

Thursday, 24 November  
2022

Mr Maneli  
Chairperson of the Portfolio Committee on Communications  
Parliament Street, PO Box 15,  
Cape Town  
8000  
By email: bmaneli@parliament.gov.za

Dear Mr Maneli

**REQUEST: THE SOS COALITION URGES THE COMMITTEE TO CONSIDER PUBLIC OPINION ON  
SABC BOARD RECOMMENDATIONS**

The SOS Coalition takes this opportunity to express dissatisfaction at how the deliberation process was carried out. Among others, (i) the consideration of gender parity and (ii) a disregard of public opinion stood out.

The Broadcasting act of 1999 is a blueprint setting out the criteria for the Board appointment process. Non-executive directors of the board in section 13(4) (a) must be people with expertise and experience in the various fields “of broadcasting policy and technology, broadcasting regulation, media law, business practice and finance, marketing, journalism entertainment and education, social and labour issues” , also be (b) “persons who are committed to fairness, freedom of expression, the right of the public to be informed, and openness and accountability on the part of those holding public office” and that they should (c) “represent a broad cross-section of the population of the Republic.

However the deliberations were not guided by the holistic principles of this act it seemed to lean more towards 13 (4) (c) of having representing a broad cross-section of the population. SOS submits that all principles (or clauses) must be considered but in the order of importance with expertise and experience being the most critical. Some of the principles that directed the process include; “continuity, gender equality and performance in interviews and youth representation” interviews, gender equality, representation of young people” Only one party, the Democratic Alliance made reference to having considered the expertise “on the subject that could benefit the SABC” as per the requirement of the Act.



The Coalition is taken aback by the prioritisation of gender parity as the guiding principle. Noting that, SOS is an organisation that is led by a female and fully supports the idea of gender parity. Even so, we are opposed to gender equality overriding the prescribed criteria and compromising the much-needed skills at the SABC that would greatly benefit the organisation.

In addition, the Coalition is disappointed to learn that the subcommittee, established to facilitate the SABC Board appointments, failed to fully consider the public opinion even after legal advice that was provided by its legal team, recommending that public views be taken into consideration.

SOS has noted that the Portfolio Committee on Communications (PCC) intends to recommend Mr Dinkwanyane Kgalema Mohuba and Ms Nomvuyiso Batyi to the National Assembly for appointment to the SABC Board, by the President. As such we reiterate our discomfort about these two candidates - in the public interest and in a bid to protect the integrity of the Board.

The SOS Coalition heeded the call for public participation and made a submission on 12 September 2022. In our submission, we stated that while serving as a member of the SABC Board, Mr Mohuba was (in 2018) entangled in a scandal of having allegedly hired two Zimbabweans to write his doctorate thesis at the University of Limpopo (where he was the spokesperson). Subsequently the university refused to award him the degree and the matter was heard in the High Court, which ruled in favour of the university- upholding that Mr Mohuba is ineligible to be awarded the degree.

In the public interest, we call on the Committee to take serious the need to uproot corruption and mismanagement at the SABC by refraining from appointing candidates that stand to compromise the institution's integrity.

We are cognisant of the importance of continuity, and recognise that Mr Mohuba served as a member of the previous SABC Board - we therefore propose that his name be withdrawn from the 12 potential members and that for the purpose of continuity, the Committee considers other previous Board members whose reputation is not tainted and whose appointment doesn't come at the expense of the integrity and credibility of the Board and the institution at large.

With Ms Nomvuyiso Batyi, our major concern is that her appointment poses as a conflict of interest as she is currently employed as the CEO of the Association of Communications and Technology (ACT) an organisation that "aims to look after the interests of Africa's major telecommunications operators".

Given that the SABC has fully geared into digital and online spaces, this makes the telecommunications operators a direct competitor to the SABC. Moreover, Vodacom, is a key member of the ACT, and on 20 May 2022, it litigated in favour of the Analogue Switch-off (ASO) Date in the remaining provinces, which would see the SABC lose 68% of its audience.



The effect of this is that every single time an issue of digital broadcasting or digital content and or services and/or distribution arises at an SABC Board meeting, Ms Batyi would have to disclose the conflict and the other Board members would have to consider whether or not she would be precluded from further participation on the issue, in terms of section 17(2) of the Broadcasting Act. Given the clear online and digital strategy being spearheaded by the public broadcaster, and the pressing issue of the ASO, it seems to SOS that this issue would arise at EVERY meeting, making it nearly impossible for Ms Batyi to function effectively as a Board member.

The Coalition would very much want Ms Batyi appointed to the SABC Board but the recommendation by Parliament to the President must clearly state that her appointment is subject to the condition that she resigns both as CEO and as a member of the ACT prior to taking up her Board position. Given her experience and qualifications and consideration of the public interest, SOS is of the view that Ms Batyi would make an outstanding Board member and contribute immensely to SABC's future endeavours.

SOS would like to remind the Committee of the legal advice sought which recommended that the public view be considered and urge not to deviate from meeting the needs of the public in this regard.

SOS is a public interest organisation, recognised as such by the Constitutional Court in the matter of *e.tv v Minister of Communications and Digital Technologies and Others* (CCT 89/22 and 92/22) at paragraph [102].

The Broadcasting Act prioritises public interest and prescribes that this process is characterised by public participation. Disregarding the views of the public undermines the public interest and makes the public participation process a fruitless exercise.

As an organisation that has supported the SABC from 2008 and closely engaged in various Board appointments, the SOS coalition has learnt many lessons pertaining to the efficiency of the Board. We are taking all these strides to ensure that the SABC fast-tracks its progress towards independence, transparency, credibility, sustainability.

SOS is thankful for your consideration in advance and hopes due changes to the list will be made in the public interest.

Yours sincerely

Uyanda Siyotula  
National Coordinator