



**AG PROGRESS REPORT
TO
PORTFOLIO COMMITTEE ON
COMMUNICATIONS**

BACKGROUND

In September 2009, The Auditor General South Africa (AGSA) submitted a report to the then interim SABC Board, detailing the state of governance at the Organisation. The AG investigation into the SABC was conducted as a result of Organized Labour i.e. (MWASA, CWU, BEMAWU) lodging an official complaint to SCOPA and PCC to investigate the management of SABC affairs.

The AGSA investigation took place over a six week period, starting 21 July 2009 and the SABC was given five days to respond to the allegations contained in the report.

As the implementation of the AGSA recommendations were an inherent condition of the SABC's government guarantee, it was a standing agenda item in various Shareholder forums.

During these discussions, it became evident that the rate of progress was deficient. The recommendations were not sufficiently monitored, coordinated or implemented. This resulted in the SABC's inability to provide a coherent and credible status update to the Shareholder about the AGSA findings and recommendations.

To this effect, the Acting COO, on 24 November 2011 assembled a task team of internal staff members with a vast array of skills and experience to review the report and give an update and required follow up actions. Where matters have been concluded, the Task Team will provide detailed reports outlining the policies, procedures or actions taken to ensure that the infringements do not recur. The activities of the Task Team are guided by the Terms of Reference as approved by the Chairperson of the SABC Board.

TASK TEAM APPROACH

The Task Team developed an approach to review, provide a credible update and advise on all outstanding actions on the AGSA report findings. The Task Team has been allocated into various streams, dependent on skills and experience with appropriate backups.

The following reports have been reviewed in depth:

- " AGSA ,
- " KPMG dated Nov 2010,
- " SABC report to Monitoring Task Team dated August 2011,
- " SIU (7 received thus far) and
- " Internal Audit progress dated Oct 2011

The Task Team has executed the activities below to address the AGSA report:

- “ Reviewed and considered the AG findings,
- “ Verified the authenticity and contents of all status reports,
- “ Meetings with individual Group Executive members were held to determine progress against AG findings and recommendations
- “ A meeting was held on 23 January 2012 with AGSA to establish and seek clarity on how their findings were determined
- “ A meeting was held on 20 January 2012 with SIU to establish their scope of work, progress made, and how their investigations related to AGSA report, Internal Audit department and their interaction with SABC staff
- “ A meeting was held on 18 January 2012 with SSA (State Security Agency) to discuss the vetting process of SABC employees
- “ Conducted analysis of available information provided in the various reports
- “ Identified gaps in business processes, policies and procedures and made recommendations on how to address these shortcomings
- “ Preliminary findings were presented to the SABC Board on 09 December 2011, and an updated report was presented to the Minister of Communications and SABC Board on 24 January 2012 and to the PCC on 22 February 2012 through the Monitoring Task Team (which is made up of DoC, NT and the SABC.)

Next Steps:

- “ All source documents from the AGSA were delivered to the SABC on 17 February 2012. The Task Team has analyzed the information and compiled a list of queries. This will then be followed by a workshop between the Task Team and the AGSA to understand how the AGSA arrived at their findings and recommendations where necessary.

Completion Date: 31 March 2012

- “ The team will then consolidate and finalise its recommendations with timelines to Group Executive Committee for implementation and to the Board to ensure monitoring. The task team has compiled a project implementation plan, outlining tasks, persons responsible and completion dates
- “ The following reports are still to be reviewed: completion date 2 March 2012
 - “ Cliffe Dekker Hofmeyer report on International Content Acquisitions

TASK TEAM OBSERVATIONS

Despite the critical findings and recommendations of the AGSA Report dated September 2009, there has been little or no implementation of the recommendations. The root causes of the findings are still prevalent.

In order for the control and operational environment in the SABC to be improved, the following key areas must be addressed with utmost urgency:

Leadership

The depth of broadcast specific skills of our leaders has diminished over time. This has led to an inability to maintain our competitive advantage.

The appropriate tone of leadership is of utmost importance to ensure sound management practices, effective governance and the right behaviour. The Board should provide effective leadership based on an ethical foundation.

Quality of decisions taken and decisiveness by leadership should be improved, e.g. Attention to detail when approving business cases and amount of time taken to make a decision.

The executive leadership void will continue to render the Board operational instead of providing the required oversight role.

***It is noted that in the past 2 months appointments have been made to fill key executive positions i.e. GCEO, CFO, GE: COMMERCIAL ENTERPRISES AND GE: HUMAN CAPITAL SERVICES.**

Management

The SABC lacks effective performance management and as a result disciplinary processes are used to manage poor performance and conflict.

Performance management is dysfunctional in that it lacks entrenchment of the selected system.

“ No performance management policy

“ No performance management culture

*** A draft performance management policy is currently going through consultation process for implementation 1st April 2012**

Effective Governance

“ The role of the Company Secretariat should be redefined to ensure broader responsibilities and accountability and should have an arm’s length relationship with the Board.

“ The absence of this separation has led to the neglect of governance leadership within the broader organisation because of the focus on the Board.

- “ There are no policies and or guidelines relating to Board members i.e. benefits, S&T, travel, events and gifts.
- “ Information Management: Executive authority for this crucial function is lacking leading to fragmented reporting, information dissemination and record-keeping.
- “ Stability, organisational structure and performance management still remain ineffective or poorly implemented.
- “ In the past year all new employment contract for Senior Management contain a clause specific to succession planning.

Contract Management

- “ None of the solutions previously recommended by the AGSA have been implemented. An example in the Technology Division is the Siemens contract which was poorly managed.

“Contract management can be summarized as the process of systematically and efficiently managing contract creation, execution, and analysis for the purpose of maximizing financial and operational performance and minimizing risk.” - Wikipedia

Policies

- “ It is evident that there is a gap between currently outdated approved policies and systemised processes. Policies and standard operating procedures are not reviewed holistically and therefore led to conflicts and/or loopholes (most policies were designed for pre- SAP processes).

Recommendations:

Leadership:

- “ Recruitment cycle should be managed proactively to reduce turnaround time of filling vacancies.

Management:

- “ Performance management should be entrenched in the operations.
- “ In order to improve the quality of employees, a vetting process as per National Key Point Act should be implemented.

Effective Governance:

- “ A clear separation between the Board Secretariat and Company Secretariat must be made. In parallel, a benchmarking exercise should be undertaken to ensure that the SABC secretariat role is in line with other SOE’s.
- “ High turnover of executives in recent years has impeded progress in the implementation of the AG findings. Many GE’s interviewed have very little information relating to the matters in the AG Report, and require time to retrieve information and provide feedback to the Task Team, as there was no handover when they resumed office from the GE’s who were in the employ during the AG investigation.

Contract Management:

- “ It is of utmost urgency that a corporate wide solution be implemented to ensure a transparent end- to-end process of managing all elements of contract management. Examples include supplier performance and compliance to SABC governance framework.

Policies:

- “ These policies and procedures should be formalised to ensure governance is enforced. Manual processes should be systemised to ensure efficient controls.
- “ A gap analysis between currently documented processes as per implemented systems and policies is required to ensure alignment. In addition, Board must ensure that policy review is conducted on an annual basis.

TASK TEAM FINDINGS

The key findings are:

- “ Inconsistencies across all status reports and investigative reports;
- “ A number of action plans were developed but not yet embedded into the operations;
- “ Lack of management and tracking of implementation of recommendations;
- “ The relationship with the SIU has not been properly managed, resulting in limited sight of SIU progress. For an example the SIU resumed its investigations in the SABC in April 2010, and had their first interaction/feedback reporting session with the SABC Board through the Audit Committee in May 2011 (1 year later);
- “ There were varied interpretations of the AGSA Findings by the SABC;
- “ AGSA used the Cliffe Dekker Hofmeyer report on International Programme Content and did not conduct any investigations of their own on any of the matters.

TASK TEAM INTERVIEW WITH SIU

On 20 January 2012, the Task Team met with a representative of the SIU and the below was discussed.

It was established that on 6 September 2010, The SABC Board signed a Service Level Agreement with the SIU to undertake further investigations on the AGSA Findings. The SLA was signed for the period 1 April 2010 to 31 March 2011 (Phase 1). The SABC and the SIU therefore did not have a formal engagement letter, prior to the commencement of work.

The proclamation was granted on 29 October 2010, and the SIU mandate extended to matters relating to the period from January 2005 to October 2010.

A further Letter of Engagement (LOE) was then signed for the period 01 April 2011 to 31 March 2012 (Phase 2); the LOE was signed on the 21 June 2011. The following upfront payments were made to the SIU by the SABC, phase 1, R8.6 m and for phase 2, R10.9 m..

According to the SIU they have a direct reporting obligation to the President and provide updates as a courtesy to the SABC Board. In the case of the SABC, they also delivered copies to SABC Board, who was charged with the responsibility of overseeing the engagement. In addition, on 26 September 2011, 8 reports were handed over to the SABC Chief Audit Executive, on instruction from the SABC Board. The SIU indicated that only the President will have sight of the full and final report, once all the investigations have been concluded.

The SIU informed the Task Team that thus far they have delivered 8 copies of the reports and have since had two presentations to the Board; 1 in May 2011 to the Audit Committee and thereafter during Oct/Nov 2011 to the full Board. However the SIU indicated that it was their impression that some of the Board members may have not had sight of the report.

It has become apparent that most of the work that the SIU has reported on was previously executed by other parties, i.e. KPMG, Cliffe Dekker Hofmeyer (Comperio Forensics report on International Programme Content), AGSA, and Group Internal Audit. Since the initial engagement, most investigations are still in progress or at quality control stage. The SIU expects to conclude same by 31 March 2012.

The following criminal cases have been opened as a result of investigations conducted by SABC Group Internal Audit; the criminal charges were subsequently laid by SIU after reviewing the forensic reports.

CRIMINAL MATTERS REPORTED

The following criminal cases have been opened as a result of investigations conducted by SABC Group Internal Audit.

• **Brixton CAS 122/09/2010: Excessive discounts to Agencies:** 2 contracts issued for 1 campaign enabling media agency to recover more money from the advertiser than was payable to SABC. No final decision yet by NPA. Complainants do not wish to proceed. Meeting to be arranged between NPA and SIU prosecutors

• **Brixton CAS 417/10/2009: Solicitation of Bribery:** Irregular/excessive discounts offered to advertiser. SAPS discussed the matter with the Senior Public Prosecutor. The prosecutor issued a Nolle Prosequi certificate.

• **Brixton CAS 23/03/2011: International Content Acquisition:** Content acquired that was not required. Matter is with the NPA for a decision to prosecute or not.

• **Brixton CAS 1/08/2007: Head of Legal:** Fictitious invoices. Matter is with NPA prosecutor. Arrest made, suspect out on bail

~ **Brixton CAS 902/08/2007: Woman of the Year awards:** Fictitious invoices. Warrant has been issued and suspect is on the run.

~ **Brixton CAS 313/03/2008: Music Lounge:** The employee has since passed away. SAPS to discuss with the Senior Public Prosecutor.

The following criminal cases have been opened as a result of investigations conducted by SIU.

~ **Brixton CAS 403/12/2011: 2010 FIFA World Cup Public Viewing Areas:** Newly registered 2010 world cup matter must still be assigned to a NPA prosecutor.

~ **Brixton CAS 535/05/2010: South African Music Rights Organisation.** Investigation underway.

~ **Brixton CAS 519/08/2010: PA to GE Sales:** Fictitious invoices. 2 suspects arrested.

It is the view of the Task Team that the SIU investigation into the SABC has not yielded any significant value in relation to the amount of R19.5 m paid to date. It is near impossible for the Task Team to ascertain what the SIU's activity was, particularly as many cases have been referred back to the SABC for further investigation sighting time constraints as a reason.

TASK TEAM INTERVIEW WITH AGSA

The AG investigation into the SABC was conducted as a result of Organized Labour i.e. (MWASA,CWU,BEMAWU) lodging an official complaint to SCOPA and PCC to investigate the management of SABC affairs.

On 23 January 2012 the Task Team met with the Audit Manager from AGSA who led the SABC investigation in 2009. The purpose of the meeting was to gain an in-depth understanding of some of the findings in the AG report that the Task Team did not agree with and required clarity on.

It was established that the AGSA investigation was conducted under very strict non negotiable timelines by the Portfolio Committee on Communications, (6 weeks) the SABC Management was given only 5 days to respond to the AG findings.

The AG did not conduct any new investigations under International Programme Content and used the Cliffe Dekker Hofmeyer report findings as is. This is based on the fact that the former Head of Internal Audit who resigned in February 2007 and joined Cliffe Dekker Hofmeyer attorneys to finalize the investigation which she started in 2006 whilst in the SABC employ.

The Audit Manager conceded that not all information was verified, due to the limited time given by the Portfolio Committee, to conclude the investigation. On 17 February 2012 the task team has received from the AG source documents that informed the AG's findings and recommendations.

The Task Teams findings to date on the source documents provided by the AG, mostly relates to irregular appointment of consultants by the former CFO, deviation to tender processes by the former Head of Procurement and the former Acting CTO.

Findings

The SAP workflow of the CFO allows for the requisition and payment of expenditure initiated by the CFO to be approved without escalation to any other individual in the organization. This means that there is no segregation of duties in the procurement cycle related to the Cost Center of the CFO.

Recommendations

The approval process for expenditure incurred in the office of the CFO must be changed to ensure that the requestor and the approver is not the same individual. The SAP approval process must be amended accordingly.

AGSA FINDINGS: ANALYSIS

SUPPLY CHAIN MANAGEMENT

CONFLICTS OF INTEREST

AGSA CONCLUSIONS:

- (a) Various employees were identified as directors or members of companies and/or CCs, but it was not investigated if they had had approval to perform outside work and if such approval was based on a proper evaluation confirming that the employees' outside interest would not affect their SABC work performance.
- (b) Several (20) employees were identified who had an interest in entities doing business with the SABC although this is prohibited by the SABC procurement policy which states "It shall be the SABC's policy not to purchase any goods or services from any employee ...". A total of R3,378 million was paid to the identified employee related entities.

AUDITOR GENERAL RECOMMENDATIONS:

- (a) The interim SABC Board, as the accounting authority, should determine if the employees identified performed other work outside the SABC. If so, the following should be established:
- i. If they had approval from the GCEO to perform other work and the basis on which such approval was granted.
 - ii. Appropriateness of disciplinary actions against employees performing other work outside the SABC without the required approval.
- (b) A central control register containing all approvals to conduct outside work should be established.
- (c) With regard to the employees who had an interest in companies and CCs doing business with the SABC, the interim SABC board should determine:
- i. Whether such employees had declared their interest.
 - ii. Whether such employees had in any way influenced or were in a position to influence directly or indirectly the procurement process to award a quotation or tender to their entity.
 - iii. Whether any employee had given preferential treatment to the employee related entity in awarding a quotation and/or tender to the entity.
 - iv. The appropriate disciplinary action to be taken against employees who are directors and/or members in companies and/or CCs doing business with the SABC, as well as those, if any, who influenced the procurement process.
- (d) The interim SABC board should remind all employees of the SABC of the policies regarding performing other work and doing business with the SABC.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

The Task Team has verified with the office of the Company Secretary that there is no central electronic register of approvals for the employee's application for declaration of business interest with the SABC. The declaration of interest forms are manually filed at the office of the Company Secretary. This practice is acceptable according to the Company's Act.

However, the approval form (PS49) for doing additional work with the SABC is stored by HR in the employee's personnel file.

- a) Verified that only 1 of the 20 employees identified in the AG report obtained approval for doing work with the SABC. The employee's application was approved by the Head of PBS Radio. (this should not have been approved as it contravenes Supply Chain Management Policy). SAP approval of transactions relating to the 20 identified employees to be reviewed as the Task Team has investigated and found that the transactions related to the 20 Employees identified, were processed in the initial phase of the SAP implementation. The verification will require retrieval of hard copy approval and supporting documentation. This task will require additional time to complete.
- b) Obtained a detailed SIU report on Conflict of Interests and is in the process of discussing the course of action with the relevant Group Executives of the identified individuals. Additional information from the SIU states that 12 DC files were delivered to former Acting GE: HCS, in August 2011 with draft charge sheets—Employee Relations delivered the files to Internal Audit for further investigation, however, no work was undertaken. An additional 16 employees and 4 Board members reports are at the quality review stage by the SIU. These SIU reports are due to be completed by 31 March 2012.
- c) Has identified that of the 1465 employees in the report, 577 are no longer in the employ of the SABC, and some of the companies identified are dormant or deregistered.
- d) Met with Deputy Company Secretary and established the existence of physical files containing declarations of interest of employees. According to the Companies Act, the current practice by the SABC is acceptable.
- e) Verified that a similar register exists for Board members to declare their interests.

- f) A moratorium on additional work was issued by the former Acting GCEO, and there has been reminders relating to declaration of business interest, by the Company Secretariat.

TASK TEAM FURTHER RECOMMENDATIONS:

Short Term (upto 30 April 2012)

- “ That each GE’s office creates and maintains an electronic register to be stored in the U: drive, and ensure all declaration forms are scanned and filed in the U: drive together with the register, annually and as and when changes occur. Implementation date 7 April 2012
- “ All approved declarations that are in conflict with the Supply Chain Management Policy should be revoked with immediate effect, and all individuals involved should be engaged to determine the ER process to be followed in order to mitigate the risk to the SABC.
- “ The Task Team proposes that all SABC staffers who represent the organisation on the Boards of Professional Bodies declare and obtain official approval for their participation and interests (paid or unpaid). A physical and electronic register should be maintained for the process. Updates should occur as and when the appointments take place as well as annually.
- “ The Task Team proposes that it becomes mandatory in all official meetings/ engagements that declarations of interest/potential conflict of interest are declared. Should any conflict arise, then the individual must recuse themselves from the process.
- “ There is currently no proper procedure for the approval of the declaration of potential conflict of interest, where the employee may wish to do business with the SABC.
- “ Procurement to be part of the approval process to ensure that the employee’s interest in a company is not in contravention of the SCM policy.
- “ Following the AG report findings, where a number of employees were found to have committed transgressions, Task Team recommends that all current and future key positions be vetted (adverse credit and criminal records) with immediate effect as an enhancement to internal risk controls.
- “ A further recommendation is that recruitment policies are amended to include compliance with section 2A of the National Strategic Intelligence Act 39 of 1994 as amended. This will proactively identify any criminal or fraudulent activities carried out by the prospective / current employee.

- “ A policy and standard operating procedure for conflict of interest that will guide the organisation on how it should operate going forward. Once approved, it should be implemented by the appropriate business area and strictly monitored by the office of the Company Secretary.
- “ Task team to also request Internal Audit to include conflict of interest tests in their Annual Audit Plan.

Medium Term (upto 30 June 2012)

- “ SAP CCC to develop and configure declaration approval workflow process as well as storage of declaration forms linked to employee HR records.
- “ Task team to compile business requirements specifications, obtain sign-off and ensure that funds are available for the development that may be required in SAP.

Long Term (upto 31 March 2013)

- “ SAP Declarations database to be interfaced with CIPC aka CIPRO database to verify declarations and to identify exceptions (SABC will need to obtain the buy-in from CIPC before it proceeds – a cost versus benefit exercise will need to be performed as part of the business case for approval and implementation)
- “ The ownership of this corporate governance activity should reside with the Company Secretariat.
- “ Task Team to draft a procedure manual indicating appropriate approval levels and assign the office to be responsible for such approvals.
- “ The Supply Chain Management Policy should also make reference to the proposed procedure manual.

SUPPLY CHAIN MANAGEMENT

PROCUREMENT OF GOODS AND SERVICES

AGSA CONCLUSIONS:

- a) In various instances, evidence could not be found that deviations from the tender process as well as the awarding and approval of tenders were done in accordance with the delegated levels of authority as stipulated in the DAF.
- b) Members of the BAC were not appointed in writing by the GCEO and all recommendations and decisions made by the BAC were therefore made by individuals whose appointment was not formalized.

AUDITOR GENERAL RECOMMENDATIONS:

- a) The interim SABC board should determine whether expenditure incurred amounted to irregular expenditure where the approvals were not in accordance with the Group SCM Policy and as defined in the PFMA and, if so, the necessary action should be taken as prescribed in section 51(1)(e) of the PFMA.
- b) The interim SABC board should take notice that according to paragraphs 5.11.1 and 5.11.2 of the Delegation of Authority “Non-compliance with any provision of this policy shall be an offence punishable in terms of the disciplinary code of the SABC. In particular, the improper splitting of invoices or projects and the exceeding of the authority levels conferred upon any employee in terms of this DAF, for whatever reason, shall be subject to disciplinary action in terms of the SABC’s disciplinary code”.
- c) The interim SABC board should ensure that all committee members of the various procurement committees are appointed in writing and that their roles and responsibilities are clearly stated in the appointment letters.
- d) Furthermore, all supply chain role players should be trained to implement all SCM policies and procedures.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) Interim Board has taken action against Head of Procurement, as prescribed in section 51(1)(e) of the PFMA. The employee was suspended and the disciplinary hearing was concluded and the employee's contract terminated. The CCMA ruled in favour of the Head of Procurement. The SABC took this ruling for review at the Labour Court. The matter has been set down for 12 May 2012.
- b) The appointment of SABC Bid Adjudication Committee (BAC) has been concluded by SABC Board in June 2010, with clear roles and responsibilities outlined. Task Team has verified that BAC Terms of Reference has been approved appropriately.
- c) Road shows were conducted and same is planned for the revised SCM policy.
- d) Training of BAC members and procurement practitioners will be an ongoing process.

TASK TEAM FURTHER RECOMMENDATIONS:

Procurement Department Structure: As a result of the anomaly of the 2 GM's in the Procurement Department reporting to each other, it is recommended that the position of GM: Strategic Sourcing be scrapped from the Organisational Structure. The role of Strategic Sourcing should be re-allocated to the Head of Procurement position. GE Human Capital Services to complete by 31 March 2012. Head of Sport Productions and Head of TV Programming report to GM: Sport. All three positions are on scale code 120. The Acting COO has instructed that all hierarchical adjustments will be complete by 08 February 2012.

Task End Date: 1 March 2012 GM: Sport will be redeployed to head TV Operations.

SUPPLY CHAIN MANAGEMENT

APPOINTMENT OF CONSULTANTS

AGSA CONCLUSIONS:

- a) The stipulations of the PFMA and the Group SCM Policy were disregarded in most instances in appointing consultants by not inviting competitive quotations and/or tenders.
- b) Approvals for deviations from the normal procurement process in appointing consultants could also not be submitted to the AGSA.

- c) In some instances, the SABC was invoiced for services rendered by consultants, but without proper contracts being in place for these services.
- d) Contracts/agreements signed between the SABC and consultants in some instances did not specify measurable deliverables, performance criteria and timelines, which makes it difficult to determine if contractual deliverables were met.
- e) In signing contracts, approved levels were exceeded and decisions of the Group Executive Committee were disregarded.
- f) Contracts were extended without following due process or payments continued although contracts were not extended.
- g) Segregation of duties did not always exist in the awarding of contracts, certification of services rendered and approval of payments.

AUDITOR GENERAL RECOMMENDATIONS:

- a) The interim SABC board should evaluate the following with regard to the appointment of consultants:
 - I. Reasons why consultants were appointed without following the approved Group SCM Policies and stipulations of the PFMA.
 - II. If deviations from the approved policies in appointing consultants were approved in accordance with the DAF.
 - III. Possible actions against employees, in terms of the PFMA and the disciplinary code of conduct and grievances procedures of the SABC, who appointed consultants in contradiction to the stipulations of the PFMA and approved Group SCM Policy.
 - IV. Whether expenditure incurred amounts to irregular expenditure as defined in the PFMA.
 - V. If the SABC received value for money for the consultants appointed
- b) The interim SABC board should introduce measures to ensure that all agreements with consultants do contain measurable deliverables, performance criteria and specific timelines.
- c) For the period 1 September 2007 to June 2009 an exception report had been created by the AGSA to include all payments made to consultants amounting to R279,797 million. It is recommended that the appointments as well as allegations with regard to the appointment of

consultants not yet investigated be investigated to determine if similar shortcomings exist in the appointment, payment and management of consultants.

- d) The interim SABC board should note that according to paragraph 5.11.3 of the DAF “Non-compliance with any provision of this DAF, or with any existing policy or procedure of the Corporation to which the exercise of delegated authority in terms of this DAF is subject, shall render the decision voidable at the instance of the board or any other individual or forum authorised to exercise such discretion on its behalf. The decision shall be subject to any vested third party rights in consequence of the decision and further subject to the rights of the SABC in terms of the Corporation’s disciplinary code”. In view hereof, the interim SABC board should consider if some of these procurement transactions, which appear to be irregularly concluded, should be voidable.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) The Group Supply Chain Policy allowed for the practice at the time of the AGSA investigation. The appointment of consultants is incorporated in the revised Procurement Policy which is awaiting approval.
- b) Task Team to investigate all other instances of transgressions as action was only taken against certain Group Executives
- c) The payment information relating to Consultants (R279m) as per the subsequent KPMG Report of November 2010, requires further analysis as the task team’s preliminary findings indicate that the information is inaccurate as not all of these are consulting firms.
- d) Regarding the voidability of contracts where improper authorisation was obtained, Task Team is of the opinion that this recommendation is flawed. However, Task Team will seek independent expert opinion to conclude this matter.
- e) Thus far, there have been improvements in the drafting of contracts and the engagement of service providers to ensure that the current contracts contain specific performance measures.

Task End Date: 31 March 2012.

FRUITLESS AND WASTEFUL EXPENDITURE

INTERNATIONAL CONTENT ACQUISITIONS

AGSA CONCLUSIONS:

- a) The problems or shortcomings with regard to international acquisition were already identified and reported by the Group Internal Audit Unit to the audit committee of the SABC in March 2007.
- b) Detail findings by the legal firm have already been communicated to the acting GCEO, CFO, chairperson of the audit committee and the SABC board in September 2008 and in March 2009.
- c) On 18 March 2009 the audit committee allocated responsibilities and actions to be taken as a result of the report.
- d) Although material overpayments, underpayments, double payments, material procured but not received and titles acquired more than once have been identified in the reports of the legal firm, no evidence could be submitted that corrective actions were implemented by the SABC board or management to minimize this in future or that actions have been taken against employees for possible transgressions in the acquisition of international content.

AUDITOR GENERAL RECOMMENDATIONS:

- a) The interim SABC board should follow up if policies and procedures for the Content Enterprises Division have been subsequently compiled and approved to ensure the implementation thereof. The company secretariat should keep a proper record of approved policies and Group Executive Committee/SABC board minutes and submissions for reference purposes to ensure a proper audit trail and safeguarding of company records.
- b) Civil action or legal proceedings should be instituted as a matter of urgency to recover any overpayments as identified and to minimise any further losses
- c) The results of the investigation should be used to determine the accuracy of financial and operational data to ensure accuracy and completeness of records
- d) The interim SABC board should consider disciplinary action in terms of laid down policies and procedures in terms of section 51(e) of the PFMA against employees for transgressions with regard to international acquisitions.
- e) Legal proceedings, including civil and criminal charges, should be considered against employees and former employees for transgressions with regard to international acquisitions.

- f) The financial statements of the SABC should be reviewed in order to ensure the effect of the findings was properly taken into consideration

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) Verified that the investigation was initiated by Group Internal Audit and subsequently taken over by Cliffe Dekker Hofmeyer. It is the teams' understanding that Cliffe Dekker Hofmeyer was appointed by the SABC Board. Comperio Forensic Services was then sub-contracted by Cliffe Dekker Hofmeyer to conduct the investigation. The final report was delivered by Comperio Forensic Services dated 05 June 2009.
- b) The Cliffe Dekker Hofmeyer report was received from Group Internal Audit on 02 February 2012. Since the AG findings on International Programme Content was lifted as is from the Cliffe Dekker Hofmeyer report, it is critical to review the final document and source information used to arrive at specific conclusions if possible.
- c) It should be noted that Comperio Forensic Services is owned by former SABC Chief Audit Executive.
- d) Requested all results of investigations conducted to date from Internal Audit in order to ensure the appropriate implementation required.
- e) It has been established that other employees implicated in this matter have since resigned and / or deceased before the internal investigation was concluded.
- f) According to The SIU, International Content Acquisitions matter has been lodged with the NPA for further action.

FRUITLESS AND WASTEFUL EXPENDITURE

SENIOR MANAGERS PETROL CARDS

AGSA CONCLUSIONS:

- a) Petrol cards were issued to senior and top managers and the current policy did not place a limit on the usage of the cards.
- b) The benefit of participating in the scheme is not linked to the travelling duties of the position.

- c) Monitoring by the Finance Department takes place on an ad hoc basis and no structured management information on the actual costs for individuals is available.
- d) Management information on the usage of petrol cards is not submitted to, or considered in, management meetings of some divisions
- e) There was a sharp increase in the number of petrol cards issued to employees from September 2008 to October 2008.

AUDITOR GENERAL RECOMMENDATIONS:

- a) Management should investigate the number of cards issued and verify that only qualifying members of top and senior management were allocated petrol cards.
- b) The policy should be reconsidered (as per needs analyses of travel and maintenance for business purposes) and should at least include mandatory evaluations of monthly usage as part of the Finance Department's function and capping of the monthly amount that an employee could spend.
- c) The policy should also be revised to include disciplinary or corrective actions for cases of excessive use.
- d) Structured management information should be submitted to and considered during executive management meetings.
- e) The expenditure incurred on petrol cards should be properly analyzed and all excessive costs should be investigated. Where appropriate, disciplinary action should be instituted.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) The reason for the sharp increase in the number of petrol cards issued from September 2008 to October 2008 was due to petrol cards being issued to Sales Executives in the Commercial Enterprises Division.
- b) The petrol cards to senior managers have since been discontinued and replaced with a fixed monthly allowance.
- c) Task Team to verify status of recoveries on excessive use of petrol cards with SIU and Group Internal Audit. SIU has only recovered R23000 from an employee.

A further analysis by Task Team has revealed the following:

TASK TEAM FURTHER RECOMMENDATIONS:

Bench-marking of petrol card management at other organisations is still to be conducted.

In order to reduce costs, for new employees, the re-introduction of petrol cards with capped and stringently controlled limits to be implemented.

Task End Date: 31 March 2012

FRUITLESS AND WASTEFUL EXPENDITURE

PRIVATE TRAVEL COMPANY

AGSA FINDINGS:

- a) The travel arrangements made by the private company were not in line with the SABC Travel Policy which states that the SABC Travel Office must be used for all travel and accommodation arrangements.
- b) The private travel company did not submit bank statements and did not pay the profit sharing in accordance with the agreement.
- c) The business plans for international travel were approved by the Group Executive: Content Enterprises without the delegated authority.
- d) Income tax was not deducted on the taxable benefit received by delegates who were accompanied by their partners.
- e) The private travel company invoiced the SABC for more travelling packages for both the Beijing Olympics and the Beijing Paralympics than the number of people who actually travelled to Beijing. However, no evidence was provided that the SABC attempted to recover the overpayment or that the private travel company refunded the SABC.

AUDITOR GENERAL RECOMMENDATIONS:

- a) The interim SABC board should evaluate the license agreement with the private travel company, in consultation with the National Treasury and the Department of Communications, to determine if due process was followed in entering into this Agreement.
- b) The General Manager: Business Development must, in the interim, ensure that the private travel company complies with its obligations in terms of the agreement.

- c) The SABC should ensure adherence to their travel policy and disciplinary action should be considered against those who contravened the policy.
- d) The interim SABC board should investigate if the total payments made for the trips should be regarded as irregular expenditure and, if so, the interim SABC board should report such irregular expenditure in accordance with section 55(2)(b)(i) and (ii) of the PFMA.
- e) The interim SABC board should consider appropriate disciplinary steps in terms of the PFMA if irregular expenditure was incurred.
- f) The tax implications of the above trips should be investigated and all other international trips should be reviewed for compliance with the Income Tax Act.
- g) The interim SABC board should investigate, and if applicable recover, the overpayments for the cost for the Beijing Olympics and Paralympics from the private travel company.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) Implemented, licence agreement terminated on 31 December 2009.
- b) Company in liquidation, Task Team has confirmed with the Liquidator that our claim may still be submitted. SABC still to submit its claim to the Liquidator to the value of R443, 000.
- c) The claim form has been signed-off by the GCEO for submission to the Liquidator.
- d) The SIU has handed over their findings to SARS on R34m Tax not deducted for verification; the SABC may be liable for the Fringe Benefit Tax not deducted from employees.
- e) Payroll has been advised to deduct the necessary fringe benefit tax from employees and Board members (event tickets, trips and gifts received from the employer (SABC).

TASK End Date: 31 March 2012

FRUITLESS AND WASTEFUL EXPENDITURE

BURSARIES

AGSA CONCLUSIONS:

- a) A bursary was granted to the Manager: Television and Sales bursary according to paragraph 4.1 of the SABC Bursary Policy. An agreement was subsequently signed between the SABC Report of the Auditor-General on an investigation at the South African Broadcasting Corporation 59 and the Manager: Television and Sales. The General Manager: Human Resources was tasked with the responsibility to recover the funds.

AUDITOR GENERAL RECOMMENDATION:

- a) The SABC must ensure that the former Manager: Television and Sales sign an acknowledgement of debt for the outstanding bursary money not recovered from his salary and that the money is recovered.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) The SABC was prevented from securing a recovery from the Manager: Television Sales last pay cheque by the former Acting GCEO.
- b) Task Team has confirmed with Legal Department that civil pleading procedures are still on-going for the recovery of R132,000.

TASK End Date: 31 March 2012

FRUITLESS AND WASTEFUL EXPENDITURE

PRESIDENTIAL GOLF DAY

AGSA CONCLUSIONS:

- a) From available documentation inspected it was noted that the SABC paid actual cost of R2 280 for prizes for the event. The value of free air time offered for the event amounted to R340 500.
- b) Internal production costs of R34 056 were incurred to produce an audio visual, which have not yet been invoiced.
- c) No business plan, approved for the sponsorship of the Presidential Golf Day as required by paragraph 9.6.5 of the DAF, could be provided to the AGSA.

AUDITOR GENERAL RECOMMENDATION:

- a) Sponsorships, which includes the provision of free air time to market and provide coverage of events, should be considered and authorised with due cognisance of the financial austerity plan of the SABC. Business plans should be compiled and approved for all sponsorships given by the SABC as required by paragraph 9.6.5 of the DAF.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) Sponsorship and Trade Exchange Policy review in progress. Task Team to follow up progress with Turnaround project.
- b) Task Team has verified with Acting GM: Business Development that the Trade Exchange Policy is at its final editing stage after review by Group Internal Audit and will be tabled at Group Exco. The Sponsorship policy is with the GE: Commercial Enterprises for review.

TASK End Date: By 31 March 2012.

FRUITLESS AND WASTEFUL EXPENDITURE

FORMER BOARD CHAIRPERSON

AGSA CONCLUSION:

- a) The SABC paid for security at the houses of the former GCEO and the former chairperson of the SABC board for the period 1 October 2007 to 30 July 2009 amounting to R206 513 and R186 243, respectively. No approval could be provided for the security costs of the former chairperson of the SABC board. Both the former GCEO and the former chairperson were also not taxed on this fringe benefit.

AUDITOR GENERAL RECOMMENDATIONS:

- a) The taxable benefit received by the former GCEO and the former chairperson of the SABC board should be dealt with in accordance with the Income Tax Act.
- b) Systems should be put in place to ensure all taxable benefits are taxed in terms of the requirements of the Income Tax Act.
- c) The interim board should determine if the security at the chairperson of the SABC board's house was approved at the correct level and if the SABC suffered any losses, because no agreements existed between the SABC and the former GCEO and the former chairperson of the SABC board. Based on the outcome, appropriate actions should be taken against those responsible.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

This matter should be considered as closed, as policies and procedures governing Board Benefits at the time were not clear and adequate.

TASK TEAM FURTHER RECOMMENDATIONS:

The Shareholder / Minister must ensure that policy and standard operating procedures for Board additional benefits should be clearly defined as the current appointment letter is silent on that.

HUMAN RESOURCES RELATED ISSUES

PAYMENT OF SEVERANCE PACKAGE TO THE FORMER GCEO / SUSPENSION OF SABC EMPLOYEES

AGSA CONCLUSIONS:

- a) The former GCEO resigned from the SABC with effect from 1 February 2009. A settlement and a Restraint of Trade Agreement were signed between the chairperson of the interim board and the former GCEO on 14 August 2009. The outstanding balance is due by the end of October 2009.
- b) A minimum of 34 employees were suspended for an average of 10.4 months during the period April 2006 to August 2009 before the suspensions were finalised and in some cases the suspensions lasted up to 39 months (3.3 years). The salary (cost to company) cost incurred by the SABC in respect of the suspended employees is estimated at approximately R8,3 million.

AUDITOR GENERAL RECOMMENDATION:

The delays in finalizing the cases should be investigated and in cases where individuals failed to exercise their management functions in an effective way, they should be held accountable.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

- a) The settlement agreement between the SABC and the former GCEO was reached. No further action is required.
- b) Task Team to probe management's monitoring mechanisms and will recommend amendments to the current Disciplinary Code in relation to the period of suspensions.
The current Disciplinary Code is outdated and therefore under review. Task Team advised Employee Relations to amend the Disciplinary Code and Procedure to incorporate recommendations as contained in the SIU report. Group Employee Relations confirmed that there are only 3 active suspensions (Group Finance, Logistics and Technology) as at 24 February 2012.

Task Team is in possession of the SIU Report relating to overpayment of Salaries, Ghost Employees, Commissions paid and cost of suspensions. Task Team will review the findings contained in the report and develop plan of action where implementation has not occurred.

TASK End Date: Completed.

ALLEGATIONS NOT INVESTIGATED BY AGSA

ALLEGATION:

External lawyers are used in respect of the Multi-term Agreement 2009/10. The SABC use external lawyers for labour cases, while the SABC has lawyers employed for exactly that purpose

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

The analysis below has been done to compare external legal costs to the SABC against in-house Legal, Company Secretariat and ER Departments

	FY 2011	FY 2011	FY 2011
	Number of Employees	Internal Employee Costs Rm	External Legal Fees Rm
Business Unit			
Legal Department	32	16.730	9.400
Employee Relations	6	4.653	3.500
Company Secretariat	13	4.516	3.200
Internal Audit	34	18.849	NIL*
Total Cost		25.899	16.100

External Legal Fees as % of internal Employee Costs 62%

*Group Internal Audit external legal fees to Cliffe Dekker Hofmeyer for the fiscal years 2008 – R2,073m, 2009 – R4,949m, 2010 – R5.574m

TASK TEAM FURTHER RECOMMENDATIONS:

- Employee Relations has refrained from using the services of consultants as at 1 December 2011.
- The Board should review and decide on the use of consultants within Group Internal Audit and Legal Services, taking into account the personnel capacity, ie: skills and qualifications.

ALLEGATION:

The General Manager at News Resources did not declare his business interest

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

The DC Chair ruled in favour of the employee, SABC management reached a settlement agreement with the employee. The said employee has since left the organisation.

Matter Complete.

ALLEGATION:

Some tender documents go directly to Board without going through the sub-committee of the SABC Board, some directly to the sub-committee without going through the bid adjudication committee.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

A gate keeping measure has been implemented. Acknowledgement from Procurement is required with all the board documents.

ALLEGATION:

Payments are made to service providers that do business without being registered on the database.

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

The Group Supply Chain Policy allows for emergency and special payments to vendors who are not registered on the SABC database.

ALLEGATION:

Lack of price targeting, the bill of material in a tender are way above the market rate which often makes the bidder to be above the SABC budget. Sometimes the recommended bidder is R80 million more than the other bidder that could render exactly the same services.

If the SABC Board awards the tender to another bidder (not the one recommended by management), the SABC suggests out of court settlement by paying money to the losing bidder instead of challenging them in court

Alleged outside interference with the tender process specifically related to the procurement of outside broadcast vans

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

Matter is *sub judice* and its status will be verified with Legal. Further control measures to be implemented with the introduction of the new procurement legislation by National Treasury effected on 07 December 2011.

ALLEGATION:

Various payments to vendors for gift sets;

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

Brixton CAS 519/08/2010: Fictitious invoices. 2 suspects arrested.

ALLEGATION:

Allegations were made that sports rights were acquired although it has not yielded any return on investment.

The SABC lost the soccer rights, boxing rights and cricket rights. The Executive Manager is not being held responsible for causing this significant financial loss to the SABC

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

The SABC has instituted legal proceedings against the rights agents. Matter is awaiting adjudication in the Nigerian courts.

ALLEGATION:

Management and staff structures have changed severely since December 2006. An alarming number of managers have been appointed since (increase of 50% in Senior and Middle Management) whilst staff at lower levels only increased with 3%

IMPLEMENTATION TO DATE / TASK TEAM ACTION:

Non renewal of contracts and separation agreements have been entered into to address the issue. Headcount management is also being monitored as a deliverable of the Government Guarantee.