today we have that equivalent benefit. This is the carried interest plus the social labour plan. So, that is talking to those communities because in the past we were silent and therefore there was nothing specific that was done in those except the social labour plan which becomes a major point of conflict. Now, we are adding the equivalent benefit to the social labour plan.

Ms C LABUSCHAGNE: Hon Chair, I think a lot of the other hon members covered some of the questions, but I think it is good that we really finalise and thrash out this issue. You as the Minister referred to the fact that in your going around to mining communities you have found that the companies are not talking enough to communities. The high level report found that mining communities surrounding mining areas are not necessary in power to negotiate in the process prior to all on ongoing basis subsequently resulting in the lack of job opportunity sometimes in loss of their existing livelihoods as well as being excluded from opportunities to share in the downstream beneficiation of the mining activities.

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Minister, you referred now to the equivalent chairing and the current interest that will have to close that gap. That does not mean that it will happen because the social and labour plans were there for many years and it was not implemented, so there is still a gap. What are you giving us as an undertaking as a Minister that the right of the state as the owner of the mineral wealth at this moment will not be more important than the livelihoods and security of the communities like those of Xolobeni.

The MINISTER OF MINERAL RESOURCES: Hon Chairperson, this sector called mining is normally dealt with attitude which is negative. It is seen as a curse than a blessing. It is a blessing. To be endowing with mineral resources is a blessing. If you go to the Royalties Act, there is not a single mineral that pays royalties that are equal to 5%, not one. It means that what goes to the state as the owner in the form of royalties is very minimal compared to the carried interests that we have now provided for. That gives you a sense of understanding that we are putting communities at a higher level.

However, what we should also appreciate is that as we give all these benefits to communities there is another issue that should be attended to. Those benefits translating into conflict in the

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community structure themselves or the committee that was there to represent the community since what accrued to the state trying to grab and run it or conflict between traditional leaders and those communities. That is a dynamic that we are discussing with Co-operative Governance and Traditional Affairs to deal with because if we don't address it these benefits are going to fizzle to thin air because you need community to be organised and to have information to be able to know exactly what is actually rightfully belonging to them, and what can accrue to them? Therefore, when engaging they must engage from the point of information. That is the issue that is why when we talk to workers we talk of a carried interests. When we talk to community we talk of equity equivalent benefits because at this point in time we want to engage communities and they have options in structuring the benefit that accrued to communities.

Question 279:

The MINISTER OF MINERAL RESOURCES: Hon Koni is asking about consequences for mines that do not comply; whether any mining licences have been withdrawn as a result of noncompliance.

Now, you see hon Koni has a mind ... a particular attitude that mines must be closed. [Interjections.] Yes, yes. We are not in the

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business of closing mines. We are in the business of ensuring that mines operate. Okay? That is our business; that mines operate.

The withdrawal of licences will be the ultimate last resort. That's why, when there is noncompliance, one of the things we do is to give a relevant company notice in terms of section 93 ... that ... listen, you are not complying. Correct your noncompliance. That's what we do. The reason why we give that notice is because we want mining companies to comply and produce, because its only when they produce that benefit will accrue to workers, those communities and the shareholders. ... only when they are operational. So we give them a section 93 notice and if they do not ... we have the authority in terms of section 47(1) to withdraw the licence. However, from where we are standing it should not be the objective to withdraw a licence. The withdrawal of a licence should be a consequence of last response ... mining company when given a notice for noncompliance.

There is a provision in the Act where we are given all the rules of what we should do when companies do not comply. Our starting point is section 93. You are not complying. Please comply. Then we engage the company about the compliance. It can only be in a very extreme

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situation when companies are not responsive that we withdraw licences.

So, I'm indicating the fact that the question where you want to know how many licences were withdrawn puts us in the business of withdrawing licences. We are in a business of issuing licences because we want mining to happen.

Ms N P KONI: Thank you so much, hon Chairperson. You know, this thing of mantashing is real. [Interjections.] The hon Minister is trying to mantash ... my question. [Interjections.] [Laughter.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): No hon Minister, you ... [Interjections.]

Ms N P KONI: So, I want to take this opportunity to repeat my question because the allegation that the Minister ...

The HOUSE CHAIRPERSON (Mr A J Nyambi): Can you stand closer to your microphone? Get a bit to that side so that you can be closer. Yes.

Ms N P KONI: ... has just cast is very serious to a point where it can even land him in jail because my question is here. So, let me

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read my question. Maybe ... I hope so because I know he's a man of mantashing. I hope this time round he will give the correct answer properly.

My question is as follows. What are the consequences for mines that fail to comply with social labour plans? You did not say anything about that. It further asks whether any mining licences have been withdrawn as a result of noncompliance. If so ... Because you are saying that I am saying that the licences must be withdrawn all over. Then you must tell me what you think the intervention must be.

Now, my follow-up question is as follows. It is very clear that your department does not have the legislative tools nor the will to hold mining companies accountable in a way that will force them to change their behaviour and lack of compliance with social labour plans. That is why you gave me that answer.

Why do you refuse to hold mining companies accountable? Withdrawing those licences from those mining companies that are not complying is one of the interventions that you can refer to or use. That will affect their profit margins and force them to comply. So, please answer me and stop mantashing ... me. Answer me properly. If you

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don't have an answer I will allow you to go and research, and come back to me via an email.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Koni? Hon Koni? Hon Koni?

Ms N P KONI: So, if you don't have an answer, don't answer. Rather go the email route. Thank you.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Minister?

The MINISTER OF MINERAL RESOURCES: No, Koni is not prepared to listen. She has a particular mindset. Now, I can't help her out of that.

I'm saying that section 93 of the Mineral and Petroleum Resources Development Act, MPRDA, gives us the authority to say to a company, you are not complying. That is a tool. Okay? That is a tool.

Whilst we say to a company comply and it does not comply, I'm saying that section 47 gives us the authority to withdraw a licence. Okay? Now, I'm giving you the tools ... in the same Act, which you must go and read. [Interjections.] Yes.

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Now, all I'm saying is that the primary objective is not to close mines. The primary objective is for the mines to operate and comply. That's why a lot of time is spent on enforcing section 93. At that stage many of the companies do comply because we say, you are not complying in x, y and z. Please correct it.

I want to demystify this thing of social labour plans never working. Actually it's a myth. If you go to mining communities you will find a number of developmental mines ... [Inaudible.] ... that are a product of social labour plans; in many. I can tell you that as I was going through the regions ... [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Koni?

The MINISTER OF MINERAL RESOURCES: There you are. There you are. There you are.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Koni? Hon Koni, I've warned you to refrain from what you are doing. Don't be disorderly.

The MINISTER OF MINERAL RESOURCES: Yes. No, leave her.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Minister?

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The MINISTER OF MINERAL RESOURCES: You see ... Leave her because when a person howls it's a reflection of ignorance. When you have information and you are engaging you are not going to howl. You are going to engage.

The point I'm making is that in many of those areas we held meetings in community centres that were built by mining companies in those areas. There are quite a number of things because we go and monitor and see what is there.

In the last seven months we have been to 24 mining areas. We have physically been to 24 mining areas. So we are not theorising here. We are giving you feedback of what is on the ground.

There are areas where there are problems. There are areas where there are challenges and the department is intervening in those.

[Interjections.] [Applause.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Koni, why are you standing?

Ms N P KONI: On a point of order, Chairperson.

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The HOUSE CHAIRPERSON (Mr A J Nyambi): What's your point of order?

Ms N P KONI: I want to caution the hon Minister that we are not in an a ... national executive committee, NEC, meeting here and we are not dealing with the ANC's organisational report.

The HOUSE CHAIRPERSON (Mr A J Nyambi): No, hon Koni, can you take your seat? Hon Koni, take your seat.

Ms N P KONI: Hon Mantashe cannot undermine my intelligence. He must never do that.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Can you switch it off?

Ms N P KONI: I'm not working for hon Mantashe. He must never undermine my intelligence. He must never! He must refrain from doing that.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Koni, can you sit down? Hon Koni, can you take your seat? Can you sit down? Can you take your seat? Can you switch that thing off?

Ms N P KONI: We are not dealing with an ANC organisational ...

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The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Motlashuping?

Mr T C MOTLASHUPING: Thanks hon Chair. Hon Minister, thanks for the answer that you have given. [Interjections.] Hon Minister, the laws, regulations and policies on mining should be developed in a manner that recognises communities as central role-players. A design framework of the social labour plans would include, amongst other things, adult basic education and training, skills development plans, employment equity plans and retrenchment plans.

Having these social labour plans ... and if they are so effective ... and your department ... In the North West Province you have what is called the D-account. Now having that D-account, the national government has kept mum ... and this is about community ... The social labour plans are about empowering communities and ensuring that there is maximum participation by the community. Now, these were royalties that were contributed to empower the communities, and the Department of Mineral Resources has kept mum on it. There has been quite a number of unrests and a number of issues around the D-account.

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Can you explain to this House as to what the department is doing in so far as your social labour plans are concerned and the D-account that is there in the North West?

The MINISTER OF MINERAL RESOURCES: Thank you Mr Chairperson. People who fear fire must not go to the kitchen. They must not do that.

The D-account is not under the jurisdiction of the Department of Mineral Resources in the same way that the royalties that accrue to the state are with the Treasury.

However, one of the things we are doing now is to have a meeting with Bapo ba Mogale, where we want to get details of their problems so that we can actually work with them in correcting the problems. Okay?

So we are picking up the problems as we go around and we are intervening with the relevant people who actually deal with those accounts. The D-account is in the office of the premier. It's not in the Department of Mineral Resources. It is our responsibility to work with communities affected to actually discuss the issue of that account.

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So, that is where we are but the reality of the matter is that in government not every department is allowed to have finances. All finances of the state go to the National Treasury, but we have a responsibility to assist communities that are in distress because of the mismanagement of, say, the D-account. We will be assisting. That's why we are working on the meeting with Bapo ba Mogale. They have written to us and we are responding to that.

Ms G G OLIPHANT: Thank you, Chair. [Interjections.] Minister, I want to ask you this question. Does the department have any plans for a public awareness campaign on the requirements to be granted mining licences?

The MINISTER OF MINERAL RESOURCES: A mining licence is applied for by anybody; by anybody. Anybody has a right to apply for a mining licence and we process those applications in the same way, irrespective of whom.

A few weeks ago we were in ... not Xolobeni; we were in *Qokolweni* where there were complications about the ownership of a quarry there and that community said, you better give this quarry to us. Our findings were that the company that is supposed to be the owner is in disarray. Those were our findings.

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We told the communities that we will be going back there. We told them if you want to take ownership of that quarry you must be a proper legal vehicle that can apply for that licence. Therefore, any community has a right if they have structured a proper vehicle that can run a business to apply for a licence.

With regard to the awareness ... The reason for talking about the charter ... We went to all these communities – and we continue to do so – to raise that awareness because in all those areas ... If you go to Kathu in the Northern Cape ... We were there in a hall full of community members. You can go to Lephalale. We were there in a hall full of community members. You can go to Rustenburg ... a hall full of community members. We have been to Tubatse. We have been talking to communities in all these areas. The reason why we do so is to make communities aware of what is entailed in the Mining Charter and what their rights are.

Ms T J MOKWELE: Thank you very much, Chair. You know, I'm very disappointed with the response of the Minister because he can't even tell us what his department does when mining companies fail our people. He can't tell us. He can't tell us. You know, the reason why he can't tell us is because he personally benefits from that.

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An HON MEMBER: Yes!

Ms T J MOKWELE: He personally benefits from that. [Interjections.]  
The reason why he can't tell us about the D-account itself is  
because leaders of the ANC benefitted from the D-account.

An HON MEMBER: Yes! Yes!

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele? Hon Mokwele, you  
know that in terms of the rule of this House you can't make serious  
allegations if there is not a substantive motion and you are not  
going to substantiate that. It's against ... It's against ...

Ms T J MOKWELE: I'm talking facts.

An HON MEMBER: That you yourself know.

Ms T J MOKWELE: I'm talking facts. I'm from the mining areas. I'm  
from the mining areas in Moses Kotane. I can tell you ...  
[Interjections.] ... even areas where you don't know ... in Mantsho.

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The HOUSE CHAIRPERSON (Mr A J Nyambi): Okay, let me take the Chief Whip. Hon Mokwele, let me take the Chief Whip. [Interjections.] Hon Chief Whip?

The CHIEF WHIP OF THE COUNCIL: Thanks very much, Chair. As you have already ruled, if the member feels that she has any other matter that the House must entertain she must do so through a substantive motion. I think in terms of Rule 46 the hon member is making a statement in the House that she knows full well is a false statement.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon ... No, allow me to make a ruling. Hon Mokwele? Hon Mokwele, Rule 46 deals with offensive and unbecoming language. No member may deliberately make a statement which the member knows is false, in the Council. I sustain the point of order. Refrain from doing what you are doing. Can you ask your supplementary question? [Interjections.] No, can you ask your supplementary question? [Interjections.] Yes, I'm recognising you in order for you to ask your supplementary question.

Ms T J MOKWELE: Yes, that's what I'm doing. Chair, before I ask my supplementary question, may I address you on a point of privilege?

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The HOUSE CHAIRPERSON (Mr A J Nyambi): No, hon Mokwele, can you take your seat so that I deal with it? Hon Mokwele, I've made a ruling. If you have a problem with the ruling the procedures are very clear. So, I don't want to end up compromising the decorum of the House. I'm once again allowing you the opportunity to ask your supplementary question, but don't contest the ruling.

Ms T J MOKWELE: I will do exactly that and I will give you proof of what I'm saying. I cannot stand here and mislead the country. I will not do that. I'm talking about something that I know.

Now, I'm asking you Chair, can you please ask the Minister to answer us truthfully, in terms of the consequences, not the legislative framework which we are aware of ... and tell us if ever in his Ministry he withdrew any mining licences for the simple reason of those companies failing to adhere to the ...

*Setswana:*

... ba re keng selo se? ...

*English:*

... social labour plans?

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Hon Chair, I am very serious and I request the Minister not to  
mantash here. He ... rather gigabyte because here ...

[Interjections.] ... we are dealing with a very serious matter that  
affects communities.

An HON MEMBER: Yes!

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele? Hon Mokwele, let  
me allow the hon Minister to deal with your supplementary question.  
Hon Minister?

The MINISTER OF MINERAL RESOURCES: Hon Chairperson, I would ask you  
to accept the evidence that the member has about me benefitting from  
mines. [Interjections.] She says it knowing that she is lying. Now,  
when you tell lies in the House you are abusing the privilege of  
being in this House. [Interjections.] That is what is happening.  
However, I'm giving you the right to get that evidence ...  
[Interjections.] ... because ... [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon members, let's have  
order.

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The MINISTER OF MINERAL RESOURCES: No, leave them. Let them shout. Let them shout because empty vessels make the loudest noise. [Interjections.] Now, allow that empty vessel ... [Interjections.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): Sorry hon Minister, let me take hon Mokwele?

Ms T J MOKWELE: On a point of order, Chair.

The HOUSE CHAIRPERSON (Mr A J Nyambi): What's the point of order?

An HON MEMBER: Mantashe must withdraw.

Ms T J MOKWELE: We will not allow ... [Interjections.] ... to be abused by Gwede Mantashe.

An HON MEMBER: Never! Never!

Ms T J MOKWELE: We will never. We will never! And you are quiet. You are quiet. He insulted the intelligence of the hon member. He also says we are empty vessels. We are not empty vessels!

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele? Hon Mokwele?

Ms T J MOKWELE: Let me tell you Mantashe, you've got trucks ...

*Setswana:*

... ko Mantsho.

*English:*

We are going to give the proof.

*Setswana:*

O se ke wa re direla makgakga.

*English:*

Don't be emotional. Deal with the matters.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Mokwele! Hon Mokwele! Can you switch it off? Can you take your seat? [Interjections.] Hon Mokwele! [Interjections.] Hon ... Hon ... [Interjections.] Hon Koni and hon Mokwele, let me apply Rule 37. Your conduct is grossly disorderly. So, can you please leave the Chamber? Can the Usher assist us? We want to proceed. Can you assist us? [Interjections.] No, I don't want to be addressed. [Interjections.] No, no, no, I'm dealing with them. Can we get the people to assist us to have them ... out? [Interjections.]

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Hon Essack! Hon Essack! [Interjections.] Hon members, I don't need any assistance to preside. I can deal with any situation, so let us be orderly. Let us not compromise the decorum of the House. Hon Minister, let me allow you to finish your response. I disturbed you. ... very sorry about that.

The MINISTER OF MINERAL RESOURCES: Yes, unfortunately you played into their hands. They want to go home early and you have released them. Unfortunately you've played into their hands.

The point I'm making here is that the industry is rediscovering itself. It's orderly. It's enthusiastic. It is coming back to the economy. It is going to make a positive contribution and we are committed to that, and we are working for it. That's why we go to communities. We go to mining companies. We are committed to making mining positive for it to make a positive contribution.

Question 275:

The MINISTER OF MINERAL RESOURCES: Deputy Chairperson, the hon Labuschagne asks the following:

In light of the general opinion of experts and analysts in the mining industry regarding the new Mining Charter, (a) what are

the specific reasons for not having clear (i) guidelines and (ii) criteria regarding such matters and (b) (i) how and (ii) when will clarity prevail in this regard?

The Mining Charter has been welcomed by everybody in the sector, including companies. Like any other document that is the product of engagement, there will be some things that you don't like and some things you do like. All of us are in that situation. Because of that, it is a document that we all agree we can live with.

We are now busy with the guidelines, as the hon Labuschagne is raising. The last time I answered that question, I said that, in three weeks' time, they will be out. I can tell you that, in three weeks' time, they will be out. As the department drafts the guidelines to ensure that we execute efficiently, we are also sharing them with the stakeholders so that everybody is part of it. Let me take it further. In addition to that, a team from the sector, not only the department, is working on a supplementary document that addresses competitiveness, sustainability and transformation of the industry, precisely because we understand fully that we are an economic sector. We are not just a charter sector.

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That is what we are doing. All those guidelines will be out in due course. We are working on them, and they will be there to guide us and the industry in execution.

Ms C LABUSCHAGNE: Deputy Chairperson, I thank the Minister. The issue that I referred to in the question perhaps did not come out clearly for the rest of the House, and that is about the vagueness and about the power that the Minister himself has in the new charter. It is clear - and yes, everybody accepted it, but there was a little bit of noise about that, and that is why my question is there - that you are in a powerful position when it comes to aspects of who, what, how, and where mining can be initiated. Thank you for the information that the sector team is looking at competition, accountability, and transformation.

So, Minister, will you give us all the undertaking today that this team will ensure that the powers vested in you and your department will not leave us with the reality that China will, or might be, on the priority list of investors in the mining industry in South Africa, as part of their down payments on the no-strings-attached loans from the China Development Bank and/or other Chinese institutions? Thank you.

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The MINISTER OF MINERAL RESOURCES: Deputy Chairperson, I am trying to imagine the hon member's question. How will China have this free access to the minerals of South Africa? We give mining rights to companies - companies that apply - irrespective of where they come from.

When we were dealing with Xolobeni, there are those that say it is an Australian company. Then there will be a Chinese company, and there will be a Swiss company. If you look at a number of major companies in South Africa, you will see they are international companies. A number of South African companies operate as international companies somewhere else. So, a company that comes and applies for a license, whether it is a Chinese, Australian, or South African company, will play according to the same rules. So, we are not going to give licenses against loans or anything that comes from China or anybody else.

That is how I understand it. We give licenses to companies. If Chinese companies want to come and invest, we will welcome them. That is why we always talk about attracting investment. The Fraser Institute rated us number 47 in terms of investment attractiveness and number 89 in terms of policy and regulatory uncertainty. That is why we have removed the uncertainties - so that we can improve. The

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overall performance of South Africa must come as close as possible to 21 which is the potential position for South Africa. Our view is that foreign direct investment is welcome in South Africa. We are not suspicious of it. We are not going to deal with it with suspicion. We want them to come.

Domestic investment is welcome in South Africa. We are not going to look at companies with suspicion. We will give them an opportunity to investment because mining must make a positive contribution to the economy.

Question 258:

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Minister, we now come to question 285, asked by hon Prins. Hon Minister ...

The MINISTER OF MINERAL RESOURCES: Wait! Wait! Wait!

The HOUSE CHAIRPERSON (Mr A J Nyambi): 258

The MINISTER OF MINERAL RESOURCES: Wait! Wait! Wait!

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The HOUSE CHAIRPERSON (Mr A J Nyambi): By hon Prins. What is the essence of the adopted new Mining Charter regarding transformation of the mining industry?

The MINISTER OF MINERAL RESOURCES: Oh! Okay, you must remember that I am still a new Minister so I get lost in the process. [Laughter.]

The HOUSE CHAIRPERSON (Mr A J Nyambi): No, its fine hon Minister. [Laughter.]

The MINISTER OF MINERAL RESOURCES: That's why I can be harassed out of balance easily because I am the new Minister. [Laughter.] The essence of the Mining Charter regarding the transformation of the mining industry, you will find that in the board of the charter itself, when it talks to ownership, intentions are very clear. When it goes to procurement, objectives are clear, human resource development, community development, etc, In all of those, every section has specific targets and it has clear objectives and the objective is to transform the industry and break the threshold of the industry to be just a white industry, it must be a South African industry, where every South African has access to that industry.

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Ms E PRINS: Hon Minister, a short question. Are the zamazamas accommodated by the charter? Thank you.

The MINISTER OF MINERAL RESOURCES: The charter does not accommodate the zamazamas, it accommodates junior miners and we are also making provision for small scales mining. That is why we are experimenting both in the Northern Cape and in the Tubatse valley with licensing some of the illegal miners so that they produce and that product must come to the formal production. But if you remain outside of the system and you take minerals illegally, that is a criminal activity and it must be treated as such.

We are creating a facility to say, if you want to be regularised, come to the table, get regularised and be part of the formal production. But if you want to remain outside the formal production, unfortunately, you are a criminal, you must be dealt with. And it that way, we will have to partner with Minister Bheki Cele, in dealing with you because we can't make provision for illegal mining in the charter.

Mr D M MONAKEDI: Hon Minister, how does this new Mining Charter cater or provide for the balance between transformation and sustainable economic development of the country?

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The MINISTER OF MINERAL RESOURCES: Earlier I referred to two testing; we said one was drafting the charter that is produced. Another testing which was set at the same time was the one that deals with competitiveness, sustainability and transformation. The reason that we deal with both test teams, is because we wanted to disabuse ourselves of the sense that mining is about a charter.

Therefore, elevate the charter into a tool for transformation but at the same time, we said to ourselves, we are an economic sector, lets look into our commitment and sustainability so that there is a balance. So, transformation should not be seen as; transformation verses competitiveness and sustainability, it should be part of a building competitiveness and sustainability because it talks to two concepts. If transformation is seen as the business imperative, everybody would be part of transformation, they will be transformational. But if they regard it as a compliance issue, they are going to comply maliciously and actually tick numbers and not be committed to what should be done in a transformed industry. So that balance is at the heart of the work we are doing.

Mr T C MOTLASHUPING: Minister, in one of the responses you gave, you spoke about mining contributing positively to the economy of the country. Now, with the contribution of mining in the economy, you

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spoke also of competitiveness in the charter. Now, I am looking into the charter and I would not speak about China but I will speak about the emerging junior miners who are joining the industry - who will be coming to the industry and who has to compete, for an example, with the Europeans, not necessarily the Chinese, the Americans, the British and many others. Because, these emerging junior miners would not be able and would not have the muscle to compete with these in terms of the South African currency and their currency.

Now my question is; ... No! No! Keep quiet. My question is what are the mitigating factors that the department has, to ensure that the emerging junior miners get to compete with those that would come into the country and get favourable deals? Thank you.

The MINISTER OF MINERAL RESOURCES: Hon Chairperson, I made a statement earlier that, to be an emerging in junior mining is not a destination, it is a stage in development. Once you have the opportunity of being an emerging, you have the potential to grow to be a massive company. But it requires commitment in building wealth.

Last week in the investment conference, I had an opportunity to listen to a man called Jack Ma, who is the fourth richest person in China. I listened to his story about his journey and I was shocked

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to understand that half of the 19 years when they began to establish themselves, they were battling to pull things together but the commitment and the determination made him the fourth richest person in China.

Now, in South Africa, there is quite a number of emerging companies, many of them very enthusiastic, many of them young professionals by the way. After talking to them, because I said, if you want to measure if you are making progress, at some point you must publish a list of black mine owners - publish that list and in the following year, publish again. See if the number is growing or decreasing.

Only when you quantify the progress you are making, will you be serious about developing these emerging miners into major mining companies. Because; one of the things that you must deal with is creating an environment where black mine owners must appreciate the power of merging their resources and be big.

I have an example of that company called Seriti. Three companies that were emerging last year, came together and bought all the Eskom link Anglo American mining companies. It is a huge mining company now, it is big because black mine owners pulled their resources together and came up with something big. The more we do that; the

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more we will stop complaining about big American and these companies because if you look into those companies, you will find that it is a conglomeration of various companies that met and acquired and merged and came up into major companies.

Black mining companies must begin to appreciate the importance of pulling resources because two emerging mining companies become a medium size mining company and four of them become a major company and they manage it as a company.

So, in my own view, that debate is going on in the industry and we must facilitate it everywhere we go, so that our people must appreciate that it is nice to grow and be big. But you don't grow big if you close yourself away and work on your own small entity. It is not going to happen. It will happen when you pull our resources and have a better muscle together.

The HOUSE CHAIRPERSON (Mr A J Nyambi): Hon Minister, part of our responsibility is to make you understand the Rules. This was supposed to be your last question. You might have seen your colleagues were responding to six questions. You are supposed to have six but, if it happens that hon members have sent the questions to your office for written reply and within a period of 10 days you

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haven't responded to those questions, and then they convert them for oral reply. Hence, we have the addition of the three.

Now, we are getting to those last three that were not responded to in writing. So, the first one, the member that asked the question is not in the House and no arrangement was made. So, in terms of the Rules, if a member who asked a question is not in the House, the question is not attended to.

The second one is the one of hon Labuschagne which is question 16. Not that one of hon Julius because he is not in the House and there was no arrangement to have a member that will be standing in for him. So we are getting to the one of hon Labuschagne, its question 16 hon Minister.

Question 16:

The MINISTER OF MINERAL RESOURCES: Hon Chairperson and hon Labuschagne, we are working on a legislative framework for oil and gas. The reason we do that is because we think oil and gas will do better if we establish them as a sector and give them space to grow and take the opportunity. If they remain an appanage of mining they will never grow. That is one of the arguments we put forward when we talk about the Mineral and Petroleum Resources Development Act,

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MPRD, amendments. I don't want to get into that because I will get into serious problems. We are working on a legislative framework that must establish oil and gas as a sector. There are a lot of potentials and most promising exploration projects. Our view is that if we can succeed in doing that we can actually establish a game-changer. Our view is that unless we do that we would be paddling on the same spot.

Ms C LABUSCHAGNE: Minister, I really welcome that view. May I be very naughty and ask a question. Does this mean that there will be two different pieces of legislations, one for oil and gas and the other for minerals?

The MINISTER OF MINERAL RESOURCES: Yes, we want to have separate legislation for oil and gas so that it can be established as a stand-alone industry that can grow to its full potential.

Question 17:

The MINISTER OF MINERAL RESOURCES: Chairperson, actually, hon Smit is asking me a question that has nothing to do with the department at all. He talks about a mining company that has a contract with a local municipality somewhere. That is not my jurisdiction of work.

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Mr F ESSACK: Chairperson, I don't have any follow-up.

Ms C LABUSCHAGNE: Chairperson and Minister, although you say that it is not your responsibility, but water licensing is part of the one environmental system and it's being managed by the Environmental Affairs, Mineral Resources and Water and Sanitation. So, your department must have some knowledge of the license of the groundwater granted to this mine. Would you undertake to find it out and furnish us with the information? Thank you.

The MINISTER OF MINERAL RESOURCES: The question which was directed to me has nothing to do with water licensing for a mining company, but it has something to do with water supply by a municipality and it is not within my jurisdiction. That is honest.

The Council adjourned at 18:10.