

SABC Interim Board
Submission
Parliamentary Portfolio
Committee - Communications
22 September 2009



Executive Summary – Report of the Auditor General

Parliament's portfolio Committee on Communications requested the Auditor General to conduct an investigation on certain allegations made by members of the previous SABC Board as well as Organised Labour Unions. The AG's Investigations focussed on the following areas:

- Supply Chain Management
- Fruitless and Wasteful Expenditure
- Human Resources Related Issues

General Findings – AG's Report

- Lack of Accountability
- Lack of Fiscal Discipline and adherence to Treasury Regulations
- Lack of Policies and Procedures governing the Acquisition of Content
- Failure to conduct Needs Analysis from Channels
- Acquisition of content from unauthorised suppliers
- Wastage and Inefficiencies
- Appointment of Service Providers to provide similar services
- Failure to declare Business Interests

Supply Chain Management - Findings

Legal Framework for Procurement

Para 11.9.1 of the SABC SCM Policy states that “It shall be the SABC’s Policy not to purchase any goods or services from any employee or employee owned business, to ensure that suppliers competing for the SABC’s business have confidence in the integrity of the SABC’s selection process”

- The Interim Board to introduce a Control Register containing all approvals for Employees undertaking outside Work
- Notices to be issued to all Employees to declare Business Interests outside the SABC
- Disciplinary Actions to be taken where appropriate to deal with incidents of Non Disclosure and awarding business opportunities contrary to the SABC SCM Policy Framework

Fruitless and Wasteful Expenditure

Areas of Misconduct

- Exceeding the various Levels of Authority under the Delegated Authority Framework
- Splitting of Contracts to bring within the appropriate Level of Authority
- Purchases made without proper Business Plans and Deal Appraisals
- Over Payments to Suppliers including Double Payments
- Agreements not properly vetted and poorly negotiated
- Content paid for but not delivered
- Content delivered but not broadcast
- Dumping of stock and content bundling
- Titles acquired more than once from the same Supplier during the same License Period

Background to the Report from Internal Audit

The Scope of the Report was:

- identify and quantify possible fruitless and wasteful expenditure as a result of failure to broadcast content
- identify any possible irregularities in contracting with suppliers
- identify incidents of double payments and over payments
- establish whether proper procedures were followed
- identify control weaknesses within the SABC
- recommend corrective action
- a total of 169 contracts were reviewed – value of R 1 Billion

Disciplinary Cases

Legal Framework

- **Responsibilities of Officials** – Section 57 of the PFMA
An official in a public entity –
 - (a) must ensure that the system of financial management and internal control established for that entity is carried out within the area of responsibility of that official
 - (b) is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility
 - (c) must take effective and appropriate steps to prevent any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue
 - (d) must comply with the provisions of this Act
 - (e) is responsible for the management, including the safe-guarding of the assets and the management of liabilities within that official's area of responsibility

Program Content Investigations – Fruitless and Wasteful Expenditure

General Findings	169 Suppliers and contracts Investigated	Recommendation to Prosecute 13 Cases and Total Value of Recoveries
Double Payments made to Suppliers		US \$ 190 000 R 1 330 000
Over Payments made to Suppliers		US \$ 330 935 R 2 316 545
Material paid for but not Received		US \$ 9 515 870 R 88 411 090
Agreements to be Re-Negotiated		US \$ 2 070 725 R 14 495 075
Titles Acquired more than once from the same Supplier during the same License Period		US \$ 742 040 R 5 194 280

Infringements by Junior vs Senior Employees

- In view of the various Levels of Authority, it is proposed that a different Disciplinary approaches be adopted in the case of –
 - **Junior Employees** - Informal Disciplinary Action
chaired by a Line Manager
Employees given an opportunity to plead to the charges and accept an appropriate sanction ie First Warning or Final Written Warning depending on the severity of the charge
 - **Senior Employees** – Formal Disciplinary Action
chaired by an Independent External Chairperson
Focus on Crisp Allegations where there are clear violations to avoid protracted hearings

Proposed Way Forward – Next Steps

- Draft and finalise the charges as recommended by the Auditor General's Report
- Obtain the mandate of the Board on Final Charges and Initiation of the Disciplinary Hearings
- Appoint the Chairpersons of the Formal and Informal Disciplinary Hearings
- Convene the Hearings
- Finalise All Outstanding Disciplinary Matters including Cases Pending at the CCMA
- Agree on the Timelines and the Scope of the Mandate

Possible Legal Challenges

- Resources
- Transition from Interim Board to Permanent Board
- Co-operation of other Law Enforcement Agencies

Civil Cases – Letters of Demand and Summons to Recover Monies Owed

Recommendations

- Section 25 of the Broadcasting Act provides that in the course of an audit the auditor of the SABC may disallow any payment made without authority and report the disallowance to the Board. Furthermore, the amounts so disallowed may be charged against the person responsible for it as a debt
- Letters of Demand to be issued against the Suppliers claiming
 - the amounts Over Paid by the SABC
 - the delivery of Content (Specific Performance)
 - termination of specific contracts
 - re-negotiation of the deals
- Issue Summons for failure to comply
- Over Payments – R 111 Million

SABC Interim Board

Criminal Investigations

Recommendations

- The Interim Board is of the view that there is a prima facie case of Generally Corrupt Practices within the SABC which require investigation by the following Law Enforcement Agencies
 - SAPS - NPA
 - SARB (Foreign Currency and Cross Border Transactions)
 - SARS
- Areas of Investigation to include instances of Fraud, Over Payments, Under Payments and breach of the PFMA, the Companies Act and the Broadcasting act
- Meetings scheduled with the appropriate authorities to frame the charges and the prosecution of the claims / allegations

Next Steps - Key Milestone Summary and Timelines

Focus Area	Start Date	Completion Date	Duration
Initiation Phase – Review of the AG's Report	8 September 2009	10 September 2009	2 days
Formulation of Charges and Drafting Letters of Demand	12 September 2009	17 September 2009	5 days
Assess People and Resource Requirements	18 September 2009	20 September 2009	2 days
Procedures to manage the Project	21 September 2009	21 September 2009	1 day
Finalization of Detailed Plans including submission to Parliament	21 September 2009	22 September 2009	1 day



Next Steps - Key Milestone Summary and Timelines

Focus Area	Start Date	Completion Date	Duration
Civil Action / Letters of Demand: <ul style="list-style-type: none">•Over Payment•Double Payments•Termination and Contract Re-Negotiation	25 September 2009	28 September 2009	2 days
Labour Matters / Disciplinary Actions: Junior Employees <ul style="list-style-type: none">•Formulation of Charges•Presentation of Charges•Commencement of Hearings•Finalization of Disciplinary Proceedings for Junior staff	17 September 2009	End of October 2009	35 days



Next Steps - Key Milestone Summary and Timelines

Focus Area	Start Date	Completion Date	Duration
Labour Matters / Disciplinary Actions: Senior Employees <ul style="list-style-type: none">•Formulation of Charges•Appointment of an External Chairperson•Appointment of an Initiator to lead the Prosecution•Presentation of Charges•Commencement of Hearings•Finalization of Disciplinary Proceedings for Senior staff	17 September 2009	No later than End of November 2009	60 days

Next Steps - Key Milestone Summary and Timelines

Focus Area	Start Date	Completion Date	Duration
Criminal Charges <ul style="list-style-type: none">• Prepare a list of charges – including Generally Corrupt Practices, Fraud, Theft, Violation of the PFMA, Broadcasting Act and the Companies Act• Identify individuals to be charges• Prepare evidence to be presented to the SAPS• Investigation by SAPS• Referral to NPA for a decision to prosecute• Possible Arrests and Initial Court Appearances	17 September 2009	30 September 2009	13 days



Thank You



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