

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

10

**03 SEPTEMBER 2019**

**DAY 155**

20

**PROCEEDINGS ON 3 SEPTEMBER 2019**

**CHAIRPERSON**: Good Morning Mr Pretorius, good morning everybody.

**ADV PAUL JOSEPH PRETORIUS SC**: Morning Chair.

**CHAIRPERSON**: Thank you. This morning I am going to hand down my decision or deliver my decision in an application that was brought by Ms Jabulela Elizabeth Sishuba for certain relief that I will deal with shortly. Before I do so is there anything you wish to say Mr Pretorius?

**ADV PAUL JOSEPH PRETORIUS SC**: No Chair.

**CHAIRPERSON**: Yes and I...

10 **ADV PAUL JOSEPH PRETORIUS SC**: No Chair.

**CHAIRPERSON**: And I think notification was given to Ms Sishuba's attorneys. Thank you. When Mr Angelo Agrizzi testified before this commission earlier this year on one or two of the days part of the evidence that he gave related to or included persons that he said had received bribes from Bosasa within the Department of Correctional Services and he mentioned or suggested that one of those persons was Ms Jabulela Elizabeth Sishuba who was employed by the Department of Correctional Services at a certain time. Since then Ms Sishuba has brought an application to this commission in terms of which she has  
20 asked for an order that Mr Agrizzi should be called back to the commission to give evidence and to state that she that is Ms Sishuba never received any payments or bribes from Bosasa or any of the entities relating to Bosasa or if he is unable to say so then she sought leave to cross-examine him. Ms Sishuba's application was given to Mr Agrizzi who deposed to an affidavit subsequently in which he made it

quite clear that he had made an error in suggesting that Ms Sishuba had been paid any bribes or any monies from Bosasa or any entities connected with Bosasa. He said that this had been a result of confusion and indicated that he was apologising to Ms Sishuba and that if he came back to the commission he would make it clear that Ms Sishuba had not received any bribes from Bosasa. Subsequent to that Ms Sishuba deposed to another affidavit where she acknowledged the admission made by Ms – Mr Agrizzi but took issue with the fact that Mr Agrizzi had said that he had made a mistake as a result of a certain  
10 question that he said – he had said Mr Pretorius had asked him and she suggested that Mr Agrizzi was not taking full responsibility and also sought that the apology that Mr Agrizzi should make should be in specific terms that she formulated. Written submissions have been made by both sides and Ms Sishuba persists in her application but now I understand her not to seek any cross-examination of Mr Agrizzi but only seeks to have an order – to be granted an order that will compel Mr Agrizzi to come back to the commission and make an apology in the terms that she demands. I am satisfied that Ms Sishuba was justified in bringing an application for leave to cross-examine Mr Agrizzi. I am  
20 not sure about the relief of compelling him to come back to the commission but it is not necessary to decide that issue. The fact of the matter is that the plans of the commission are such that Mr Agrizzi is going to come back to the commission in order to give evidence and to be cross-examined and he has already indicated that on that occasion he will be prepared to repeat what he has said in his affidavit namely

that he made an error in suggesting that Ms Sishuba had been paid any bribes by Bosasa or any entities from Bosasa and that he apologises for his error. He has even indicated in a later affidavit that he takes full responsibility for that error. Therefore it is clear that there is really no dispute of fact between the version put up by Ms Sishuba namely that she never received any payments or bribes from Bosasa and Mr Agrizzi's version after this issue was drawn to his attention. That therefore means that there is no basis for me to grant Mr Sishuba leave to cross-examine Mr Agrizzi in relation to the issue of whether or not  
10 she had received bribes from Bosasa. So the only issue is whether I should make an order compelling Mr Agrizzi to come back and whether I should order that Mr Agrizzi should give his apology in the specific terms that are being sought by Ms Sishuba.

1. Since Mr Agrizzi has undertaken to make the admission or to repeat his admission and to repeat his apology when he comes back and since he is going to be back in the commission and he has said he takes full responsibility for the error that happened I see no reason why I should make an order compelling Mr Agrizzi to come and do what he is going to do anyway. There is no basis  
20 to think that he is not going to come back because

1. The commission does plan to get him back to the commission to give further evidence and

2. Because he is prepared to come back and clarify the issue.

With regard to whether or not I should order him to make an apology in the specific terms sought by Ms Sishuba I am unable to accede to that

request. I think it is enough that Mr Agrizzi has said:

1. He made an error by suggesting that Ms Sishuba had received bribes from Bosasa.
2. He said he takes full responsibility for that.
3. He said he apologises to Ms Sishuba for that.
4. He said he will repeat all of this when he comes before the commission next time.

In those circumstances I do not think that there is a need for an order. I must just make it clear as I have said that I accept that Ms Sishuba  
10 was justified in bringing the application but I believe that the developments that have happened since then make it unnecessary for me or inappropriate for me to make an order to the effect that he is sought. In these circumstances although Mr Agrizzi will come before the commission and publicly apologise to Ms Sishuba in due course and make it clear that he was mistaken when he said she had received bribes it is not necessary to grant the orders that Ms – or inappropriate – it is inappropriate to make the orders that Ms Sishuba asked for. In these circumstances the application is refused.

**ADV PAUL JOSEPH PRETORIUS SC:** Thank you Chair noted.

20 **CHAIRPERSON:** Thank you. We are going to adjourn now and we will resume at ten for the hearing of evidence. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Good morning Ms Norman, good morning everybody.

**ADV THANDI NORMAN SC:** Good morning Mr Chairman.

**CHAIRPERSON:** Are we ready?

**ADV THANDI NORMAN SC:** Yes thank you we are Chair.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Chair this morning we intend leading the evidence of Mr Mzwamadoda Mxakwe.

**CHAIRPERSON:** Ja it looks like somebody keeps on getting the spelling of his name wrong.

**ADV THANDI NORMAN SC:** Yes I have noticed that.

10 **CHAIRPERSON:** I saw somewhere they wrote something and I see here on what I am looking here it is written ...

**ADV THANDI NORMAN SC:** Ja they are missing an A.

**CHAIRPERSON:** Mzwamadod.

**ADV THANDI NORMAN SC:** Yes in the divider.

**CHAIRPERSON:** Please make sure that everyone's names and surnames are spelt correctly.

**ADV THANDI NORMAN SC:** Yes Chair.

**CHAIRPERSON:** Ja actually this is just so bad. I mean he is Mzwamadoda.

20 **ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** And here it is written Mzwamadod.

**ADV THANDI NORMAN SC:** Yes. Thank you Chair.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** The witness is present Chair may he be sworn in? We are – the files maybe just before he is sworn in. I have

asked the Registrar to place before you Chair Exhibit CC5 to 16 plus Exhibits 26 and 27.

**CHAIRPERSON**: I am sorry.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: May I ask you to start again I was tending to something else.

**ADV THANDI NORMAN SC**: Oh looking for it.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Yes Chair. Chair before you you will have  
10 Exhibits 5 to 16 and Exhibit 26 and 27.

**CHAIRPERSON**: Yes. Well 26 and 27 be please be written with a marker.

**ADV THANDI NORMAN SC**: The legislation file and the other one will be reports and ...

**CHAIRPERSON**: With a marker they have written with a pen and I think a marker will make it much more easier.

**ADV THANDI NORMAN SC**: Neater. It will be attended to Chair.

**CHAIRPERSON**: Yes and – well the lever arch file is Exhibit CC.

**ADV THANDI NORMAN SC**: 5 to 16

20 **CHAIRPERSON**: 05?

**ADV THANDI NORMAN SC**: Yes Chair.

**CHAIRPERSON**: Yes. Okay.

**ADV THANDI NORMAN SC**: And then Chair I had asked the Registrar to open up Exhibit CC15.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC:** Which is where the statement of this witness is.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Okay I have got that.

**ADV THANDI NORMAN SC:** Thank you. May the witness be sworn in Chair?

**CHAIRPERSON:** Yes please administer the oath or affirmation?

**REGISTRAR:** Please state your full names for the record?

10 **MR MZWAMADODA MXAKWE:** Mzwamadoda Mxakwe.

**REGISTRAR:** Do you have any objection in taking the prescribed oath?

**MR MZWAMADODA MXAKWE:** No I do not.

**REGISTRAR:** Do you consider the oath to be binding on your conscience?

**MR MZWAMADODA MXAKWE:** Yes I do.

**REGISTRAR:** Do you swear that the evidence you will give will be the truth; the whole truth and nothing but the truth; if so please raise your right hand and say, so help me God.

**MR MZWAMADODA MXAKWE:** So help me God.

20 **CHAIRPERSON:** Thank you.

**ADV THANDI NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** Yes you may proceed thank you Ms Norman.

**ADV THANDI NORMAN SC:** Yes thank you. Thank you Mr Chairman. Mr Mxakwe you have got before you the lever arch file that I have placed before you and next to you you will see there is Exhibit 26 and



27 on your left hand side in that box.

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Yes 26 and 27 they have been placed – those are the files that you will be referring to this morning.

**MR MZWAMADODA MXAKWE:** Okay.

**ADV THANDI NORMAN SC:** And your statement as you have opened is under the divider marked 15, can you see that?

**MR MZWAMADODA MXAKWE:** Yes, yes I do.

**ADV THANDI NORMAN SC:** Yes thank you. Could you please identify  
10 the statement that appears at pages 1 to 15? Is that the initial statement that you made to the commission?

**MR MZWAMADODA MXAKWE:** Yes it is.

**ADV THANDI NORMAN SC:** And it has annexures to it, annexures A to E?

**MR MZWAMADODA MXAKWE:** Ja.

**ADV THANDI NORMAN SC:** Yes I would just like to take you to page 15 of that. Can you please turn to that page? Are you there?

**MR MZWAMADODA MXAKWE:** Yes I am.

**ADV THANDI NORMAN SC:** Is that your signature?

20 **MR MZWAMADODA MXAKWE:** Yes it is.

**ADV THANDI NORMAN SC:** Yes. And I see no date was put in when this oath was administered for you. When did you commission – have this commissioned?

**MR MZWAMADODA MXAKWE:** On the 14<sup>th</sup> August.

**ADV THANDI NORMAN SC:** 14<sup>th</sup> August?

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Where did you do it?

**MR MZWAMADODA MXAKWE:** I did it in Johannesburg.

**ADV THANDI NORMAN SC:** Yes and an attorney administered the oath?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Yes. Then if you go to page 49 to 63 that is a supplementary statement which you submitted to the commission.

**MR MZWAMADODA MXAKWE:** Yes it is.

10 **ADV THANDI NORMAN SC:** Yes and I would like you to go to the last page of that statement and identify it? This was done yesterday 2<sup>nd</sup> September.

**MR MZWAMADODA MXAKWE:** Which page is it?

**ADV THANDI NORMAN SC:** I beg your – page 62. If you go to page 62.

**MR MZWAMADODA MXAKWE:** Yes I am there.

**ADV THANDI NORMAN SC:** Okay do you see that?

**MR MZWAMADODA MXAKWE:** Yes I do.

20 **ADV THANDI NORMAN SC:** And the date there is the 2<sup>nd</sup> September 2019?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** And it was commissioned here in Parktown?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Yes thank you. These statements that you

made both of them to the commission did you make them voluntarily?

**MR MZWAMADODA MXAKWE:** Yes I did;

**ADV THANDI NORMAN SC:** And are they contents of both the main and the supplementary true and correct?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Yes. Thank you.

**MR MZWAMADODA MXAKWE:** The only thing if I may on page 9 there is a typo there. It says from 2012 to 2018 it should read from 2018 to 2019.

10 **ADV THANDI NORMAN SC:** To 2019.

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Maybe just to [indistinct] the defect on the commission – on the oath one would have to do a supplementary where you can confirm that this statement, the initial one that you submitted was signed on the date which is not reflected on it and also we will do a supplementary dealing with the dates that you are asking the Chair to amend.

**MR MZWAMADODA MXAKWE:** Alright.

**ADV THANDI NORMAN SC:** Yes thank you.

20 **CHAIRPERSON:** Yes and then Ms Norman.

**ADV THANDI NORMAN SC:** Yes Chair.

**CHAIRPERSON:** Just – I see that the commissioner of oaths in regard to Mr Mxakwe's supplementary affidavit was somebody connected with the commission. I think normally what is required is that the commissioner of oaths should not be connected in any way with your

attorneys or the institution. So I think just – I think commissioners and other members of the legal team must be advised that as far as possible witnesses when they depose to affidavits that will come before the commission the commissioner of oaths should not be anybody connected with the commission.

**ADV THANDI NORMAN SC:** Oh yes Chair.

**CHAIRPERSON:** Ja.

**ADV THANDI NORMAN SC:** I will see that signature yes I will – we will advise them accordingly Chair. This is a constable.

10 **CHAIRPERSON:** I think it is the second one.

**ADV THANDI NORMAN SC:** Oh the constable alright.

**CHAIRPERSON:** That I – that I notice has got a commissioner of oaths.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Who is connected to the commission.

**ADV THANDI NORMAN SC:** We will do that Chair. Thank you. Thank you Mr Mxakwe could you just briefly tell the Chairperson about your qualifications?

**MR MZWAMADODA MXAKWE:** Chairperson good morning.

20 **CHAIRPERSON:** Good morning Mr Mxakwe.

**MR MZWAMADODA MXAKWE:** I hold a Masters Degree in Global Political Economy from the University of Sussex. Also an Honours and a Masters from UCT and Post Grad Diploma in Business Admin from GIBS as well as Executive Leadership Development Training from the London Business School.

**CHAIRPERSON**: No thank you. I – I notice Ms Norman that I must be old fashioned because I see that Mr Mxakwe when he states his qualifications he starts with the most recent.

**ADV THANDI NORMAN SC**: Yes, yes Chair.

**CHAIRPERSON**: The highest and goes down and I think Mr Mahkathini did the same yesterday.

**ADV THANDI NORMAN SC**: Did the same yes Chair.

**CHAIRPERSON**: And I from time to time I see CV's where people start with the latest developments in their lives.

10 **ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: And go back. But...

**ADV THANDI NORMAN SC**: To matric.

**CHAIRPERSON**: Some of us are used to starting at the back and coming this way.

**ADV THANDI NORMAN SC**: Start with your matric certificate.

**CHAIRPERSON**: So maybe it shows that some of us have been around for a long time.

**ADV THANDI NORMAN SC**: For a long time yes.

**CHAIRPERSON**: And are not changing.

20 **ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: We will try and adapt.

**ADV THANDI NORMAN SC**: Yes thank you Chair.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Thank you. Mr Mxakwe is it correct that you are currently the Group Chief Executive Officer of the SABC?

**MR MZWAMADODA MXAKWE:** Yes it is.

**ADV THANDI NORMAN SC:** When did you join the SABC?

**MR MZWAMADODA MXAKWE:** I joined the SABC on the 1<sup>st</sup> July 2018.

**ADV THANDI NORMAN SC:** Yes. Maybe just briefly could you just give the Chair – Chairperson background about your work experience before you joined the SABC?

**MR MZWAMADODA MXAKWE:** Before I joined the SABC Chairperson I was the Executive Director for a multinational company for the Southern as well and the Eastern African region. After that I then went  
10 to work in Europe as the Vice President at the Head Quarters of the same multinational. And then I then came back spent after being there for four years I moved to Lagos Nigeria where I was the Commercial Head for Lagos and in 2015 I returned home and I was then the Country Head responsible for the commercial operations in five countries and after that I then joined the SABC.

**CHAIRPERSON:** Yes no thank you.

**ADV THANDI NORMAN SC:** Thank you.

**CHAIRPERSON:** Ms Norman before you proceed.

**ADV THANDI NORMAN SC:** Yes Chair.

20 **CHAIRPERSON:** I went to Ms Mxakwe's supplementary affidavit and then when I – were supposed to go back to his original affidavit I got lost. Which divider must I go to?

**ADV THANDI NORMAN SC:** Chair this one CC15.

**CHAIRPERSON:** Because that is the one you are dealing with now.

**ADV THANDI NORMAN SC:** That is the one we are dealing with yes

Chair.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Is there no divider between 15 and the supplementary? Between the main.

**CHAIRPERSON**: No, no you must just remind me the divider is at 16.

**ADV THANDI NORMAN SC**: It is 15 Chair.

**CHAIRPERSON**: 15 okay. Okay I have got it.

**ADV THANDI NORMAN SC**: Thank you Chair. Thank you. May I proceed Chair?

10 **CHAIRPERSON**: Yes you may proceed.

**ADV THANDI NORMAN SC**: Yes thank you. Thank you. Then as the Group Chief Executive Officer could you just tell the Chair what is your role within the SABC briefly?

**MR MZWAMADODA MXAKWE**: My role Chairperson as the Group CEO of the SABC is to ensure the strategic direction of the organisation. Very importantly to make sure that every single individual and every single division is geared towards the fulfilling of the public mandate of the SABC. I am also responsible for as the Accounting Officer for the financial management of the organisation but also to provide leadership  
20 to the different divisions within the SABC.

**ADV THANDI NORMAN SC**: Yes. Thank you. The – you were present when the Chairperson of the board testified yesterday, is that correct?

**MR MZWAMADODA MXAKWE**: Yes I was.

**ADV THANDI NORMAN SC**: And most of the strategies he had covered but I would just take you to some of the things that would relate to you

as the Group CEO. First of all could you just turn to page 2 and where you deal with the revenue streams of the SABC in paragraph 4.1? Could you just mention those to the Chairperson please?

**MR MZWAMADODA MXAKWE:** Chairperson our revenue base from a commercial point of view is divided into three streams. The first one is 84% of our revenue is generated through advertising sponsorships. The second one is through TV licences about 15% of that and then from the government grants we get about 3%. Just to give you a sense last year and these are unaudited financials but last year the total revenue was  
10 at 6.5 billion and 200 million of that was from government. The rest was from the revenue generated for advertising and then a billion of that was from TV licences.

**ADV THANDI NORMAN SC:** Yes. Thank you. The Chairperson did mention yesterday and as you have mentioned in paragraph 6 most of – some of the documents that you found at the time of your appointment being the Public Protector’s Report, Ad-Hoc Committee Report of Parliament and Internal Audit Reports that were there and the Special Investigation Reports.

**MR MZWAMADODA MXAKWE:** Correct.

20 **ADV THANDI NORMAN SC:** You confirm that those are mainly the reports that you were working from?

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** I beg your pardon sorry. And what I would like to take you to is what appears at page 3 because these are matters that would fall within your knowledge and that of the Financial Officer



who is going to come later. The – you deal in paragraph 8 with the Auditor Generals Reports that had indicated collapse of governance within the SABC. So how have you now – having been now at the helm of – of the SABC how are you dealing with those?

**MR MZWAMADODA MXAKWE:** Chairperson the SABC for many years was subjected to a systematic collapse of governance as well as financial processes. And you see this in the manner in which there was a complete disregard for SABC policies as well as SABC processes but also a huge lapse when it comes to internal controls and governance  
10 processes. And what we have done and we have been on record on these we have looked at all of the recommendations of the Public Protector. The recommendations from the Ad-Hoc Committee as well as internal forensic investigations by the SABC. In my career I have never come across an organisation where in one fiscal you have close to 186 reports and those reports would be documenting maleficence, fraud, corruption. And I think if you say 186 the tendency is to think that is individual employees that 186 refers to cases because 1 case can actually focus on a group of people. So what we have been doing we have doing and I say the mantra that we use is to always [intervenes]

20 **CHAIRPERSON:** I mean I am sorry Mr Mxakwe when you refer to 186 you talk about 186 cases of wrong doing?

**MR MZWAMADODA MXAKWE:** Based on the internal investigations that have been done, correct.

**CHAIRPERSON:** And those investigations amounting to the same number 186 or not really?

**MR MZWAMADODA MXAKWE:** They do not amount into the same.

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** But the cases but the individuals and more.

**CHAIRPERSON:** The cases that they deal with.

**MR MZWAMADODA MXAKWE:** Correct.

**CHAIRPERSON:** Yes the cases that they deal with are in that region?

**MR MZWAMADODA MXAKWE:** Correct.

**CHAIRPERSON:** Okay yes. Thank you.

10 **MR MZWAMADODA MXAKWE:** So what we have then being doing and in every single thing and in every single case we have ensured that we follow due process, disciplinary measures had to be enacted in every single case that is concerned and I have said this we have to do what is right for the SABC. And the manner in which we do this is very transparent. You go through the necessary disciplinary processes and it does not matter who you are and we have been subjected to a lot of backlash as a result of this. And as I said to the team every single investigation and every single case needs to be dealt with in line with our internal processes. So to answer the question we are dealing with

20 all of those cases but at the same time we are strengthening internal corporate controls when it comes to these particularly in as far as adherence to the SABC policies are concerned.

**ADV THANDI NORMAN SC:** Yes thank you. And then in paragraph 9 you deal with irregular expenditure which stood at 4.98 billion as at 31<sup>st</sup> March 2018. So the question is now if you from the time you were

appointed you were trying to do the right thing why – where does this 4.98 billion come from as constituting irregular expenditure?

**CHAIRPERSON**: I am sorry Ms Norman please do not forget your question.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: Mr Mxakwe – Mr Mxakwe on this 186 cases are you able to say at this stage how many have been finalised in terms of dealing with them – in terms of your internal processes to deal with them in so far as they may relate to employees who have been involved  
10 in wrong doing and so on? Or is that something that is not easy to say right now?

**MR MZWAMADODA MXAKWE**: No it is – it is easy to say Chairperson. There are two streams. There are investigations that are done by the SIU and when they report back to us in terms of their findings we institute the required consequence management processes.

**CHAIRPERSON**: Yes.

**MR MZWAMADODA MXAKWE**: Based on that.

**CHAIRPERSON**: Yes.

**MR MZWAMADODA MXAKWE**: And overall internally we have had  
20 about 86 of these cases dealt with and there is about 38 that are still outstanding and the processes continuing. I do know that the HR GE will be here.

**CHAIRPERSON**: Yes.

**MR MZWAMADODA MXAKWE**: To give specifics.

**CHAIRPERSON**: Oh.

**MR MZWAMADODA MXAKWE:** But there has been a lot of progress.  
But I think also Chairperson if I may add?

**CHAIRPERSON:** Hm.

**MR MZWAMADODA MXAKWE:** It is a never ending process.

**CHAIRPERSON:** Hm.

**MR MZWAMADODA MXAKWE:** Every single day I am confronted with reports that date back to 2012, 2011, 2014 on cases that were not attended to deliberately sometimes. And we have also a duty as the SABC to do what is right and in the process we have to ensure that we  
10 follow due process in all of these cases. So we do have different numbers and different cases where we know that we have completed these.

**CHAIRPERSON:** No thank you.

**ADV THANDI NORMAN SC:** Thank you Chair. Maybe I could mention to Chair that most of those are in the files of Mr Zgode [?] the ten lever arch files.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Yes. Thank you we will deal with them when he comes. Thank you. The question was, how then does one find  
20 so much irregular expenditure I know it was before your time but this is as at 31<sup>st</sup> March 2012?

**MR MZWAMADODA MXAKWE:** Chairperson the paragraph 9 depicts the rot and the maleficence that has taken place at the SABC in the past number of years. Those irregular expenditure figures they date back to 2012. You will see herein year on year there is an increase on

this and there if four reasons why. The first reason is that there was a blatant disregard for the supply chain processes of the SABC. The second one which was really common place was the – the payments of certain contracts of certain deals without having a proper contract in place. The third one was deviations and these deviations were deliberate because they were not even in line with the criteria when it comes to emergency for sole source or they were not even approved by Treasury. But the fourth one was the sense or rather the fact that there was a practice of ensuring that the management then would go through

10 the request for quotation instead of going through a competitive bidding process. So the accumulation has been year on year. It is something that started in 2012. You will see there is an attachment that we have included here where it actually specifically shows which contracts were not done properly why is it as we stand we have there 4.98 billion. In terms of the second question that you asking we have applied for condonation to Treasury of 2.7 billion of all of these and this is based on the fact that some of these cases may have been concluded, some of them are going through litigation with the SIU and so forth. So there is a system in place where we ensure we apply. But at an operational

20 level we have put together a team that looks at automating all of these irregular expenditure items and the idea there is to ensure internal controls are place. There is a framework that can properly monitor where we are in terms of these. And the third point because of the high number in fact year to date it is at 5.2 billion in terms of irregular expenditure. The standing committee on public accounts has asked us

every single month to submit progress reports on how we are dealing with these irregular expenditure.

**ADV THANDI NORMAN SC:** Yes. And this irregular expenditure you have got to reflect it in your books year in on – on a yearly basis and you cannot now say look because it was not part of our term it will not be reflected. So it continues reflecting as irregular expenditure even though you were not involved in it at the time?

**MR MZWAMADODA MXAKWE:** Correct. As leadership you inherit both the good and the bad.

10 **ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** And in this case the assets as well as the liabilities.

**ADV THANDI NORMAN SC:** Yes. And then...

**CHAIRPERSON:** Well I am sorry Ms Norman.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Now that Mr Mxakwe has made reference to SCOPA.

**ADV THANDI NORMAN SC:** Yes.

20 **CHAIRPERSON:** I just need to mention this and you and the legal team can take it forward and we can discuss in due course. I would like in due course to have documentation that will tell me what was happening over the years.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Whenever the SABC went to the relevant Portfolio Committee in Parliament whether it was the Communications Portfolio Committee or SCOPA I would like to see what was said about issues

relating to matters that we are dealing with. Because one of the things that I want to understand is to what extent did Parliament play its proper role in terms of oversight to the extent that matters have really got to a completely unacceptable level in terms of things of wrongdoing and – and corruption and fruitless and wasteful expenditure over years? Where – was Parliament probing those matters? What were they doing about the information they were getting or were they not being given correct information by the management and the board over the years or the boards. So at some stage we – I need to have that information.

10 **ADV THANDI NORMAN SC:** Yes. Thank you Chair we have noted it.

**CHAIRPERSON:** But let us continue.

**ADV THANDI NORMAN SC:** Yes thank you. Thank you Chair. Then in paragraph 10 you confirm what the Chairperson confirmed yesterday?

**MR MZWAMADODA MXAKWE:** Indeed the SABC is technically insolvent and I think Chair the way you would need to look into this is to look at the short term liabilities that exceed our current liquid assets. Simply put we cannot and we are not able as the SABC to pay our creditors. To date we are standing at 1.8 billion and if I may also if you go back to the previous fiscal at the end of March 2018 that  
20 number was standing at 1.2 billion. But it got – it increased because we have not been able to pay Syntax we have not been able to pay Multichoice and some of our creditors. The biggest issue with that paragraph is then the issue around the solvency and the liquidity test of the SABC. We run an organisation Chairperson where every single month employees are very depressed. They do not know whether they

are going to be able to get their salaries or not. And the only thing that we focus on every single month is the 265 million that is dedicated towards paying salaries. Once we have done that we actually have absolutely nothing left. We then have to get into engagements, into arrangements with all of our creditors and they have been extremely understanding but you cannot go on like that. Despite the solid strategy that we need I mean we have and I must admit also when I took this job on the 1<sup>st</sup> my understanding was that there was capital re-injection that was expected. Because Chairperson it does not matter  
10 how robust and solid a strategy you have if that is not re-capitalised and there is no financial injection it cannot work. And the only reason why the SABC has been able to stay afloat as it has it is thanks to the commitment and the hard working and the passion that has been displayed by many of our employees. So the – this statement is indeed correct that the company is technically insolvent.

**CHAIRPERSON:** You know it is – it is very worrying. It is very worrying. I mean the Chairperson of the board was saying exactly the same thing yesterday and we all know that it is not just SAA – SABC. There are issues with SAA, Eskom, Denel. I mean there have been  
20 over the years Ministers responsible for – for these entities. There have been CEO's. There have been CFO's. There have been boards. Parliament has been there to oversee, to exercise oversight. How did this - all of these things happen when there were all these people? How did we get to a position where state entities have reached this level? It is a very, very worrying thing. I guess I am just asking a



question that many of us are asking but it is - it is a sense of frustration to say what is it that as a country we got wrong if the position is that so many structures appear to have failed to make sure that we did not - these SOEs did not reach the level that they have reached now. (Intervenes).

**MR MZWAMADODA MXAKWE:** Chairperson ...

**CHAIRPERSON:** Yes Mr Mxakwe I guess I am just saying things and you do not know what to say in return.

**MR MZWAMADODA MXAKWE:** No Chair.

10 **CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** Chairman, we - we inherited the mess. An organisation that was really in - in financial ruins but or what still gives me comfort is that you have an executive management team with the required business acumen, with the required commercial astuteness, ethical leadership, a passion to serve the country and the only reason why the SABC despite the lack of financial injection has been able to be - to stay afloat in the past couple of years is because of the competence that we have in the team.

20 The strategy that we have put in place has already begun to show positive green shoots and - and I can assure you Chairperson that if you look at our funding model we - we as an organisation if we were to get the required funding which by the way we believe we have met the preconditions for.

We have a team that is solid that can be able to turnaround the SABC and I think the biggest question that needs to be asked

politically are we the right people.

**CHAIRPERSON:** You see that - that is part of the issue because I was about to say to you it is critical to have the right management, the right people at management and it is critical to have the right people at board level but that is not the end. You have got to have the executive that is prepared to do what is required to be done to get things right.

You have got to have Parliament which has a constitutional obligation of oversight that will make sure that it exercises its oversight obligations properly and we - in due course one will have to look at has  
10 it over exercised that obligation properly over the past number of years. If it did why are we where we are.

What about the political heads, political leaders of these SOEs over the years. Have they done their job properly? Where did things really go wrong? What do we need to do to make sure that we never get back to this situation and we cannot get to that without knowing where we went wrong but thank - thank you Mr Mxakwe.

**ADV THANDI NORMAN SC:** Thank you Chair and then you mention that over the past 10 years SABC had managed to make profit in those three years that you mentioned - 2011/2012, 2013 and 2014 but then  
20 the very next paragraph you say those - that is misleading. How is that misleading?

**MR MZWAMADODA MXAKWE:** So if I may explain. In the past 10 years the SABC has not been profitable. The only years is 2011/2012 and 2013/2014 where there was a certain level of profitability and the only reason this was the case is because there was low investment in

content.

You will also note that in 2016 and 2017 where we registered huge losses this was at the time where there was the high investment in content. So - so that is - that is the explanation for those two paragraphs.

**ADV THANDI NORMAN SC:** Alright, okay and then in paragraph 13 you deal with the (indistinct) of content at 1.95 billion. Could you just explain to the Chair that whole concept that you deal with - you deal with it at length in your supplementary statement?

10 **MR MZWAMADODA MXAKWE:** Right.

**ADV THANDI NORMAN SC:** We might just deal with it now in full the whole issue because you have got quite a number of paragraphs dealing with that. You can put it here.

**MR MZWAMADODA MXAKWE:** So Chairperson like in any other business the business of broadcasting is about content and there is a need to invest in content. For us to also see the return on investments as the Chairperson was saying yesterday you need to invest between 18 to 24 months and - and it is critical because the - the content drives audience and audience is very linked to generation of revenue.

20 So if you not investing as much as you are doing when it comes to content as we are now we are doing a lot of repeats in some of our programs and what it does is it affects our ability to attract revenue because advertisers and clients then say but why should I invest on a content that is not compelling that is not relevant that is not fresh.

So in 2016/2017 the year where we made huge losses was the year in which there was huge investment in content and 2011 to 2014 that is the years - those are the years that we did not invest much in content and it showed better profitability as a result.

**ADV THANDI NORMAN SC:** Thank you and then the Chairperson yesterday did mention the figures that you deal with in paragraph 14 that deal with the losses over the 2014/2015 years 2018/2019. Do you confirm that - that paragraph? It is exactly - and the improvement of 33 percent. He testified to all of that yesterday.

- 10 **MR MZWAMADODA MXAKWE:** Yes indeed. If you look at the - the losses that have been registered in the past three years. You - you moved - in the past three fiscals you moved from over a billion straight to 644 million and the previous one is at 483 and that still are not deterred but it does indicate a 33 percent improvement in terms of driving down losses and this is also in line with the strategy that we have implemented when it comes to organisation wide cutting measures when it comes to costs but I also need to mention because there has been a narrative that the SABC had money that was left.

- 20 In the past three years if you look at cash balance as at every end of each year we had 130 - 131 million. Sorry. We had 82 million and then we had 131 and the past fiscal we have 72 million. So these past three years that is what we had as at the end of the fiscal.

**ADV THANDI NORMAN SC:** Yes, thank you and then you - the Chairperson of the board dealt with the employee costs and currently sitting at 45 percent. Is that ...?

**MR MZWAMADODA MXAKWE:** Correct. It is just over 45 percent and I think this is another issue that concerns us as executives because when you are asked to turnaround an institution the first thing you need to look into in fact there are three things. You look at revenue generation.

What additional income can you ensure you bring in as well as additional revenue streams? The second point you look at where can you cut costs. Currently the SABC is at over 45 percent when it comes to, to costs. The second highest line when it comes to costs is  
10 the signal distribution.

That accounts for about 12 percent of our total expenditure and it is sitting just over 1.1 billion. Indeed we need signal distribution but the issue is with all the technology that we have now surely we can do better. So when you - when we walked in as executives last year that is what the board said to us.

Look at a way where we can ensure you reset basic business fundamentals and that includes looking at all of the cost items but also looking at revenue generation streams. This is why Chairperson if I may also indicate in a very difficult financial year the team has been  
20 able to deliver a 6.5 billion revenue despite all of advertisers withdrawing when it comes to budgets because in any economic recession the first thing - the first budgets that get cut would be communication marketing and advertising but despite that we have been able to try this.

So it is a worry that we still have employ costs that are at

over 45 percent and it is something that needs to be looked into.

**ADV THANDI NORMAN SC:** Yes and the Chairperson of the board also dealt yesterday with the exorbitant sports rights costs. You also deal extensively with that in your supplementary affidavit. Could you just explain to the Chair and then just deal with your submissions to ICASA that relate to this matter and I will take you through some of the legislation that is relevant as you do so. Thank you.

**MR MZWAMADODA MXAKWE:** Chair - Chairperson we - we have a very interesting situation. Our mandate expects us to broadcast sports  
10 of national interest and the biggest issue with that is that it is an unfunded mandate. Essentially it means that we need to cross subsidise the mandate using the commercial revenue that we made every single year.

To give you a sense in the past five years we have spent about 3.8 billion on the costs of sports rights and the problem with costs of sports rights is that it is the rights holders that decide on the price. That is the first point and of the 3.8 billion that we have spent the only revenue and income we have made is 150 million.

So you can imagine you put in 3.8 billion and all you are  
20 getting is a mere 150 million and this is in line with what we have then decided as part of our strategy. Any deal that is not commercially viable for the SABC we will never sign and this is not just isolated in terms of what we are doing on sports rights.

Even when it comes to production the production of our content on TV has been hugely disappointing in the sense that we have

had to pay millions - hundreds of millions but if you look at the returns on investments it does not warrant that. So the - the decision we took every single contract we get into notwithstanding our commitment to the public mandate.

It has to make sense for the SABC. So it is a similar thing that is happening in sports. We - we have - we have decided that going forward any deal even when it comes to sports rights certainly we are committed to our mandate but our mandate does not say the SABC should get into deals that are not commercially viable.

10 **ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** One question taking you back to the previous question on the evidence about staff salaries taking 45 percent of your budget. Is there a percentage in terms of staff salaries that generally is accepted to say well if you are running business your staff salaries should not be above a certain percentage?

Is there anything like that and if there is how does 45 percent compare to - to what is accepted as a norm?

**MR MZWAMADODA MXAKWE:** It - it depends on - on sectors. Where I come from in the private sector you would look at least at nothing more  
20 than 25/28 percent.

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** Another very aggressive company may say it should be less than 20 percent.

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** So ...

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** So it will really depend on which sector but where we are as an organisation ...

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** It is - I mean just to give you a sense of the 6.5 billion in revenue year - last fiscal. It means that we are going to have to pay just over three billion ...

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** Towards salaries ...

10 **CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** And that is not sustainable ...

**CHAIRPERSON:** Hm, hm.

**MR MZWAMADODA MXAKWE:** And I think to Chair's point this is one of the tough decisions.

**CHAIRPERSON:** Hm, hm.

**MR MZWAMADODA MXAKWE:** That I think we need to look into.

20 **CHAIRPERSON:** Yes, yes and then with regard to the question of sports rights and so on. You must have looked at what other public broadcasters and other nations do. Do they find themselves in this situation where the stakeholders basically tell you what you are going to have to pay them for the sports rights?

Is there any - I am sure there is a comparison that has been done somewhere but you might or might not be able to speak to it.

**MR MZWAMADODA MXAKWE:** What we have said Chairperson is that for years SABC has been paying for a property that it does not even



know its value. As the SABC our stance has been very clear. Whenever we engage with our partners when it comes to these commercial deals let us first do a proper valuation of the property.

So that we can look at pricing. We can look at commercial viability and as well as how we are going to be able to sell this because for every single content that we get. It is important that we have a sales pipeline for the next nine months to say we need to approach our clients and this is the focus that we need to do going forward. So it is different in other places.

10 I think we have allowed a situation where we engage in deals that do not make any commercial sense for the SABC.

**CHAIRPERSON:** Yes, okay. Thank you.

**ADV THANDI NORMAN SC:** Thank you Chair. Maybe - and then in the same paragraph you deal with national sporting events of public interest and you make reference to Government Gazette No. 7 of 2010. Chair, may I refer the witness to EXHIBIT 26 which is the legislation bundle.

**MR MZWAMADODA MXAKWE:** Hm.

**CHAIRPERSON:** I am sorry to - to ...

20 **ADV THANDI NORMAN SC:** EXHIBIT CC26.

**CHAIRPERSON:** EXHIBIT CC ...

**ADV THANDI NORMAN SC:** 26.

**CHAIRPERSON:** 26, okay.

**ADV THANDI NORMAN SC:** Yes, thank you Chair and then it will be under divider marked 2. Have you found it Mr Mxakwe?

**MR MZWAMADODA MXAKWE:** Yes I have.

**ADV THANDI NORMAN SC:** Yes thank you. This is the Sport Broadcasting Services Regulation of 2010 ...

**MR MZWAMADODA MXAKWE:** Huh-uh.

**ADV THANDI NORMAN SC:** And I would like to take you to page 40 marked on the right hand corner in red and I was looking at the list of all these sports that are regarding as sports of national interest and I do not see netball there or am I missing something?

**MR MZWAMADODA MXAKWE:** *Ja*, it is not there. I do not know.

10 **ADV THANDI NORMAN SC:** It is not there.

**MR MZWAMADODA MXAKWE:** Because we have it ...

**ADV THANDI NORMAN SC:** So it is really not regarded as a matter of public interest.

**CHAIRPERSON:** Gender discrimination.

**ADV THANDI NORMAN SC:** Gender - serious gender discrimination Chair and at the end of the Commission we will make submissions on that. Thank you. So these - these matters that you have - that are listed here these are the matters that you referred to in that paragraph?

**MR MZWAMADODA MXAKWE:** Correct.

20 **ADV THANDI NORMAN SC:** And - and what is expected of you as the SABC insofar as these events are concerned?

**MR MZWAMADODA MXAKWE:** There is an expectation for us to broadcast sports of national interest. The biggest issue with this Chairperson is that much as there is an expectation in law the biggest issue is when it comes to the financial imperative. I will give you a

sense. We did a projection.

In the next three years the public mandate - unfunded public mandate is going to cost SABC 6.8 billion. So essentially we are expected to broadcast all of this without any financial support. That is one but the second point is that we - we also get to a stage where we ask ourselves these unfunded mandates if they are so critical why is it then that there is no portion of funding allocated in order to help us.

I have said earlier on Chairperson we are fully committed to fulfilling our mandate but there needs to be a reasonable expectation of  
10 what can be done.

**ADV THANDI NORMAN SC:** Thank you.

**CHAIRPERSON:** Now the expectation you talk about is it the expectation from the national executive. Is it - are you talking about the expectation from the public or it is both?

**MR MZWAMADODA MXAKWE:** It is - it is actually - the regulations stipulate that.

**CHAIRPERSON:** It is in the regulations?

**MR MZWAMADODA MXAKWE:** Correct.

**CHAIRPERSON:** Okay, okay. Actually I guess if it is in the regulations  
20 it probably is more than an expectation. Is it not an obligation?

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** But it also ...

**CHAIRPERSON:** I do not know. I have not looked at the actual wording.

**MR MZWAMADODA MXAKWE:** Yes. Indeed it is - it is an obligation

Chair ...

**CHAIRPERSON:** (Intervenes).

**MR MZWAMADODA MXAKWE:** But also says free-to-air.

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** It says free-to-air and you must also appreciate Chairperson ...

**CHAIRPERSON:** Hm.

**MR MZWAMADODA MXAKWE:** The SABC is not the only free-to-air.

**CHAIRPERSON:** Yes.

10 **MR MZWAMADODA MXAKWE:** And the regulations do not even specifically mention the SABC.

**CHAIRPERSON:** Yes, okay.

**ADV THANDI NORMAN SC:** Thank you. Thank you Chair and then in paragraph 18 you deal with - you have mentioned signal and linkages ...

**MR MZWAMADODA MXAKWE:** Sorry. Where are we?

**CHAIRPERSON:** You are back to the ...

**ADV THANDI NORMAN SC:** I beg your pardon Chair. Yes. I am back to - to your statement. I beg your pardon. The big file, okay. EXHIBIT

20 5.

**MR MZWAMADODA MXAKWE:** Yes. I am there.

**ADV THANDI NORMAN SC:** Thank you. Oh, so paragraph 18.

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Then you deal there with linkages and - and those signal costs - broadcast costs but there is something that I

would like to just talk to you about which one of the witnesses is going to deal with who dealt with the TNA Agreement. I see you mention in that paragraph that:

“There are other *ad hoc* costs incurred by the corporation such as satellite feeds and telephone lines used during outside broadcasts.”

**MR MZWAMADODA MXAKWE:** Huh-uh.

**ADV THANDI NORMAN SC:** I think - correct me if I am wrong. A typical example would be the - the breakfast shows that SABC was  
10 hosting because one witness says well TNA was not going to charge the SABC anything for doing that but the SABC had to follow with all of its equipment, its staff wherever there is going to be a live broadcast.

So can you just explain to Chair how then these costs come about because then they would prepare us for the - for that witness that is going to do deal with the TNA matters.

**MR MZWAMADODA MXAKE:** Okay. So as - as I had said earlier on Chairperson the second business - the second biggest cost line item in our PNL is the signal distribution. As you may know we operate 19  
20 radio stations. At any given week we reach close to 28 million people and then also we have TV stations wherever single month we reach close to 29 million people.

Now I think it better explains why the SABC is such a contested terrain. The - the issue with the signal - with signal distribution is that we have a responsibility to ensure that in every single place where we are the transmission of our signal to the public

is done and this is costing us about 1.1 billion every single year - every single month - I mean every single year and is the second business - biggest contributor in terms of our - and SENTECH is obviously our signal distribution partner that we have not been able to pay in the past couple of six months purely because of the situation that we are in.

The - the issue that you are mentioning on outside broadcasts - I will make an example. If there is a Government department what has particular project that they want to run in some far flung rural area. What we would normally do is we would actually send  
10 one of our trucks to that place.

So all of those outside broadcasts as well as satellite feeds that is basically what - what it is referring to.

**ADV THANDI NORMAN SC:** Okay. So you would incur those costs?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** So even if an entity comes to the SABC and says I am offering this service. I am not going to charge you for it but when you look at these costs then it becomes quite expensive for it to run (intervenes).

**MR MZWAMADODA MXAKWE:** We - we charge those entities. When -  
20 when any Government department or any organisation approaches us for a particular event. We do charge but the biggest issue is that from a distribution point of view the - the outside broadcasts are quite expensive.

**ADV THANDI NORMAN SC:** Yes, okay. Thank you and then you - you give us the figures - the percentages on - on signal - signal distribution

and you also - are you benchmarking it with the international one?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** In terms of the cost of signal distribution internationally it is at seven percent and we are at 12 percent as the SABC and it is one of the things that we are looking into.

**ADV THANDI NORMAN SC:** Yes and ...

**CHAIRPERSON:** I - I - I am sorry.

10 **ADV THANDI NORMAN SC:** Sorry Chair.

**CHAIRPERSON:** Have you been able to establish the reason for the discrepancy or not yet? Why ...

**MR MZWAMADODA MXAKWE:** We ...

**CHAIRPERSON:** You are at 12 whereas the international average is seven percent?

**MR MZWAMADODA MXAKWE:** We - we - there - from a policy point of view ...

**CHAIRPERSON:** Hm.

20 **MR MZWAMADODA MXAKWE:** Chairperson there is a need for the SABC to have a mix of both DTT ...

**CHAIRPERSON:** Hm.

**MR MZWAMADODA MXAKWE:** As well as DTH ...

**CHAIRPERSON:** Hm.

**MR MZWAMADODA MXAKWE:** And we believe that if we can have that healthy mix ...

**CHAIRPERSON:** Hm.

**MR MZWAMADODA MXAKWE:** We would be able to deal with some of the costs that are quite high ...

**CHAIRPERSON:** Okay.

**MR MZWAMADODA MXAKWE:** From a signal distribution point of view.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Yes, thank you. In paragraph 19 you deal with some of the commercial deals which you believe that they were unsound - financially unsound. Can you just deal with that and why you  
10 think that those deals are not good for the SABC?

**MR MZWAMADODA MXAKWE:** Well all of those deals on paragraph 19 they have been investigated by the - by the SIU. The biggest issue there was that there - there were a lot of maladministration when it came to these deals. Either there was no contract in place and there were not payments made or there was an issue of deviations that was deliberate to accommodate certain of these and it was just really the typical malfeasance.

It is - it is an indication of what happened at the SABC in the past. All of those deals that are shown there.

20 **ADV THANDI NORMAN SC:** Yes and then you tabulate them in Annexure B to your statement. Chair, may I refer the Chair to page 18. Your Annexure B and at page 21 you have actually listed those companies.

**MR MZWAMADODA MXAKWE:** 18. Where is it?

**ADV THANDI NORMAN SC:** 20 - if you go to 21. That is where - 18



that is where your annexure starts but ...

**MR MZWAMADODA MXAKWE:** Oh yes.

**ADV THANDI NORMAN SC:** I would like to refer you to paragraph 20 -  
to page 21.

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** So you say these matters have been  
referred to the relevant prosecuting authorities?

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** And you have mentioned there - you have  
10 listed them. Names of the Directors ...

**MR MZWAMADODA MXAKWE:** Hm.

**ADV THANDI NORMAN SC:** And various companies listed in there and  
you have ...

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** You have tabulated even those that you  
referred for disciplinaries at page 23.

**MR MZWAMADODA MXAKWE:** Huh-uh.

**ADV THANDI NORMAN SC:** Okay. I see those that have been ...

**CHAIRPERSON:** There are so many.

20 **ADV THANDI NORMAN SC:** There are so many, yes. I see those that  
have been referred for prosecutions. You are looking at about three -  
five. There are individuals and ...

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** And companies there and then those that  
have been referred for disciplinaries you have a lot of those. They go

right up to page - up to page 24. I am sorry. Item 24, page 26.

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Is that correct?

**MR MZWAMADODA MXAKWE:** That - that is correct.

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** All of those you - you will see chairperson for every deal that was corrupt there is a corresponding individual. So all of these individuals that are mentioned there those are SABC employees. Most of them they are no longer in the employ of  
10 the SABC.

**ADV THANDI NORMAN SC:** Yes. Sorry. The - the Chair had asked you a question about salary range and benchmarking of salaries. Can I just take you back to - on that point? Page seven - page 17 which is the estimated employee compensation. Are you there?

**MR MZWAMADODA MXAKWE:** Yes I am there.

**ADV THANDI NORMAN SC:** Although it does not reflect individual salaries but how does one assess those - those figures? When you say Directors and GEs are those their annual or gross salaries? How does one look at those figures?

20 **MR MZWAMADODA MXAKWE:** My understanding of the Chair's question was we said that the percentage of the SABC vis-à-vis expenditure on employee compensation ...

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** Is over 45 percent. So my understanding was how does it compare to other organisations that are

in a good financial health. So ...

**ADV THANDI NORMAN SC:** Oh you quite correct.

**MR MZWAMADODA MXAKWE:** So this one it basically shows internally the different levels and how much each of those costs the company.

**ADV THANDI NORMAN SC:** Yes and then the Bargaining Unit will that be your Labour Department?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Okay.

**MR MZWAMADODA MXAKWE:** So - so the Directors and the Group  
10 Executives it would include the non-executives the fees paid to the board. It would also include the three Executive Directors as well as Group Executives that are members of Exco. So that is the total cost to company.

**ADV THANDI NORMAN SC:** Okay.

**MR MZWAMADODA MXAKWE:** What you see there.

**ADV THANDI NORMAN SC:** What does it mean? The item non-guaranteed for permanent. What does that mean?

**MR MZWAMADODA MXAKWE:** Sorry where is that?

**ADV THANDI NORMAN SC:** It is just - just below guaranteed  
20 compensation for permanent positions and then you have got non-guaranteed for permanent.

**MR MZWAMADODA MXAKWE:** Oh. Non - non-guaranteed for permanent. That - that effectively means one of the things we are doing Chairperson if I may explain. We are running an organisation where you have about 300 Managers acting in different positions.

**CHAIRPERSON:** Acting?

**MR MZWAMADODA MXAKWE:** Correct. We - we have about 300 ...

**CHAIRPERSON:** 300?

**MR MZWAMADODA MXAKWE:** Yes. We have reduced that number significantly. We are now standing at 227 but it does give you a sense of the organisation you running because if you have Acting Managers and they need to do - we do it for a three month period. You also have people who have been acting for close to seven/eight sometimes nine years at the SABC and it makes decision making difficult. The sense of  
10 taking responsibility. So to your question the 280 would then refer to the amount, for example, that we need to pay for acting positions. It's costing us current about R2million every single month for all of the people that are acting in those managerial positions.

**CHAIRPERSON:** Is that in terms of acting allowances?

**MR MZWAMADODA MXAKWE:** Correct.

**CHAIRPERSON:** Okay ja because otherwise if you were not paying acting allowances and where, for example, just paying them what a permanent incumbent in that position would be getting, then it wouldn't make much difference ja. Okay but of course maybe an acting  
20 allowance will mean that, that employees or that managers normal salary in his or her original position plus the acting allowance still keeps them lower than the rate at which a permanent incumbent would have been paid. So from that point of view it's better that way

**MR MZWAMADODA MXAKWE:** But the issue, Chairperson is when it comes to stability because one of the things we wanted to do is to

stabilise the SABC and it does not give room to do that particularly if you have so many – I mean permanent we have about 3 000 permanent employees and if you have close to 300 of those acting it does create a lot of instability.

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** From a decision making point of view or [indistinct] execution and all of the thing we should be doing to take the organisation forward.

**CHAIRPERSON:** No, no it's unacceptable that's about what, 10% of  
10 employees and guess if you look at the management it's much more – it's a higher percentage of management who are in acting positions, correct?

**ADV THANDI NORMAN SC:** So I'm sure then given your high wage bill cost it's difficult to fill those positions and the situation you find yourselves in not having money.

**MR MZWAMADODA MXAKWE:** Correct.

**CHAIRPERSON:** But – well I'm not sure whether one can say financial challenges are a justification or an excuse for not filling those positions when you are paying acting allowances. In other words, isn't  
20 the problem somebody failing to make a judgment call to say, is it sustainable to have somebody or so many managers acting for a year, two years, you have mentioned some instances of seven years, nine years, I mean you can't be saying, well we can't fill this position because there is no money and yet you are paying a lot of money over a long period?

**MR MZWAMADODA MXAKWE:** Indeed Chairperson, this is an issue that we're dealing with. In the past couple of months, we've been able to advertise critical vacancies particularly those that we know are quite key to the running of the business, whether you're talking about the need to get highly skilled people within the sales division. We've had a lot of radio station managers that were acting and we now have advertised those positions in order to bring the right calibre of talent.

**CHAIRPERSON:** Okay thank you.

**ADV THANDI NORMAN SC:** Thank you Chair, shall we move on,  
10 Chair I'm advised that it's five past eleven...[intervenes].

**CHAIRPERSON:** We can go up to quarter past ja.

**ADV THANDI NORMAN SC:** Thank you. Then in paragraph 20 this a matter that deals with the infrastructure and the buildings – paragraph 20 of your statement, back to your statement please thank you.

**CHAIRPERSON:** It's divider 15.

**MR MZWAMADODA MXAKWE:** Oh thank you, sorry Chair.

**CHAIRPERSON:** Ja page four.

**MR MZWAMADODA MXAKWE:** Got it.

**ADV THANDI NORMAN SC:** Thank you and then there you deal with  
20 the maintenance of your various building, the Chairperson of the Board did indicate yesterday, mentioned the oil spills and the problems that you're having in that regard. So what would you like to highlight in what you're saying in that paragraph, briefly?

**MR MZWAMADODA MXAKWE:** I think, Chairperson, this one is very close to my heart because it affects the safety and the health of the

employee at the SABC. The truth of the matter, we are not able to invest in the upgrading maintenance and refurbishment of more infrastructure. Just a couple of months ago we had a huge concrete steel in one of our reception areas that just fell and endangering the lives of more employees. You may have seen the diesel spillage, lots and lots of our employees were hospitalised due to diesel – inhaling diesel fumes. Recently we had a fire incident, you must also appreciate these are old buildings, if you look at our lifts, you know, we should have upgraded or changed them 15 years ago and we're still  
10 using them and this poses a huge risk, not only to the employees but to the organisation. You can imagine what it does from a staff morale point of view, if you wake up in the morning you go to an organisation where your safety and healthy is not guaranteed and I think as the accounting officer, it's something that I do not sleep well at night thinking what may happen and I'm also not talking just about Auckland Park it's the same if you go to our buildings in KZN there's been a historical legacy where all of these buildings were not maintained and unfortunately one of the things we had done for the funding that we had applied for, we had earmarked a certain portion of that money to the  
20 maintenance of our building across the country. If you go to Limpopo, it's the same thing, if you go to Free State our buildings have not been maintained for many, many years.

**ADV THANDI NORMAN SC:** Alright in paragraph 21 we highlight some of the SABC group executive members were highlighted in – or implicated rather in wrong doing and their names will appear in

Annexure B that you've just – I've just taken you to where the SIU had listed those names and companies, so are those – what I'd like to know are those executive members still serving within the SABC?

**MR MZWAMADODA MXAKWE:** Chairperson when I started this job on the 1<sup>st</sup>, I think the Board did not disclose this that almost half of my Exco members were implicated in wrong doing and they were subject o SIU cases. Some of them were implicated in the wrong doing within the SABC, and I think from the ability of a leader to lead, you need to have a certain moral authority and I think it was a big issue because you  
 10 lead an organisation that you want to stabilise, strengthening internal controls but the very people that you want to do this with are actually implicated. So we have had to go through a very vigorous process when it comes to disciplinary hearings with the individuals concerned. Some of them left the organisation instead of going through the disciplinary process, some of them are still going through the disciplinary processes and as I've said earlier on, in all of these matters we were guided by the recommendations from the SIU, from the Public Protector and I do know that there has been a narrative that we are purging people, and he truth of the matter is that it does not matter  
 20 who you are even if you are part of Exco if there is any wrong doing that has been identified is the right thing for the SABC to act. So some of them are still with us, they've gone through the proper processes and some of them are on suspension and some of them have left the organisation.

**ADV THANDI NORMAN SC:** Thank you, you have dealt with the



morale generally of the employees and in paragraph 22 and 23 you deal with the low level employees having witnessed or even been aware of some of the corrupt deals that the senior managers were involved in. So then, other than the morale that look, they're worried that they're not going to get paid, possibly at the end of the month, what other issues relate to the matters that you highlight in paragraphs 22 and 23 insofar as leadership and management concerned?

**MR MZWAMADODA MXAKWE:** I think the biggest issue is the element of trust, there's been a huge issue around trust and what we've  
10 done with the different Exco members is to, every week, dedicate time to make sure that we have these cross-functional teams in the organisation that we can meet and engage and talk to but also to listen to their concerns. People, of example are concerned how a lot of people were promoted without any basis from a merit point of view without the required competency, without the required skills and it does create a certain issue when it comes to trust when it comes to pursuing careers within the SABC from that point of view. In fact, it's one of the reason why we have had to take action against the irregular appointments because a lot of people that are qualified and competent  
20 within the organisation. They looked at these colleagues who are actually occupying higher level positions and yet they're also there with their own skill set as well as their own qualifications but they were overlooked in the past. So we're trying to normalise the environment to stabilise it and to ensure that we instil a sense of belonging to the employees that are there.

**ADV THANDI NORMAN SC:** Thank you.

**CHAIRPERSON:** How are you dealing with that are you, firstly talking to the individuals concerned to say, look for A, B, C, D reasons it would appear that your appointment – promotion was irregular and reflect on it, we would like to change the situation maybe this how we would like it to be done, what do you have to say with a view to reversing the promotion or how is it being handled generally speaking?

**ADV THANDI NORMAN SC:** The manager in which it has been handled, because this was also part of the recommendations from the  
10 [indistinct] committee and the Public Protector, we did not want to take the law into our hands because, Chairperson, you must also remember SABC has clearly defined policies when it comes to selection and appointment. As an individual professional you would know if you are being appointed irregular at any given time. The excuse that we've had over the past was, oh no so and so did it, I was appointed but it takes two, you were not forced to be appointed in a particular role. So our approach has been to approach the Court to help us set aside these appointments and declare them invalid but also the point that you've made, Chairperson, to say could they go back to their original  
20 positions, the problem is that those positions have already been filled and I think for us is the matter of justice to ensure that we take this to Court and not take the law in our own hands. By the way we started with 27 employees what has since happened is we've now been inundated with a lot more. People coming forth to say we know that this – when it comes to this person processes were not followed, even

in that we're going to go through the comprehensive process of investigation that went through with the 27 and we're going to then come back with a phase 2 when it comes to these processes.

**CHAIRPERSON:** Okay thank you.

**ADV THANDI NORMAN SC:** Thank you Mr Mxakwe it's now quarter past...[intervenes].

**CHAIRPERSON:** Yes I think we can take the tea adjournment we'll resume at half past eleven, let's adjourn.

**REGISTRAR:** All rise.

10 **INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay let us proceed.

**ADV THANDI NORMAN SC:** Chairman Mr Mxakwe can you just go back to the question that the Chairperson had asked you because it is just something you spoke about tea about you not filling the vacancies that is the SABC when I say you not filling the 300 acting positions or appointing people permanently to – so to speak. Could you just tell the Chairperson the reasons you had – I had put in the reason to you by saying because you did not have money you thought then you would not  
20 appoint these people permanently but what are the reasons for that?

**MR MZWAMADODA MXAKWE:** Thank you Chairperson.

**CHAIRPERSON:** Oh just switch on the microphone.

**MR MZWAMADODA MXAKWE:** Sorry.

**CHAIRPERSON:** Ja thank you.

**MR MZWAMADODA MXAKWE:** Oh thank you Chairperson. There was

a ministerial directive in December saying that the entity should not fill in some of the positions because there was a process of integrating two departments. As a result we are not able to fill those – that is why we were only able to do this last month when the – the moratorium was then declared we could now fill the other positions. So it is not just an issue of money but the reason was that there was a directive from the ministry that we should not fill in the positions until such time that integration process has taken place. So that – that has now been partially lifted that is why we are able to advertise for the 91 positions  
10 that I mentioned earlier.

**CHAIRPERSON:** Okay. Okay thank you.

**ADV THANDI NORMAN SC:** Thank you Mr Chairman. Thank you. Can we go to page 6 of your statement now? We deal with the Auditor General's Report. I would like to take you to some aspects of that report. This is for the 2017/2018 financial year and that report appears at page 30.

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Thank you. Here the Auditor General it is written it is entitled Disclaimer of Opinion. My understanding is that  
20 the AG would make a disclaimer only when the AG is not given sufficient information in order for him to be able to formulate an opinion about the financial status of any entity, am I correct?

**MR MZWAMADODA MXAKWE:** Partially.

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** So the biggest here was the Auditor

General raised concerns in terms of the status of going concern for the SABC. They looked at the short term liabilities visa vie our assets and I think the biggest issue also there was the cause for concern around reckless trading or trading under insolvent circumstances. So that was the biggest issue that they had. And once again the idea there was we were hoping at the point – at that point that there would have been financial injection because they wanted certainty to say, are you going to be able to proceed as a business in the next twelve months? And owing to the fact that we could not get any confirmation that was the  
10 biggest issue when it comes to going concern.

**ADV THANDI NORMAN SC:** Yes. And then has – what is the position now?

**MR MZWAMADODA MXAKWE:** The position has...

**ADV THANDI NORMAN SC:** Because I – sorry – sorry just to just ask. Because I would imagine although the AG has flagged that look there is a disclaimer of opinion but he would have gone back to the entity to say that you need to satisfy A, B, C, D and E I would imagine.

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** And your management statements or  
20 accounts that you would submit to him would also deal with those aspects. I just want to understand in terms of compliance what – what has been done since the time that AG Report came to the fore?

**MR MZWAMADODA MXAKWE:** I know the CFO is going to talk to this but we have been able to ensure that all of the statements that are submitted reflect the completeness that was required. But the second

point when it comes to going concern regrettably we are actually where we were last year owing to the fact that there is no capital injection for the SABC. And in the engagements with AG they have once again raised a concern on this matter.

**ADV THANDI NORMAN SC:** Yes. Thank you. The matters that you raise you have touched upon them in paragraphs 29 right up to paragraph 32 but then the Chairperson had dealt with the reconstitution of the board in 2017 and we do not have to deal with that. But what I would like you to testify to is the strategic road map. Is that the same  
10 as that strategy – turnaround strategy that the Chairperson of the board spoke about yesterday?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Yes. And you have attached it to your statement?

**MR MZWAMADODA MXAKWE:** Yes I have.

**ADV THANDI NORMAN SC:** Yes. If I may just direct the Chairperson to the relevant page. You will find it – Mr Chairman it is at page 38.

**CHAIRPERSON:** Yes thank you.

**ADV THANDI NORMAN SC:** Thank you. And it is SABC strategic road  
20 map.

**CHAIRPERSON:** And I think the Chairperson of the board dealt with what he considered were key.

**ADV THANDI NORMAN SC:** Were critical matters.

**CHAIRPERSON:** Key fissures I think three of them.

**ADV THANDI NORMAN SC:** Yes, yes Chair.

**CHAIRPERSON**: And I do not know whether you ...

**ADV THANDI NORMAN SC**: I just want you to...

**CHAIRPERSON**: You are going to ask Mr Mxakwe to identify those that he regards as key himself or ...

**ADV THANDI NORMAN SC**: Yes Chair.

**CHAIRPERSON**: Ja okay.

**ADV THANDI NORMAN SC**: Yes are they – the Chair had identified them yesterday could you just if he has left out any other important aspects of this strategy.

10 **CHAIRPERSON**: Or if he might not agree he might have a different view.

**ADV THANDI NORMAN SC**: Or maybe ...

**CHAIRPERSON**: He might have a different view as to ...

**ADV THANDI NORMAN SC**: What he regards as important.

**CHAIRPERSON**: Which ones are key fissures?

**ADV THANDI NORMAN SC**: Yes thank you.

**CHAIRPERSON**: You must not assume that they agree.

**MR MZWAMADODA MXAKWE**: Yes no I am fully aligned with Chairperson but I think ...

20 **ADV THANDI NORMAN SC**: Yes.

**MR MZWAMADODA MXAKWE**: If I may comment when we – we joined in July 2018 the board mandated us to develop a strategic road map for the SABC and indeed we developed this. We engaged with all the key stakeholders, the Department of Communications at the time. We also got inputs from organised labour and the next point was to ensure that

we cascade this throughout the different levels in the organisation. And Chairperson spoke about this but just to reinforce the point. There is a couple of pillars that it is based on the first one is to accelerate and maximise revenue generation. The second point is to deal with cost cutting measures across the organisation. The third point is to deal with governance issues and I think what is very key for me Chairperson because of this strategy which by the way has clearly outlined turnaround plans. Whether you talking about financial sustainability what we need to do there. Whether you talking about  
10 platforms and content. Whether you look at digital. We have a solid digital strategy. HR we want to ensure that we have a competent workforce that is geared towards – that is feed for purpose. Then on terms of governance to produce and instil a solid governance framework internally. And the last past is on partnerships. And I think Chair I need to hasten because when people talk about these partnerships there is this narrative now that SABC needs to strip some of its assets. We will not do that. And for the simple reason if you look for example there is a station called XKFM that serves the Coo and the Kwe people in the Northern Cape. We pump in millions in that station  
20 and from a return on investment we have nil financially. But in terms of our mandate which is really to inform all South African people it is actually key for us. So there has been that. But coming back to this. Because of the solid turnaround strategy and plan the SABC has been able to stay afloat for the past many months despite not having any form of financial injection. And you can imagine Chairperson what then



would happen if the strategy that has taken us where we are today could actually be properly recapitalised.

**ADV THANDI NORMAN SC:** Thank you. The matters that you raise from paragraphs 34 relate to this turnaround strategy which you have dealt with quite in detail this morning and the capital injection matters and the forensic reports right up to paragraph 40 and then paragraph 41 these are matters that the Chairperson of the board dealt with but then the next witness is going to deal with matters relating to editorial interference. If I may then just take you unless there is something in  
10 that – on that page that you want to emphasise but these are the matters that you have already testified to. Fruitless and wasteful expenditure all of those matters. But I would like to take you – you have dealt with advertising and how it forms part of the stream for the SABC. There is something that I would like you to deal with which we dealt with yesterday. Unfortunately that exhibit I have not asked the Registrar to place before the Chairperson. That is CC23A. Mr Chairman if it is – but if it is difficult to find we – I can leave the questions for maybe after lunch. That is where – it has not been placed. Can you just find that it is in that pack – in the bundle there?  
20 Yes. It will be a – it is small that is the media statements that you referred to yesterday. Yes thank you. CC23 could you just take it.

**CHAIRPERSON:** Will it be written Media something on the spine?

**ADV THANDI NORMAN SC:** No, no it is written Chair it is these small ones that I handed up yesterday.

**CHAIRPERSON:** Oh.

**ADV THANDI NORMAN SC:** Exhibit C23 A. Thank you Chair. Could –  
Thank you Chair. Could you please turn to page 6 of that bundle?

**CHAIRPERSON:** Did you say 6?

**ADV THANDI NORMAN SC:** Page 6 yes Chair.

**CHAIRPERSON:** Hm.

**ADV THANDI NORMAN SC:** Thank you. That is the article by the Star,  
am I correct? The one that ...

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Where they are quoting you? Sorry.  
10 Thank you I have got it. Thank you. I just want to find out where you  
were quoted – am I – Oh thank you. This is the issue that we  
canvassed with the Chairperson where the Star had reported that the  
SABC board has refused to be drawn on allegations of discontent  
between the board and the SABC top executives. And the Chairperson  
of the board did touch upon this matter yesterday. Do you want to talk  
to that briefly to the Chairperson as to what sort of interference are  
these – are some of the members of the board engaged in insofar as  
the executive roles are concerned?

**MR MZWAMADODA MXAKWE:** Chairperson the – there are certain  
20 members of the board that are making it difficult for us to do our job. I  
would not want to get into much details but

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** But suffice to say indeed there is  
interference from some board members particularly when it comes to  
editorial independence of the SABC. And we have raised this with the

board but even more concerning now is the interference in some of the commercial operational deals that we are dealing with. And we have raised this with the board and frankly Chairperson we have reached a point as especially the three directors and some of the EXCO members where the manner in which we are supposed to do our job is being stifled by these non-execs and I do think that and I know that the Chairperson and the board would look into this because it is really untenable. We cannot continue as executives as long as these issues continue from these members.

10 **ADV THANDI NORMAN SC:** Yes. Now when you say the – wanting to get involved in the deals does this mean that having to report to them about the deals that you as management you are involved in contracts that you are busy with, the tenders that you are going to issue I just want to understand?

**MR MZWAMADODA MXAKWE:** If I may? I would not want Chairperson to ...

**CHAIRPERSON:** To go into details.

**ADV THANDI NORMAN SC:** To get into details.

**MR MZWAMADODA MXAKWE:** But I just want to confirm that there are  
20 board members within the SABC board.

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** Making our job difficult.

**CHAIRPERSON:** Ja.

**MR MZWAMADODA MXAKWE:** They are interfering when it comes to a editorial issues as well as some of the commercial deals.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: No I think I can understand your reluctance to go into details given the fact that the board is still seized with the matter as I understand it.

**MR MZWAMADODA MXAKWE**: Yes.

**CHAIRPERSON**: You have raised the matter with the board. So I – but I think that it may well be that at some stage in the future consideration could be given to whether somebody would come back and give the  
10 commission more details at a time when the board might have finished its processes and so on. At this stage I am not saying it must be done but I am saying maybe consideration should be given to that. If at that stage it appears that there might be difficulties then the commission could be informed and the reasons could be given and one can consider whether it should be more than simply a suggestion. Okay.

**ADV THANDI NORMAN SC**: Thank you Chair.

**CHAIRPERSON**: Thank you.

**ADV THANDI NORMAN SC**: Thank you very much Chair. Then if you would permit me I think most of the matters that run up to paragraph 65  
20 you have dealt with.

**CHAIRPERSON**: Are you back – are you back in the statement?

**ADV THANDI NORMAN SC**: I beg your pardon Chair yes I am back in the statement sorry.

**CHAIRPERSON**: Okay.

**ADV THANDI NORMAN SC**: I just that I leave mine open all the time

so it is easy to just move to it. If – that is page 13 Chair, 13.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: The one matter that I would like us to talk about which the Chairperson did touch upon is the operating model and the structure of the SABC which you deal with from paragraph 66 onwards and the rehabilitation and all those. Could you just talk roughly about those matters?

**MR MZWAMADODA MXAKWE**: Yes if I may?

**ADV THANDI NORMAN SC**: Yes.

- 10 **MR MZWAMADODA MXAKWE**: I think the – the biggest issue on this which for us as executives that it is really concerning is we inherit an organisation that is in a mess and we are now undergoing a process of rehabilitation and renewal. And would have expected a – would have expected an engagement and willingness to help the SABC. That is still not happening Chairperson. And I do think that the lack of support from a funding point of view the issue of interference from some of the board members they put us as executive directors in a very difficult position in as far as continuing in these roles. Because frankly we feel that we are in the way of the bailout and I do not think it is fair for the
- 20 SABC. So you can talk about all of the things that we have done in a fair and just world. If you look at the achievements that we have been able accomplish in the past twelve months it should be a no brainer for anyone to want to do capital injection in the SABC.

**ADV THANDI NORMAN SC**: Thank you.

**CHAIRPERSON**: are you able to – when you analyse the situation are

you able to identify what the reason is for this situation where you have not been given the funding or is that something that you would prefer not to deal with at this stage?

**MR MZWAMADODA MXAKWE:** All I can say Chairperson is that as the executive team – as employees of the SABC we have done everything and anything humanly possible to take the SABC where it is now. We therefore do not understand justifiably why we would not get the support that is required.

**CHAIRPERSON:** And you have not been told why?

10 **MR MZWAMADODA MXAKWE:** Well we have been told that we need to meet preconditions which we have.

**CHAIRPERSON:** Which you have met?

**MR MZWAMADODA MXAKWE:** We have met those preconditions but besides without any capital injection we have been able to ensure that the SABC stays afloat this far.

**CHAIRPERSON:** You know sometimes in these situations the problem could be lack of political will. Sometimes it might be lack of appreciation of the urgency of a situation. But it is quite clear from your evidence and the evidence the Chairperson that the matter is  
20 urgent and needs to be attended to urgently. Yes.

**ADV THANDI NORMAN SC:** Thank you Mr Chairman.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Maybe whilst the Chair is on that point maybe we should just jump to your supplementary statement because you deal with the issue and you attach the conditions that have been

placed before the SABC for it to fulfil. Chair may I direct the Chairperson to page 105? That is an annexure.

**CHAIRPERSON**: Before – I am sorry before – before that.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: And I maybe I should have asked this to the Chairperson. I am wondering whether the – the board has and the Chairperson will forgive me if I did ask him and he did respond and I have forgotten whether the board has – has said to the shareholder of to the Minister of Finance why are not being given funding in the light  
10 of the compliance that is there for everybody to see with the conditions that were given to us? And if so is there an answer that has been given or is there silence? I am saying I do not know if I did ask the Chairperson anything along those lines but you may or may not be able to say?

**MR MZWAMADODA MXAKWE**: I think that question is above my pay grade.

**CHAIRPERSON**: Okay alright.

**MR MZWAMADODA MXAKWE**: But what I do know is that there was a response that the board sent to both Ministers Chairperson.

20 **CHAIRPERSON**: Ja I guess that is the one where the Chairperson said

**MR MZWAMADODA MXAKWE**: Yes.

**CHAIRPERSON**: Maybe the two ministers were not given the correct information about compliance.

**MR MZWAMADODA MXAKWE**: Correct. Yes.

**CHAIRPERSON**: Yes. As far as you recall how long ago was that?

**MR MZWAMADODA MXAKWE:** This letter was written last week on Friday.

**CHAIRPERSON:** Oh okay. So there might not have been enough time since then?

**MR MZWAMADODA MXAKWE:** Yes. Correct.

**CHAIRPERSON:** For reaction. Okay no that is fine.

**ADV THANDI NORMAN SC:** Thank you Chair.

**CHAIRPERSON:** Thank you.

**ADV THANDI NORMAN SC:** Thank you Chair may I take the witness to  
10 page 105? This is the letter that the Chairperson referred yesterday  
but said you will deal with the details. It was addressed to the  
Chairperson from both ministries that is the Ministry of Communications  
and the Ministry of Finance. If you have a look at page 109 both  
Ministers signed the letter on the 27<sup>th</sup> August 2019. Do you see that?

**MR MZWAMADODA MXAKWE:** Yes I do.

**ADV THANDI NORMAN SC:** Thank you. And then this is the letter that  
seems to deal with each of the conditions that were put on the table for  
the SABC to comply with. Yes. For the record could you just highlight  
these conditions to – to the Chairperson but before you do that maybe  
20 it is important because there is something definite that the Ministers  
say. It sounds quite definite that they say in the body of the letter. If  
you look at – if you could read paragraph 3 of that letter? It is brought  
– let us start with – it is brought – at page 105. Are you there?

**MR MZWAMADODA MXAKWE:** I am not sure if this would be proper  
Chairperson. Because this was from my Chairperson to the political



heads would it be proper for me to go through this?

**CHAIRPERSON**: Well if it is placed here and I am sure your Chairperson knows it is here it would be fine.

**MR MZWAMADODA MXAKWE**: Okay.

**CHAIRPERSON**: Ja.

**ADV THANDI NORMAN SC**: Yes the Chairperson is present Chair. We could just swop places with him if he does not want to talk.

**CHAIRPERSON**: No I do not think it is really necessary because all he – all you will be doing is reading what the letter says.

10 **ADV THANDI NORMAN SC**: That what is contained yes.

**MR MZWAMADODA MXAKWE**: Oh alright.

**CHAIRPERSON**: You know it is not like what you are saying. Ja.

**ADV THANDI NORMAN SC**: Yes. Paragraph 3 it begins with “it is brought”

**MR MZWAMADODA MXAKWE**: What page?

**ADV THANDI NORMAN SC**: Page 105.

**MR MZWAMADODA MXAKWE**: 105 okay. Yes I am there.

**CHAIRPERSON**: And paragraph 3 of the letter.

**ADV THANDI NORMAN SC**: Yes.

20 **MR MZWAMADODA MXAKWE**: It says:

**CHAIRPERSON**: The paragraphs are not numbered but it is paragraph 3.

**ADV THANDI NORMAN SC**: Yes thank you Chair.

**MR MZWAMADODA MXAKWE**:

“It is brought to the attention of the SABC that the

National Treasury will not release any part of the 3.2 billion earmarked funding allocation for the SABC until the two departments are satisfied that the Public Broadcaster has fully complied or demonstrated a commitment to comply with all of the previous conditions to the funding. The 3.2 billion funding will be released in tranches as and when the SABC produces satisfactory evidence in response to the preconditions.”

10 **ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** And – and this is where both you and the Chairperson of the board are certainly in agreement that the position is that either all the conditions have been complied with or there has been a substantial compliance with most of the conditions.

**MR MZWAMADODA MXAKWE:** Correct.

**CHAIRPERSON:** And therefore to the extent that one of the – you either must show compliance or demonstrate a commitment to comply with all preconditions. You say both you and the Chairperson say clearly you have demonstrated – SABC has demonstrated a commitment  
20 but you say actually you have complied. If not with all with substantial portion of them.

**MR MZWAMADODA MXAKWE:** That is correct Chair.

**CHAIRPERSON:** Yes okay.

**ADV THANDI NORMAN SC:** Yes. Thank you Chair. I would like you to just place all...

**CHAIRPERSON**: But – I am sorry.

**ADV THANDI NORMAN SC**: Sorry Chair.

**CHAIRPERSON**: But maybe to be fair on those who may be responsible for giving the funding. Insofar as they may only have had for the first time that SABC has complied or substantially complied that would only have been last week? And therefore there has not been a lot of time for them

**MR MZWAMADODA MXAKWE**: Correct.

**CHAIRPERSON**: For SABC to see whether they are acting or not.

10 **MR MZWAMADODA MXAKWE**: Yes.

**CHAIRPERSON**: Ja okay.

**ADV THANDI NORMAN SC**: Thank you Chair.

**CHAIRPERSON**: Thank you.

**ADV THANDI NORMAN SC**: I am not sure now if you – would you – are you prepared to place all the preconditions on record or would you rather leave that for the Chairperson to deal with?

**MR MZWAMADODA MXAKWE**: I can do it.

**ADV THANDI NORMAN SC**: Yes. Just read in the headings of all the preconditions so that they are on record?

20 **CHAIRPERSON**: Well I do not know if we need to go through them because they are in the letter.

**ADV THANDI NORMAN SC**: Because they are here Chair. Yes thank you.

**CHAIRPERSON**: And...

**ADV THANDI NORMAN SC**: And can I...

**CHAIRPERSON:** And I think the – at this stage we do not understand there to be any dispute.

**ADV THANDI NORMAN SC:** They are clear. No true Chairperson.

**CHAIRPERSON:** And they are not saying there is any difficulty with complying with all of them.

**ADV THANDI NORMAN SC:** Yes. Yes thank you Chair.

**CHAIRPERSON:** Maybe we can just say confirm on record.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** That the conditions are in this letter.

10 **ADV THANDI NORMAN SC:** Yes thank you. Do you confirm that these are the conditions that were placed before the SABC?

**MR MZWAMADODA MXAKWE:** Yes they are.

**ADV THANDI NORMAN SC:** And that your responses to the conditions on compliance they appear from page 112 right up to page 119 if I am correct. Sorry Chair. 122.

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** And then the attachments that go with that right up to the last page of your statement – of your annexures.

**MR MZWAMADODA MXAKWE:** Correct.

20 **ADV THANDI NORMAN SC:** That will go up to page 130

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** So that is all the responses that you had furnished to the Ministers?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Thank you.

**CHAIRPERSON:** With regard to the conditions only if there is something that you particularly want to draw my attention to – if there is such you can mention but otherwise as long as we know where they are that should be enough because you are not saying we have difficulties with condition A, B, C, D you say will – have complied with most if not all. But if there is – there are some that you want to draw to my special attention that – you may do so.

**MR MZWAMADODA MXAKWE:** Yes Chair if I may on page 110. The third paragraph there.

10 **CHAIRPERSON:** Yes do you want to read it

**MR MZWAMADODA MXAKWE:** Yes. It says:

“It is our understanding that we have either complied or substantially complied with each precondition which has been demonstrated by the substantive documentation supplied over a period of eight months. We have attached to this letter details on the SABC’s compliance with each condition.”

20 **CHAIRPERSON:** Yes. You - you maybe wanting to - do you want to complete a same point you want to make out of that ...

**MR MZWAMADODA MXAKWE:** Hm.

**CHAIRPERSON:** Or you just wanted to read that?

**MR MZWAMADODA MXAKWE:** Indeed I just wanted to emphasis Chairperson that we - we have demonstrated with all of the attachments how we have been able to comply ...

**CHAIRPERSON:** Yes.

**MR MZWAMADODA MXAKWE:** Or substantially comply with each of these conditions.

**CHAIRPERSON:** Yes. No that is fine but another point which arises for me out this paragraph you have read is the reference to eight months.

**MR MZWAMADODA MXAKWE:** Huh-uh.

**CHAIRPERSON:** So I said a few minutes ago to the extent that the two Ministers might not - might only have had for the first time last week that you have complied with all the preconditions. So you have  
10 complied substantially. There might not have been enough time for them to make the necessary decisions but there is this reference to eight months and the question that arises is whether this amounts to saying there have been eight months during which - in which we have complied ...

**MR MZWAMADODA MXAKWE:** Huh-uh.

**CHAIRPERSON:** With all or substantially and therefore they ought to have known we had complied and the letter of last week was simply stating something they should have known for the past eight months anyway or is the position that look they might not have known that  
20 there has been compliance or they might have known that there has been some compliance but they might not have known the level of compliance until last week when they - the letter was sent. I think it is that clarification which I would like if possible.

**MR MZWAMADODA MXAKWE:** That eight months Chairperson refers to the time when we submitted all of the documentation that was required

for the funding.

**CHAIRPERSON**: Hm.

**MR MZWAMADODA MXAKWE**: And we then have had to fine-tune some of our submissions throughout these past eight months ...

**CHAIRPERSON**: Hm.

**MR MZWAMADODA MXAKWE**: And working very closing with GTEC.

**CHAIRPERSON**: Hm.

**MR MZWAMADODA MXAKWE**: So it refers to the - to the period when this - the ...

10 **CHAIRPERSON**: The compliance?

**MR MZWAMADODA MXAKWE**: Correct.

**CHAIRPERSON**: Was in place?

**MR MZWAMADODA MXAKWE**: Correct.

**CHAIRPERSON**: Yes. So - so therefore it would be fair to say there has been more than enough time for decisions to be taken if what prevented certain decisions from being taken previously was to allow you an opportunity to comply with the conditions?

**MR MZWAMADODA MXAKWE**: Correct.

20 **CHAIRPERSON**: Yes and - and you do not know - you do not know the reason why the decisions have not been made?

**MR MZWAMADODA MXAKWE**: Not at all Chair.

**CHAIRPERSON**: Yes, okay. Thank you.

**ADV THANDI NORMAN SC**: Thank you Chair.

**CHAIRPERSON**: I think that was an important clarification.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you Chair. Then I think that is all then in the main statement. I think you have covered all the important aspects in your main statement. Could you then move to page 49 which contains your - your supplementary and bearing in mind that you have just covered the issue about the funding now?

Yes, page 49. You have already testified to the correction that you wanted to make in paragraph 3 ...

**MR MZWAMADODA MXAKWE:** Huh-uh.

10 **ADV THANDI NORMAN SC:** About the cash balances during those financial years.

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** You did testify to that. Am I correct?

**MR MZWAMADODA MXAKWE:** Yes I did.

**ADV THANDI NORMAN SC:** Yes thank you and then if we - you have dealt with the amortisation of content ...

**MR MZWAMADODA MXAKWE:** Huh-uh.

20 **ADV THANDI NORMAN SC:** Which appears at page 50 and then you have - what I would like us to just go back to although you touched upon it slightly but I would like you to explain what you explain at page 53 paragraph 17 - from paragraph 17 onwards about the PSL rights acquisition because it is an important matter that affects the public and the public need to know how this all - all works and ...

**CHAIRPERSON:** I am - I am sorry. What page are you?

**ADV THANDI NORMAN SC:** At page 53 Chair.



**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** Hm.

**CHAIRPERSON:** Is what he has to say there any different from what both he and the Chairperson have told us about the sports rights ...

**ADV THANDI NORMAN SC:** Yes. Not ...

**CHAIRPERSON:** Or is there something specific?

**ADV THANDI NORMAN SC:** Something specific about ...

**CHAIRPERSON:** Okay.

10 **ADV THANDI NORMAN SC:** Some licencing Chair which ...

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Which we have not touched ...

**CHAIRPERSON:** Alright.

**ADV THANDI NORMAN SC:** Touched upon. Yes could you please just explain briefly what you state in paragraph 17 right up to 21?

20 **MR MZWAMADODA MXAKWE:** Basically we are saying there we used to - SABC was - it had an exclusive agreement at the time in terms of the PSL matches. However we have then had to sub licence these from SuperSport. I am not sure if you want me to get into the details but suffice to say the deal that we have now signed with SuperSport in terms of PSL matches it does meet the mandate in terms of broadcasting all of the - most of the key matches but underlying that is the - which is very critical for us is that it is commercially viable for the SABC. We - we have had to move away from a historic contract that - that resulted into a lot of losses into one that allows us to fulfil our

mandate but in a manner that even those losses compared to the previous ones are the ones that we - we can be able to manage.

**ADV THANDI NORMAN SC:** Thank you.

**CHAIRPERSON:** *Ja.* I ...

**ADV THANDI NORMAN SC:** No.

**CHAIRPERSON:** I do not think he needs to go into details.

**ADV THANDI NORMAN SC:** No, no Chair.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** No. It is fine.

10 **CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:** Thank you and then ...

**CHAIRPERSON:** One second.

**ADV THANDI NORMAN SC:** We ...

**CHAIRPERSON:** One second.

**ADV THANDI NORMAN SC:** I beg you Chair.

**CHAIRPERSON:** (Whispering). Can you ask the Reverend to put on the air con? Yes continue.

20 **ADV THANDI NORMAN SC:** Thank you Chair. Can we then jump because most of the matters you have covered? Just your key submissions to the SABC - of the SABC to ICASA. Just highlight those topics that you wanted ICASA to deal with in its review and its regulations. You have dealt largely with the must carry concepts.

Just - because these that you are - suggested to ICASA I would believe are relevant. Now you would like the Chair to take note of what is it that you propose going forward, am I right?

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** Yes. Thank you. Could you then start from page 58?

**MR MZWAMADODA MXAKWE:** Huh-uh.

**ADV THANDI NORMAN SC:** Just - you have highlighted those key submissions which you made to ICASA.

**MR MZWAMADODA MXAKWE:** Well the (intervenes).

**ADV THANDI NORMAN SC:** Just on the topics, yes.

**MR MZWAMADODA MXAKWE:** The first one Chair is the issue of  
10 competition. We - we feel there that the - there is a need for a proper  
valuation of these sports rights to ensure that what we are paying is  
fair but there also is a need for transparency because the SABC then  
gets locked into these long contracts that are not necessarily  
commercially viable.

That is the first part and the second part that we have  
submitted to ICASA is the unbundling of sports rights. This is quite key  
because for us we feel that the right holders currently they can do as  
they wish. There needs to be a regulation that will help us to deal with  
some of these. So - so all of these that you see from page 58 ...

20 **ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** Right. These are submissions because  
ICASA requested all the key players to submit submissions in terms of  
the sports rights regulations.

**ADV THANDI NORMAN SC:** Yes and recently you testified on behalf of  
the SABC before ICASA?

**MR MZWAMADODA MXAKWE:** Correct.

**ADV THANDI NORMAN SC:** Yes. That was around May 2019?

**MR MZWAMADODA MXAKWE:** Yes.

**ADV THANDI NORMAN SC:** And you made these submissions to ICASA?

**MR MZWAMADODA MXAKWE:** Yes I did.

**ADV THANDI NORMAN SC:** Yes and that - there is an annexure which would have formed part of your submissions that appears at page 98.

**MR MZWAMADODA MXAKWE:** Huh-uh.

10 **ADV THANDI NORMAN SC:** Those are the submissions - the submissions that you made to ICASA when you testified before it?

**MR MZWAMADODA MXAKWE:** Yes. Correct.

**ADV THANDI NORMAN SC:** Is that correct? Yes, thank you. Is there anything else that you would like to mention to Chair because I think we have reached the end of your two statements now?

**MR MZWAMADODA MXAKWE:** Yes certainly.

**ADV THANDI NORMAN SC:** Yes.

**MR MZWAMADODA MXAKWE:** Chair just to thank you for the opportunity to share what we found and what we are doing in the past  
20 12 months but I also need to state that we - we at a point where you know as a leader as you can only inspire and give hope to a certain level but I am reaching a point now where every single week I actually have to ask key members of my team not to resign precisely because of the precarious situation we find ourselves in and I also cannot really give hope to the 5 000 employees of the SABC who keep every single

day thinking something better is going to happen.

I said to you earlier on Chair I feel and that is how the three executives feel - and by the way that is one of the reasons why we lost a key member of the executive team the Acting CEO - is we feel as the team we are standing in the way of this bailout and I do not know what will happen after this but the truth of the matter is that we cannot continue the way things are. In the interest of the SABC certain tough decisions need to be taken.

**CHAIRPERSON:** No what you have said is very important and is  
10 concerning. I do not know whether this is what you mean but it may well be - it may well be that what you mean is that the three executives feel that they are not wanted.

**MR MZWAMADODA MXAKWE:** Yes.

**CHAIRPERSON:** That is what you mean?

**MR MZWAMADODA MXAKWE:** Yes that is what I mean.

**CHAIRPERSON:** And that is extremely concerning. I might not know the whole story about the SABC. I am still going to hear a lot but I certainly did see yesterday documents that showed improvements that have been happening in terms of losses over the past three years that  
20 the Chairperson said and I think confirmed the improvements that happened because of the implementation of the turnaround strategy that the executive and the board have come up with.

I - I guess that the - maybe the best that one can say is that this is quite a serious situation and some - something quite drastic needs to be done to try and make sure that the right decisions are

made to - to which would be in the interest of the institution. I can just say at this stage it is - it is quite concerning and I am not sure exactly what if anything the Commission can do but I hope that the - the right people will become aware of this - the evidence you have given and this part of it in particular and what the Chairperson of the Board said yesterday and will also take note that I - I think it is something that is quite concerning and that needs some intervention but I - I think as many people as possible must be encouraged to stand when they believe they are doing right.

10                Sometimes it can be difficult - the situation can be quite difficult and sometimes it might be easy for somebody who is not in that person's shoes to - to say do not do this. Do that and so on but thank you for sharing that part with me. It is quite concerning and I am hoping that the right intervention is going to happen soon.

                  Thank you very much and thank you for coming to share with the Commission what you know in terms of the SABC since you joined and what the executive team and board have put in place to try and act in the best interest of the SABC. Thank you very much. You are excused.

20    **ADV THANDI NORMAN SC:** Thank you. Thank you Mr Chairman. Mr Chairman may I ask that the Chair places away that bundle CC5 to 16 and I would like to call the next witness Ms Magopeni. Her statement appears in EXHIBIT 16 - CC17 to 18. That should be on - next to Chair.

**CHAIRPERSON:** Do you want me to take a five minutes adjournment ...

**ADV THANDI NORMAN SC:** Yes Chair, yes please.

**CHAIRPERSON:** While you put everything ...

**ADV THANDI NORMAN SC:** Thank you Chair.

**CHAIRPERSON:** Together.

**ADV THANDI NORMAN SC:** I will appreciate that. Thank you.

**CHAIRPERSON:** Okay. We will take a five minutes adjournment. We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

10 **INQUIRY RESUMES**

**CHAIRPERSON:** Are you ready?

**ADV THANDI NORMAN SC:** Thank you Chair, Mr Chairman in respect of this witness Rule 33 notices were issued to four persons that were implicated being Mr Matthews, Mr Mtzoneng, Ms Faith Mthambe and Mr Simon Thabele, and they were issued on time. Mr Matthews has responded but he has responded largely to some of the witnesses.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** And not to the evidence of this witness.

**CHAIRPERSON:** Okay that's fine.

20 **ADV THANDI NORMAN SC:** Chair we now wish to call Ms Phatiswa Magopeni, could she be sworn in?

**CHAIRPERSON:** Yes, please administer the oath or affirmation.

**REGISTRAR:** Thank you. Please state your full name for the record?

**MS PHATISWA MAGOPENI:** Phatiswa Magopeni.

**REGISTRAR:** Do you have any objection to taking the prescribed

oath?

**MS PHATISWA MAGOPENI:** No.

**REGISTRAR:** Do you consider the oath to be binding on your conscience? Do you swear that the evidence that you will give will be the truth, the whole truth and nothing but the truth, if so please raise your right hand and say so help me God.

**MS PHATISWA MAGOPENI:** So help me God.

**CHAIRPERSON:** Thank you

**PHATISWA MAGOPENI** (duly sworn, states)

10 **ADV THANDI NORMAN SC:** Thank you Mr Chairman. Ms Magopeni is it correct that you are the Head of News for the SABC?

**MS PHATISWA MAGOPENI:** That is correct.

**ADV THANDI NORMAN SC:** Yes, is it also correct that that you are the first female to Head news at SABC?

**MS PHATISWA MAGOPENI:** Apparently yes.

**ADV THANDI NORMAN SC:** Could you just raise your voice a bit or pull the mic closer.

**MS PHATISWA MAGOPENI:** Thank you.

20 **CHAIRPERSON:** Yes she may have to raise the voice too, I'm struggling to hear, please do raise the voice as well.

**MS PHATISWA MAGOPENI:** Thank you, I'll do so.

**CHAIRPERSON:** We had a witness, was it last week or was it this week, who tried to raise his voice but in the end I gave up, I think he's voice was just very soft by nature. Okay, alright thank you.

**ADV THANDI NORMAN SC:** Yes thank you Chair, could you just



place – or before you place your qualifications on record, let's just quickly identify the statement that has been opened before you, that is contained in Exhibit CC17 to 18, Chair the witnesses statement had asked the registrar to place it before you, it's CC18 it starts from page one up to page 15.

**CHAIRPERSON:** Yes that's under divider CC18?

**ADV THANDI NORMAN SC:** That is correct Chair. Have you got it Miss Magopeni?

**MS PHATISWA MAGOPENI:** Yes I've got it thank you.

10 **ADV THANDI NORMAN SC:** Would you please turn to page 15 of that statement – 14 rather, is that your signature that appears on that page?

**MS PHATISWA MAGOPENI:** Correct, it's my signature.

**ADV THANDI NORMAN SC:** Yes and this was commissioned on the 12<sup>th</sup> of August 2019?

**MS PHATISWA MAGOPENI:** Correct.

**ADV THANDI NORMAN SC:** Are the contents of this statement true and correct?

**MS PHATISWA MAGOPENI:** Correct yes.

20 **ADV THANDI NORMAN SC:** And did you make this, or dispose to this affidavit voluntarily?

**MS PHATISWA MAGOPENI:** Yes Voluntarily.

**ADV THANDI NORMAN SC:** Yes thank you, now let's go back then, we'll start from page one of your statement but before we do that could you please just place your qualifications before the Chairperson?

**MS PHATISWA MAGOPENI:** I matriculated in

[indistinct]...[intervenes].

**CHAIRPERSON:** Well you have to be careful because doing it that way might make people think that you are not as young, yes.

**MS PHATISWA MAGOPENI:** Alright so I have a matric that I got in 1989 in [indistinct], I have a bachelors of arts degree from UWC, University of the Western Cape, I have a bachelor of honours – bachelors of arts honours from the same university, University of the Western Cape, I have an integrated marketing communications diploma from the AAA school of advertising, I have a business studies post-graduate diploma from the Gordon Institute of Business Science in Wits  
10 of Pretoria, I have a masters philosophy degree from the University of the Western Cape and a master of business administration degree from GIBBS at the University of Pretoria.

**CHAIRPERSON:** Well that's the way I'm used to, yes.

**ADV THANDI NORMAN SC:** Thank you Chair. You heard in one of the most components of what the SABC is really all about heading the news room, could you just tell the Chairperson what you deal with – sorry before I do that, when did you join the SABC?

**MS PHATISWA MAGOPENI:** I joined the SABC on the 1<sup>st</sup> of March  
20 2018.

**ADV THANDI NORMAN SC:** Yes and before you joined the SABC where were you working?

**MS PHATISWA MAGOPENI:** I was with ENCA, when I left I was the head of terrestrial news services and a business and economic editor.

**ADV THANDI NORMAN SC:** Yes and before you went to ENCA did

you work for any other news channel?

**MS PHATISWA MAGOPENI:** Yes I was at SABC before, it was for two years I left just as ENCA was launching it's 24 hour channel and prior that I was a lecturer at the University o the Western Cape and University of Cape Town.

**ADV THANDI NORMAN SC:** And when, for the first time did you work for the SABC, the first time that you worked and left, when was that?

**MS PHATISWA MAGOPENI:** It was 2006/2007 and then I left in 2008.

**ADV THANDI NORMAN SC:** Yes and then you re-joined in 2018?

10 **MS PHATISWA MAGOPENI:** Yes.

**ADV THANDI NORMAN SC:** Yes thank you and then you first deal in your statement with the culture as you found it upon your appointment could you just tell the Chairperson about what you found in the newsroom and what you deal with in those paragraphs?

**MS PHATISWA MAGOPENI:** The first...[intervenes].

**CHAIRPERSON:** I'm sorry just to – clarification, your position is head of news, is that right?

**MS PHATISWA MAGOPENI:** Yes I also have executive responsibilities as Group Executive in the corporation.

20 **CHAIRPERSON:** Yes what I wanted to find out is whether head of news is head of both radio and TV news or?

**MS PHATISWA MAGOPENI:** It's TV, radio and digital platforms.

**CHAIRPERSON:** Oh all of them?

**MS PHATISWA MAGOPENI:** All of them yes.

**CHAIRPERSON:** Thank you, yes you may continue.

**ADV THANDI NORMAN SC:** Maybe just to get the structure as head of news who reports to you?

**MS PHATISWA MAGOPENI:** It's the General Manager for television news, General Manager for radio news, General Manager for strategic planning for the division and there's another General Manager for special projects, those are the four people that report directly to me.

**ADV THANDI NORMAN SC:** Thank you and what is your role then as head of news?

**MS PHATISWA MAGOPENI:** My role is to provide leadership  
10 oversight in terms of strategy, in terms of operations and in terms of editorial responsibilities.

**ADV THANDI NORMAN SC:** Yes, so then let's go back to what you then found and then you will tell the Chairperson about what you found and how easy it was or difficult it was for you then to implement the mandate that you believe you have in terms of your obligation as head of news?

**MS PHATISWA MAGOPENI:** It's just starting with the functions within the division itself, it provides news content to 19 radio stations and three free to air television channels SABC 1, 2 and 3 and the  
20 dedicated channel which is 24 hour news channel SABC news channel and [indistinct] platforms. So that's the service that we provide across all the platforms as the news division and in addition to that we have, what has been referred to here before, the radio station in the Northern Cape, XKFM which serves the two communities there and the languages that we serve it's [indistinct] so we provide news content

there in current affairs. So as part of the work that we do getting into that environment I found decay...[intervenes].

**CHAIRPERSON:** You found?

**MS PHATISWA MAGOPENI:** Decay, serious state of decay in the newsroom. The newsroom was subdued but you could sense that the kind of equilibrium that companies would be hoping for is not the kind of equilibrium that I found there, it was something else. There was something bubbling underneath even though it looked like things were normal. The newsroom was on auto pilot even though there were  
10 managers in the system who was supposed to take responsibility in terms of giving directions and the nature of the leadership that existed did not assist the organisation to do what it was meant to do and it is often said that any contribution by managers, that does not assist to impact the capacity of the organisation to deliver, to achieve it's results and to attain it's objectives, it's not supposed to be there, but that's exactly what existed in that environment and this is where failure of human resource processes, it's a failure of leadership, the fact that it was allowed to happen. So this is the environment that I found and also the fact that you had people who were leading or were supposed to  
20 lead the newsroom who were not trusted by journalists within the newsroom, what's the problem? Those people had no legitimacy and they did not command any authority to be respected by the journalists within the newsroom because they were associated with a period where things happened that were not supposed to be happening in a newsroom. With the serious editorial drifts that happened during that

period.

**CHAIRPERSON:** So the lack of trust by the journalists in that leadership wasn't necessarily because the leadership didn't have the right qualifications but it was because of what the leadership was perceived to be associated with in terms of what had been happening or was it both?

**MS PHATISWA MAGOPENI:** It was a toxic combination of both and as a result of that what you would see at the point I was joining the organisation there were serious problems in terms of decision making  
10 because the journalists within the newsroom were used to being given instructions and they would have to wait to be told what to do because previously whatever they tried to do in term of journalistic practice was changed, either at the point of broadcasting or at the point where the content was being produced and therefore they had to wait to be given instructions to be able to do what they were meant to do.

**ADV THANDI NORMAN SC:** Can you just talk about that structure – the reporting structure at that time because I believe there was a point where journalists if they had to refer anything upward they had to go to the COO at the time and I just want to understand now, currently what  
20 are the reporting lines. If I'm a journalist and I have a story to tell and I believe, there's some form of criminality and I need to run this by my superiors who would that journalist go to?

**MS PHATISWA MAGOPENI:** Ordinarily the reporting lines are such that you will start with your editors, your line manager and if there's something else that needs to be dealt with that cannot be dealt with at

that level it gets escalated to the next level and at a point where it gets to me, I then try and deal with whatever has been raised and if I feel that there's a point that I need to raise, that would go straight to the Editor Chief, which is the current Group Executive, the current Group CEO. At the point I was joining the SABC that had been restored because there was a stage when the reporting lines were changed for the Group Executive of News and that person was supposed to report to the COO instead of the CEO but when I joined it had already been taken back to the [indistinct].

10 **ADV THANDI NORMAN SC:** Yes you may continue, you were still highlighting those...[intervenes].

**CHAIRPERSON:** I'm sorry Miss Norman, maybe it might help to give us a picture of the structure in the – I don't know if newsroom is the right word, to say that you would have the journalists in the field and then the next level before it comes to you so one has a sense of the various levels.

**MS PHATISWA MAGOPENI:** The current set up is that you have journalists that report to – if you are dealing with general news you report directly to the National Assignments Editor, if you report to the  
20 specialist desks, you would be reporting to your Editor either your economics Editor or your foreign Editor or your sports Editor or your politics Editor and we also have Editors in the regions that we call Regional Editors the ten offices that we have across the country, it's nine plus ten which is our Pretoria office that it's own Regional Editor. So in that environment the Regional Editors would report to one of the

general managers which is radio news head and the specialist desks Editors would be reporting to your TV new head and the current affairs Editor who deals with the long form content that SABC produces also reports to one of the two, either your television or your radio head and the digital news Editor reports to the television news Editor and it's these heads of the units that report directly to me and then I report to the COO in terms of my operational responsibilities and for [indistinct] editorially I report to the GCO.

**CHAIRPERSON:** Okay thank you.

10 **ADV THANDI NORMAN SC:** Thank you still continuing with the environment other matters that you want to highlight when you arrived at the SABC?

**MS PHATISWA MAGOPENI:** Where I make reference to the leadership not being trusted and having no legitimacy I make reference to lack of sense of ownership in the newsroom. So in an environment where you have breaking news stories on a frequent basis it wasn't clear who was supposed to direct the process because people were walking on eggshells. No-one wants to make a decision because it's not – no-one is sure if I take this decision especially on political stories  
20 you are not sure whether you are doing the right thing or you will be reprimanded for making the decisions you make. So as a result of that there was a serious lack of ownership, lack of ownership in the newsroom as a result of that environment.

**CHAIRPERSON:** Was your understanding or your sense when you arrived that for a long time journalists may had decisions that they



needed to make themselves, professionally interfered with by people who had no business interfering with them to the extent that they may have had to make a decision, if I want to continue working here I must forget about trying to do what I believe I'm supposed to do because I will be - somebody will override what I am saying and therefore I must just wait for them to tell me and then I'll do what they tell me because that's the only way I can continue to be here?

**MS PHATISWA MAGOPENI:** There was a strong sense of that in the system and you would be talking to journalists and they would be  
10 telling you that there were times when you'd be sitting as a producer in the newsroom – no in the control room which is more like our cockpit if you think about a plane and these are the people who are responsible for taking news content to air, which is your broadcast, your live broadcast. So you are sitting there as a producer and then comes a call, ordinarily calls that go to the control room are calls within the system in the newsroom it's either the person who's sitting in the newsroom who's telling you that there's an update on a script or something else has been added to the bulletin but these would be calls from external parties, telling the producers not to put certain content on  
20 air or to change stories that are currently running.

**CHAIRPERSON:** Yes.

**MS PHATISWA MAGOPENI:** And that is in a world where things are organised that wouldn't happen because that person, whoever called, if I were to call from outside directly into the production room or whatever you call it, so that is not normal because I should, at least be calling

you or calling a journalist or calling an Editor but not your producers.

**ADV THANDI NORMAN SC:** It's very abnormal to have external parties having access to the control room?

**MS PHATISWA MAGOPENI:** Yes.

**CHAIRPERSON:** Your reference to external, is that a reference to external to the control room but in internal within the SABC or external to SABC or both?

**MS PHATISWA MAGOPENI:** Both.

**CHAIRPERSON:** So people from outside the SABC could just phone  
10 through to the control room and say, don't do this, don't do that or do that?

**MS PHATISWA MAGOPENI:** Yes correct.

**CHAIRPERSON:** And sometimes people within SABC but who should not really be given instructions to the control room would do that?

**MS PHATISWA MAGOPENI:** Yes they would be giving instructions to the newsroom and yet the editorial prerogative resides with the newsroom.

**CHAIRPERSON:** Yes and of course, certainly those within the SABC would be knowing what the right thing is, they will be knowing the  
20 policy?

**MS PHATISWA MAGOPENI:** Yes.

**CHAIRPERSON:** And they'd be going against it in full knowledge of what it is?

**MS PHATISWA MAGOPENI:** Correct.

**ADV THANDI NORMAN SC:** And I think you've covered up to page

88, I'm not sure whether I've left out anything there, playing safe and all that, I think page 8.9 you're dealing with no clear lines of command to journalists at page 4 of your statement.

**CHAIRPERSON:** Does 8.9 look like – it's two sentences put together without a full stop, no clear lines of command as journalists on and off the field were getting instruction from everywhere, internal and external, it's the point you have just made hey?

**MS PHATISWA MAGOPENI:** That's correct that's what I've just...[intervenes].

10 **CHAIRPERSON:** Yes so there were no clear lines of command for journalists, that's one.

**MS PHATISWA MAGOPENI:** Yes.

**CHAIRPERSON:** The second is journalists were getting instructions from everywhere internal and externally?

**MS PHATISWA MAGOPENI:** That's correct.

**CHAIRPERSON:** Yes okay.

**ADV THANDI NORMAN SC:** Could you just deal with what you deal with your overall assessment of what was happening where you deal with that in paragraph 10 where you deal with battered news brand with  
20 no credibility, this is something that one of the witnesses for the SABC once dealt with, how does news lose credibility?

**MS PHATISWA MAGOPENI:** Credibility with audiences and with citizens in this case because that's our primary stakeholder as a news service, it's lack of trust in our content and with all that has been reported about the SABC the instructions that were given about some

cottoned content or certain visuals that were not supposed to be shown for whatever reason was given at that time, all of that goes against SABC's editorial policy because we're supposed to report truthfully and we're supposed to reflect our content with accuracy and part of that obliges us not to conceal information that we're aware of as journalists. So the issue of credibility comes with a lot of that and adherence to journalism ethics which were violated in this case. So where you don't have transparency and your content can't be trusted your credibility goes.

10 **ADV THANDI NORMAN SC:** Thank you and then at page five you deal now with the policy environment, you've touched upon the editorial policy but just tell the Chairperson how...[intervenes].

**CHAIRPERSON:** But maybe before that she – I think she makes the point – you make the point that the situation was so bad that journalists were actually afraid to disclose who they worked for is that right?

**MS PHATISWA MAGOPENI:** Yes that's a sense of shame people had working...[intervenes].

**CHAIRPERSON:** That's how bad it was?

**MS PHATISWA MAGOPENI:** Correct.

20 **CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Yes thank you, could you then deal with what you deal with at page five, the policy environment.

**MS PHATISWA MAGOPENI:** Let me start by making reference to the Editorial Policy itself and the mandate of the SABC newsroom. We exist, primarily for the benefit of the citizens of the country, our work

talks to their needs in terms of information and news content and when I came in I couldn't find a sense that the purpose of our existence had influence in the decisions that we were making as a newsroom and you couldn't find a sense that as the stories were being discussed in [indistinct] sessions there was reference to why we needed to do the stories that we were doing and the transgressions that were in the systems editorially were because there is no system that holds anyone to account for such. You know that the Editorial Policy exists, you know that we are violating it, but there's nothing that says should you  
10 transgress this is what's going to happen to you or these are the steps that you have to go through. There's nothing specific to that effect.

**CHAIRPERSON:** There's no mechanism?

**MS PHATISWA MAGOPENI:** There was no mechanism to hold anyone to account or to assure and ensure adherence to the policy.

**CHAIRPERSON:** Does saying there was no mechanism include saying you couldn't go to anybody who, in terms of the policy, was supposed to be informed if there were transgressions and that person was given power to take action, does it include saying that or there would always be somebody to go to but whether anything could be done  
20 might be something else?

**MS PHATISWA MAGOPENI:** It's something that was spoken of casually but there was never any action taken for things that are known to be against the SABC Editorial Policy.

**CHAIRPERSON:** Is that because of the level of seniority of the transgressors in the organisation or is that simply because there is no

– there was no mechanism. So I mean sometimes if you reach a certain level you might say, well there is nobody to report so and so to, is that the kind of situation or is the situation that there might have been somebody to report to but maybe the journalist knew that it wouldn't bring any results because that person was himself or herself compromised and was not trusted as a person that could enforce the policy, or is that something that you never got to understand whether it was applicable?

**MS PHATISWA MAGOPENI:** There were people who were supposed  
10 to hold people to account for transgressions but it was not happening. Sometimes it's because they were not themselves aware that this was a transgression because this is what I found in the newsroom that in the Editorial Policy that we are supposed to adhere to as journalists within the news division, it's something that we never took time to understand and how it relates to the daily decision making that we get involved in as editors. So the people who were there who were supposed to hold the people to account were either not fully knowledgeable about what needed to be done or when the issues were raised with them, they did nothing about it.

20 **ADV THANDI NORMAN SC:** Thank you, and the next point you make in paragraph 13 that there was no way of measuring the performance of the employees of the SABC and could you just tell the Chair about that and why you felt it was a necessary point to make and to perhaps put measures to make sure that it happened?

**MS PHATISWA MAGOPENI:** The issue of performance management

it's a – this is how you assess the performance of your staff, when you realise that there are gaps in their skills or what they are required to know to do the job you provide interventions but the fact that the performance management system does not exist is a problem because you are not able to assist staff that's meant to be assisted because you don't even know what they don't know so you can't provide the kind of support that's required even when you can see that there are glaring gaps in the performance but there is nothing you can do because it's not systematically recorded, you have no way of saying, based on A, B, 10 C and D I am able to provide the support because I have seen the gaps and they are visible in the performance of the employee.

**ADV THANDI NORMAN SC:** And is that linked to the point that you make that there was then no productivity monitoring because you don't know how the performance is measured, you don't know what your employee are doing, its difficult to even measure productivity levels?

**MS PHATISWA MAGOPENI:** It's not only about individual productivity, it's also linked to the quantity that's required for all our systems on any day. So if you have journalists that are sitting in provinces you should know that for two journalists that are on duty today or let's say this 20 week if you're going to take it over seven days, this is the level of productivity that we expect from these journalists for the next seven days. You are not able to do that because there is no monitoring mechanism and as a result we end up with content slippages in the system because there are stories that get gathered from all over the country that never get broadcast because no-one knows where are they

– where the stories are sitting as they come from the provinces and no-one tracks that when they land in Auckland Park this is the process to be followed these stories are going to SABC1, these stories are going to SABC2 or these stories are going to SABC3 depending on the languages that are requiring the content and these stories are going to be on our radio stations depending on the language requirements as well or these stories are going to be residing on digital only because in the way they are – they have been gathered they are mostly suited to that platform but there's also content that's going to come from radio and TV that goes online. So there is no monitoring of that sense so it affects the entire system.

**ADV THANDI NORMAN SC:** Thank you and you deal again with something that, I think the next witness is going to deal with also relating to recruitment and remuneration of freelances but can you just talk to that, why is it a problem if it is a problem?

**MS PHATISWA MAGOPENI:** The problem with not having a filtering recruitment mechanism for freelances is that – so you get to see Editors or Executive Producers that bring people into the system because they trust them they've met them elsewhere or they've seen them doing work but when they get into the system there are no checks as to whether these people are even qualified for the roles they get to fill. These people are expected to perform to the same standards as permanent employees and therefore you expect some filtering mechanism to get them into the system, either through qualifications, all the checks that we do for permanent employees, they don't exist for



our freelancers. So they get into the system in a different way but linked to that, the way they are remunerated is also not similar to the way they get into the system is also not linked to any mechanism as to the grading of their payments as in, this one is at entry level, this one is at professional, this one is at expertise level, there's no such so there's a subjective process in how these people are paid. So you'd find a person who performs at entry level earning very high and a person who's performing at very high standard earning very low because it's a subjective process and it depends on who brought you there.

10

**ADV THANDI NORMAN SC:** Thank you and then you deal with the invitations of Editors and journalists by Government departments and agencies and you list them, Embassy's and businesses. What is expected of a journalist if a journalist gets an invitation that there is something happening in the department...[intervenes].

**CHAIRPERSON:** I've lost you Miss Norman...[intervenes].

**ADV THANDI NORMAN SC:** We are on page six Chair starting from the last paragraph six of 16, page five it goes on to page six. Are you there Miss Magopeni?

20 **MS PHATISWA MAGOPENI:** Yes I am.

**ADV THANDI NORMAN SC:** Thank you could you just talk to that, if a journalist gets an invitation that we'd like you to come and cover a wedding or something what are they expected to do or maybe cover an occasional event that a particular department is hosting?

**MS PHATISWA MAGOPENI:** In a normal environment such invitations

should come straight to Editors, to the central system because it is in that system where we assess the editorial value of honouring this invitation and how it is going to assist us to serve the public but in the way things were happening, individual journalists were getting invitations and I'm expected to approve these invitations because they are sent to them and what this means is that you could easily have influences that are coming from different directions and with no control to ensure that there is no interference in the way these journalists are invited and not only journalists some of the invitations go straight to

10 Editors and the danger with that is that it weakens our editorial controls because we have no say in how this journalist was hand picked by either a department or an agency or an Embassy or any other structure that is outside the SABC system. So this is not a story that is assigned from within where you would know that this story needs to be dealt with by the economics desk or this story needs to be dealt with the politics desk. It's coming from outside prescribing who should cover it and this is where our problem lies because the different forms of interference come through these invitations which is not only political interference, commercial interference also comes through these invitations.

20 **ADV THANDI NORMAN SC:** So if the journalist wants to make more money gets invited to a wedding goes to cover that and makes more money from that, what is wrong with that?

**MS PHATISWA MAGOPENI:** It goes against our editorial system and he's in violation of journalistic ethics.

**ADV THANDI NORMAN SC:** Thank you.

**CHAIRPERSON:** Because the choice is made by somebody outside the newsroom and certainly outside the SABC and that person could be having certain interest in the story and may well do certain things to try and get the story to be told in a certain way, whereas if they simply request that a journalist be sent and it's the Editor or whoever within the SABC who chooses which journalist should go there, then there is less room for any undue influence, is that right?

**MS PHATISWA MAGOPENI:** Yes, correct sir and in fact in some of the cases it's not only about managing controls it's also to do that we  
10 have journalists who are sitting in provinces who never get these opportunities to be invited to these international trips. So by saying we need to centralise the system it's also to open up the system to other people who are sitting in other provinces. So we would know that so and so is very strong on covering arts and culture and pick that person from a different province and say, you should take this trip if it comes through our centralised system but if a person is hand picked from outside that makes our job difficult and in fact we have started rejecting some of them.

**ADV THANDI NORMAN SC:** Thank you. Thank you Chair I see that  
20 it's time for the long adjournment.

**CHAIRPERSON:** Okay we'll take the lunch adjournment and we'll resume at 2 o'clock, we adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay let us proceed.

**ADV THANDI NORMAN SC:** Thank you Mr Chairman. Thank you. Ms Magopeni when we adjourned you were still dealing with journalists but there is something that you want to add about journalists and their safety currently. Maybe it is something that you need to talk about it is since we were talking about journalists now and you can just put that in.

**MS PHATHISWA MAGOPENI:** Some of the challenges that our journalists are faced with are not only related to being intimidated by  
10 politicians on the stories they cover. They also relate to the public and how – as in yesterday we had one of our vehicles attacked during the protests in Johannesburg and the journalist who was covering a story was also attacked. So this is a problem for us. But as far as the financial situation of the SABC and how it applies to this case. When I joined last year I asked for hostile environment training for our journalists. That has not happened because we cannot provide that service. And protective gear because it – it is going to happen one day that one of them gets exposed to a situation where I would be found wanting when I have to explain what happened. So this is a problem  
20 that we are facing. So it is not only the fact that they intimidated when they cover stories it is the fact that we expose them to risk by not offering them the right protection.

**ADV THANDI NORMAN SC:** Yes.

**MS PHATHISWA MAGOPENI:** In such environments.

**ADV THANDI NORMAN SC:** Thank you. And then going back to your

statement page 6 at paragraph 17. So you say the matters that you highlight they are in need of – of strengthening you making sure that you have [indistinct] controls and you ensure quality. Maybe before we proceed on the – as to how you are trying to whatever it is that you have highlighted as having been problems how you are trying to work on those and to make sure that those do not happen before you move on to other processes and systems.

**MS PHATHISWA MAGOPENI**: What we have tried to do so far is starting the editorial issues and journalists and the management of the newsroom. One of the things that have happened despite the fact that you have this complex operation as SABC News that provides news services to all these platforms there is no forward planning editor. And that is the first thing that we had to address. That there is a person who has to account for forward planning for that area. And this does not only apply to short range planning. We need to plan for long term events. And that means also managing the costs of our coverage when we deal with big events. Because you would be able to book your accommodations in advance, book your travel flights in advance and hire cars in advance if you have to travel to Cape Town or to any other place that is not Johannesburg. But because that forward planning function was not there so it has always been a problem because we wake to stories literally. You wake up to a story that you have to deploy resources to without even interrogating the editorial rationale for covering that story. And the second part was again you look at the service that we are – we were supposed to provide to the South African

public in terms their news and information needs. You have audiences that consume their content in African languages. There is no African languages editor in our newsroom and this is despite the fact that this is your biggest audience as SABC news. Just looking at TV alone your 7pm bulletin on a daily basis is going to give you more than three million viewers but there is no dedicated person who looks at the needs of those audiences in terms of content. And you can apply this across the languages on television. And as a result of that lack you have audiences that are being served content that is generated for English

10 audiences. So it is not tailor made and it does not talk to their needs and it is not regional enough to address the needs of the audiences that we are talking about. Radio is different because our radio stations are spread across the country. So the local flavour is reflected in the content of our radio – of our radio facilities. But digital is similar to TV. There is no dedicated person who looks after the needs of the people who consume their content in African languages and this is a big problem for us. The other part is looking at how the system is designed. We had a situation and in fact still exists but we are in the process of addressing it now. We have a news operation that has

20 morning bulletins but there is no overnight editor who looks at the content that gets produced until 12 midnight and look at what has not been used but that was generated. And look at content that is not time bound that could serve as morning stories. That did not exist. So these are the things that we are trying to address. But also when I came in what we have is a 24 hour news channel, the SABC news

channel had no editor. Literally a free for all depending on who is available to lead it or who is interested in putting [indistinct]. And you would have people moving in and out and shouting at executive producers as to what they want to see on TV. So this is the environment that I found but we are also in the process of addressing that because we are now only hire a person who is going to be responsible for that area. Not that we would not have done it earlier but because of the several moratoria that have been imposed on the SABC and SABC news we were not able to fill those positions. And

10 again talking to the inadequacies that we have had to deal with in the system just before elections we went to covering elections with eighteen reporters out of the system and these are people that we lost to either retirement or people resigning, looking for greener pastures or people who just decided that they no longer want to be with SABC. So we have not been able to fill those roles. So the problems and the issues are multifaceted so it is not one thing that you would say this is why you are here. It is a lot of problems that have been allowed to fester in the system.

**ADV THANDI NORMAN SC:** Yes. And – thank you. And then you deal

20 in paragraph 19 with coordination of the work of the SABC or the news division. Could you just take us through that as to what do you mean by that and how is that going to enhance the workings of the SABC?

**MS PHATHISWA MAGOPENI:** When you talk about coordination you first look our mandate as a news division. We are supposed to provide content that is untrammelled to the public with no interference of any

nature. So you get into this environment where there are no controls in place and I want to go back a bit and talk to the point when I was joining the SABC. I got into the system as a journalist primarily and the second point is that I am a business management professional. Politics have got nothing to do with me. I never signed up for political activism within the news division of the SABC and I was never asked to lead a political branch within the SABC. So when we talk about the absence of processes

- 10           1. You look at the fact that over the years the first question when you come in is to ask how does this division does its work? How does it do its work and how from the point of story ideation to the point where the story gets to air how do you account for the processes in between? That is not documented.

If you were at any point to wipe out a division you would have to go elsewhere to find a way of re-establishing it because it is not written – the work is not documented anywhere. The processes that drive the work of that division news gathering, news processing and news dissemination not a single one of those processes is documented. So this is the environment that I found and it is only now that we are  
20           starting to work on documenting work flows. But none of those are documented.

**ADV THANDI NORMAN SC:** How is that different from what the one witness from the SABC who is an archivist Mr Scott he was a senior.

**MS PHATHISWA MAGOPENI:** Ja.

**ADV THANDI NORMAN SC:** Yes a senior personnel who came to



testify and told us about the archives that the SABC keeps. Is what you talking to different from that?

**MS PHATHISWA MAGOPENI:** It is not different it is part of the same problem.

**ADV THANDI NORMAN SC:** Yes.

**MS PHATHISWA MAGOPENI:** Our archive system – I am trying to find the right word for it. But as it is you have a system that still operates on tapes. We are probably one of the last few broadcasters that are still operating on a tape system and that costs us about R6 million a  
10 year because we are paying for those who are no longer using the system. So where things are – so these tapes are stacked in Auckland Park and you will find them across the country in the different regions. And some of the content that is in these tapes has deteriorated in quality. You not even sure if you will find anything if you had to try and use those tapes looking for whatever that concerns you at that point. And as a result of the tape system no one knows for certain that what we had in 2013 is still available because some of these tapes get lost and I had been told that some of them walked out of the building and that is the terminology they walked out of the building. So we cannot  
20 even say with certainty that we have the material that we think we have.

**CHAIRPERSON:** So when you say this is not documented you mean – do you mean processes that are followed in the production of news or do you mean if I – if somebody says on the 15<sup>th</sup> February 2013 you had this news item I would like to go back to it you mean you would have no

guarantee that you can find it or is it both?

**MS PHATHISWA MAGOPENI:** It is both. The material is not catalogued properly and you can attribute that to either people working there not knowing how to do it properly or because there is no proper archiving system that is digital. We are still working on analogue and old modes of doing things.

**ADV THANDI NORMAN SC:** Yes thank you Chair. And then you deal with commercial opportunities. How do these relate to all the gaps that you have dealt with from paragraph 30 at page 8?

10 **MS PHATHISWA MAGOPENI:** The commercial opportunities that I am referring to here it is generally known that because of the mandate that we carry as the news division it is difficult to commercialise news content because the SABC policy prohibits us from doing so. But there are things that we can do and there – in fact let me make the first reference to us being here. This is part of the public mandate that we are supposed to carry that we broadcast these commissions. The cost of broadcasting these commissions is not taken care of in the sense of the public mandate. We do not have money that accounts for the public mandate that we – that we are expected to deliver on. So this

20 commission has been running for more than a year now and the arrangement that we have as broadcasters – so you would have ENCA doing one week we take their feed and us doing another week they take our feed that is how we manage the costs. But the reality is it does not matter how you do it we still have to foot the bill despite the fact that this project is a public mandate. So you look at this and you look at

other things that we are expected to cover. For instance host broadcast services. When we are asked by government and agencies to provide host broadcast services again I am going to use a recent example. When the former President appeared here we were the ones who were providing feat that day and the expectation is that every media house that wants a feed is going to come to us. We had more than 15 media houses including international media houses that had to plug on our feed. We are the ones who have to carry the cost they get away without paying anything and because it is a public mandate but no  
10 one is taking care of it.

**CHAIRPERSON**: But I would have thought that the arrangement with other stations would be you can get this but you have to pay because we cannot be the only ones paying and you just get the benefits?

**MS PHATHISWA MAGOPENI**: That is exactly what we are supposed to be doing. That we start charging for people who want a feed from us because we have to foot the bill for the deployments that we have to make to cover these big stories.

**CHAIRPERSON**: Yes. But why – why would it not have been done from the beginning to say well – because I do recall when we started here I  
20 was informed that there was an arrangement that could be made in terms of which one you know station SABC it was – it could be here and then other TV stations would get from them and I asked if that was acceptable to all concerned and I was told yes and I said okay that is what will happen. But I – I would have assumed that SABC would say well if you want this this is what we are – these are the costs

associated with us and you cannot just come and get the benefit you will have to pay as well.

**MS PHATHISWA MAGOPENI:** It is only now that we are thinking along those lines but previously it has been the case that because we are a public broadcaster and we therefore have to provide the facilities without any compensation.

**CHAIRPERSON:** Okay.

**MS PHATHISWA MAGOPENI:** Ja.

**ADV THANDI NORMAN SC:** Thank you. Just one – there has to be a  
10 distinction am I correct between a state broadcaster and a national  
broadcaster or is there no difference at all or a public broadcaster as  
you put it?

**CHAIRPERSON:** You mean state and public?

**MS PHATHISWA MAGOPENI:** There is a difference and the difference is huge.

**ADV THANDI NORMAN SC:** Yes.

**MS PHATHISWA MAGOPENI:** Our editorial policy is clear about who we are and it is actually explicit about us not being a government mouthpiece and serving political interests. It is very clear in that  
20 regard. We cover government but we are not the mouthpiece of government. Just one example that I know does get people angry. That when I go to work I do not announce that I go to work because I get paid for what I do. So if you are going to invite a public news service when you switch on a tap or when you cut a ribbon that is a problem and there is a problem with the people who take editorial

decisions to do such. You can still cover the story. You cover it from the perspective of the communities that are affected by whatever is happening. You getting water after 25 years or you getting water after a year. But the fact that a tap has been switched on cannot be a story. As a public broadcaster and as a public news service we decide how we apply what is our mandate to our editorial decisions and our stories have to reflect that.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you. Talking about the SABC's  
10 mandate could you please turn to page 19 this is one of your annexures to your statement which is the SABC Editorial Policy? But – page 19 that is where the mandate is outlined.

**MS PHATHISWA MAGOPENI:** Yes.

**ADV THANDI NORMAN SC:** Okay.

**MS PHATHISWA MAGOPENI:** Correct.

**ADV THANDI NORMAN SC:** Are you there

**MS PHATHISWA MAGOPENI:** Yes I am thank you.

**ADV THANDI NORMAN SC:** Yes. Could you just place on record briefly the bullets that are there and how its functions, rights and obligations.

20 **MS PHATHISWA MAGOPENI:** Okay. Reflects South African attitudes ...

**ADV THANDI NORMAN SC:** Or maybe you should start with the charter.

**MS PHATHISWA MAGOPENI:** Start with the –

**ADV THANDI NORMAN SC:** Even the first sentence is fine yes.

**MS PHATHISWA MAGOPENI:** Okay.

“The SABC’s mandate as a public broadcaster comes from the charter which defines its objectives. The charter is laid down in chapter 4 of the Broadcasting Act as amended and requires the SABC to encourage the development of South African expression by providing in the official languages a wide range of programming that reflects South African attitudes, opinion, ideas, values and artistic creativity.

10 That displays South African talent in educational and entertaining programmes.

That offers a plurality of views and a variety of news, information and analysts from a South African point of view.

That advances the national and public interest.”

**ADV THANDI NORMAN SC:** Yes. Yes and those are the objectives that you say you subscribe to?

**MS PHATHISWA MAGOPENI:** Yes.

20 **ADV THANDI NORMAN SC:** Yes. Thank you and then may we then go back to your statement. You have – have you finished explaining these financial commercial opportunities that you dealt with. But I think if you – if – you have but I would like you – to take you to paragraph 30.2 page 9 where you deal with the pricing system of your archival material.

**MS PHATHISWA MAGOPENI:** Okay.

**ADV THANDI NORMAN SC:** And this is one of the matters that Mr Scott dealt with and it relates to content that was given to ANN7. So it is a matter that is important for the work of the commission. So could you just tell the Chairperson what – what is it that you want to convey there?

**MS PHATHISWA MAGOPENI:** What we have here even outside the material that links to what happened with ANN7. The pricing structure of archive material when we licence it to parties that are interested in the content is such that there is no discrimination in the content.

10 Whether the content is unique. Whether the content is exclusive to the SABC and looking at the age of the material, the novelty of the material there is a flat structure. So it is a flat price that we charge. It is R2000.00 per minute. Regardless of the fact that some of that material cannot be reproduced. And this is something that we are now addressing with our intellectual property unit because it cannot be allowed and there is a lot of value that we lose as a result of the current arrangement.

**ADV THANDI NORMAN SC:** Okay. Thank you. And then you deal with another opportunity at paragraph 30.3

20 **MS PHATHISWA MAGOPENI:** Yes.

**ADV THANDI NORMAN SC:** Dealing with outside broadcasts.

**MS PHATHISWA MAGOPENI:** Okay. Outside broadcasts the Group CEO did make a reference to these arrangements. These are stories that we cover and above our general deployments. For instance if you have to cover a story you would deploy a reporter, deploy a video

journalist if it is radio you deploy a radio reporter, if it digital you deploy a person who is going to take care of those needs. Or assign the two from radio and TV to make that content available for our [indistinct] platforms. So in this case the projects or broadcast projects that we would charge for as outside broadcasts are those that are beyond our general coverage. They require bigger deployments in terms of resources and this is where we start charging for our coverage which is not necessarily the content but it is the deployment, the costs of deploying resources to cover these stories. The number of

10 journalists that you are going to send. The multi camera requirements for the story that you would be covering so you look at all of that and then you would say this is how much it is going to cost us. If we were to hire out these facilities this is what we would get and therefore this is what it costs us to cover the story. And in the way it has been done it was handled by executive producers who would decide and it has always been around R50 000.00 regardless of the extent of deployments and the arrangement that we have now it is with commercial enterprises because it is not only about the resources that are deployed it is the airtime that the client would have derived value

20 from by us putting the content on air. And in some of the cases it is more than an hour but you pay R45 000,00 which only covers part of the deployment costs.

**ADV THANDI NORMAN SC:** Okay. Thank you. And then the next paragraph you deal with advertising in the news – I am not sure whether it is in the newsroom or what do you mean by saying that



generally advertising there is not allowed? Does it mean that when there is news you cannot show clientele, what does it mean?

**MS PHATHISWA MAGOPENI:** Again this is a policy issue. We are not allowed to advertise news and it is out of fear of commercial influence in our content. The only advertising that is allowed it is during ad breaks – commercial ja we call them commercial ad breaks or the time we take a break and go elsewhere. So this is the – these are the slots that – that you would use for advertising but for some reason there was a point within the SABC when there was an understanding that  
10 advertising is not allowed. You are not supposed to place any commercial content on our news programming. Which is not necessarily the case we have ad breaks. Because even if you look at our free to air channels SABC 1, 2 and 3 there are ad breaks and this is how we generate revenue. The only thing that is prohibited is sponsorship of news content of current affairs content. You can do sponsorships around informal knowledge building programming which is your shows like Travel Trends. In this case you would look at interesting places to go to or to visit in South Africa and it is your health tips shows, it is your personal finance tips, it is things that have  
20 – that are not necessarily hard core news that you would covering that require hard editorial treatment. So there are opportunities to generate revenue but again it is a space that we are only getting into now.

**ADV THANDI NORMAN SC:** Yes. And you – by the way just on advertising just as a matter of interest. How does it work because you will find that one company gets exposed more than any other company?

Does it go according to the cost that that – or the money that that company pays the SABC or does it depend on the reaction of the public to that particular advertisement, how does that work?

**MS PHATHISWA MAGOPENI:** The scheduling of adverts depends on the airtime bought by the client. That is how it works. Ja.

**ADV THANDI NORMAN SC:** Okay. So the more money you have and the more adverts – more airtime you buy the more you get shown?

**MS PHATHISWA MAGOPENI:** Correct.

**ADV THANDI NORMAN SC:** Thank you. You have already dealt with –  
10 you used this commission as an example when dealing with 30.6, am I correct?

**MS PHATHISWA MAGOPENI:** Yes correct.

**ADV THANDI NORMAN SC:** Yes thank you. And then – so now you get there you find the state that you have already described to the Chairperson so what are the interventions then?

**MS PHATHISWA MAGOPENI:** The – the – sorry – the kind of interventions that we have had to make the first thing that I – that we had to do was to look at the set up in the newsroom. Our mandate, what had gone wrong? What we needed to do differently. So that was  
20 our starting point. And related to that we had to think about the fact that we say as a public news service our duty is to provide critical watchdog journalism. Not just information about what is happening, that is our duty. And part of our mandate is to ensure that we enhance the democracy of the country by doing the things that we are doing and providing information, assisting citizens with the right information so

that they make the right decisions. But there is something that we always say, while it is okay for us to say we are the eyes and ears of the public in how we do things holding authority to account whether it is politicians, government or business what we are not is the voice of the voiceless. We like to make that claim and it sounds right when we do so.

There is - there is an Indian author Arundhati Roy who talks to this issue and her view is that there is no such thing as the voiceless.

10 It is only those who are deliberately silenced or those who are preferably unheard. So our task as a public news service it is not to be the voice of those people. They have the voice. We need to find those voices. We need to go to the areas where these people are and elevate their voices. Get them to talk about their issues not us speaking on their behalf.

20 It is not our job to do that. We do not want to interpret - interpret their views. We do not want to interpret their opinions and - and in this case when you look at what had happened and what we needed to fix. We needed to go back there and say if our task is to ensure that there is plurality of views in our news content and there is inclusivity in our coverage.

How do we do that and these interventions were meant to address the how do we do so. So the first thing was to say looking at the lapse of editorial controls if they were ever there what are the things that we would have to say are the filters for editorial decision making and this how we ended up with the two values independent and

impartial which are part of our value system in our editorial policies and we look at those for these very reasons of interference that has been seen as a problem within the SABC news system.

So in doing this we were trying to say to journalists in every decision that you make in your own space because everybody is a decision maker in a news gathering system. From the person who decides how the - which story is going to be told or that this is even a story to the person who decides to take the story to a - the video journalist how decides to film this part and not the other part to the  
10 video editor who decides that this is what I am going to show and not this one.

Everybody in this chain is a decision maker. So it was important to say to the newsroom in the context of these two editorial pillars as filters this is how you make your decisions. Are you going to be able to say this story has been produced independently? There has been no influence in how I decided on how I did this story. Is there political influence.

Is there commercial influence. I - my personal prejudice - prejudices in the way of me deciding on how I do the story. So that  
20 also included introspection from the point of view of the journalist who are doing the stories. So it is helpful for us to say with these two pillars we are able to guide editorial decision making. You cannot be referring everything upwards when you know that if I test my story against these two pillars I am comfortable that I have done the right thing or if I am not comfortable what are the things that I need to do.

At the level of impartiality am I fair enough in the way I have covered the story. Do I have all the sides that need to comment on the story or if I am not finding all the voices what are the opportunities that I have to present the other voices when they become available. So our starting point was in this area and because we are also expected to be inclusive in our coverage we had to say what does that mean.

It is not only being inclusive in terms of the people who are around you or the voices that are always available for commentary. We hardly see women as expert voices in our news coverage as economics  
10 as researchers or anything that you want expert advice or counsel on. So we had to think about how as a newsroom are we going to include these voices in our stories and it is conversation that takes place in editorial meetings.

What are the voices that we are going to use to make sure that this story is resourced properly and we are comfortable that it is go - it is - it is ready to go to air and not only the fact that we are looking at women. We are also looking at women in rural areas and in this case you would say if (African language) needs access to information I will provide (African language) the kind of information that  
20 requires where she is or are we telling this woman about brown rice and lentil issues that are fact.

People are sitting in Sandton and the middle class. So these are the conversations that we now get involved in our - in our editorial decision making but it is all driven by what is it that the Editorial Policy requires us to do in the way we cover stories and we have gotten to

that mode where on a daily basis we would say but what does the Editorial Policy say.

What does the Editorial Policy say? So it is no longer about just assigning stories and this also includes the allocation of resources to stories. You can sit here and say we do not have a live facility which is the - which are the devices that we use to do live coverage that are portable. We do not have a live facility to go to the story but there is a live facility that is allocated to a different story and we look at these two stories and say which of the two stories is likely to have more  
10 impact on the public or that has more people being affected by this issue.

It could be something that is happening in one of the informal settlements but it is only an example of an issue that could have a national scale if you look at other areas in the country. So you treat your stories and your allocation of resources in that context. So these are the conversations now that are taking place in our newsroom but the other part to the answer is I got in an environment where we had three platforms that were running parallel.

You had diary meeting for radio, diary meetings for TV, diary  
20 meetings for digital and you would find instances where radio gets surprised when they see a story on TV. TV gets surprised when they hear a story on radio. Digital is the same because they do not talk to each other. So the plan was to say looking at technological conversions that is taking place already and looking at how people are consuming news and saying we need to do that at the point of

production starting with story ideation.

How do we look at the story idea as a starting point and not the platforms as a starting point - TV, digital and radio. How do we as SABC news say this is our story for the day? How do we make sure that this story is reflected adequately across all the platforms and we got to a point where we now integrate diaries? We have two diary meetings where everybody sits- digital, radio and - and television and we say we have this story idea.

How are we going to treat it? We discuss that part. How  
10 does it relate to the work that we are expected to do as a public news service? We deal with that part. What are the resources that are going to be deployed? How many reporters are going to go to the story and who is going to cover the story for radio, for TV and digital but it is a single conversation for everyone within the news service and we took the approach of a news service instead of the different platforms that we have been using.

**ADV THANDI NORMAN SC:** And then talks to improvement of the systems that are going to work going forward?

**MS PHATHISWA MAGOPENI:** Yes. It is - it is the efficiencies within  
20 the system but editorially it is also to ensure consistency in quality and tone because the stories are likely to be different depending on the audiences but the quality has to be the same and it is the kind of quality that you want the audiences to say I have been listening to this story or I have been watching this story. I can tell that this is an SABC news story.

**ADV THANDI NORMAN SC:** Thank you.

**MS PHATHISWA MAGOPENI:** So this is the point that we are trying to get at ...

**ADV THANDI NORMAN SC:** Yes.

**MS PHATHISWA MAGOPENI:** But in terms of managing efficiencies we are able now to say reporters A and B especially now that we have not been able to fill the positions of reporters that we have lost - the 18 reporters that we have lost. We are able to say there is a reporter who can also do radio. Let us deploy this person because this person is  
10 multi - multi skilled.

So we do not have to deploy the three reporters that we would deploy or two reporters that we would deploy to a story. So it also assist us manage our efficiencies.

**ADV THANDI NORMAN SC:** Okay and then just one thing that you omitted to mention in paragraph 31 is the commissioning of the investigation that was done by Mr Joe Thloloe which you make reference to in that paragraph. Am I correct and that is annexed - that report is annexed as - annexed as M - PM002 and it appears from pages 71 right up to page 1-3-6?

20 **MS PHATHISWA MAGOPENI:** That is correct.

**ADV THANDI NORMAN SC:** Is that correct?

**MS PHATHISWA MAGOPENI:** Yes.

**ADV THANDI NORMAN SC:** Thank you. Then we then - you deal with the steps that you took. This is what we are dealing with. You mention something that you did between March and May 2018 going through all



the stations and - and what - what results did that - what did you achieve by doing so?

**MS PHATHISWA MAGOPENI:** In March - between March and May ...

**ADV THANDI NORMAN SC:** Yes.

**MS PHATHISWA MAGOPENI:** I visited all the offices across the country and the intention was to assess the state of health of the offices because if I was to do any work or we were to do any work as a division to try and change things I need to understand if the system is going to support the change that was required. So going to the  
10 different offices some of the challenges that were there related to infrastructure issues, technological infrastructure.

You had reporters who would go stories with notebooks. No one does that in this day and age. They have to come back to the newsroom and script their stories. They have no laptops or iPads to ensure that as they are sitting there the information is sent to the newsroom for broadcast. So their counterparts from other media houses by the time they leave the room the story is already on air.

Ours have to go back to the newsroom before our stories get to air and in some of the cases you had instances where reporters have  
20 ...

**CHAIRPERSON:** Well may ... maybe that helps me understand why sometimes I hear a story today in one or other TV station or radio station and I only hear tomorrow in SABC and I wonder what is wrong with SABC. They are telling us old news. Maybe that is why.

**MS PHATHISWA MAGOPENI:** I am traumatised.

**CHAIRPERSON:** No. Quite truly I have wondered. I say really we had this - I mean - yesterday and they are only telling us now. Okay, alright.

**MS PHATHISWA MAGOPENI:** It - it - *ja* it is - it is a number of issues but that is also part of the problem.

**ADV THANDI NORMAN SC:** Yes. Thank you.

**MS PHATHISWA MAGOPENI:** And you would have instances where reporters have to travel long distances. A province like KZN if you are going to take inclusivity seriously you are going to cover the countries  
10 rural provinces and you are going to cover those (indistinct) that are sitting in those provinces. So you drive 500 kilometres for your story cover the story come back because you have to drive another 500 kilometres to the office in Durban.

That is 1 000 kilometres on the road in one day. You still have to get to the system and process the story and the system is not reliable or some of the facilities have fallen apart to the extent that you have to queue to edit your stories. By the time you leave the office it is almost midnight and this what we have done to our reporters and not only that people have to find themselves working long hours which is  
20 not out of the norm in our area but the fact that people have to drive such long distances.

We cannot book them to sleep over because we do not have money. So you expose them to danger by expecting them to drive to and fro in such long distances and they have to do so because they do not have editing facilities that are mobile where they could be booked

over, process their stories, send them to the newsroom drive back the following day.

We do not have that luxury. We want to meet the mandate but at the cost to the journalists who are out in the field.

**DV THANDI NORMAN SC:** Thank you. You have dealt already with the values of independence and impartiality and repositioning the SABC. I think that takes care of what you deal with in paragraphs 32.2 right up to 32.5 because you also dealt with the diaries - single diary. Although you have - where you dealt with the meetings that you now have twice -  
10 twice a week ...

**MS PHATHISWA MAGOPENI:** Yes.

**ADV THANDI NORMAN SC:** Of all the stakeholders. Then we - I think we should move on if you are comfortable that you have covered everything there. We could move on now to the impact of the changes that you have effected so far. When I say you I mean you and your - your - those that work with you in - in improving the systems.

**MS PHATHISWA MAGOPENI:** Yes we can move.

**ADV THANDI NORMAN SC:** Yes.

**MS PHATHISWA MAGOPENI:** From an editorial point of view the one  
20 thing that I had to do was to demonstrate the change I wanted to see in the system. I remember one instance during the period when we were covering the late Ms Madikizela-Mandela's funeral. Walking into the control room.

Just observing how the work was being done and I picked up a spelling error and I am pointing out to the person who is dealing with

that part in production and this person says can you please do it for me and I pulled the chair and she moved and I got into the chair and I typed out the word I wanted changed and it is not a case of a person who was saying do it yourself.

It is someone who did not know the right spelling that needed to be reflected. So these are instances where you had to say I am serious about the things that I am asking you to change. We have a very interesting set up. You would have the executive producing deciding on what needs to be done but it the technical crew that gets  
10 all the material to air and some of the people who are sitting in the control room are not editorially strong and some of them are not even people that you can rely on if you talk about spelling errors on air and it has been a perennial problem and there are serious issues around that because these are the people you have and this is the quality that you have in the system and you still have to work with them because there is nothing you can do.

You found them in the system and you are going to work with what you found in the system. So we had during the same period and it is something that I have come to be known for and we joke about this in  
20 the newsroom. There is a phrase I do not even know whether to call it a phrase when an event is happening. So we will be talking about the event being underway.

So the fight over this underway whether it is one word or two words is a big fight within the newsroom and it took time for us to settle on whether it is two words or one word and you basically have to go to

a point where you say when you have a noun following the word you literally explain how it is one word in a sentence and how it is two words in a sentence.

So these are things that you have to demonstrate because you are not going to change a system by shouting instructions. You have to part of the things that you want to see changed and this is - I know it is - it is very granular but it is a big issue if you have problems at that level and as part of the impact at an - at an editorial level.

I have asked everyone to stand up and be courageous to do  
10 what is right and what the Editorial Policy says in the interest of the citizens who rely on us for information and I had demonstrate - demonstrate that myself. The first instance was when we were taken to the BCCSA by the Democratic Alliance for a clip that we played. It came from an address by President Ramaphosa and in the way it was processed in the system again this talks to the quality that we have in the newsroom.

The way it was labelled it said the President addresses the nation and yet the clip was about an outcome of an ANC lekgotla. So he was addressing an ANC issue not as the President of the country  
20 and it was obvious in the tape because you see the flags of the ANC behind him and he was wearing ANC regalia but we said the President addresses the nation and it became a big problem and we were taken to the BCCSA because there was a view from the Democratic Alliance that we were again being used to carry the - the - we were carrying instructions from - from the ANC which was not necessarily the case.

It was a fault of our system that we ended up with that and it is something that we corrected within the first seven minutes or first 10 minutes of us airing that because we picked up the problem but it was already late at that point and added to that it was about the fact that we did not give the other side an opportunity to respond because this was an issue of national concern.

It was about land, employment and other issues that were - that were part of that address. So us being taken to the BCCSA it was about - we had violated the BCCSA Code by not giving the other party  
10 its - its - an opportunity to respond - to respond and the fact that we had called what was an ANC issue - a Presidential issue as in the President of the country but where the problem was the BCCSA is the right mechanism to address the issue and which is what I stuck to.

I was then called names including being referred to someone is not different from the Hlaudi era which is what was said in - in the statements that were issued or the comments that were made. What was the problem was the fact that we were then given a tape as a response to what the ANC had put out by the Democratic Alliance that we should play it because we had played the ANC one.

20 Under normal circumstances and in the context of the Editorial Policy of the SABC that cannot be done. We cannot be taking instructions from external parties. The editorial prerogative resides with the newsroom. We make decisions as journalists within the SABC. We cannot be told what to do and this is where the problem was because I was not going to give in.

I remember there was even a countdown to 12 midnight that I was left with so many hours to play this tape and I was not going to give into that and it was also to demonstrate to the journalists within the newsroom that you will not buckle under political pressure when you know that there are mechanisms to address issues and we went to the BCCSA and the BCCSA ruled in our favour.

**ADV THANDI NORMAN SC:** Hm.

**MS PHATHISWA MAGOPENI:** The - the second instance related to the impact of the changes that we also had to demonstrate how we need to  
10 do things. There was an incident in February - February this year and it was a public - and it was a public incident. When the Minister of Communications interfered with our coverage in the Eastern Cape.

It was the launch of a provincial manifesto of the party and when that incident happened the reporter posted the message on the group. We have WhatsApp groups. So we have a reporters group and I am in all of them. You have a WhatsApp group for reporters. WhatsApp group for TV management.

WhatsApp group for radio management and executive  
producers and I exist in all those spaces because I want to understand  
20 the things that people are concerned about because that is - those are the platforms that at times people express what their concerns are when they are out in the field whether they are being intimidated and it is things that never get to reach me or would never get to reach me if I was not part of the discussions and by being part of those groups I am able to address issues on the spot.

So when that incident happened the reporter who was covering the story posted the message on the groups and I responded and said do you have it on camera and she said yes and I thought this is a remote area from our office in Umtata. So how do we get this story quick enough and then she indicated that she could do a live crossing and I said put it on record and I had to say it in the group so that everyone understands that this is a decision that I have taken and this decision is within our Editorial Policy.

That we will not conceal information that we have knowledge  
10 of and even worse that it included an incident of censorship. Just one thing on censorship it is despicable. You can rationalise it. You cannot negotiate your way around it. There is no way you can justify censorship. It is anti-democracy and it goes against the right of the public in terms of access to information.

There was no way that that incident was not going to be aired and it was also to strengthen the courage of our reporters in the newsroom and our journalists in the system that pushback when you feel that there are things that are being done and you are aware of and you know that they are against the Editorial Policy of the SABC and we  
20 had to take that stance and I - I am aware of the fact that the kind of changes I am - the impact of the changes I am talking about relate to editorial issues.

Those are the most pernicious and that affect our - our integrity mostly. We had another - another incident in January. This is the same week that the country or the IEC was going to conduct the



final registration week - voter registration week which was the 25<sup>th</sup>/26 January. This is a Monday and the previous week we had discussed how we were going to tell the story of the final voter registration in an impactful way.

There is a graphics unit that would deal with on air elements what you would be seeing on air on the day, what is going to be our promise leading up to the day about why it is important to go and register and that. This is your last chance. So as we are discussing on the elements on the previous week then on Monday I am sitting on the  
10 internet sending message - message to the person who is supposed to design the on air elements.

How far are we with this because we had touched on it in preparation for the weekend and leaving the meeting I went to the floor where the graphics department is located and the person says oh I was a bit delayed. There was something else I was doing that required my urgent attention and I asked what is this about and he says oh no, no there is a - there is an opening stint for a new segment that is being introduced. This was 21 January.

It is a new segment that is being introduced by one of the  
20 desks and I look at it because I asked him to play it and then he plays it. The President's office. This is the new segment that is being introduced. I am not aware of it. I have no knowledge of this thing being introduced. No one has said anything to me. So I then get to ask you saying that this thing is urgent.

Then he says this show is supposed to be or this segment is

supposed to be on air at 10. This was just before 10 o' clock in the morning and the show that is supposed to go on air it is on the 3<sup>rd</sup> Floor. Immediately I walked to the 3<sup>rd</sup> Floor. Getting there, talking to the desk what is this thing about and then I get told no, no this is a new segment and we thought that it is okay that we are going to invite people from the Office of the President on a weekly basis every Monday. So this is a dedicated slot to come and talk about the program and the engagements and the work of the Office of the President. I have no knowledge of this.

10 **CHAIRPERSON:** Mmm, how does that happen? How does something like that get to be – how do the plans get finalised for something like that to be aired without you knowing?

**MS PHATISWA MAGOPENI:** This is what puzzled me to this day, because I don't know how we ended up with that, but all I got from the Executive Producer at that time was that no it is an idea that we came up with and we thought that it was okay to do it.

20 Because it was very close to the time, and the person who was supposed to speak at ten on this settlement was already in the building, on the floor, make-up done, ready to go to air, and I am still standing here trying to find out what happened, and I had no way of saying we are not going to do it, as I was still seeking answers myself. Then I went to my office, got to my office, I could not get myself to watch it, because I knew at that moment that we would have, by having that material on air it was a violation of the editorial policy of the SABC, it went against everything that the Public News Service stand

for.

And besides the fact that it was against the editorial policy of the SABC it had implications for the regulations by ICASA in terms of our elections coverage, because we already in that period. So what you have in the regulations by ICASA is that broadcasters, in particular in this case, as a public news service, we have to be mindful of the advantage of incumbency. So we would have to explain why before elections we're having this segment which is a weekly dedicated to the office of the President, because despite the fact that it's the office of  
10 the President and not of a party there are issues of the advantage of encumbrance that we let it deal with, and ICASA is explicit about how this plays out, that there is always a chance that the seating, I mean the party that's in power could use resources of the State to enhance its electoral prospects, it is in the regulations, it is not something that I am making up, and I was mindful of that at that point, so there was no way that I was going to allow that to go on air.

So that was the first and the last episode of that segment.

**CHAIRPERSON:** Ms Norman it looks like we have covered quite a lot of ground.

20 **ADV THANDI NORMAN SC:** Yes Chair, we actually ...(intervention)

**CHAIRPERSON:** I don't see anything else that I think we haven't covered.

**ADV THANDI NORMAN SC:** Maybe just to allow her to gloat about the Reuters Institute, yes you mentioned that in paragraph 38.

**MS PHATISWA MAGOPENI:** Yes this is our bragging rights, we as a

result of the changes that we have effected we have for our coverage of the elections been acknowledged for providing fair coverage, and of more than 3 000 items than we analysed, on our three platforms, on radio, 99% of them were found to be fair, which was a big thing for us, as a news division and the report by Reuters, they run a digital survey and what happened in this case they test news consumers and I mean with regards to how they trust the news content, the consumer and the media houses they would be consuming the news content from, out of 30 we were number four, which is a big thing for us coming from our  
10 past, which is very recent and the things that have happened.

So this is what we found joy in that here is an international institute that has done a digital survey in South Africa, out of 30 media houses we rank four. It is a big thing for us, it was a big thing for us.

**ADV THANDI NORMAN SC:** And this happened when?

**MS PHATISWA MAGOPENI:** June, it was June.

**ADV THANDI NORMAN SC:** June this year?

**MS PHATISWA MAGOPENI:** Yes.

**ADV THANDI NORMAN SC:** Thank you, so with the turnaround strategy and the interventions that you have put in place are you happy  
20 with the way forward that the SABC is embarking on insofar as editorial matters are concerned and newsroom affairs are all concerned?

**MS PHATISWA MAGOPENI:** I am happy but there is serious work to be done, we still have to put in strict editorial controls and we still need to get everyone to understand the work of the public news service, not a State broadcaster, and in terms of our cost containment measures

which perform part of the strategy that my principals were talking about coming out of elections and the fact that we went to elections without money for a national project and for a sensitive project like our democracy we started with a budget of about R80million when we were discussing the budget, but we then had to say to ourselves if we were to do things differently how would this assist us to bring the costs down.

We then went and looked at things that we could cut out and we're down to 54, and this is more or less where we were in 2016 in our  
10 elections coverage, and it started to feel comfortable at 54, but we then said what are the things that are not core to our elections coverage that we can rid of again but also looking at the fact that we have invested in technology, we have these hybrid vans that we are using that each province has now and other things that assist us in doing ours differently and better, so what was not going to happen is to have us investing in technology heavily but still seeing the price of covering elections going up, so we needed to see the benefit of our investments and technology, and we revised down our budget and settled it to R9million to cover elections.

20 But still we had to look at things that didn't make sense in the budget, that didn't have to be there, because all we needed to do was to tell the South African story, the story of this election and how it relates to citizens and the role of citizens and deciding who becomes the sixth administration and say what is it that we don't as part of this budget, but this is now in the process of delivering our elections, we

had to look at a lot of things but as we were closing the account about two weeks ago we spent less than R10million in covering elections but the question you are still asking yourself if we were sitting at 54million in 2016 where did that money go, what was done with that money, if you produce an election with less than R10million.

It is part of that project, I remember in my first months, because the process of budgeting had started already, there is a system that is called an election result system which is meant to pull data from the elections portal, the IC portal and process it for our  
10 storytelling, so a document comes to me, it lands on my desk, it is from our Media Technology Infrastructure unit. It is a business case to procure the system for R21million.

Having been outside the SABC system we knew that that thing never worked. We admired it when we were told that oh SABC is going to have this thing, but we knew that at the point where the results had to be processed that thing never worked. 2014 we spent about R8million in that system, 2016 we spent close to R10million in that system, it never worked. It never worked, but we were going back to procure the same system and on the two occasions it was from the  
20 same company and as this business case was presented to our senior meetings our supply chain management pointed out that it looked like it was tailor made to the same company that provide the 2014 and 2016 systems that never worked.

Just to go back a bit how it got to the senior management committee, looking at this knowing that it never worked my response

was I am not going to sign this document, the news division doesn't need it, we don't need the system. It went away but came back, and I still said we don't need this system, we will find other ways of telling the South African story differently for television and for our on-line platforms.

Then it shows up during the senior management meeting without my signature, without my signature! Now I have to say I had said that we don't need the system, and I'm sitting with people who are trying to persuade me that you actually need this system because this  
10 is what it is going to do, this is what we are going to need it for.

**CHAIRPERSON:** But the point should not even arise.

**MS PHATISWA MAGOPENI:** Exactly.

**CHAIRPERSON:** If you have the power to decide whether you need it or not and you said you did not need it and somebody went against that the there must be consequences.

**MS PHATISWA MAGOPENI:** Ja.

**CHAIRPERSON:** You know somebody is not going to try and persuade you after they have defied you to say you need it, particularly if there appears to be breaches of procurement processes.

20 **MS PHATISWA MAGOPENI:** Yes, and the question that I raised at that point was when the system failed at that critical moment what did you to process your results? Oh we had worked on a graphic system, and it was like we have enough time now to start working on the graphic system and use that for our elections

**CHAIRPERSON:** Well I hope that it's something that is being

investigated as to whether everything was done the way it should have been done in that regard.

**MS PHATISWA MAGOPENI:** Ja.

**CHAIRPERSON:** And that the investigators of the Commission are taking note, ja.

**MS PHATISWA MAGOPENI:** Ja, when I realised that we had made payments in 2014 and 2016 for something that never worked, and we were trying to procure the same system the question I asked why is this not on the SABC's asset database, why are we procuring the same  
10 system that we have bought twice previously and we then referred it to our internal forensic investigation, yes it is being investigated.

**CHAIRPERSON:** Yes, well that process is still underway.

**MS PHATISWA MAGOPENI:** Ja.

**CHAIRPERSON:** Yes, okay.

**ADV THANDI NORMAN SC:** Thank you very much Mr Chairman, that is the evidence from this witness, thank you.

**CHAIRPERSON:** Yes, okay, thank you very much for coming to share your evidence with us, we appreciate it. If we need you to come back we will ask you to come back but thank you very much, you are  
20 excused.

**MS PHATISWA MAGOPENI:** Thank you.

**CHAIRPERSON:** Thank you.

**ADV THANDI NORMAN SC:** Thank you Mr Chairman. Mr Chairman the next witness is Ms Yolande ...(intervention)

**CHAIRPERSON:** Let's not take the next witness yet, let us adjourn and



I would like to see you for five minutes.

**ADV THANDI NORMAN SC:** Yes, thank you.

**CHAIRPERSON:** We are going to adjourn, and we should come back about twenty five past four, is it four, ja, is it three?

**ADV THANDI NORMAN SC:** Yes, twenty five past three, it is ten past three.

**CHAIRPERSON:** Oh no, yes ja, no, alright, we will come back at twenty five past three. We adjourn.

**INQUIRY ADJOURNS**

10 **INQUIRY RESUMES**

**CHAIRPERSON:** Are you ready?

**ADV THANDI NORMAN SC:** Yes I am ready thank you Mr Chairman.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you. The next witness is Mr Yolande Van Biljon. The Chief Financial Officer of the SABC. May she be sworn in Mr Chairman?

**CHAIRPERSON:** Yes please administer the oath or affirmation?

**REGISTRAR:** Please state your full names for the record?

**MS YOLANDE VAN BILJON:** Yolande Van Biljon.

20 **REGISTRAR:** Do you have any objections to taking the prescribed oath?

**MS YOLANDE VAN BILJON:** No I do not.

**REGISTRAR:** Do you consider the oath to be binding on your conscience?

**MS YOLANDE VAN BILJON:** I do.

**REGISTRAR:** Do you swear that the evidence you will give will be the truth; the whole truth and nothing but the truth; if so please raise your right hand and say, so help me God.

**MS YOLANDE VAN BILJON:** I do, so help me God.

**ADV THANDI NORMAN SC:** Thank you. Mr Chairman in front of you you would have Exhibit CC3 this was entered into evidence the first round of the SABC hearings. CC3.

**CHAIRPERSON:** The lever arch file containing the – I see sworn affidavit.

10 **ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** An affidavit is always a sworn statement.

**MS YOLANDE VAN BILJON:** Yes.

**CHAIRPERSON:** It is either an affidavit or sworn statement.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Affidavit of Mr Yolande Van Biljon will be marked Exhibit CC3.

**ADV THANDI NORMAN SC:** Yes thank you Mr Chairman. Thank you. Ms Van Biljon you have got the file in front of you, am I correct?

**MS YOLANDE VAN BILJON:** Yes.

20 **ADV THANDI NORMAN SC:** Okay. Could you please look at the statement that is there in front of you in Exhibit CC3 and please turn to page 5, is that your signature on that page?

**MS YOLANDE VAN BILJON:** Yes Ma'am it is.

**ADV THANDI NORMAN SC:** Yes. When you respond you respond to the Chairperson always yes thank you.

**MS YOLANDE VAN BILJON:** Okay.

**ADV THANDI NORMAN SC:** So the date – what is the date of the commissioning of that statement?

**MS YOLANDE VAN BILJON:** It is the 21<sup>st</sup> May 2019 Sir.

**ADV THANDI NORMAN SC:** Yes, yes thank you and in deposing to this affidavit did you do so voluntarily?

**MS YOLANDE VAN BILJON:** I did thank you Chair.

**ADV THANDI NORMAN SC:** Yes thank you. Is it correct that you are the Chief Financial Officer of the SABC?

10 **MS YOLANDE VAN BILJON:** Yes Chairperson I am.

**ADV THANDI NORMAN SC:** When were you appointed?

**MS YOLANDE VAN BILJON:** 25<sup>th</sup> June 2018.

**ADV THANDI NORMAN SC:** Yes. Your – you were asked by the investigators to deal with specific matters, am I correct?

**MS YOLANDE VAN BILJON:** Yes Chair I was.

**ADV THANDI NORMAN SC:** Yes. Before then we deal with what you dealt with could you just for consistency place your qualifications before the Chairperson?

20 **MS YOLANDE VAN BILJON:** Chair I am a Chartered Accountant and I have got a Masters Degree in taxation.

**ADV THANDI NORMAN SC:** Yes. And before you joined the SABC where were you employed?

**MS YOLANDE VAN BILJON:** I was employed at Denel and then at the Road Accident Fund and then for a few months at a place called Glad Africa.

**ADV THANDI NORMAN SC:** At the?

**MS YOLANDE VAN BILJON:** A place called Glad Africa.

**ADV THANDI NORMAN SC:** Glad Africa.

**MS YOLANDE VAN BILJON:** Hm.

**ADV THANDI NORMAN SC:** Yes thank you. Then you were asked specifically then to deal – one of the entities that you had to deal with or maybe let me just put the question to you. What was it that was asked by the investigators?

**MS YOLANDE VAN BILJON:** I was asked to consolidate transactions  
10 with three entities being Infinity Media Networks, TNA Media and transactions with other similar clients international and local.

**ADV THANDI NORMAN SC:** Yes. What exactly were you looking for in compiling that information?

**MS YOLANDE VAN BILJON:** Payments made or received from or to the specific entities.

**ADV THANDI NORMAN SC:** Yes thank you.

**MS YOLANDE VAN BILJON:** Chair.

**ADV THANDI NORMAN SC:** Yes and is it correct that all of these transactions happened before your time?

20 **MS YOLANDE VAN BILJON:** Yes Chair they did.

**ADV THANDI NORMAN SC:** And you relied on records that are within the SABC?

**MS YOLANDE VAN BILJON:** Yes Chair I relied on our financial system and the records that we could find.

**ADV THANDI NORMAN SC:** Yes. And – thank you. Let us start then

paragraph 7 you deal there with Infinity Media Networks and you had concentrated on a particular period, is it – am I correct?

**MS YOLANDE VAN BILJON:** Yes Chairperson I concentrated on the period October 2013 to March 2014.

**ADV THANDI NORMAN SC:** So that is on – yes. And then where would one then find those documents that you rely on in that page? You have a reference YB1.

**MS YOLANDE VAN BILJON:** Yes.

**ADV THANDI NORMAN SC:** Yes and that is where you deal with  
10 revenue.

**MS YOLANDE VAN BILJON:** Yes.

**ADV THANDI NORMAN SC:** From – when you say revenue from Infinity Media this is revenue received by the SABC from Infinity Media?

**MS YOLANDE VAN BILJON:** Yes Chair it was.

**ADV THANDI NORMAN SC:** Yes. And then at paragraph – sorry 7.2 you testify – ag you deal with the fact that you are aware of the agreement between Infinity Media and the SABC?

**MS YOLANDE VAN BILJON:** I did obtain information to that effect yes Chair.

20 **ADV THANDI NORMAN SC:** Relating to the agreement?

**MS YOLANDE VAN BILJON:** Yes.

**ADV THANDI NORMAN SC:** Yes. And then you control – can you just go back then to YB1 and then see and look at the amounts that you were dealing with there in that paragraph – in that statement? You have a consolidated page of all the payments, am I right at page 8, is

that correct?

**MS YOLANDE VAN BILJON:** Yes Ma'am – sorry just a second. Yes Chair I do.

**ADV THANDI NORMAN SC:** You do okay. Where are the amounts reflected there?

**MS YOLANDE VAN BILJON:** It is the last four amounts starting with R159 600.00.

**ADV THANDI NORMAN SC:** Yes and at the end you have got 00, what does that mean?

10 **MS YOLANDE VAN BILJON:** That means it was invoiced and then subsequently paid. So the account is then 0.

**ADV THANDI NORMAN SC:** Yes thank you.

**CHAIRPERSON:** Is that in page 8?

**ADV THANDI NORMAN SC:** Yes page 8 Chair.

**MS YOLANDE VAN BILJON:** Yes.

**ADV THANDI NORMAN SC:** 008.

**CHAIRPERSON:** Is there a way of making these figures bigger.

**ADV THANDI NORMAN SC:** Bigger.

**CHAIRPERSON:** And therefore more legible.

20 **ADV THANDI NORMAN SC:** Do you – could you be able to extract a more legible copy? We can replace it some other time?

**MS YOLANDE VAN BILJON:** We should be able to because I guess the number of times it has been copied degraded the quality of it in any case. We should be able to.

**ADV THANDI NORMAN SC:** Correct.

**MS YOLANDE VAN BILJON:** Must I read it out perhaps for the sake of the record?

**ADV THANDI NORMAN SC:** Yes please for the record, yes please.

**MS YOLANDE VAN BILJON:** So the first one would be R159 600 000,00 for 2000 minutes to launch ANN7 and then R123 102.00 for 27 minute footage ANN7 agreement SABC copyright. I am reading the text Chairperson.

**ADV THANDI NORMAN SC:** Yes.

**MS YOLANDE VAN BILJON:** The next amount is R91 200.00 for 20  
10 minutes of footage used for mail SABC copyright. And the last amount is R31 920.00 for 7 minutes footage January to February 2014 as per declaration received.

**ADV THANDI NORMAN SC:** Yes. Thank you. And these – they relate to the purchase of archival material, am I correct?

**MS YOLANDE VAN BILJON:** Yes Chair.

**ADV THANDI NORMAN SC:** According to the records?

**MS YOLANDE VAN BILJON:** Yes Chair they do.

**ADV THANDI NORMAN SC:** Yes. Thank you. And then you have the total amount which you reflect at page 3 if you go back to your  
20 statement.

**MS YOLANDE VAN BILJON:** Yes Chair.

**ADV THANDI NORMAN SC:** Ys what is that total?

**MS YOLANDE VAN BILJON:** R405 840.00 including VAT.

**ADV THANDI NORMAN SC:** Yes thank you. And then you moved onto the second entity which is TNA Media. Could you just talk to the

Chairperson what were you looking for there? You can read from that paragraph the areas that you looked at?

**MS YOLANDE VAN BILJON:** Chair I was requested to consider the transactions the SABC entered into with TNA Media – TNA. We concluded that we – they supplied us with newspapers on a weekly basis per paragraph 10.1.1 and the SABC provided the New Age with certain broadcasting services and more particularly outside broadcasting services which were then conducted at various venues across the country.

10 **ADV THANDI NORMAN SC:** Okay. And then where do we find that A – YA – YW2 it will be under – it starts from page 28.

**MS YOLANDE VAN BILJON:** Yes, yes Chair.

**ADV THANDI NORMAN SC:** Yes thank you. Could you just read into the record those – but these are quite legible. I do not know whether they are with you Chair?

**CHAIRPERSON:** What page is that?

**ADV THANDI NORMAN SC:** Page...

**MS YOLANDE VAN BILJON:** 29.

20 **ADV THANDI NORMAN SC:** 28 is the covering letter but page – the figures are at page 29.

**MS YOLANDE VAN BILJON:** So Chair.

**CHAIRPERSON:** Yes.

**MS YOLANDE VAN BILJON:** On page 29 the very last line item is TNA Media. You will see transactions recorded from 2011 to 2018 amounting to a total of R908 035.57 for newspapers that were supplied



to the SABC over that period.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** So that – that covered which years?

**MS YOLANDE VAN BILJON:** 2011 to 2018.

**CHAIRPERSON:** Oh okay.

**ADV THANDI NORMAN SC:** Yes. And then you decided to put other newspapers, were you doing just a comparison?

**MS YOLANDE VAN BILJON:** Yes a comparison and possibly it is in the same account in the general ledger in our financial system. It is  
10 allocated to the same GL account. Potentially that is why they are together there.

**ADV THANDI NORMAN SC:** Okay so if you had to print you cannot just print for TNA you would have to print for all?

**MS YOLANDE VAN BILJON:** I would imagine so. I see all the SAP printouts attached but it will be very difficult for me to identify TNA but again it is something that we can certainly explore at the office.

**ADV THANDI NORMAN SC:** Yes. And you have already put the total there 2018 – that is – that total includes all the years 2011 to 2018 of R908 000,00.

20 **MS YOLANDE VAN BILJON:** Correct Chair.

**ADV THANDI NORMAN SC:** Yes. And then the documents that follow from page 30 are those – what are those?

**MS YOLANDE VAN BILJON:** That would be Chair the supporting documentation that would make up the totals there what – it is not clear because there are no visible totals is – I presume it makes up the R908

but I – because the totals are not visible or not reflected.

**ADV THANDI NORMAN SC:** Yes.

**MS YOLANDE VAN BILJON:** We will have to check at the office.

**ADV THANDI NORMAN SC:** Okay but they will talk to the totals that you have on that page?

**MS YOLANDE VAN BILJON:** Yes,

**ADV THANDI NORMAN SC:** Yes thank you.

**MS YOLANDE VAN BILJON:** And it stretches a number of years. If one can look at the posting dates for example so I take it it makes up  
10 the values that is reflected in that table.

**ADV THANDI NORMAN SC:** Yes. And then in paragraph 2 10.4 – sorry if you go back to your statement.

**MS YOLANDE VAN BILJON:** Hm. In – in this paragraph.

**ADV THANDI NORMAN SC:** Yes.

**MS YOLANDE VAN BILJON:** And the information provided here it is clear that the SABC or we state that the SABC was never paid nor did the SABC invoice New Age for any of the so called breakfast shows or any other outcast broadcasting services which were rendered by the SABC to the New Age.

20 **ADV THANDI NORMAN SC:** Yes. So the outside broadcasting services that is where the journalists as Ms Magopeni has testified if a journalist goes out equipment and the airtime and everything else. So they were never invoiced for that?

**MS YOLANDE VAN BILJON:** No. It is a combination of services. Everything from the rental of the premises, technical equipment,

satellite feed, travelling, transport and a host of other things that is necessary to ensure that we are able to broadcast exactly like Ms Magopeni stated.

**ADV THANDI NORMAN SC:** Yes thank you.

**CHAIRPERSON:** So – so the – TNA Media was invoicing the SABC for the New Age and SABC was paying for the newspapers but SABC was not invoicing TNA for these outside broadcasts and therefore TNA was not paying anything they were having those for free?

**MS YOLANDE VAN BILJON:** Yes Chair that is what one can deduct.

10 **CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Yes. Thank you. Thank you Chair. And then in 10.5 you have some figures there and you have totalled them and you deal with them in YB3. What is reflected in YB3?

**MS YOLANDE VAN BILJON:** So in YB3 is a collection of the costs for these outside broadcasters that was provided to New Age. It amounts to a total of R4 268 887.00 excluding VAT. There is a table that was prepared and it stretches from 2011 to 2017.

**ADV THANDI NORMAN SC:** Yes.

20 **MS YOLANDE VAN BILJON:** I am on YVB030 page 38. And in terms of the types of costs are the things that I have just referred to from the rental, technical equipment etcetera.

**ADV THANDI NORMAN SC:** Yes. So all these rental of facilities as reflected from page 39 onwards so these are all the costs that the SABC incurred but never recouped those expenses?

**MS YOLANDE VAN BILJON:** Correct Chair.

**ADV THANDI NORMAN SC:** Yes thank you.

**CHAIRPERSON:** I hope that the – we will have a witness who will say who was supposed to make sure that this was not for free to TNA.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Because it is important and I assume at SABC it ought to be easy to know.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Who would have been the person who should have made sure that no

10 **ADV THANDI NORMAN SC:** That they are billed.

**CHAIRPERSON:** That no free service was provided for which should not have been provided for.

**ADV THANDI NORMAN SC:** Yes Chair.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Yes, thank you. Thank you. And then you also were asked by the investigators to also deal with other commercial clients.

20 **MS YOLANDE VAN BILJON:** Indeed Chair I was asked to also review our records relating to any other transactions between commercial clients that have been buying news archives. It was my understanding that the rationale was to determine whether the pricing which was provided to Infinity was below the market rate.

**ADV THANDI NORMAN SC:** Yes.

**MS YOLANDE VAN BILJON:** And as such we did put together a table that speaks to some of our commercial clients we could identify.

**ADV THANDI NORMAN SC:** Yes and what did you find in your comparison?

**MS YOLANDE VAN BILJON:** So the table which is reflected on page 169.

**ADV THANDI NORMAN SC:** Yes.

**MS YOLANDE VAN BILJON:** Reflects a number of organisations between years 2011 to 2015 and the kind of values that they paid. Companies include Aljazeera, ZEF, German TV, Reuters Television, Associated Press TV as well as some local broadcasters. We include  
10 the values there. My task was however not to do the comparison of the pricing it was merely to record that there were sales in this respect.

**ADV THANDI NORMAN SC:** Yes. And that is basically the evidence that you tendered as requested at the time by the investigators?

**MS YOLANDE VAN BILJON:** Correct Chair.

**ADV THANDI NORMAN SC:** Yes. And you were not other than those requests you were not asked to analyse anything further than what you have put up?

**MS YOLANDE VAN BILJON:** Not with respect to the transacting with these entities no.

20 **ADV THANDI NORMAN SC:** Yes thank you. Thank you Mr Chairman that is the evidence from this witness.

**CHAIRPERSON:** Thank you very much for coming to give your evidence you are now excused. Thank you.

**ADV THANDI NORMAN SC:** Thank you Mr Chairman that – those are the witnesses for the day.

**CHAIRPERSON**: For today?

**ADV THANDI NORMAN SC**: Yes thank you.

**CHAIRPERSON**: Okay alright. How many have we got tomorrow witnesses for tomorrow?

**ADV THANDI NORMAN SC**: I think there is four that we have on the list for tomorrow Chair. Four witnesses.

**CHAIRPERSON**: Four?

**ADV THANDI NORMAN SC**: Yes four.

**CHAIRPERSON**: Four.

10 **ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: I guess they are all short?

**ADV THANDI NORMAN SC**: Yes there is one who might be longer but the others are not long witnesses yes.

**CHAIRPERSON**: Yes okay alright.

**ADV THANDI NORMAN SC**: But I think we could – others are fairly flexible if we find that we finish those early we could move one or two of the witnesses.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Up yes thank you.

20 **CHAIRPERSON**: Okay. We are going to adjourn for the day and tomorrow we will start at ten o'clock.

**ADV THANDI NORMAN SC**: Thank you Mr Chairman.

**CHAIRPERSON**: We adjourn.

**INQUIRY ADJOURNS TO 4 SEPTEMBER 2019**