

**Report of the Portfolio Committee on Communications on its activities undertaken during the 5th Parliament**

**(May 2014 – March 2019)**

**Key highlights**

1. **Reflection on committee programme per year and on whether the objectives of such programmes were achieved**

Over the 5-year term under review, the Committee had two Amendment Bills referred to it and conducted six oversight trips. The Committee also held public hearings on the Films and Publications Amendment Bill [B37 – 2015] from 30 August to 1 September 2016. The Broadcasting Amendment Bill, which was referred to the Committee in December 2015 and was withdrawn by the Minister of Communications in 2018 before the Committee could resolve on how to process it.

1. **Committee’s focus areas during the 5th Parliament**

The Committee focused on its performance and budgetary oversight, quarterly reports of the Department and its entities, oversight over the Department and entities, and legislation referred to it. It should be noted that the Department of Communications was formally split into two in June 2014, namely the Department of Communications and the Department of Telecommunications and Postal Services. This is expatiated upon later in this report.

1. **Key areas for future work**

The Committee will need to monitor the implementation of the recommendations of its Budget Review Report as well as other recommendations including those stemming from the oversight reports. It must also pay particular attention to the ailing entities reporting to the Department. Especially the SABC as it has regressed in terms of the AGSA Reports during the period under review. Another entity demanding particular attention is the Media Development and Diversity Agency (MDDA), which has been consistently faced governance and financial management crisis over the period. To this end, the Committee has resolved to holding an inquiry into the challenges faced by the entity but could not find appropriate scheduling to can commence with the inquiry. The onus will be on 6th Parliament to review the status of resolution of the Committee stemming from 5th Parliament and evaluate whether the inquiry still needs to take place as was resolved towards the end of 5th Parliament.

1. **Key challenges emerging**

* The tight programming of Parliament made it difficult for the Committee to conduct thorough oversight of all the entities, especially the ones mentioned above albeit that the SABC received far more attention than other entities because of their dire financial position.
* The Ad hoc Committee into the Fitness of the SABC Board was a culmination of extensive engagement between the Department, SABC and the Committee. To this end, and even after the successful inquiry, the SABC remains in a compromised state to deliver on its mandate. For 6th Parliament, it will be important that the recommendations stemming from the inquiry are responded to in full so that the Committee can report back to National Assembly.
* A challenging period of operating without adequate tools of trade and support staff such as a researcher, a dedicated communications officer and a dedicated Law Advisor made it difficult for the committee to conduct its work, which is a contributing factor for the committee delaying some of its work.
* The Committee members and the Executive underwent constant alterations during 5th Parliament; this impacted negatively on the consistency of the work of the Committee as well as its deliverables. For an example, the Committee only approved one APP plan throughout the five years; and that plan too was never fulfilled owing to other commitments of the Committee requiring undivided attention of Committee resources.

1. **Introduction**
   1. **Department/s and Entities falling within the committee’s portfolio**

Following the general elections in May 2014, President Jacob Zuma announced the establishment of a new Ministry of Communications. Proclamation 43 of 2014 gave effect to the establishment of the new Department of Communications. The new Department was established or formed predominantly out of the old GCIS.

The proclamation also referred to the reshuffling of the entities that historically reported to one Department while other entities reported different Departments during 4th Parliament. Brand South Africa (BSA), the Film and Publications Board (FPB), the Independent Communications Authority of South Africa (ICASA), the Media Diversity and Development Agency (MDDA) and the South African Broadcasting Corporation (SABC), became entities reporting to the newly established Department; and this was effected at the beginning of April 2015.

In November 2014, once the new Department of Communications structure was approved, the President issued a directive for the Government Communications and Information Systems (GCIS) to be re-established as a schedule 1 national Department from 1 April 2015, reporting to the Minister of Communications. The GCIS would continue to provide the Cabinet, cluster and communications support it had provided to The Presidency and government at large, prior to its de-establishment.

As from June 2014, the Ministry of Communications was capacitated with relevant positions, including advisors to the Minister of Communications. A moratorium was implemented for the former GCIS vacant and funded positions, to allow for the transition to be completed. A Special Administrative Advisor was appointed in August 2014 to spearhead the reconfiguration and to ensure there was a budget structure and a high level corporate strategy for the new Ministry of Communications.

The National Macro Organisation of the State (NMOS) Steering Committee was also established comprising the Director-General in the Presidency as the Chairperson, Directors-General of all affected Departments; the Departments; the Department of Public Service and Administration (DPSA); National Treasury, GCIS, and Department of Public Works (DPW).

The NMOS process was limited to giving effect to the Presidential proclamations regarding the establishment of a new or amended Executive portfolio, the renaming and establishment of new Departments, and the transfer of the legislation between Ministries in terms of the Constitution. In this regard the following had happened:

* The President issued Proclamation No. 43 of 8 July 2014 to amend Schedule 1 of the Public Service Act to establish new and renamed Departments;
* A second Proclamation was issued, Proclamation No. 47 of 15 July 2014 to transfer the administration of legislation and entities from one Minister to another in terms of section 97 of the Constitution; and
* The NMOS process was concluded by October 2014

Table below illustrates the arrangement of the impacted Departments and entities as per the Proclamation:

|  |  |
| --- | --- |
| **GCIS (Department of Communications)** | **Department of Telecommunications and Postal Services** |
| South African Broadcasting Corporation (SABC) | SAPO |
| Film and Publications Board (FPB) | SENTECH |
| Media Development and Diversity Agency (MDDA)  (MDDA) | USAASA |
| Independent Communications Authority of South Africa (ICASA) | Ikamva e-Skills Institute |
| SITA |
|  | .ZDNA |

For the purposes of this introduction, the South African Broadcasting Corporation (SABC) and the Independent Communications Authority of South Africa (ICASA) (formerly with the former Department of Communications) were transferred to the new Department of Communications which according to the Proclamation, assumed the functions and budget vote of the former Government Communications and Information Systems (GCIS). GCIS therefore formed the core of the new Department of Communications during that reporting year.

In addition, the Film and Publications Board (FPB) which formerly reported to the Department of Home Affairs and was under Budget Vote Four (4) and Brand SA (BSA) which was located in the Presidency under Budget Vote One (1), were integrated to form part of the new Department of Communications (DoC) under budget vote 27 for that reporting year (2014). The new Department of Communications therefore was structured as illustrated below:

|  |  |
| --- | --- |
| **New Department of Communications (Former GCIS Budget Vote 9)** | |
| **Entities** | South African Broadcasting Corporation (SABC) |
| Film and Publications Board (FPB) |
| Brand South Africa (BSA) |
| Media Development and Diversity Agency (MDDA)  (MDDA) |
| Independent Communications Authority of South Africa (ICASA) |

It is equally important to highlight that during 2015 reporting of the BRRR report, the Committee reported to National Assembly the Department of Communications under the guise of the GCIS because the Department was only established on 1 April 2015 and therefore no Annual Report had been tabled for the year because of its (Department of Communications) new formed status.

**1.2 The Department of Communications**

**1.2.1 Mandate and Legislative Framework**

Firstly, the Department derives its mandate from the Constitution of the Republic of South Africa. But the legislative framework is contained mainly in the following Acts:

* Broadcasting Act (Act 4 of 1999)
* Electronic Communications and Transactions Act (Act 25 of 2002);
* Independent Communications Authority of South Africa Act (Act 13 of 2000);
* Films and Publications Board (Act 65 of 1996); and
* Media Diversity and Development Act (Act 14 of 2002).

The Department is also guided, amongst others by:

* The Public Service Act, 1994 (Act 103 of 1994) as amended;
* The Public Finance Management Act (PFMA), 1999 (Act 1 of 1999) as amended;
* National Treasury’s Framework for Strategic Plans and APPs;
* International Telecommunications Union (ITU);
* International bilateral and multilateral agreements; and
* World Intellectual Property Organisation (WIPO)

The Departments’ mandate is also derived from the President’s proclamation when establishing the Department in 2014, and these are:

* To develop an overarching communications and broadcasting policy and strategy;
* To provide information dissemination and publicity to promote an informed citizenry; and
* To brand South Africa abroad to assist the country to promote investments, economic growth and job creation.

This mandate is to be fulfilled through:

* Developing and reviewing communications policies and legislation that ensure the growth and development of the communications sector
* Improving government communications system that informs and disseminate information to the public as well as marketing the country abroad
* Strengthening the capacity of the Department and that of its state-owned companies to effectively deliver on their mandates; and
* Broadening the participation in the communications sector to promote economic development and transformation.

**1.2.2 Description and Core Functions**

The NDP recognises that the ongoing development of quality communications infrastructure, services, content and applications is key to the rapid economic, social and cultural development of the country.

Chapter 15 of the NDP[[1]](#footnote-1) focuses on Transforming Society and Uniting the Country. The NDP notes that inequality and inequity are still prevalent in the country despite the work being done in uniting the country since 1994. The NDP further envisages an active citizenry that participates in the socioeconomic life of the country, and the Department’s work contributes in particular to outcome 14 (nation building and social cohesion) of the 2014-2019 medium term strategic framework.

Therefore, the Department has a vital role to play in fostering unity and “*Forging a new overarching identity*.” Nation-Building and social cohesion matter; both as an end-state and as a facilitator. A balance needs to be found between healing the divisions of the past, broadening economic opportunities (particularly for black people) and building a sense of inclusion and common purpose among all the South Africans. It should be emphasised that communications plays an essential part in the development process. There is therefore the continuous need to strengthen existing forums of people’s participation and enable our people to play a greater role in development, as well the fact that “the democratic government supports the right of citizens to express themselves.

Every citizen irrespective of their social class (where ever located, rural or urban, poor or rich) should have access to a choice of a diverse range of media and impart information. This is guaranteed by chapter two, the Bill of Rights of the country’s Constitution. Access to communications and information empowers citizens to facilitate participatory democracy, and assists in defending, advancing and deepening democracy. Moreover, in South Africa’s old media (industry in general and radio sector in particular) is not comparable to it in 2014; it has changed for the better and for deepening democracy. The media informs, educates and entertains society and continues to empower citizens with alternative information.

Print media also plays an important role in the attainment of the goals set out in the NDP. On its own, this sector (despite the negative economic climate) still plays a significant role in facilitating democratic discourse. It should be acknowledged, however, that this is often constrained by skewed patterns of ownership and control. In addition, there is a need for diversity of local content across different platforms and to fast-track realisation of a diverse media environment.

Through its entity oversight unit, the Department analyses funding requests and ensures that transferred funds are properly used. Accountability instruments include quarterly and annual reports, monthly and quarterly accountability forums, and shareholder compacts. Majority of the spending is in the Entity Oversight programme.

Apart from administering the transfers it makes, the Department researches and develops broadcasting policies for the communications cluster, which comprises Budget Vote 3 of the Department of Communications, GCIS, SABC, BSA, ICASA, FPB and MDDA.

**1.2.3 Strategic outcome-oriented goals**

The Department derives its mandate from the President’s pronouncement when establishing the department, and these are:

* Develop an overarching communications and broadcasting policy and strategy.
* Provide information dissemination and publicity to promote an informed citizenry.
* Brand South Africa abroad to assist the country promote investments, economic growth and job creation.

The Department has set itself the following strategic goals and strategic objectives which will be achieved when implementing the mandates:

* Effective and efficient strategic leadership, governance and administration.
* A responsive communications policy regulatory environment and improved country branding.
* Transformed communications sector.

**1.2.4 Situational Analysis per programme**

**1.2.4.1 Situational Analysis (Programme 1)**

The Department remains focused on addressing the human resources capacity challenges through the prioritisation and filling of critical positions and also ensuring that its oversight role on public entities is strengthened and stabilised.

Most of the positions on the departmental approved organisational structure are not funded. The total number of funded posts is 81 and 74 of these posts are filled and seven are vacant, and this translates to a vacancy rate of 8.6%.

In terms of Employment Equity (EE), females at Senior Management Service (SMS) level account for 10 (53%); and males nine (47%). People with disabilities constitute 1% of the entire staff complement.

The development of the 2018/19 and outer years plans come in the midst of a distressed fiscus, largely due to an under-performing economy. This has resulted in the Department not being allocated a baseline budget necessary for the implementation of its plans, hence it had to rely on the GCIS to provide shared services – that include Internal Audit (until May 2018) Information Technology, Facilities, Security Management and Wellness services.

The Department was not able to fully implement its mandate as some of the units on the organisational structure are partially capacitated and others are completely not capacitated.

The Department was not able to meet some of the legislated commitments such as the Skills Development Act, 1998 (Act 97 of 1998), which requires that 1% of the personnel budget be allocated for employee training and development, including the implementation of the internship programme. However, the Department would provide for the WSP through reprioritisation.

Despite the challenges experienced, the Department had by and large ensured that there was better accountability over the allocated limited resources, hence the Department managed to obtain clean audits in the last two years.

The increasing demands for delivery which was not matched to the requisite resources could result in the quality of services being adversely affected, as well as resulting in regression from clean audits

Over the medium term, R436.8 million or 9% of the total budget baseline allocation will be used for operational costs, of which R263.2 million or 60% is to be spent on compensation of employees and R173.7 million or 40% on goods and services. The department will increase its headcount of permanent staff with 13 posts at a cost of R5.5 million, mainly to capacitate the DTT project, Communications Policy, Research and Development and Entity Oversight programmes.

**1.2.4.2 Audio-Visual and Digital Content Act**

The Broadcasting policy was being reviewed to develop a new policy and regulatory environment that supports the growth and development of the audio visual and digital content industry.

Government announced that there was broad consensus on the need for a new legislative and regulatory review as the broadcasting policy was outdated and not relevant to the emerging digitally converged communications landscape.

During the 2016/17 financial year, the Department commenced with the process of developing the Audio-Visual and Digital Content Act. The process of achieving the Act would follow the development of the Green Paper, White Paper and the Bill, and after various consultations the Act would be submitted to Parliament.

In 2017 the draft White Paper was drafted, it acknowledged and also underlined the central and important role that the all the State Owned Enterprise’s (SOE’s) would play in order to achieve the goals of the NDP 2030.

**1.2.4.3 The Media Diversity and Development Amendment Act**

The current Media Diversity and Development Amendment Act had some significant shortcomings as it was no longer appropriate to deal effectively and efficiently with changes underway in the contemporary digital media industry.

The MDDA Amendment Bill would improve the sustainability of the community and small commercial media sector in South Africa given the financial pressures being brought to bear on the community media as a result of audience fragmentation and increasing competition for readers, viewers and audience.

This Bill would also address the issues related to the review, realignment and rationalising of state institutions to ensure that they create an enabling environment for the development and support of community media in pursuit of the objective of media diversity.

It would provide the MDDA with new duties relevant to the fourth industrial revolution and digital developments, and ensure that the MDDA discharges its mandate adequately, and reinvent and reconfigure itself to ensure effective compliance from the sector it supports.

**1.2.4.4 South African Local Audio-Visual and Digital Content Industry Strategy**

It was acknowledged that whilst in the recent past significant progress in the increase of local content has been recorded, there was an urgent need to implement a coherent strategy for localising content as an economic and cultural industry.

It therefore becomes clear that South Africa cannot move into the new digital broadcasting environment while being wholly dependent on foreign-produced and sourced content.

The collaborative efforts of government and its institutions also recognised that the existing support mechanisms for the production of music, TV and multimedia content had not been sufficient to encourage the requisite explosion of South African content necessary to ensure that content was easily accessible across the ever-expanding platforms.

This content development strategy would support independent producers, SMMEs, etc and allow for entry by new innovative content providers.

This was also intended to prepare South Africa to be able to create and/or take up regional, continental and global opportunities arising from the introduction of new digital platforms.

**1.2.4.5 The Media Transformation and Diversity Charter**

The development of the media transformation and diversity charter was responding to government’s call to identify and review ownership patterns that remain largely untransformed.

In the 2017/18 financial year, the Department developed a Media Transformation and Diversity discussion document. The focus for the current MTEF was to develop, approve and implement the Media Transformation and Diversity Charter. Specific focus of the charter will be on ownership; management, control and employment equity (EE); skills development; preferential procurement and enterprise development as well as socioeconomic development.

The Media Transformation and Diversity discussion paper makes recommendations to address the identified challenges.

The Charter would assist government to explore additional policies to promote media diversity other than through government advertising and support through established agencies, as this had proved to be inadequate.

**1.2.4.6 Situational Analysis (Programme 3)**

With its intergovernmental and stakeholder management function the department would provide strategic IGR and Stakeholder Management support and promote collaborations with the sector.

It also aimed to advance South Africa's interest in broadcasting and media policy in regional and international forums.

It would also focus on international engagements and partnerships in promoting investment in media and broadcasting skills development, capacity development and NDP goals. Engagement with the three spheres of government, key partners and stakeholders to promote the mandate of the department. The Department would consider bilateral engagements with stakeholders on matters of mutual interest. Such engagements could happen in different formats and at various levels based on sound cooperative processes.

These engagements would seek to share information on the Department’s strategic objectives such as digital migration, media transformation, broad communications policy development and community media development. Furthermore, the engagements would seek to address stakeholders’ legitimate concerns, develop relations/collaborations/partnerships and open formal communication channels.

**1.2.4.7 Situational Analysis (Programme 4)**

The department has adopted the Policy Framework and Procedure on Oversight and Governance of Public Entities and Statutory Institutions.

The purpose of the policy was to strengthen the oversight on SOE’s. It would also assist in regulating the relationship between the Executive Authority and the entities, in particular outlining the principles, structures and the modus operandi of how the Minister exercises oversight over the entities and how the entities complied with governance prescripts.

The Department had a duty to ensure that SOE’s deliver upon their mandate, adhere to good governance practices and were financially viable. In ensuring an effective entity oversight, the Department would be developing develop tools such as accountability instruments and MOI. More attention to ensure stability of leadership in our SOE’s would be prioritized, together with the financial Sustainability.

An estimated R3.098 billion or 63% of the department’s budget would be transferred to public entities for the implementation of communications and broadcasting policies.

**1.3 THE GCIS (A Department within a Department)**

**Mandate and legislative framework of the GCIS**

The GCIS was formally established in terms of section 239 of the Constitution of the Republic of South Africa of 1996 and as a strategic unit in The Presidency in terms of section 7 of the Public Service Act, 1994 (Act 103 of 1994). Furthermore, GCIS’s mandate is derived from section 195(g) of the Constitution of South Africa (1996), which stipulates that the public should be provided with information that is timely, accurate and accessible. This is in support of the constitutional principles of freedom of expression, and transparency and openness of government.

In a variety of ways, information held by the government can be used to bring people together. Public record information can provide both the media and others with valuable information that identifies people who live in a certain area or who are involved in a certain line of business. State records can link individuals to specific information (such as genealogical records, financial needs, hobbies, and business interests) and provide interested parties with the information necessary to make valuable contacts.

Many important benefits come from public access to information held by the government. Access to government records is needed for effectively monitoring government activities. The ability of citizens to hold government accountable may be directly related to their ability to see what information is collected, how it is maintained, who it is about, and how it is used.

Access to government information also may smooth the flow of commerce and create economic efficiencies. Insurance companies, credit bureaus and, direct-marketing organizations use government records to obtain a large volume of information that may otherwise not be cost-effectively available. They use it to offer people products that benefit them. When business can collect information about potential customers from a central repository like a government database, they can pass the savings along to consumers.

Access to government information also protects public safety. Records of arrests and convictions, for example, help people determine whether they want to hire prospective employees for sensitive jobs. They may help people learn of and respond to dangerous people living in their communities. Access to government information may also protect against crimes like identity fraud by enabling people and companies to confirm who they are dealing with.

**1.3.1 GCIS Strategic Overview**

The GCIS’s mandate is to coordinate, guide and advise on government communication. This includes media liaison, development communication and marketing. It provides an integrated, coordinated and coherent communications function between government and the public. It seeks to enable the public to be involved in the country’s transformation and drives coherent messaging across the three spheres on the key priorities of government.

1. **Entities of the Portfolio:**

| **Name of Entity** | **Role of Entity** |
| --- | --- |
| Film and Publications Board (FPB) | 1. Regulate the creation, production, possession and distribution of films, games and certain publications by way of classification; 2. Protect children from exposure to disturbing and harmful material and from premature exposure to adult material; and 3. Render the use of children in, and exposure of children to pornography, a punishable offence. |
| Independent Communications Authority of South Africa (ICASA) | * To license broadcasters, signal distributors, providers of telecommunication services and postal services; * To make regulations; * To impose license conditions; * To plan, assign, control, enforce and manage the frequency spectrum; * To ensure international and regional co-operation; * To ensure the efficient allocation of numbers; * To ensure interoperability of networks; * To receive and resolve complaints |
| South African Broadcasting Corporation (SABC) | The main object of the Corporation is to supply broadcasting and information services and services that are ancillary thereto, to the general public in the Republic of South Africa and beyond its borders and to achieve the objectives as set out in the Broadcasting Act 4 of 1999, as amended, (‘Broadcasting Act’) in accordance with the objectives set out in the Independent Broadcasting Authority Act 153 of 1993, as amended, that are directly relevant to the Corporation. |
| Media Development and Diversity Agency (MDDA) | * Create an enabling environment for media development and diversity which reflects the needs and aspirations of all South Africans. * Redress exclusion and marginalization of disadvantaged communities and persons from access to the media and the media industry. * Promote media development and diversity by providing support, primarily to community and small commercial media projects. * The Agency is established to promote development and diversity in the South African media, consistent with the right to freedom of expression as enshrined in Section 16 (1) of the Constitution Act 108 of 1996. * Our approach to grant funding in pursuit of the Agency mandate * Grant funding - provision of subsidies to individual media projects and to create an enabling environment for the development of a diverse media. * Leveraging resources and support through technical assistance. * Conducting and funding research. * Facilitating capacity building. * Advocating for media. |
| Brand South Africa (BSA) | Inspire and unify civil society, business, government and the media to build the reputation of South Africa, and contribute to its global competitiveness. |

* 1. **Functions of committee:**

Parliamentary committees are mandated to:

* Monitor the financial and non-financial performance of government departments and their entities to ensure that national objectives are met.
* Process and pass legislation.
* Facilitate public participation in Parliament relating to issues of oversight and legislation.
  1. **Method of work of the committee (if committee adopted a particular method of work e.g. SCOPA.)**

The committee conducts oversight over five entities , including a department within a Department and the Department of Communications. It has various interested parties ranging from the broadcasting industry, mobile network operators, civil and union organisations, lobby groups and regulators and legislators. The committee should and always attempts to engage a multitude of stakeholders such as other government entities, lobbyists and interested parties to debate on key issues impacting on the growth and introduction of competition of the sector. This affords the committee an opportunity to understand and contextualise the issues as part of the oversight exercise.

* 1. **Purpose of the report**

The purpose of this report is to provide an account of the Portfolio Committee on Communications’ work during the 5th Parliament and to inform the members of the new Parliament of key outstanding issues pertaining to the oversight and legislative programme of the Department of Communications and its entities.

This report provides an overview of the activities the committee undertook during the 5th Parliament, the outcome of key activities, as well as any challenges that emerged during the period under review and issues that should be considered for follow up during the 6th Parliament. It summarises the key issues for follow-up and concludes with recommendations to strengthen operational and procedural processes to enhance the committee’s oversight and legislative roles in future.

1. **Key statistics**

The table below provides an overview of the number of meetings held, legislation and international agreements processed and the number of oversight trips and study tours undertaken by the committee, as well as any statutory appointments the committee made, during the 5th Parliament:

| **Activity** | **2014/15** | **2015/16** | **2016/17** | **2017/18** | **2018/19** | **Total** |
| --- | --- | --- | --- | --- | --- | --- |
| Meetings held |  |  |  |  |  |  |
| Legislation processed | **0** | **0** | **1** | **0** | **0** | **1** |
| Oversight trips undertaken | **3** | **1** | **2** | **0** | **0** | **6** |
| Study tours undertaken | **0** | **0** | **0** | **0** | **0** | **0** |
| International agreements processed | **0** | **0** | **0** | **0** | **0** | **0** |
| Statutory appointments made | **1** | **2** | **3** | **3** | **1** | **10** |
| Interventions considered | **0** | **0** | **0** | **0** | **0** | **0** |
| Petitions considered | **0** | **0** | **0** | **0** | **0** | **0** |

1. **Stakeholders:**

Apart from the Department of Communications and its entities as well as the regular interactions with the Office of the Auditor General and the State Law Advisor, the committee had interactions with several stakeholders including: (i) South African Communications Forum (SACF); (ii) Emma Saddlier; (iii) Cause for Justice; (iv) Interactive Entertainment South Africa (IESA); (v) Interactive Advisory Body of South Africa (IABSA); (vi) e-TV; (vii) Right-To-Know; and (viii) Internet Service Providers Association (ISPA). On 31 August 2016 the Committee welcomed ten (10) more organisations for oral representations, namely (i) South African Jewish Board of Directors (SAJBD); (ii) South African Broadcasting Corporation (SABC); (iii) Press Council South Africa; (iv) MultiChoice; (v) South African National Editors Forum (SANEF); (vi) National Association of Broadcasters (NAB); (vii) GoogleSA; (viii) Media Monitoring Africa (MMA); (ix) Centre for Constitutional Justice; and (x) Association of Christian Media (ACM) in that order.

1. **Briefings and/or public hearings**

The Committee received various briefings from the department and its entities, ranging from the Strategic Plan and Annual Performance Plans, the Budget of the department, updates by the Special Investigating Unit (SIU) on investigations conducted in respect of various entities, the Public Service Commission (PSC), briefing on bills referred to it, quarter performance reports, and the successful institution of the Ad hoc Committee Inquiry into the Fitness of the SABC Board.

The committee successfully conducted one session of public hearings over the five-year period in relation to the Films and Publications Board Amendment Bill. The committee met from 30 August 2016 to 1 September 2016 to conduct said hearings and produced a report in this regard.

Furthermore, in relation to the Digital Terrestrial Television, the Committee held Joint Committee sittings with the Portfolio Committee on Telecommunications and Postal Services in order to track government progress on implementation of the national policy.

1. **Legislation**

The following pieces of legislation were referred to the committee and processed during the 5th Parliament:

| **Year** | **Name of Legislation** | **Tagging** | **Objectives** | **Completed/Not Completed** |
| --- | --- | --- | --- | --- |
| **2015** | Films and Publications Amendment Bill [B37 – 2015] | Section 75 | To amend the Films and Publications Act, 1996, so as to insert and amend certain  definitions; to provide for the establishment of, the composition of, and appointment  of, members of the Penalty Committee; to provide for the powers and duties  of the Penalty Committee; to regulate online distribution of digital films and digital  games; to extend the functions of the Film and Publication Board of monitoring  compliance with the Films and Publications Act; to include online distributors in  respect of the requirements to comply with the Films and Publications Act; to  revise and further regulate the functions of compliance officers regarding the  entering and inspection of premises and facilities in which the business of the sale,  hire or exhibition of films or games is being conducted; to further regulate the  classification of publications, films and games; to provide for independent industry  classification bodies accreditation thereof by the Film and Publication Board; to  provide for classification of publications, films and games by the independent  industry classification bodies; to provide for foreign classification systems and  approval thereof by the Film and Publication Board; to provide for the use of  classification ratings issued by a foreign classification authority or body; to provide  for the right of appeal against classifications issued by independent industry  classification bodies; to provide for exemptions in respect of online distribution of  films and games; to further provide for the obligations of internet service providers  regarding curbing the use of their services in advocating racism and hate speech;  to revise and strengthen penal provisions; and to provide for matters connected  therewith. | Completed March 2019 |
| **2014/15** | Broadcasting Amendment Bill [B39 – 2015] | Section 75 | To amend the Broadcasting Act, 1999, so as to delete a definition; to reduce the  number of non-executive members of the Board of the South African Broadcasting  Corporation Limited; to amend the procedure for the appointment and removal of  non-executive members of the Board; to provide for the appointment of a  nomination committee to make recommendations to the Minister for the  appointment of non-executive members of the Board; to reconstitute the executive  committee; to amend the procedure for the removal and resignation of nonexecutive  members of the Board; to amend the procedure for the dissolution of the  Board and for the appointment of an interim Board; and to provide for matters  connected therewith. | Not completed, Bill withdrawn by the Minister. |

1. **Challenges emerging**

The following challenges emerged during the processing of legislation:

The Constitutional test was always going to be a challenge when one considers the rights of individuals as captured in Constitution versus pieces of legislation that attempt to regulate this freedom by introducing regulatory frameworks to control this very enshrined freedom. The FPB amendment Bill was such a statutory amendment that was not easy to pass through the National Assembly. Notwithstanding its importance for the privacy, the protection of women and children children from being exposed to disturbing or harmful media content.

Some during the public hearings interpreted the functions of the FPB as those overstepping the mandate of another critical regulator in the sector, ICASA.

Ultimately, through consensus, the Amendment Bill was successfully adopted by the Committee following extensive and sustained debates around the constitutionality of the Bill and its original intent.

1. **Issues for follow-up**

The 6th Parliament should consider following up on the following concerns that arose:

* Monitoring of the change in institutional arrangements of the Department and its entities and the impact to sector legislative, policy and regulatory instruments.
* Review of the Broadcasting policy for the country
* Review of the Digital Terrestrial Television Policy for South Africa
* Review of the regulatory regime in light of the ongoing disruptive technologies

1. **Oversight trips undertaken**

The following oversight trips were undertaken:

| **Date** | **Area Visited** | **Objective** | **Recommendations** | **Responses to Recommendations** | **Follow-up Issues** | **Status of Report** |
| --- | --- | --- | --- | --- | --- | --- |
| 25 – 28 November 2014 | Gauteng Province (Phase 1) | The oversight exercise aimed to: (i) formally introduce Members of Parliament to the Department and its entities; (ii) gain familiarity with and better understand the area of expertise of the Department and entities reporting to it; (iii) ccontinue the work of oversight and evaluate status on progress made to 4th Parliament’s recommendations by the Department and its entities; (iv) assess and evaluate the Department and its entities in relation to competency in delivering on their mandates; (v) evaluate implementation of the Auditor General of South Africa (AGSA) recommendations; (vi) evaluate management at both at executive and non-executive levels; (vii) engage and evaluate staff conditions and morale in alignment to labour practices of the country; and (viii) where relevant, evaluate tools of operation as service delivery tools. | Contained in Committee Report | Department responded to issues emanating from oversight visits. | Continuous monitoring of the Department and entities | adopted |
| 3 – 5 February 2015 | Gauteng Province | The oversight exercise aimed to: (i) formally introduce Members of Parliament to the Department and its entities; (ii) gain familiarity with and better understand the area of expertise of the Department and entities reporting to it; (iii) ccontinue the work of oversight and evaluate status on progress made to 4th Parliament’s recommendations by the Department and its entities; (iv) assess and evaluate the Department and its entities in relation to competency in delivering on their mandates; (v) evaluate implementation of the Auditor General of South Africa (AGSA) recommendations; (vi) evaluate management at both at executive and non-executive levels; (vii) engage and evaluate staff conditions and morale in alignment to labour practices of the country; and (viii) where relevant, evaluate tools of operation as service delivery tools. | Contained in Committee Report | Department responded to issues emanating from oversight visits. | Continuous monitoring of the Department and entities | adopted |
| 21 – 23 July 2015 | Gauteng Province (Phase 3) | The oversight exercise aimed to: (i) formally introduce Members of Parliament to the Department and its entities; (ii) gain familiarity with and better understand the area of expertise of the Department and entities reporting to it; (iii) ccontinue the work of oversight and evaluate status on progress made to 4th Parliament’s recommendations by the Department and its entities; (iv) assess and evaluate the Department and its entities in relation to competency in delivering on their mandates; (v) evaluate implementation of the Auditor General of South Africa (AGSA) recommendations; (vi) evaluate management at both at executive and non-executive levels; (vii) engage and evaluate staff conditions and morale in alignment to labour practices of the country; and (viii) where relevant, evaluate tools of operation as service delivery tools. | Contained in Committee Report | Department responded to issues emanating from oversight visits. | Continuous monitoring of the Department and entities | adopted |
| 28 – 31 March 2017 | Gauteng Province | Committee conducts oversight in order to (i) formally introduce Members of Parliament to the Department and its entities; (ii) gain familiarity with and better understand the area of expertise of the Department and entities reporting to it; (iii) continue the work of oversight and evaluate status on progress made to 4th Parliament’s recommendations by the Department and its entities; (iv) assess and evaluate the Department and its entities in relation to competency in delivering on their mandates; (v) evaluate implementation of the Auditor General of South Africa (AGSA) recommendations; (vi) evaluate management at both at executive and non-executive levels; (vii) engage and evaluate staff conditions and morale in alignment to labour practices of the country; and (viii) where relevant, evaluate tools of operation as service delivery tools. | Contained in Committee Report | Department responded to issues emanating from oversight visits. | Continuous monitoring of the Department and entities | Adopted |
| 27 – 29 June 2017 | KZN Province | Whilst conducting the oversight visit the Committee aimed to:  assess progress made in realisation of rights as contained in section 16(1)(a) and (b) of the Bill of Rights: freedom of the media; and freedom to receive or impart information or ideas;  efficiency of ICASA in licensing community broadcasting, and monitoring compliance of licenses with license conditions, and other challenges in this sphere of broadcasting;  the role played by Sentech in signal distribution for broadcasting and challenges they are facing in providing services in the province;  familiarise new members of the Committee with the mandate of the Department and its entities;  assess challenges experienced by the Department, its entities and community media; and  evaluate the impact of the lack of funding of community print media projects, including the relevance and uptake of community print projects to communities they serve. | Contained in Committee Report | Department responded to issues emanating from oversight visits. | Continuous monitoring of the Department and entities | Adopted |
| 2 – 4 May 2018 | Gauteng Province | It was important that the Committee conducts oversight in order to (i) formally introduce Members of Parliament to the Department and its entities; (ii) gain familiarity with and better understand the area of expertise of the Department and entities reporting to it; (iii) continue the work of oversight and evaluate status on progress made to 4th Parliament’s recommendations by the Department and its entities; (iv) assess and evaluate the Department and its entities in relation to competency in delivering on their mandates; (v) evaluate implementation of the Auditor General of South Africa (AGSA) recommendations; (vi) evaluate management at both at executive and non-executive levels; (vii) engage and evaluate staff conditions and morale in alignment to labour practices of the country; and (viii) where relevant, evaluate tools of operation as service delivery tools. | Contained in Committee Report | Department responded to issues emanating from oversight visits. | Continuous monitoring of the Department and entities | Draft available |

1. **Study tours undertaken**

No study tours were undertaken despite having received approval. This was mainly due to the congested programme of the Committee and the need to pay attention to entities that underwent crisis during the term:

1. **International Agreements:**

None

1. **Interventions**

The following interventions were referred to and processed by the committee:

| **Title** | **Date referred** | **Current status** |
| --- | --- | --- |
| SABC Board Chairperson Ms Helen Tshabalala | 14 July 2014 | The Committee held an inquiry and resolved that Ms Tshabalala be removed as a member and Chairperson of the SABC Board. Ms Tshabalala resigned as a Board member on 17 December 2014. |
| Fraud Charges to Reuben Mohlaloga | 7 February 2018 | The Committee recommended that Mr Mohlaloga be removed as a Councillor and Council Chairperson of ICASA and he was accordingly removed on 19 March 2019. |

1. **Obligations conferred on committee by legislation:**

As specified by Section 5 of the Money Bills Amendment Procedures and Related Matters Act (MBAP) of 2009, the National Assembly, through its Committees, must annually assess the performance of each national department. A Committee must submit the Budgetary Review and Recommendation Report (BRRR) annually to the National Assembly which assesses the effectiveness and efficiency of the department’s use and forward allocation of available resources and may include the recommendations on the use of resources in the medium term.

The Committee must submit the BRRR after the adoption of the budget and before the adoption of the reports on the Medium Term Budget Policy Statement (MTBPS) by the respective Houses in November of each year. The Committee were briefed by the Auditor General (AG) and Department of Communications over the 5-year period. The Committee considered and adopted its BRRR during this period.

**a) Challenges emerging**

The following challenges emerged during Implementation of Budgetary Review and Recommendation Reports:

* Follow up of previous years outstanding issues can still be improved upon; and
* Budget analysis quality and monitoring was compromised due to the non-filling of a long term vacancy of a Researcher and a dedicated Legal Adviser and Communications Officer for the Committee. tools of trade seem to be another barrier for officials that must constantly provide support for the Committee

**b) Issues for follow-up**

The 6th Parliament should consider following up on the following concerns that arose:

* Continue to monitor BRRR recommendations according to set deadlines throughout the year.; and
* Ensure that adequate support staff are appointed and tools of trade are provided.

1. **Committee strategic plan**

The Committee hosted a strategic planning workshop at Stellenbosch from 22 to 23 September 2014 and resolved to have four strategic goals to guide committee work during 5th Parliament. These include:

(i). The Committee reaffirms the need to first and foremost, at the start of 6th Parliament, adequately capacitate and train members of the Committee to be conversant with adequate oversight tools to oversee competition, sustainability and growth of the ICT sector in South Africa. The Committee must partner with a leading university or universities knowledgeable on the subject matter.

(ii). There should be further exposure to global trends by way of international study tours to leading countries in order for members to be adequately equipped understanding a global picture of legislation complementary to the proliferation of technologies towards attainment of the 4th Industrial Revolution.

(iii). Motivational debates inspired through workshops and public seminars during the course of Committee work should become a norm;

(iv). Appoint a dedicated Committee Researcher, Communications Officer and a dedicated Law Advisor to assist the Committee in its legislative and other responsibilities; and

(v). Monitor implementation of recommendations emanating from the oversights, legislative amendment processes, SIU Reports and the Ad hoc Committee into the Fitness of the SABC Board Report Recommendations.

(vi). Monitor implementation of the recommendations emanating from the public hearings on the Film and Publications Board Amendment Bill; and

(vii). Monitor outstanding Budget Review Report Recommendations.

1. **Recommendations**
2. The Committee reaffirms the need to first and foremost, at the start of 6th Parliament, adequately capacitate and train members of the Committee to be conversant with adequate oversight tools to oversee competition, sustainability and growth of the ICT sector in South Africa. The Committee must partner with a leading university or universities knowledgeable on the subject matter.
3. There should be further exposure to global trends by way of international study tours to leading countries in order for members to be adequately equipped understanding a global picture of legislation complementary to the proliferation of technologies towards attainment of the 4th Industrial Revolution.
4. Motivational debates inspired through workshops and public seminars during the course of Committee work should become a norm;
5. Appoint a dedicated Committee Researcher, Communications Officer and a dedicated Law Advisor to assist the Committee in its legislative and other responsibilities;
6. Monitor implementation of recommendations emanating from the oversights, legislative amendment processes and the Ad hoc Committee into the Fitness of the SABC Board Report;
7. Fill in four vacancies in the Media Development and Diversity Agency (MDDA) Board if not merged with another government institution;
8. Monitor governance challenges and follow up on allegations of corruption at Brand South Africa (BSA);
9. Monitor the outcome of the Competition Commission Appeals Tribunal on the matter of the SABC and Mutlichoice agreement and ongoing investigation by ICASA;
10. Fill the vacancy in the Council of the Independent Communications Authority of South Africa (ICASA) following the removal of its Chairperson;
11. The SABC Board and the Minister of Communications must present the turnaround strategy of the corporation;
12. Monitor progress of the Special Investigating Unit (SIU) investigations at the South African Broadcasting Corporation;
13. Monitor progress made on cases that had been referred to the National Prosecuting Authority (NPA) by the SIU in relation to investigations at the South African Broadcasting Corporation;
14. Monitor implementation of the recommendations emanating from the public hearings on the Film and Publications Board Amendment Bill; and
15. Monitor outstanding recommendations of the Budgetary Review and Recommendations Report and oversight reports.

1. National Development Plan (2014) [↑](#footnote-ref-1)