

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

12 SEPTEMBER 2019

DAY 162

20

PROCEEDINGS COMMENCE ON 12 SEPTEMBER 2019

CHAIRPERSON: Good morning Ms Norman, good morning everybody.

ADV THANDI NORMAN SC: Good morning Mr Chairman.

CHAIRPERSON: Are you – we ready?

ADV THANDI NORMAN SC: Yes we are Chairman.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you. Chair counsel for Mr Motsoeneng would like to address you on an aspect – on an issue.

CHAIRPERSON: Yes okay that is fine.

10 **ADV MACGREGOR KUFA:** Good morning Chair.

CHAIRPERSON: Good morning.

ADV MACGREGOR KUFA: I will be very brief.

CHAIRPERSON: Yes.

ADV MACGREGOR KUFA: Because I want to ensure that we continue with the proceedings in – with due haste.

CHAIRPERSON: Yes.

20 **ADV MACGREGOR KUFA:** Chair there is the misleadings that coming from media again that keep on be [indistinct]. I do not know as the commission I am aware that you have powers to ensure that such a responsible reporting can be curtailed in the interest of the commission because the more they are perpetuated the more Mr Motsoeneng feels inclined to respond to those issues. So remember and I have noted with concern also that a number of judgments they do make consideration of media reports and you have heard it yourself before this commission how Sunday Times reporters were allegedly paid to

write negative stories about certain individuals. And we would like to believe it is the same narrative with Mr Motsoeneng. If that – is there is some form of order that can be made to cure such adverse reporting until perhaps when the commission has been its findings then the media can then make their own findings as well

CHAIRPERSON: Maybe what you can do while everything is proceeding is to just draft something that tells me what it is that the media has said that is misleading so that – and if possible which media houses and so on so that I can look at it properly and if I want to say
10 something I can say it from an informed bases.

ADV MACGREGOR KUFA: Thank you.

CHAIRPERSON: Then during – if during the tea break it is ready I can have a look at it or if it is ready later on I can have a look at it.

ADV MACGREGOR KUFA: We will certainly do that Chair.

CHAIRPERSON: Is that fine?

ADV MACGREGOR KUFA: Thank you Chair.

CHAIRPERSON: Okay thank you.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Thank you.

20 **ADV THANDI NORMAN SC:** Thank you. Thank you. Mr Motsoeneng yesterday we left off whilst you were explaining to the Chairperson how the MultiChoice agreement came about. Yes you were at a point when you were – the Chair had asked why MultiChoice and you were explaining that when we parted. Yes could you continue explaining how that agreement was reached?

CHAIRPERSON: Or he might have passed that point.

ADV THANDI NORMAN SC: You think so Chair? Oh

CHAIRPERSON: If I am not mistaken I think he was at a point where he was negotiating with MultiChoice after Doctor Ngubane and then GCEO

ADV THANDI NORMAN SC: Had failed.

CHAIRPERSON: Had failed.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And he was I think at the point where they left him
10 alone in the room or something and that is at MultiChoice and I think he was going to continue from there.

ADV THANDI NORMAN SC: Oh yes.

CHAIRPERSON: I may be mistaken.

ADV THANDI NORMAN SC: Yes you are quite right. When the tempers had gone down.

CHAIRPERSON: Yes the tempers had gone.

ADV THANDI NORMAN SC: Yes I think that is what he said yes.

CHAIRPERSON: Is that correct Mr Motsoeneng? Is that where you were?

20 **MR HLAUDI GEORGE MOTSOENENG:** It is correct Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you Chair.

MR HLAUDI GEORGE MOTSOENENG: But Chair maybe before we proceed Chair.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I think you will also appreciate Chair that the issues are so serious and they affect my children especially when people spread lies when my children are still at school. You know this issues Chair are serious because the media is still pursuing the issues to portray me as a bad person even in this commission Chairperson. I am aware Chair you just addressed the issue with my counsel Chairperson but I think Chairperson because media talk about these issues even the children they talk about these issues Chairperson. These are serious issues Chairperson. They may
10 not affect me because I am used to this kind of issues but when it comes to my family, when it comes to my children at school these are very serious Chairperson that is why Chairperson I appreciate the opportunity that you have given me to come and tell my own story Chairperson. The first point Chairperson that I want to address yesterday Chairperson you even said to me and correct my affidavit - in your understanding and I agree with you Chairperson and I do not think this time Chairperson they were malicious on the issues when they were reporting. I think it was 403 channel.

CHAIRPERSON: Hm okay.

20 **MR HLAUDI GEORGE MOTSOENENG:** Chairperson I do not think some of the issues they were malicious and other media houses.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But I think it is understanding on the issues that we are dealing with.

CHAIRPERSON: Okay so it might have been just lack of

understanding.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Advocate Norman asked me about threatening journalists but she did not put like – like that. But when they report they were saying that I accepted that I have threatened journalists. I have never accepted Chairperson that I have threatened journalists. Advocate was just confirming the discussion between me and those journalists which I confirmed Chairperson.

10 Because I said I do not want to mislead the commission.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And if I said so Chairperson why should I say I did not say these issues. But I am not accepting.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: That I was wrong.

CHAIRPERSON: Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: Because the Advocate did not make follow-up to say but what you meant Chairperson. Like one of the example it is education. I was stopping journalists to fulfil the mandate
20 of education. That one I have already responded by saying when you look the Broadcasting Act actually it is unlawful to glamourize violence it is not in the interest of the public but the mandate of SABC is to educate. You cannot educate people in such a way. So I have already responded on such issues Chairperson. I am just making example.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Because I do not want to prolong.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Along these issues Chair.

CHAIRPERSON: Okay. No, no that is fine thank you.

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

CHAIRPERSON: Well maybe for – for what it is worth I must just say that Mr Motsoeneng you have in part of what you have said you have made a very important distinction and I hope the media appreciates
10 that. Where you are able to say what they reported is not correct but you accept that they were not malicious. It may have been just misunderstanding. Because there are circumstances where people say the media is malicious. They know the truth. But they are reporting in this way because they have certain agendas. But you are saying in this particular case about yesterday you do not think they were malicious you think it might just have been lack of understanding of what had been said.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: Yes. Thank you.

20 **ADV THANDI NORMAN SC:** Thank you Mr Chairman. Thank you. So then we proceed then from where we left off yesterday on the MultiChoice issue. Thank you could you proceed?

CHAIRPERSON: So the tempers went up.

ADV THANDI NORMAN SC: And down.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair. I think I was dealing

with now the process after Doctor Ngubane and the former GCEO Me Lulama and I said Chairperson I approach Doctor Ngubane to say to him I think I can achieve what they could not achieve. He agree with me to go and approach MultiChoice Chairperson. In short Chairperson the first meeting I have already alluded what transpired in that meeting. I will go further Chairperson.

CHAIRPERSON: Oh I am sorry. Is that the one where tempers went high?

MR HLAUDI GEORGE MOTSOENENG: Yes it is the first one
10 Chairperson.

CHAIRPERSON: The first meeting. But you – I do not remember you telling me how it ended.

MR HLAUDI GEORGE MOTSOENENG: I did Chair yesterday.

CHAIRPERSON: Oh just remind me.

MR HLAUDI GEORGE MOTSOENENG: Yes what I said Chairperson the first meeting even the COO of MultiChoice Mr Imtiaz Patel walk out because we could not agree on the – on the matters Chairperson. Because in negotiations Chairperson sometimes you will threaten people. In the interest of SABC

20 **CHAIRPERSON:** As a negotiating tactic?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I must tell you the truth
Chairperson.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Because I said to Imtiaz you know what...

CHAIRPERSON: Well I know that even unions in negotiations they can threaten a strike even when they know they cannot afford a strike.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson it is just part.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Of the strategy.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Chairperson. So I threaten him
10 and I must be honest Chairperson I said no but you know if we do not
agree on these issues I am going to court. Because I believe that we
have a case at the SABC and I have got advice. There was no advice
Chairperson. There was no advice Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: You said I shall tell you the
truth Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I am telling you the truth.

CHAIRPERSON: Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** There was no advice.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And then I can see he was
unsettled.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: When the matter And then

Chairperson I said to him look in my view private sector should contribute to public because whether you are private indirectly you are benefiting from citizen of South Africa by buying decoders and other stuff Chairperson. I said you must contribute. So that meeting it did not go well between two of us. He left the meeting. Now I was in trouble that I am not achieving what I was looking to achieve.

CHAIRPERSON: Was the meeting held at the MultiChoice offices?

MR HLAUDI GEORGE MOTSOENENG: In the SABC Chairperson.

CHAIRPERSON: Oh in the SABC.

10 **MR HLAUDI GEORGE MOTSOENENG**: I think early in the morning.

CHAIRPERSON: So when he walked...

MR HLAUDI GEORGE MOTSOENENG: Half past five o'clock.

CHAIRPERSON: When he walked out he left you alone. He left you and he was leaving.

MR HLAUDI GEORGE MOTSOENENG: He left me Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Yes he left me and then he spoke to my PA because when he walked out my PA's office he must go through my PA's office they just talk I think he went out and then I
20 called my PA, we sit down and discuss the issues.

CHAIRPERSON: So did it look like at that stage the negotiations had collapsed?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But I had to find a way for him

so that I can engage him again. And my strategy now was discussing the sports rights. Because we were still negotiating different matters Chairperson and I asked my PA again to do follow-up with him and ask forgiveness maybe the way I have put my issues with him and then my PA asked him to have another meeting with me. He came Chairperson. I was very down Chairperson. You know now trying to show him that...

CHAIRPERSON: You were down to earth now?

MR HLAUDI GEORGE MOTSOENENG: Sorry Chair.

10 **CHAIRPERSON:** You were down to earth you were not threatening now?

MR HLAUDI GEORGE MOTSOENENG: Ja Chairperson.

CHAIRPERSON: Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. So I discuss I show him and then he said but no it is fine. How can we assist you? I said you can fund the SABC because you know that we are operating under analogue so we do not have all this transmitters. Even today Chairperson SABC is not able to reach all cities in – of South Africa because of analogue. So I said if you can assist us so that we put this channel as a pilot project Chairperson. When we migrate at least we have four channels on our platforms Chairperson. Those were discussion Chairperson and I think he did concede that he is going to try his board Chairperson to go and talk to the board about our discussion which he went and came back to say they agree to fund us and then they put certain amount Chairperson. I do not remember exactly how much the first proposal and I tried to call the finance team

and the head of television now I was trying to check whether this budget is sustainable that they are saying they are going to fund us. It was not sustainable Chairperson. I went back negotiate with him again. That is why maybe Chairperson we went around R300 million plus Chairperson and then we agree. He went back to his board Chairperson and I am not giving you exactly correct numbers Chairperson because I am talking from...

CHAIRPERSON: Just estimates.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson. He went back
10 to his board. They discussed Chairperson. They agree. We also have another channel which I negotiated which is Encore channel. That channel Chairperson it is also a pilot project for us to be ready for digital migration. If SABC is ready to migrate those channels Chairperson SABC will be having five channels on their bouquet which according to me Chairperson it is a very good innovation within my sight to make sure that when channel – when digital migration happens at least SABC they have this channel Chair. And Chairperson it is my – it is my view that when you talk about my legacy those two channels, the employment of people. Because we employ people especially 404
20 Chairperson. It is good for South Africa to have people who can go and negotiate Chairperson and try to use the tactics Chairperson that I was using and that tactic Chairperson I did not use here in South Africa. When I joined the – not when I joined Chairperson. When I was acting COO SABC they were having blackouts, sports blackout. They could not watch Bafana Bafana in Africa. They could not watch Bafana

Bafana locally here always it was delayed. The same tactics that I use with MultiChoice I went to France Chairperson. I met this guy in France. I was with the head of sports. Three GCO went to negotiate with him they could not come with what I came with Chairperson. They could not come. People at SABC and people generally Chairperson even on radios and so especially Robert Marawa Show people were shocked that I was able to achieve that I could bring sports back. Today as we are speaking Chairperson blackout. I am just talking about the background Chairperson.

10 **CHAIRPERSON**: Yes.

ADV THANDI NORMAN SC: Yes. So...

CHAIRPERSON: May – I am sorry.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: So maybe just to have a look at what Doctor Ngubane and Ms Mokhobo had on the table when they negotiated with MultiChoice and looking at what you had – what you got. Now in terms of what they discussed with MultiChoice there was the R50 million – there was the fissure of R50 million. Now the R50 million was going to be going down year by year until there was no payment to be made, is
20 that right?

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: That was going to be a payment for what?

MR HLAUDI GEORGE MOTSOENENG: It was going to be a payment Chairperson to have a channel. The same channel 24 hour news channel.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: On the DSTV bouquet.

CHAIRPERSON: Yes. So the payment would be from SABC to MultiChoice?

MR HLAUDI GEORGE MOTSOENENG: The payment will be from MultiChoice to SABC.

CHAIRPERSON: Ja.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: But now it was SABC which needed a channel.

10 **MR HLAUDI GEORGE MOTSOENENG:** Yes. SABC initiated the channel.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: But they did not have funding.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: To put a channel. That is why they went and request MultiChoice to fund.

CHAIRPERSON: Oh so it was a request for funding?

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

20 **CHAIRPERSON:** And what was going to be there for MultiChoice to benefit from that?

MR HLAUDI GEORGE MOTSOENENG: Nothing Chairperson.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Nothing Chairperson.

CHAIRPERSON: They would go to MultiChoice and say we want a fourth – another channel. We do not have money please fund it and

MultiChoice said yes we can fund it but we will start first year R50 million, second year less until the fifth year. After that you must see for yourself.

MR HLAUDI GEORGE MOTSOENENG: Chairperson what I can – I do not know their discussion.

CHAIRPERSON: Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: So I can only talk about ...

CHAIRPERSON: As you understood as you – the story yes.

MR HLAUDI GEORGE MOTSOENENG: Yes I can only talk about my
10 discussion.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: With MultiChoice. Remember Chairperson I said I have threatened them.

CHAIRPERSON: Yes. No, no no. i...

MR HLAUDI GEORGE MOTSOENENG: But the benefit Chairpeson.

CHAIRPERSON: Yes

MR HLAUDI GEORGE MOTSOENENG: In my view.

CHAIRPERSON: Ja.

MR HLAUDI GEORGE MOTSOENENG: Like when I negotiate with them
20 they were already benefiting.

CHAIRPERSON: MultiChoice?

MR HLAUDI GEORGE MOTSOENENG: Because – yes because of Must-Carry.

CHAIRPERSON: Because of?

MR HLAUDI GEORGE MOTSOENENG: Must-Carry Regulations.

CHAIRPERSON: Yes okay.

MR HLAUDI GEORGE MOTSOENENG: Remember Chairperson SABC 1, 2 and 3 they are sitting that bouquet. MultiChoice is not paying a cent.

CHAIRPERSON: Oh okay, okay.

MR HLAUDI GEORGE MOTSOENENG: So when I negotiate with them.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: That is the threat that I said no I am going to court to make sure that you as MultiChoice we remove...

10 **CHAIRPERSON:** Will pay.

MR HLAUDI GEORGE MOTSOENENG: Our channels in your bouquet but it was just a threat Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Because I knew that by regulations we can do that.

CHAIRPERSON: Yes okay.

MR HLAUDI GEORGE MOTSOENENG: It was just tactic Chairperson.

CHAIRPERSON: Okay. So – so – so with – and then with you how much funding did they provide – they agreed to provide?

20 **MR HLAUDI GEORGE MOTSOENENG:** Chairperson let me say roughly those two channels it is R700 million.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Over what period?

MR HLAUDI GEORGE MOTSOENENG: Over five years.

CHAIRPERSON: Over five years?

MR HLAUDI GEORGE MOTSOENENG: Yes. It goes with annual increase.

CHAIRPERSON: Yes. Ja.

MR HLAUDI GEORGE MOTSOENENG: Inflation.

CHAIRPERSON: Every year ja.

MR HLAUDI GEORGE MOTSOENENG: Per year Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: It goes with inflation.

10 **CHAIRPERSON:** Yes.

MR HLAUDI GEORGE MOTSOENENG: And also Chairperson what I negotiated is SABC shall not pay for transmitters. So MultiChoice pays for transmitters. Even in Africa as it is happening today SABC we do not pay. I also negotiated that all the adverts they shall go to SABC – the revenue from that channel.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: It cannot be taken by MultiChoice it is a SABC Chairperson.

CHAIRPERSON: And that they agreed that is all in the agreement?

20 **MR HLAUDI GEORGE MOTSOENENG:** That is all in agreement Chairperson.

CHAIRPERSON: Yes. So – so ...

MR HLAUDI GEORGE MOTSOENENG: But maybe the English Chairperson because I do not want – what do you mean that is all so that I am able to...

CHAIRPERSON: No that is fine. So part of what you are telling me is when Doctor Ngubane and Ms Mokhobo negotiated with MultiChoice MultiChoice refused to go beyond R50million in funding and that is how negotiations collapsed between Doctor Ngubane and Ms Mokhobo on the one side and MultiChoice on the other side. And that when you came in you then persuaded MultiChoice to agree on two channels and the monetary value over – or the funding over five years for the two channels was going to be over R700 million. Is that right?

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

10 **CHAIRPERSON:** Okay.

ADV THANDI NORMAN SC: Yes thank you Chair.

MR HLAUDI GEORGE MOTSOENENG: Maybe Chair just to also remember yesterday I said they negotiated R50 million. I think they went back.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: For additional R20 million.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But I think that one was not approved.

20 **CHAIRPERSON:** Yes.

MR HLAUDI GEORGE MOTSOENENG: By maybe MultiChoice board.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But it was just negotiations that they were looking at.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And Treasury they refused Chairperson to fund that channel.

CHAIRPERSON: To top up?

MR HLAUDI GEORGE MOTSOENENG: Yes to top up so that the channel is more financial sustainable.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But also Chairperson what is shocking – you know Chairperson I raise money personally for elections for SABC. When government is supposed to fund elections Chairperson
10 and I think currently they did assist SABC but I am talking under correction Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I am not sure hundred percent.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But I did hear that it seems as they did. But during my time they could not even now I am talking about election Chairperson because I am the one who said to the SABC

CHAIRPERSON: Like 2014 for 2016 those elections?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

20 **CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: I am the one who said they should – SABC should not depend on government. We should be able to come with innovation like the innovations that I am coming with Chairprson. And I can tell you Chairperson these two channels I was already engaging other private sector. Already I logged one channel

but when I left SABC everything collapsed.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: That channel was going to be there so that – but it was not going to be funded by MultiChoice.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Chairperson.

CHAIRPERSON: Okay and then – so just to go back. On the deal that you negotiated you say what was – what was the benefit or value that MultiChoice was getting out of the contract itself?

10 **MR HLAUDI GEORGE MOTSOENENG:** My view Chairperson will be those three channels that are sitting because of regulations must carry in my view they are benefiting. In my view. That is where ...

CHAIRPERSON: Through that ja.

MR HLAUDI GEORGE MOTSOENENG: That is where I came with to say.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But please we understand the regulations but because when I went to them to fund us that – it was the strategy Chairperson.

20 **CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: And then as I explained earlier – so for me they were benefitting. I said assist us to move forward.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: During digital migration so that we can have those channels in our platform.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And I think Chairperson as a private sector they did very well to assist the public. Because in my view they were assisting the public so that we are ready for migration.

CHAIRPERSON: Hm. Okay thank you.

ADV THANDI NORMAN SC: Yes thank you Chair. Just on that point of you having raised funds Mr Motsoeneng could you please have a look at page 169 of the same bundle because the amounts are listed there and I would just want us to deal with that aspect.

10 **MR HLAUDI GEORGE MOTSOENENG:** I know Advocate it is 387 the first one and you go down there.

ADV THANDI NORMAN SC: Yes.

MR HLAUDI GEORGE MOTSOENENG: It is 3 and then...

ADV THANDI NORMAN SC: He is correct.

MR HLAUDI GEORGE MOTSOENENG: I know those, it is R60 million there.

ADV THANDI NORMAN SC: You know those figures.

MR HLAUDI GEORGE MOTSOENENG: Yes I know, I know.

ADV THANDI NORMAN SC: Chair page 169.

20 **CHAIRPERSON:** Yes.

ADV THANDI NORMAN SC: 169.

CHAIRPERSON: I think I saw ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I saw – I saw them a few days ago.

MR HLAUDI GEORGE MOTSOENENG: Chairperson sorry.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I should know because this is what I know.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Because the reason why I am not reading.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Is because these issues I know them Chairperson.

10 **CHAIRPERSON:** Yes. You dealt with them.

MR HLAUDI GEORGE MOTSOENENG: There is no need for me...Yes I dealt with them Chairpeson.

CHAIRPERSON: Yes, yes.

ADV THANDI NORMAN SC: Thank you – thank you Chair. So on that page it is listed there that the SABC – I am sorry it is recorded that the SABC Encore and 24 hours news channel ...

CHAIRPERSON: I am sorry.

ADV THANDI NORMAN SC: That is at – next to 4.4 Chair.

20 **CHAIRPERSON:** I am sorry. You did not say from where about you reading on the page.

ADV THANDI NORMAN SC: I am sorry Chair from paragraph 4.4. It deals with success fee for raising.

CHAIRPERSON: Oh yes ja – it is – ja – yes.

ADV THANDI NORMAN SC: Yes success fee for raising funds. We are going to deal with that issue of the success fee. And then Chair it says

– maybe just if I could just read quickly? But my interest...

CHAIRPERSON: I am sorry what document is this?

ADV THANDI NORMAN SC: This is the same – state – CC30 Chair.
Exhibit CC30.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Oh you mean the document?

CHAIRPERSON: Is – ja – is it minutes of a...

ADV THANDI NORMAN SC: It is minutes of a board meeting Chair.

CHAIRPERSON: Of a board meeting.

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

CHAIRPERSON: That is minutes of a board meeting held on.

ADV THANDI NORMAN SC: Of the 19th August.

CHAIRPERSON: 19 August 2016.

ADV THANDI NORMAN SC: 2016 yes I beg your pardon I should have
identified it properly.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Board meeting of the 19 August 2016 and
you attended that board meeting Mr Motsoeneng according to the first
page of the minutes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Yes Chair.

ADV THANDI NORMAN SC: Yes. 19 August 2016. And then at page
169 there is a discussion about the success fee for raising of funds.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

ADV THANDI NORMAN SC: You recall that? And then in paragraph
4.4 you were then recused.

“At this stage Mr Motsoeneng was recused from the meeting. And then – then there is a discussion about regulations but my interest is in the fifth line Chair where it says: The SABC Encore and 24 Hours News Channel had been funded from funds raised by Mr Motsoeneng and if the SABC recognised that it had to raise money outside of the two main revenue streams there ought – they had ought to consider rewarding people for raising funds. He provided the following analysis...”

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CHAIRPERSON: Well I am wondering whether you should not...

ADV THANDI NORMAN SC: Start from the beginning?

CHAIRPERSON: Just start from the beginning for context ja.

ADV THANDI NORMAN SC: Alright. Okay. Thank you Chair. It says:

“At this stage Mr Motsoeneng was recused from the meeting. Mr Aguma informed members that the SABC relied on two main sources of funding to run its operations these being 12 percent from TV licences and 85 percent from advertising revenue and the remaining three percent from Government funding and other revenue streams. Over the years the cost of public mandate activities imposed on the SABC by the ICASA Regulations had not been funded by the fiscal which implied that the SABC had to find other alternatives of funding. The SABC

20

Encore and 24 hour news channel had been funded from funds raised by Mr Motsoeneng and if the SABC recognised that it had to raise money outside of the two main revenue streams then it ought to consider rewarding people for raising funds. He provided the following analysis of the 1.19 billion funds that had been raised by Mr Motsoeneng and which was outside of his job description.”

You were correct. The first figure is:

10 “386 - 387 million for the 24 hours news channel, 359 million for the SABC Encore, 60 million for the AFCON Games, 210 million for the volume deals on the sale of SABC programs to Africa, 15 million for the 2016 Local Government elections, five million for the contributions the gratuitous payment to the Music Legends, 100 million extra revenue negotiated in the first quarter, 30 million for subscription, video demand deal with MultiChoice and £2 million - I am so sorry - \$2 million for

20 negotiating savings on AFCON Sports Rights. Mr Aguma mentioned that although Mr Motsoeneng had raised all the above mentioned funds the corporation had not recognised him for such performance. He cautioned that if the corporation did not incorporate the principle of paying a

success fee to the COO and employees who went beyond the call of duty to raise funds for the corporate challenge like SABC Encore and the 24 hour news channels would close down.”

What - sorry Chair and then maybe of relevance to the contract itself because there is mention of what the previous ...

CHAIRPERSON: Or maybe before you proceed.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: You just want ...

10 **ADV THANDI NORMAN SC**: To - to get ...

CHAIRPERSON: Him to confirm that he ...

ADV THANDI NORMAN SC: These figures, yes.

CHAIRPERSON: These figures correctly represent funds that he raised ...

ADV THANDI NORMAN SC: He raised.

CHAIRPERSON: For the SABC.

ADV THANDI NORMAN SC: Thank you. Yes Mr Motsoeneng.

MR HLAUDI GEORGE MOTSOENENG: Chairperson because I am not a financial - the CFO.

20 **CHAIRPERSON**: Yes.

MR HLAUDI GEORGE MOTSOENENG: I will - I believe what the CFO is saying ...

CHAIRPERSON: Has written?

MR HLAUDI GEORGE MOTSOENENG: Is correct ...

CHAIRPERSON: Okay.

MR HLAUDI GEORGE MOTSOENENG: But what I need to tell you
Chairperson is it is not just raising funds.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Raising funds ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Is only those two.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I am just dealing with the
document there.

10 **CHAIRPERSON:** Yes.

MR HLAUDI GEORGE MOTSOENENG: It is only those two
(intervenes).

CHAIRPERSON: The tangent. *Ja*.

MR HLAUDI GEORGE MOTSOENENG: Other funds ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Is negotiations.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Where you find that SABC they
were supposed to pay certain amount like AFCON.

20 **CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: I saved SABC 32 million ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Chairperson.

CHAIRPERSON: Through negotiation?

MR HLAUDI GEORGE MOTSOENENG: Through negotiations ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And where I saved money for
SABC Chairperson ...

CHAIRPERSON: Hm, hm.

MR HLAUDI GEORGE MOTSOENENG: The saving ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: That is my job.

CHAIRPERSON: Hm, hm.

MR HLAUDI GEORGE MOTSOENENG: That is part of my job
10 description.

CHAIRPERSON: Yes. (Intervenes).

MR HLAUDI GEORGE MOTSOENENG: The only part ...

CHAIRPERSON: *Ja.*

MR HLAUDI GEORGE MOTSOENENG: Is raising funds ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Like your elections ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Like your Encore and - and ...

CHAIRPERSON: Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** And when they were saying they
pay me ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: That amount which is 2.5
percent ...

CHAIRPERSON: Hm, hm.

MR HLAUDI GEORGE MOTSOENENG: I wrote a letter ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: To the GCEO and the CFO.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I alert them make them aware that this part ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: You cannot pay me ...

CHAIRPERSON: Hm, hm.

10 **MR HLAUDI GEORGE MOTSOENENG:** Because it is my job description.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I mean as a manager you must negotiate in the interest ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Of the organisation. If I have ...

CHAIRPERSON: Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Achieved that you cannot reward me for that.

CHAIRPERSON: Yes, because you get a salary. You get paid for doing your job.

MR HLAUDI GEORGE MOTSOENENG: Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But if I come with a brown bag

...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: With 700 million ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I can accept that you recognise

...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: My work.

CHAIRPERSON: Yes, yes.

10 **MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson.

CHAIRPERSON: Yes, yes, yes.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: So these - these funds that you raised they came in a brown bag. Is that what you are suggesting?

MR HLAUDI GEORGE MOTSOENENG: Chair no just - just a teaser.

CHAIRPERSON: *Ja.*

ADV THANDI NORMAN SC: Thank you and were you raising these - how - from - where did you source these this funding?

20 **MR HLAUDI GEORGE MOTSOENENG:** Let me deal with sports rights Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: You know Chairperson like I was saying to you when you look the board at the SABC and management they do not understand business of the SABC. It is not

about always money. It is the how you negotiate with people. Example Chairperson PSL gave us the rights for free for radio and reason being Chairperson even that one - I think Dr Ngubane did allude to this issue when he was here.

I am the one who went and saved SABC money but we are not dealing with that ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Amount there ...

CHAIRPERSON: Hm.

10 **MR HLAUDI GEORGE MOTSOENENG:** Because previously what was happening in the PSL each and every team - Orlando Pirates will be saying no our value rights. I am just giving an example Chairperson. It is 200 million. Kaizer Chiefs will be saying no we have more supporters than Orlando Pirates. So ours is 500 million. It will go according to ...

CHAIRPERSON: To their - the value that they attach to themselves?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson ...

CHAIRPERSON: Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** And it was risky for SABC because 16 teams how are you going to - to deal with such issues. I had to go and plead with PSL to say we do not have money. Can you meet us half way so that at least these teams you as PSL you manage these negotiations. I went and negotiated with them and Chairperson really I want to appreciate Ubuntu and understanding the work of public broadcaster because PSL did assist us.

So when we negotiate currently you negotiate with PSL not individuals owners of the ...

CHAIRPERSON: Of the clubs?

MR HLAUDI GEORGE MOTSOENENG: Of the clubs Chairperson and I know SABC is saying no actually that is not the right way to do it. I can confirm Chairperson it is the right way to do it because they do not understand business. They do not - they do not even understand what informs that decision Chairperson and Chairperson if we want to get SABC correct there must be induction.

10 When you come you must first go through induction. Even people that you do not like you must call them. Tell us how you have been doing the work. So - but if you do not have induction you induct yourself. You think you know when you do not know. That is where the problem is Chairperson and I am talking in the interest Chairperson of the public broadcaster.

I do not want to go back but I can even assist them for free. If I assist them I can tell you Chairperson they can have another two channels there.

ADV THANDI NORMAN SC: Yes. Mr Motsoeneng I know that this
20 issue of your success fee it is a fact that you received about 10 over just over 10 million. Am I correct? As a success fee for having raised these funds. Is that correct?

MR HLAUDI GEORGE MOTSOENENG: It is correct Chair.

ADV THANDI NORMAN SC: Yes.

MR HLAUDI GEORGE MOTSOENENG: I think they still owe me more

than that amount.

ADV THANDI NORMAN SC: Yes.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson ...

ADV THANDI NORMAN SC: And ...

MR HLAUDI GEORGE MOTSOENENG: Although Chairperson I shall say we are in court ...

ADV THANDI NORMAN SC: Yes. (Intervenes).

MR HLAUDI GEORGE MOTSOENENG: With these matters Chair.

CHAIRPERSON: Oh, okay.

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

MR HLAUDI GEORGE MOTSOENENG: Yes.

ADV THANDI NORMAN SC: That is what I wanted to raise that ...

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: It is a subject of litigation.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: Hm.

20 **ADV THANDI NORMAN SC:** But maybe I should not deal into - I am just curious to know. I - I mean if somebody were to say to me I must raise a million Rand I would know how to begin but to be able to raise 387 million you know it is - it is of interest to me as to whether you raised it from the people who were doing business with the SABC or just broadly around the world. You know how did you raise those funds?

CHAIRPERSON: Maybe before you ...

ADV THANDI NORMAN SC: May - yes.

CHAIRPERSON: You answer Mr Motsoeneng I just want to say you have made the point a number of times that you did very well for the SABC while you were there and we all know that there has been criticism of you or some of your decisions over - over time. That is all in the public domain but I am quite interested and am quite open to really understand where you did well and where you did not do well because it is important that the public has a balanced view of any individual.

10 You may have done some wrong things. I have not made any findings. I will make findings later. You may have done some good things but it is important that one should get a complete picture and as I have said here before I am not going to make findings whether it is you or any person who is implicated. I am not going to make findings based on what the media says about those people.

I am going to make findings based on the evidence I hear. I do not - the media can say whatever they want to say about people. I will look at the facts and the evidence before me and I believe that where there is justification to give credit people should be given credit. Where there is justification to say they were wrong. We must say they
20 were wrong but it is important to get a complete picture. So I just thought I must just make that quite clear.

MR HLAUDI GEORGE MOTSOENENG: Thank you Chair. Chairperson I am not an angel. I am a human being and I am not saying everything that I did everything - everything - I did everything right. I am - I do not want to imply that. I am a human being. In any case Chairperson a

person who works very hard there will be mistakes along the way. It is - it is normal.

The question will be whether those mistakes that you did you did it because really you were looking to commit such an error Chairperson. I am not an angel Chairperson but Chairperson I cannot say really I have achieved everything at the SABC. Example Chairperson in my affidavit I said I have pain when it comes to people with disability because when I came at the SABC Chairperson there were just I think and I think it is not just SABC.

10 You know when we employ people with disability we just employ for making sure that equity because of the laws and so on you - you cover such matters because it is two percent which I think also it is far low Chairperson. I think we achieve that at the SABC but I cannot say it is an achievement. It is a failure and in that point Chairperson I think I fail.

 When it comes to provinces Chairperson I did not achieve a lot because what I was looking to achieve is to see where we produce actors from those provinces. We also make sure that we cater for African languages. I failed Chairperson because we - I could not
20 achieve that. I tried also to achieve that in that 404 Channel Chairperson because if you remember well when it started all - not all African languages but African languages they were there but we could not do well because that channel is in Africa is and there were concerns but we cannot hear.

 So we decided no because now we - we are in Africa also.

Let us use that channel the language that will be understandable to all people who are watching that channel Chairperson. There - there are many things Chairperson that I - I think I was supposed to do better ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But I could not do better Chair person.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay, thank you.

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

CHAIRPERSON: Yes. I think Ms Norman had ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Then asked the question how ...

ADV THANDI NORMAN SC: As to how ...

CHAIRPERSON: How and where you raised the - the various amounts and then I interrupted while she was ...

ADV THANDI NORMAN SC: Yes, thank you Chair.

CHAIRPERSON: Waiting for an answer. Yes.

ADV THANDI NORMAN SC: Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Chairperson I think I have already alluded to the MultiChoice that we are all aware of because some of the negotiations Chairperson you know the fact - the parties they do not want to reveal their relationship with public (indistinct).

CHAIRPERSON: (Intervenues).

MR HLAUDI GEORGE MOTSOENENG: I can submit to you Chairperson

to say this is what I did in my affidavit because of you know those negotiations. They are very sensitive Chairperson ...

CHAIRPERSON: Oh, okay.

MR HLAUDI GEORGE MOTSOENENG: Because it affects even people who are working there. You know those ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Chairperson ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But you ...

10 **CHAIRPERSON:** Yes.

MR HLAUDI GEORGE MOTSOENENG: But not publically Chairperson ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Because I even signed confidentiality ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Or agree with confidentiality that the matters will stay between us.

CHAIRPERSON: Confidential, yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But in you Chairperson ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I do not have a problem ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But maybe to assist the Chairperson ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Like I said it is not like looking for money raising funds. It is the negotiation Chairperson. Even in the provinces I was negotiating including Government Chairperson. Example the 60 million that is there for AFCON Government paid for AFCON.

CHAIRPERSON: Previously?

10 **MR HLAUDI GEORGE MOTSOENENG:** Yes.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: For the first time I approached the Minister of Sports at that time Fikile Mbalula and his DG. I raised the issue that we do not have money to cater for AFCON and remember Chairperson it was emergency. AFCON was supposed to be staged in another country but because of some issues it was an emergency. So I went to ...

CHAIRPERSON: Oh. Which year was that again? I remember there was that - there was a year when that situation was - arose. Do you
20 remember which year it was?

MR HLAUDI GEORGE MOTSOENENG: (No audible reply).

CHAIRPERSON: You might not remember but I do remember when ...

MR HLAUDI GEORGE MOTSOENENG: Yes.

CHAIRPERSON: I do not know if it was Libya or some other country that was supposed to stage AFCON and then there where challenges

and then South Africa was asked.

MR HLAUDI GEORGE MOTSOENENG: Hey I was not - I was not aware that you follow sports Chairperson. You are correct. You are correct Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: Huh-uh, hm.

MR HLAUDI GEORGE MOTSOENENG: So Chairperson it is - it is like I was saying sometimes Chairperson it is skills of negotiations. You
10 know how you negotiate. I have other witnesses but I have other strong points because I cannot have everything but I know I have many witnesses Chairperson as a - as a human being when it comes to these issues but also Chairperson the team that I work with at the SABC they were very good.

CHAIRPERSON: It was a strong team?

MR HLAUDI GEORGE MOTSOENENG: It was a strong team
Chairperson ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And understanding ...

20 **CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: The business of the SABC
Chairperson ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And I can tell you Chairperson during Anton Heunis ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: The financials of the SABC ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: They did very well.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I am not talking about fundraising Chairperson.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I am just saying within the
10 SABC ...

CHAIRPERSON: The management of the funds?

MR HLAUDI GEORGE MOTSOENENG: Advertisers ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: He was in charge for sales division.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Their role is to make sure that they generate revenue for SABC. Anton was doing very well Chairperson. When he - when he retired early - he took early
20 retirement because of health issues. That is where also affected the SABC and I could not leave Anton to move away Chairperson because someone who is dealing with strategic position especially the financials of the SABC what I did to him I asked him Anton can you stay for two years.

We appoint a - a woman. Please handover and go with the

woman everywhere to advertisers - introduce her. So that at least she is well known in that industry. Although she was still within his team in that unit Chairperson. So there are some issues Chairperson like when Dr Ngubane was saying there are those people that you cannot just allow them to leave the organisation.

Anton was one of them Chairperson and it is a pity that when I left he left. I think that is why you have all this financial problems at the SABC Chairperson.

CHAIRPERSON: Who were the other members of your team that you say were very strong and helped you achieve what you - you achieved?
10

MR HLAUDI GEORGE MOTSOENENG: Chairperson it was Anton Heunis.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: It was Leslie Ntloko.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: It was Verona (?) Chairperson.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: It was Sully.

CHAIRPERSON: Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** It was Sizwe Nzimande.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Now he is working with a businessman that is well known Mr Patrice Motsepe. He left SABC.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Those were - I am just

mentioning a few Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I am just mentioning ...

CHAIRPERSON: There were - there were others?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: They were - they were a very strong ...

CHAIRPERSON: Hm.

10 **MR HLAUDI GEORGE MOTSOENENG:** Team including Bessie (?).
There - there were many Chairperson ...

CHAIRPERSON: Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: And Chairperson including Jimi Matthews Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Yes.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: They were - they were - it was a team ...

20 **CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: That I talk to them. We discuss strategy with them Chairperson.

CHAIRPERSON: Hm, hm.

MR HLAUDI GEORGE MOTSOENENG: The only way we have differences Chairperson ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Because differences will be there ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: When you have human beings ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And it is good for the organisation.

10 **CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: We have our differences ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: But I could not take no know.

CHAIRPERSON: Hm, hm.

MR HLAUDI GEORGE MOTSOENENG: That is what I could not take.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: When they were saying they could not do this.

CHAIRPERSON: Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** I would say you cannot be a manager ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And you - you are saying to me you cannot do this ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: Chairperson ...

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: And I give timelines.

CHAIRPERSON: Hm, hm.

MR HLAUDI GEORGE MOTSOENENG: By this time I want this
Chairperson.

CHAIRPERSON: Oh. So when you - when there was something to be
done and you wanted them to do something and they said no it could
not be done that is what you are talking about and you would say no
10 you can do it. You must go and do it. That is what you meant?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson and that is
informed by Chairperson. In the SABC at that level I was the only
person who has grown within the ranks of the SABC. So when I talk
they know I know what I am talking about because I went through - I - I
know the SABC. One of the examples Chairperson I think is there in
my affidavit is the new studio that we put - the SABC put three years to
put a digital studio.

They said we are going to have - we are going to take three
years Chairperson. I am not a specialist in that area but I was
20 wondering why every time SABC we take three years. Everything that
we do is - is three years. I do not understand and remember
Chairperson I have five years contract which means if you have - you
have a strategy or a plan I am not going to deliver.

You see Chairperson and someone who is going to come also
is going to start from scratch another three years. You see

Chairperson. I said to them look colleagues can we go and visit other broadcasters. We visit other broadcasters Chairperson. I led that team Chairperson and then I asked this person you know I am not a technology person.

I need assistance. Why you - MultiChoice example - you have these moving studios. Chairperson I think you also watch sports. You will see they are able to have a studio like this table. It is a set. You can pack it and then you move with it because I saw it - I think Orlando Stadium first time - I said but why MultiChoice is able to do
10 this and we are not able to do this.

I went to them and others Chairperson and I asked. They said no but you can take three months. That is why Chairperson I went to the Group Executive. I said let us change our corporate plan. Let us put ourselves under pressure. Let us deliver this within a year but we deliver a studio ...

CHAIRPERSON: Instead of three years? Hm.

MR HLAUDI GEORGE MOTSOENENG: Within three months and Chairperson we save 11 million ...

CHAIRPERSON: Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** And that studio it is a multi-studio set Chairperson. Your suit that you are wearing Chairperson if you were looking at the SABC - those analogue studios - this suit that you are wearing it can be read. That is analogue.

CHAIRPERSON: *Ja.*

MR HLAUDI GEORGE MOTSOENENG: In the ...

CHAIRPERSON: In the eyes of the viewer?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But digital it will because it has those set ups that it adjusts to the colour. If I come with a red suit and then the technicians they are able to adjust according to what you wear Chairperson. I know Chairperson, people said we did not follow the procurement process Chairperson. Chairperson there are issues that you must test in the interest of the organisation and the public.

10 I will argue Chairperson that when we put that project we were testing whether we can compete with other broadcasters Chairperson which we were able to achieve Chairperson. So - but we followed a process Chairperson we followed deviation and there was time where the head of sports said we need a studio for rugby. Rugby is here. We are left with four months.

What do you do Chairperson? You are left with four months. Your own team is telling you that they are going to take three years and what informed these three years Chairperson because three years Chairperson it means that every year according to inflation or according
20 to currency and remember all these technical stuff that we need we buy from abroad.

You pay by Euro/Dollars. If you were budgeting 100 million you can pay 250 million or 300 million Chairperson. I think people should check the rational. Even if they criticise but what was the rational for these people to do this Chairperson. According to me we

have a good point to say there was rugby and if we take three years what was going to happen Chairperson.

So I think Chairperson some of the issues especially in broadcasting you must be flexible Chairperson. That is why I was saying Chairperson our policy shall align with the business because this irregular expenditure and so on it does not mean that people have chow money because even when media report when we talk about irregular.

Irregular means that you broadcast Bafana Bafana without a
10 contract Chairperson and I will tell you Bafana Bafana recently they were supposed to play with Zambia. Zambia cancelled Bafana Bafana and then SAFA rushed to Mauritius. If Mauritius did agree the same day to say we are going - we are coming. You do not have time to sign that contract and follow this process.

The match is in the evening. So that is why I am saying Chairperson, people need to understand the business. That is why we came with the issue when we realised that we have serious issues on governance issues. Let us align our policy with the business of the SABC. If the regulations from Treasury - let us ask exemption. Yes
20 Chair.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: You have touched on quite a number of

matters that you deal with in your statement in answering the Chairperson. You touched on the vision view studios and you touched on the issue of irregular and wasteful expenditure. So - and - is it correct that these are matters also that the - because I believe that SIU has written a letter to you dealing with those matters. Am I correct? At least the irregular and wasteful expenditure.

MR HLAUDI GEORGE MOTSOENENG: Chairperson to be honest I do not even understand that letter of SIU. You see media Chairperson if you go and then you are portrayed that you are doing the work. You
10 are so excited. You go to street. People are greeting you.

You make a mistake because Chairperson the letter that they are asking me you'll know very well Chairperson they are asking be about the union and the negotiations between the SABC and the unions to say I shall answer, why these people they were given annual increment a sober person would never ask such a question because you know that every year the unions they negotiate for the workers annual salary increment and in that scenario Chairperson, why they asking this is because one union signed first, agree with the SABC, one union said no, we're not going to be part. So you sign with the union that agree
20 with you and that union, you know that Chairperson, because they represent their own workers.

Normally you don't pay those workers because you are still in negotiations with another union Chairperson and in the negotiation Chairperson and the resolution is then everything they process. In the negotiation Chairperson, normally I tell people, can people go on strike

for issues that you can really resolved what is harm, if they want 7% you give them inflation and then they are fighting to say, no, no, no we want 9%, you know union will drag you, will drag you.

The strategy of SABC Chairperson in my view, which I led Chairperson to unite SABC, they are asking because there is what we call a sweetener, sweetener Chairperson and then we check if we give these people a 9% and we give them once of sweetener, which one is risky for SABC, the 9% is risky a sweetener is once-off, maybe half of your salary or maybe R2 000 Chairperson that is how we negotiate...[intervenes].

CHAIRPERSON: You look at a long term to say, do we gain by doing it this way, do we gain more or do we loose more in doing it another way.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And I can also attest it to your Chairperson, you know when I was at the SABC the union they would never defeat me in the SABC because in the negotiations I will tell them, let's do like this, let's go to the workers, put your issues with the workers, I'm going to push the SABC issues and when I go there and negotiate with them, I will tell the workers, the workers I know you want 9% but here is the risk looming, you may be retrenched for moving forward but if you accept this, you'll work forever at the SABC, let us look at reality and I will go with the union there Chairperson, you know what, they will talk but when I take the stand and put my issues the workers will go with me. They even aske me, Hlaudi no this issue of

you addressing workers, no we're not going to go with you. I'm just demonstrating Chairperson...[intervenes].

CHAIRPERSON: Is this now the union leaders?

MR HLAUDI GEORGE MOTSOENENG: The union leaders Chairperson, and I work very well with the union leaders Chairperson, that is why even when SABC they were dismissing me, including the Public Protector, CW released a statement to say that we are happy with this man. Chairperson we were working very well, I mean at certain point Chairperson, I fight with them it's normal because there are issues that
10 I cannot tolerate or SABC cannot tolerate.

ADV THANDI NORMAN SC: Yes so this issue that you've just told the Chairperson about is where then those employees belonging to that union, about 300 of them were paid R10 000 each?

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

ADV THANDI NORMAN SC: Yes that's the issue that you're talking about?

MR HLAUDI GEORGE MOTSOENENG: Yes.

ADV THANDI NORMAN SC: And that amounted to about R3million?

MR HLAUDI GEORGE MOTSOENENG: Yes chair, not exactly that
20 number but yes.

CHAIRPERSON: Oh and estimate?

ADV THANDI NORMAN SC: And estimate yes and then you went Mr Motsoeneng – I think the GCO of the SABC has testified that there was an amount of about R5billion on wasteful and irregular expenditure over all dealing with the contracts that were conclude during that time where

tax clearance certificates were not original, where people were employed without following due process. So at combination of factors that amounted to that figure.

MR HLAUDI GEORGE MOTSOENENG: Chairperson it is a hearsay they didn't present evidence. In my affidavit I presented the financials of the SABC, I presented the governance of the SABC, maybe Chairperson let me just go back, I think Dr Ngubane did allude to the issue of when they joined SABC as a Board there were problems there, I mean governance issues Chairperson and when they appoint me to
 10 act as COO what I did Chairperson, because they were using consultants from outside and then I said to them why can't we use people within the SABC because you have people from internal audit, you have people from finance, you have people from risk, those people they understand the governance issues even better than me Chairperson and in any case I rely on them because that is not my special – I don't specialise in those issues Chairperson. So if you look from 2008 and 2009 Auditor General identify governance issues, Auditor General identify the SABC on top is more bloated Chairperson. Auditor General also identified that there were problems with personnel
 20 within SABC, that's why the Board took a resolution to make sure that they adhered to what Auditor General is recommending Chairperson. So – but in my time Chairperson from – I act that in 2011 on November on the 18th but I can say I started working in 2012, you know December, all office and other people they're moving away Chairperson. If you look at the financials from 2012 Chairperson, you'll see a huge

improvement then now we're talking about billion cash, I'm just giving your roughly Chairperson, you move forward and then in 2013 you find disclaimer worst part. I start working in 2012 now, 2013 you have disclaimer what informs disclaimer Chairperson is because now we're audited by Auditor General. In the past we were audited by KPMG, when Auditor General comes he talks about issues that SABC people they don't even understand and what I did Chairperson, I put a task team to deal with the audit governance issues and Chairperson I have submitted my affidavit and proof on what I'm saying from Auditor
10 General, audited financial statement and governance statement, audited Chairperson. So in 2014 Chairperson I put this team, we move from disclaimer to a qualification, I realise that we are not really dealing with – we are not able to achieve what we should achieve Chairperson, I decided and I informed the Board and I asked the Board to say, you know what I realise here, in the meeting with Auditor General it always fighting amongst management and Auditor General because management they disagree with them. I said maybe to fix this issue why can't we go and catch a fish from Auditor General, at least someone who has clue about how Auditor General operate, that's why
20 Chairperson, I was looking for a fish that I know that at least the fish was auditing the SABC. That fish he was caught by other entity, I asked this fish...[intervenes].

CHAIRPERSON: Before you could catch the Fish?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson, other people catching him. I asked this person we are looking for someone to assist

us and then the HR informed them they went for head hunting, I think they interviewed two or three people including the person from Auditor General which is James Aguma, they recommend him to me to say this is the person that we think because these others they don't come from AG, although they have understanding but this one he's better because he has been auditing entities he has been auditing government, we catch this fish which we're looking now which is James Aguma. When James Aguma, Chairperson he took us to three qualifications, three qualifications...[intervenes]

10 **CHAIRPERSON:** From eight?

MR HLAUDI GEORGE MOTSOENENG: Ja from eight to three qualifications.

CHAIRPERSON: Is that at the end of the financial year in which he started?

MR HLAUDI GEORGE MOTSOENENG: Audited.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But there Chairperson now I'm dealing with the governance issues, those qualifications...[intervenes].

CHAIRPERSON: Yes, no what I'm asking is whether when he came, as
20 I understand your evidence the Auditor General had eight qualifications in terms of it's audit of the SABC?

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: And then he came, that is Mr Aguma and he came at a time when there were eight qualifications and you say that he took SABC to three qualifications.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: So my question is whether he achieved that in his first financial year or over a certain number of financial years?

MR HLAUDI GEORGE MOTSOENENG: In his first, if I remember correctly Chairperson because I demonstrated there, you'll see the financials in that – in my affidavit attachment so in the first year he improved the governance issues from qualifications, eight qualifications to three qualifications. When I left the SABC Chairperson in 2016 we were having one qualification, audited by Auditor General, one
10 qualification and Chairperson you know it was a technicality because of this agreement between the team at the SABC and that caused that qualification. If they agree, and at that time Chairperson, remember in 2015 and 2016 I was not there at the SABC because sometimes I was on special leave because of the Court matters and so on and so on but it was one qualification Chairperson. When the Board came, the interim Board they went back to this thing. So you ask a question Chairperson, how can you find one qualification and you went back to a disclaimer or adverse opinion Chairperson, I'm just now trying to find exactly – or adverse...[intervenes].

20 **CHAIRPERSON:** Ja just contrasting...[intervenes].

MR HLAUDI GEORGE MOTSOENENG: Yes opinion Chairperson, that is a problem there and in my view Chairperson, and what I've been informed because when the interim Board came they said no we are going to clean up the organisation. We are going to implement the ad hoc committee recommendation but even if you want to act on that, you

must take time to understand the business of the SABC because Auditor General, Chairperson, remember it's a test, they test, if they go to this one, this one gives you this story and that one you are going to cause that havoc that they have already caused themselves because I think they didn't recognise management, because I was not there Chairperson, I don't think they – they didn't recognise management so they caused a disclaimer themselves, they also get rid of the consultant, people who were taken to fix all this governance issues because they were saying it's irregular but you should look at the

10 rationale and the process that have been followed Chairperson. So they came with the guns blazing from Ad Hoc Committee Chairperson. That is the issue Chairperson that I can say that when I left SABC I'm very proud, I'm very proud about the previous Board, I'm very proud about the SABC management because we achieved what we were supposed to achieve although we have that one qualification. When it comes to the financials, Chairperson, because it goes hand-in hand, when it comes to the financials I have demonstrated in my time we talk about billion audited financials by Auditor Generals Chairperson, consistency show. Now people are saying Hlaudi caused havoc for

20 SABC, SABC is collapsing because of local content. Chairperson how can SABC collapse on local content when we are budgeted R600million for local content, there was a budget. If there was no budget and then I went and take funds from another department, division or reserves, maybe they will have a point but there was a budget, R600million to invest in local content, Chairperson and when I left SABC Chairperson,

cash R881million is there in those financials of the SABC Chairperson. R881million but they didn't know how to deal with these issues because I left SABC, R881million but Chairperson along the way you will find that maybe they were having maybe R500million or R400million in the bank, but you should know if you have that amount what steps should you take to cover and that step Chairperson is there in that document of Aguma, where the said I tried to raise R100million to top-up the amount because the service division they could not achieve R600million because to run SABC Chairperson you only need R600million operationally to pay your service providers and do other stuff. If you have R600million you are fine Chairperson. So if you have R800million audited financials, you are more than good, you also have to make sure that, that circle, you generate revenue. The problem there Chairperson, is the how, the how is very important Chairperson.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair. The document that you're referring Chair that shows – although this one is a copy which doesn't seem to be signed by the Auditor General but it's page 264, that's where it shows the qualified/unqualified disclaimers that he's talking to be we are sourcing the original.

CHAIRPERSON: No that's fine.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: I just want to remind you that I interrupted you at a certain stage when you appeared to still want to ask some questions or draw attention to certain parts of the minutes of the Board that have

those various amounts.

ADV THANDI NORMAN SC: Oh yes Chair.

CHAIRPERSON: So just in case as a result of my interruption you have forgotten that there was something that you still wanted to cover.

ADV THANDI NORMAN SC: Yes Chair, there was also something that Mr Motsoeneng spoke about which – when he mentioned deviation insofar as the vision view is concerned. Chair that document Chair we'll find it at pages – under HM7, this is the page 173 and it's written by the Group Company Secretary and it says,

10 “From the certified extract of the successful round robin approval concluded on 31 July 2015 to approve a deviation from procurement processes to acquire a multi-purpose set and studio business case. Resolve that approval be and is hereby given for the SABC sport and news divisions to deviate from normal procurement processes in order to appoint vision view for the construction of a multi-purpose set and studio including all technical components to service the SABC sport and news division at an amount of R39 380 000 exclusive of VAT. The head of sport and GE technology [indistinct]

20 mandated to conclude and sign all contract documentation outlined in resolution one above on behalf of the SABC. Certified a true extract of the minute”,

So when you're talking – when you mentioned a deviation of a R39 million project.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

ADV THANDI NORMAN SC: Yes and that deviation was it - was sent to Treasury for approval?

MR HLAUDI GEORGE MOTSOENENG: I'm not sure Chairperson as the COO my role is to oversee the organisation, the Group Executive or the heads of the divisions those are the people including – especially because if you talk about Treasury is the role of the CFO, it's the role of the CFO to make sure that...[intervenes].

CHAIRPERSON: Processes are followed?

MR HLAUDI GEORGE MOTSOENENG: Yes but my knowledge,
10 Chairperson on this matter, I think it's during that time there were no regulations for SABC to ask permission from Treasury, I'm talking under correction but that is my memory Chairperson, I know that regulations came...[intervenes].

CHAIRPERSON: At some stage.

MR HLAUDI GEORGE MOTSOENENG: At a certain stage and there was some debate it but my memories Chairperson, I think the person who can confirm that is the former CFO whether they did receive such document or head of procurement.

CHAIRPERSON: Ja okay.

20 **ADV THANDI NORMAN SC:** Thank you and then the one last aspect when I put the reasons amounting to irregular expenditure the one thing that you have not addressed now is the irregular increments and appointments of certain staff officials and they were mentioned – I think the Public Protector also dealt with those Ms Gugu Duda and your own salary increments according to the Public Protector and I know Dr

Ngubane had dealt with that – I'm sorry not Dr Ngubane, Ms Mohkobo had dealt with those salary adjustments relating to you, could you just briefly tell the Chair about that?

MR HLAUDI GEORGE MOTSOENENG: Chairperson, you know I have pain about this malicious gathering of information because it is incorrect that I appointed people irregular so. Chairperson, the custodian of appointments is HR, it's Human Resource so there is no way that Hlaudi can wake up in the morning and appoint someone even if I want to do that the HR will say, no. If I have appointed someone
10 that someone will be a process of HR not my process Chairperson because they are the gatekeeper for such matters within the SABC but I have demonstrated there Chairperson, you will see that I didn't appoint those people proof is there, who signed, maybe salary increments and appointments you'll see that the former GCO Melua Mamagobo and the HR together they are the ones who dealt with that issue. Example Chairperson my PA, I was not involved it is an HR issue, they said to me that after effects, and I was told by my PA to say I have been given salary increment but I knew about the process because they were saying three directors their PA they should be on
20 par, you can't have – because we're all directors you can't have someone sitting in that level when it comes to package someone sitting in that level but that one also can be also informed by the by team of individuals because if you have been there for too long it's obvious that you'll have a more package than someone who just joined that division Chairperson. So in that Chairperson, especially from the Public

Protector you are given Chairperson, I respond I have given to say I was not involved. The SABC has given to say he was not involved the evidence is there Chairperson I have put evidence there. Example Chairperson there is resolution, the resolution says one of the employee he shall be removed in the corporate plan because her position really is not there. So it's the resolution of the Board but the findings of the Public Protector is Hlaudi and the notion that has been given to people Chairperson is that it seems as if there was no Board at the SABC, I was the Board because it seems as if everything I was
10 doing everything...[intervenes].

CHAIRPERSON: Were you not the Board and were you not the SABC?

MR HLAUDI GEORGE MOTSOENENG: Yes I was not Chairperson I also, if you check Chairperson you have a Board which I must accounted to the Board, they are the people...[intervenes].

CHAIRPERSON: What I'm saying in a light note.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair, thank you Chair so for me even media Chairperson there were people who were portraying me, you ask yourself, you have Dr Ngubane – I'm just you now about people that I think, you have Dr Ngubane, you have Professors there
20 Chairperson and many - you have lawyers, are these people stupid just to be taken by this [indistinct] and though whatever, it can't be Chairperson. I mean because when you appoint these people they must know what they're supposed to do. So to be honest to portray as SABC the decisions of the SABC, this Hlaudi I think it is malicious Chairperson and it is wrong for people to taint my name and also I don't

think those people who were in charge for SABC Board they are respected, in my view because it seems as there was no Board, there was no GCO, there was no management general, the only person was Hlaudi, it was my company I think Chairperson, according to people which is misleading Chairperson.

CHAIRPERSON: Well it's important that you deal with it because I did ask some of the witnesses from SABC what it is – what it was about you that seems to have made people or many people to feel like they had to do whatever you said should be done, you know, where did this
10 kind of influence come from or if it was fear, where was it coming from what was the basis for it, so I'm saying it's good that you deal with it because I do want to understand that and maybe I'm not been told the whole story but we are not done with other witnesses so maybe one will establish whether that impression and that perception has a factual basis or not.

MR HLAUDI GEORGE MOTSOENENG: Chairperson one interesting story, when I was in the Free State I think I was acting as regional Editor, the unions they didn't want me Chairperson, it's well written media and so on. One day they drove to Bloemfontein because
20 according to them, they were workers they were going to be at Court and toi toi because they don't want me at the SABC. When they drove and reached at the SABC they're expecting that – the leaders of the unions they are expecting the workers to be outside toi toing.

What surprised them when they arrived the union says no we support Hlaudi. We are not going to do that. And when I ask them

someone said to them, no tomorrow we are going to strike, a blackout on the SABC because this man is torturing us. And then I met this man. I said but why you are saying I am torturing people? Can we maybe discuss so that we resolved our issues. The man says to me, I always dream about you when I am in bed I am sleeping. So Chairperson how do you deal with such issues? So in view Chairperson I am not a psychologist I said maybe you must dream during the day. Because you can see, you can feel it, you can see me. Chairperson because that dream of his caused all this chaos not row row
10 Chairperson now I am using this chaos Chairperson cause all this chaos. And people came there and then I take him through and then we talk Chairperson to understand what – what is happening. Is mind no it was just they say dreaming. I said you know Chairperson on the light note...

CHAIRPERSON: So effectively he was saying you visit him in his dreams?

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson. So in his dream it was reality that any time I am going to dismiss him. Yes it was his reality Chairperson and only one person. But Chairperson all those
20 people they were shocked. Because instead of people toyi toyi they were singing about me. So that is the – I do not know Chairperson it has been happening. I remember someone wrote an email saying no Hlaudi is the Commissioner of the Police. Because they were saying why can Hlaudi not be arrested. And I do not know for what. The man wrote an email to say no you know Hlaudi controls the Commissioner of

the Police. I do not even know this commissioner Chairperson. I have never met the Commissioner. So I do not know what is happening when it comes to me Chairperson how other people view me. I do not know. Maybe it is their – all of them they are dreaming. Maybe including media they dream and then they write about me.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I am just giving you the background Chairperson.

CHAIRPERSON: Some of the...

10 **MR HLAUDI GEORGE MOTSOENENG:** That is why Chairperson it is very important to go inside the SABC. It is very important Chairperson that I play that clip Chairperson because it is not – it is not 25 minutes. I think roughly it can two clips Chairperson that I can appeal that we must play. Others we can leave. One clip I think it is one minute. Plus or two minutes. One is I think more than five minutes. If I am correct. And I know your team Chairperson they have already packaged that.

CHAIRPERSON: Yes. Yes.

MR HLAUDI GEORGE MOTSOENENG: Those are very critical clips Chairperson because you will see inside the SABC because people who
20 are coming here they do not represent more than 3000 people within the SABC Chairperson. So I think it is very important Chairperson to apply your mind.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And see so that you are able.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: To deal with the issues
Chairperson. I will be happy that we play that clip Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And not behind the scene
Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Because people came here put
me as a devil so it must be played publicly so that people can see what
was happening within the SABC Chair.

10 **CHAIRPERSON:** Yes. No, No that is fine. We – as you will remember
from yesterday we decided that I will not make any decision now but
later on in due course your counsel will look at the whole thing and if
need be renew the application and then we can deal with it.

MR HLAUDI GEORGE MOTSOENENG: Thank you Chair.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. Thank you Chair. Mr Motsoeneng we
now at the tail end of your statement. We had already dealt with the
issues relating to the matric certificate but Chair just for the record an
affidavit that is mentioned in the SCA judgment case number 393/2015
20 where it was between the – in the matter of the SABC and the
Democratic Alliance. In the judgment at paragraph 24 the court stated
the following:

“In his answering affidavit Mr Motsoeneng stated that
I have been unable to trace Swanepoel again. But it
would seem that she did depose to an affidavit in

which she disputes this version. That affidavit for some inexplicable reason does not form part of the appeal record.”

We managed Chair to look for this affidavit and it only came to hand yesterday and we have given it to Mr Motsoeneng’s team and they have requested that they be afforded an opportunity to deal with it in writing.

CHAIRPERSON: Okay, okay.

ADV THANDI NORMAN SC: Chair then – then we will then skip that part that deals with – yes.

10 **CHAIRPERSON**: Well the – I did say I think yesterday

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Or was it the day before that it would be important that if possible Ms Swanepoel be secured to come and give evidence.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: If possible and in particular I am – I was looking at the interaction between herself – between her and Mr Motsoeneng at the time of the completion of the application for employment form. That discussion.

ADV THANDI NORMAN SC: Yes Chair.

20 **CHAIRPERSON**: Now do you know whether the affidavit does deal with that or you do not know?

ADV THANDI NORMAN SC: Yes Chair it does deal with that.

CHAIRPERSON: It does? Yes.

ADV THANDI NORMAN SC: But also Chair if I may just report. The investigators had been reliably informed that Ms Swanepoel has since

passed on but we requested them to check with the Department of Home Affairs.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: To confirm that.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: I just hope it maybe it is just a rumour. I do not know.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you Chair.

10 **CHAIRPERSON**: Okay.

ADV THANDI NORMAN SC: So then we will – with your leave Chair then not go back to that issue and...

CHAIRPERSON: Okay so that affidavit will...

ADV THANDI NORMAN SC: Deals – it relates...

CHAIRPERSON: Will not be dealt with today but will be dealt with some other time.

ADV THANDI NORMAN SC: Some other time Chair.

CHAIRPERSON: When Mr Motsoeneng comes back.

ADV THANDI NORMAN SC: Yes Chair because he has requested.

20 **CHAIRPERSON**: He must still get a chance to look at that affidavit.

ADV THANDI NORMAN SC: To look at it and deal with it.

CHAIRPERSON: Ja okay.

ADV THANDI NORMAN SC: Yes thank you Chair.

CHAIRPERSON: That is fine.

ADV THANDI NORMAN SC: Thank you. May I just – Thank you Chair.

And then Mr Motsoeneng then that takes us to the end then of your – of your – of your main affidavit and the supplementary affidavit as indicated does not deal with the specific allegations that were made by the various witnesses against you and Chair had directed that you could supplement that and deal with the various allegations from the various witnesses.

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

ADV THANDI NORMAN SC: Yes.

MR HLAUDI GEORGE MOTSOENENG: If I may Chairperson

10 **CHAIRPERSON:** Yes.

MR HLAUDI GEORGE MOTSOENENG: Just to deal with one part Chairperson because we are finalising the first affidavit Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Just to summarise some of the issues. The Advocate put a question to me whether I was stopping the journalists to fulfil the mandate of the SABC by saying they shall not show those visuals. Chairperson my submission to you Chairperson is because the question was our mandate – our mandate is in the public interest. I want to submit that Chairperson. What the journalists they
20 were fighting for it was not in the public interest. One point Chairperson is the issue of research. Remember the Advocate put to me that I said I do not believe in research which I said...

CHAIRPERSON: Yes maybe before you get to the research let us just talk a little bit about the first part that you have dealt with. My understanding of what you are saying against the background of the –

your evidence yesterday is that you are dealing with what you view as a difference of opinion between yourself and those journalists where their stance was we believe that you are banning us from showing visuals of destruction of property during protests. We believe we should show that and it is wrong that we should be prevented from doing that. And my understanding is what you are saying is they were wrong to say that or to take that stance because the mandate of the SABC is to show what is in the public interest. Is my understanding of what you are saying correct?

10 **MR HLAUDI GEORGE MOTSOENENG**: Yes Chair.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: But also not forgetting Chairperson we agreed that those visuals certain part of the visuals we did not ban those visuals. We were just saying that the physicality of those visuals Chairperson.

CHAIRPERSON: Yes well you now I just want to make sure that there is no misunderstanding as to what your position was and what their position was. And my understanding from the discussion we had and I think you put it as an agreement between us was that at least before
20 this commission what you have said is that you did not intend to say SABC must no longer show visuals of destruction of property during protests perse. My understanding is that you said your position was you did not want to – you did not want the SABC to show visuals in certain circumstances. One was we talked about somebody being burnt when they come out of a burning building and the other one is where

people said to SABC journalists we are going to burn property come and take – take pictures of whatever. Now – now – and I said to you at some stage yesterday somebody may in due course say to me reject what Mr Motsoeneng said to you namely that he did not intend to ban the showing of visuals of the destruction of property. That cannot be true because when you look at the statement that he issued the language is clear and he understood this language. He is now just trying something else. Remember I said somebody might argue that and I gave you an opportunity to deal with that. So now coming back
10 then to this issue. I do not understand why you would have conveyed to them the position that the showing of those visuals was not in the public interest if your intention was not to ban the showing of visuals perse. You understand?

MR HLAUDI GEORGE MOTSOENENG: Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I understand you correctly so.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: And Chairperson why I am saying this I think what you are saying is correct but when you put a
20 lawyer Chairperson I must argue as a lawyer and my argument is the mandate of the SABC is to educate. You cannot educate by showing this glamourizing – this visuals Chairperson. Currently Chairperson the same visuals that we are talking about you know someone has taken her life abroad because this individual and the family – you see there television is very dangerous Chairperson. If you watch people who are

fighting every day Chairperson. I mean people who are fighting on television when the kids this are their role model. When you show those visuals fighting it is even happening Chairperson if you will check these movies the children that are watching those movies the guns they play with the guns. They want the guns. Even if it is a toy because they see this on television. People shooting each other what do they do they get a gun maybe from counsel he is having a gun they are playing they shoot. Chairperson this matter it is a very serious matter. I want to submit that Chairperson that we should not allow media to
10 operate outside the mandate of a public broadcaster Chairperson. I think Chairperson this one Chairperson we – remember Chairperson I am still putting to you Chairperson that I am in agreement with you I did not ban those visuals as it is but if it comes to the law Chairperson this one I will submit that actually we are encouraging – we are encouraging unlawful stuff. Chairperson if I argue like a lawyer the way Chairperson and I am not a lawyer Chairperson I am just saying you will decide Chairperson. I am just putting my views.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: On this matter because I have
20 passion.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Chairperson about such issues. And Chairperson you ask the journalists about newspapers. They said it is international norm to broadcaster to talk about newspapers on their platforms. I want to submit to you Chairperson this broadcasting act

says everything that we do it must be in the South African interest even the opinions of the South Africans. So the argument about international is not correct. Chairperson. That is why Chairperson I think there is difference between private media and a public broadcaster. Because the way we do things ours is to build democracy. Ours is to build the nation. Ours is to do the correct stuff Chairperson and develop people. So we cannot Chairperson argue because it is a norm. I accept. It is a norm that people have been doing the things the way they have been doing. This is the time Chairperson for people
10 to think differently so.

CHAIRPERSON: Now – but did – did you have a conversation along these lines with any of the journalists around the time of the media statement following up on your decision the media statement that we went through yesterday. Did you have a discussion along these lines?

MR HLAUDI GEORGE MOTSOENENG: Chairperson we have been discussing these matters at top level. Just discussion not formal – a discussion but in passing we have been engaging. Even in some of the committees but not officially so you cannot find those records but we have been discussing these issues and I said yesterday Chairperson if
20 people really look the power of media Chairperson people who see some people are toyi toyi. If today Chairperson people can burn Gauteng like it is happening tomorrow it is Free State, tomorrow it is KwaZulu Natal where it comes from? The influence is media. So – and we are not saying we shall not show this Chairperson. Remember I submit that we must be responsible Chairperson. Important point

Chairperson I said yesterday Nothando Maseko the Head of television and Sophi Mokwena they came to me after the statement concerned Chairperson. Like maybe other people who were concerned but many people also Chairperson they march to SABC in my support. Equally so there were those who have their own different views about the matter but we should not ignore the [indistinct] and other people they were supporting that move Chairperson. But Chairperson what we did after Sophie...

CHAIRPERSON: Now is that – is that the move to say do not show
10 visuals of people burning property during protests, what is that move that you say they were in support of?

MR HLAUDI GEORGE MOTSOENENG: They were in support
Chairperson of not showing such visuals. Others they were not in support. This is what I am submitting Chairperson. Others they were – which is normal Chairperson. Others they were not in support. But after this two colleagues of mine came to me Chairperson I think we call Kaizer Kganyago who is the spokesperson of the SABC. I said Kganyago. No he was also party because they were two and then we just discuss and give my own view what I am saying it should not be
20 shown. And then we ask Kaizer to go and clarify the issue. I was informed yesterday Chairperson by Nothando Maseko that Kaizer went on air and clarify the issue. Yes Chair.

CHAIRPERSON: As you understand it based on what you told him and what you were told he conveyed to the public. Were you told that he clarified it on the basis that the decision was not to ban the showing of

visuals of violent protest and the destruction of property but for SABC journalists not to be party to anything where people plan to commit a crime by burning property and them agreeing to go there and show those people? What are – how – what – how was the clarification? What was the clarification or to what effect was it?

MR HLAUDI GEORGE MOTSOENENG: The clarification Chairperson was Kaizer shall go and explain that we are not banning visuals totally so. We are saying journalists will be responsible but also the physicality Chairperson – I mean like I did example if someone come
10 and burn this we are inside do not show such visuals Chairperson. If you are going to show that visuals make sure that there are no people inside the room. Yes Chairperson I am just giving you one of the examples Chairperson. I said Chairperson to make sure that we dealt with that issue I went to Press Club I explain the same issue that Kaizer has explained to the public Chairperson. Chairperson the relief that I am seeking to you if I talk the legal term Chairperson the relief that I am seeking to you if you find that I was wrong on the public mandate.

CHAIRPERSON: Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Is the first relief Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: If you find me I was wrong on that one the second relief...

CHAIRPERSON: I see you – you have had quite a lot to deal with lawyers so you understand some of the legal language.

MR HLAUDI GEORGE MOTSOENENG: Yes the second relief Chairperson I am saying to you Chairperson you shall agree with me that after that statement we clarify issues.

CHAIRPERSON: Yes but of course you do remember that yesterday I read to you a part of the Editorial Policy of the SABC where the – it was made clear that the policy of the SABC is to show visuals of violence if certain conditions were met which was set out. I think it was if it was too show legitimate information or context. You remember you initially thought that that was in conflict with the requirement that
10 scenes of violence should not be shown –should not be shown if that would be glamourizing the violence. And I said to you it might not necessarily mean that the two are in conflict. They might be going the same route, same direction but one might be going further than the other, you remember that?

MR HLAUDI GEORGE MOTSOENENG: Yes Chair.

CHAIRPERSON: So – so in looking at what the policy of the SABC was one must look at the – at all the relevant instruments you know and then take it from there but certainly you have that. But you also will remember that I asked you the question yesterday what your
20 understanding was of conduct that can be said to amount to glamourizing violence. Where does one draw the line? And you dealt with that. Because obviously the policies permit the showing of visuals of violence but they seem to have qualifications to say you may do it under these circumstances. The one refers to not promoting violence, not glamourizing violence or anything – any unlawful conduct. The

other one says in relation to scenes of violence SABC's policy is to show them if that is – if that is required in order to show legitimate information or context. You remember we dealt with that.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson I remember Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: You – Chairperson what I am appealing to you Chair you know I am not going to dwell on the law because I am not...

10 **CHAIRPERSON:** Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: It is not my specialist.

CHAIRPERSON: Yes no that is fine.

MR HLAUDI GEORGE MOTSOENENG: I am dealing with the way I understand the things.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: You will come to that conclusion Chairperson.

CHAIRPERSON: Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** But my view Chairperson I will submit that the policy of the SABC it must be guided by the Regulations of the Act and also Chairperson what we dealt with it was the regulations dealing with ICASA.

CHAIRPERSON: Yes one must look at ...

MR HLAUDI GEORGE MOTSOENENG: And then if...

CHAIRPERSON: All of those ja.

MR HLAUDI GEORGE MOTSOENENG: Yes in one – in this book there is also same matters dealing with the same matter that we are dealing with. You will not find anywhere Chairperson in this Act I call it the Bible of the Broadcasting which is SABC. It is the bible of the SABC. You will never find Chairperson where the act encourages that**CHAIRPERSON:** Hm.

MR HLAUDI GEORGE MOTSOENENG: And I can tell you where this policy is informed Chairperson. It is informed by private media. Yes people do a policy Chairperson it is informed by some of the parts of
10 the influence. It is not informed by what is here Chairperson.

CHAIRPERSON: Yes but...

MR HLAUDI GEORGE MOTSOENENG: But although Chairperson I agreed some of people actually they want to see such visuals. Some of the people. This is where I am saying Chairperson if we deal I agree with you what you have been raising the issue with you but I was just saying I follow this. But also in the – Chairperson even myself I did not follow this 100%.

CHAIRPERSON: Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: If you look my statement and
20 then – because I said you can show such visuals but here they are not saying we shall do it Chairperson.

CHAIRPERSON: But you see one of the things which you – you may or may not appreciate. You remember yesterday I pointed out to you at least one or two distinctions between legislation and policy. You see an act of parliament will be broader and then it will say regulations can

be made under that act. The regulations are made in order to take further some of the things that are in the act to go into more details. And when you come to a policy it – it is supposed to be in line with the regulations and in line with the acts and in line with the constitution but it might go to even greater detail than the act and the regulation.

So you could easily find that it says something that is the policy which you will not find in the Act provided it can be said that the Act does not preclude it. Does not say we should not have this. It is open but that is something that - so I am just mentioning that we - we
10 do not necessarily need to dwell on it. Yes.

MR HLAUDI GEORGE MOTSOENENG: Thank you very much
Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I - I take your word
Chairperson.

CHAIRPERSON: Yes, thank you very much.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Chair just to - information has just come
20 now through Ms - Chair that the rumour about Ms Swanepoel apparently
is incorrect. They - they have been to Home Affairs and it appears that
she is alive.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes. So the - the investigators are going
to - to pursue that line. Thank you.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes, thank you.

CHAIRPERSON: Well it is - it is unfortunate they mentioned something like that ...

ADV THANDI NORMAN SC: Yes and ...

CHAIRPERSON: Because - well maybe it is unfortunate that it was mentioned publically ...

ADV THANDI NORMAN SC: Yes, yes.

CHAIRPERSON: Because it could have caused you know ...

10 **ADV THANDI NORMAN SC:** Embarrassment, yes.

CHAIRPERSON: Family members and relatives to be concerned. Oh, okay. No that is fine. So ...

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: So they will try and make contact with her?

ADV THANDI NORMAN SC: Yes, yes thank you.

CHAIRPERSON: *Ja.*

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Okay. Thank you.

20 **ADV THANDI NORMAN SC:** Chair that is then the evidence on the first statement of Mr Motsoeneng and in relation to the ...

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Second statement that we then will - will have to be postponed.

CHAIRPERSON: Have to be dealt with ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: When Mr Motsoeneng comes back?

ADV THANDI NORMAN SC: Yes Chair, yes thank you.

CHAIRPERSON: Yes. Mr Motsoeneng when I asked you questions you had dealt with one point but I think you were going to another point. I just do not want to prevent you from saying something on - on something that you wanted to say. You now said before you go further let us talk - talk about this and we took quite long. I just want to make sure that you - you are covered.

You - you are fine or you still want to say something about
10 whatever other point you wanted to - to mention.

MR HLAUDI GEORGE MOTSOENENG: Yes Chairperson. The point that I want to make is when I dealt with the issue of newspapers when the question arose about Chairperson I said I do not believe in research because you see I always make examples Chairperson and people when they - they talk they - they think that I do not believe in research at all.

There is a portion that I do not believe in. It is something that you know you see. You cannot do research Chairperson. I was saying example a councillor in a certain ward. You know people are not
20 working there. You know there is no water there and it is your ward and you know how many people are staying there and you know how many people are not working.

Why do you want research? It is obvious. You see because I want to clarify this issue of that I do not ...

CHAIRPERSON: (Intervenues).

MR HLAUDI GEORGE MOTSOENENG: Believe ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: In research Chairperson.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I mean when medical is given to you they do a test before they can do - give you that medical but something that you see you do not need research Chairperson.

CHAIRPERSON: Oh, so - so ...

MR HLAUDI GEORGE MOTSOENENG: So I want people to understand
10 that I - I am not saying I do not believe in research ...

CHAIRPERSON: You are against research?

MR HLAUDI GEORGE MOTSOENENG: At all.

CHAIRPERSON: Hm, hm. *Ja*.

MR HLAUDI GEORGE MOTSOENENG: Yes, because there are always misquoting me ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: On this issue of ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Research Chairperson.

20 **CHAIRPERSON:** Yes, yes.

MR HLAUDI GEORGE MOTSOENENG: Other matters Chairperson that I was looking to cover I think I will cover ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Those issues when we dealt with the - those video clips Chairperson if you allow ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: Those videos to be played.

CHAIRPERSON: Okay.

MR HLAUDI GEORGE MOTSOENENG: I will deal with them.

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: If you do not allow them
Chairperson ...

CHAIRPERSON: Yes.

MR HLAUDI GEORGE MOTSOENENG: I will ask permission ...

10 **CHAIRPERSON:** Yes.

MR HLAUDI GEORGE MOTSOENENG: To deal with the issues
Chairperson.

CHAIRPERSON: Yes, okay. No that is fine.

ADV THANDI NORMAN SC: Yes thank you Chair. Before we conclude
Chair ...

MR HLAUDI GEORGE MOTSOENENG:

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: The representatives of Mr Motsoeneng
have a ...

20 **CHAIRPERSON:** That is fine.

ADV THANDI NORMAN SC: The document to put ...

CHAIRPERSON: Yes, okay.

MR MACGREGOR KUFA: Thank you Chair for the indulgence.
Remember Chair at the commencement of the proceedings today we
sought to have directions met in terms of the sitting of the Commission

as to how to handle this malicious and misleading ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: Reports from the media and we have handled

...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: I have drafted something brief ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: (Indistinct) with the process if I can beg
leave ...

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

MR MACGREGOR KUFA: To hand in the same so that we can ...

CHAIRPERSON: Thank you.

MR MACGREGOR KUFA: That will assist in the ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: In the process.

CHAIRPERSON: Okay. I - I propose that I will - I will have - I should
have a look at it and I know that we are going - we are done with
Mr Motsoeneng for - for now but he will come back at some stage.
What I do not know is whether you will stay around after we are done
20 but I might not be able to have an answer after the break as to what I
propose after reading it.

So - but I would let you know at some stage. If you are not
around I could send word through the legal team what I propose to do.
So it may be that I might decide to say something before the end of the
day. It may be that I might decide to say something tomorrow. I am not

sure. Would that be fine with you?

MR MACGREGOR KUFA: Chair whilst I take cognisance ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: And guidance from you but I believe this is imperative ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: And of paramount importance that it be dealt with swiftly.

CHAIRPERSON: Yes.

10 **MR MACGREGOR KUFA:** Why I says so because ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: It is in terms of Section 5 of the Commission's Act hindering and obstructing the progress of this Commission ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: Because remember that is why if you see Mr Motsoeneng ...

CHAIRPERSON: Hm.

20 **MR MACGREGOR KUFA:** He is now being apprehensive and anxious and he keeps on going back to some issues because of ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: The way they are being portrayed in the media. I mean he is human.

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: Whilst we - we have confidence in you Chair

that obviously going to close your ears to what the media is saying about him ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: But he cannot close his ears.

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: He cannot close his eyes to that ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: Because he is human and he is ...

CHAIRPERSON: Yes.

10 **MR MACGREGOR KUFA:** The person who is affected by these malicious reports. More so particular from the Daily Maverick ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: Chair. That issue needs to be dealt with.

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: We are not saying that we prescribed the rights of the media ...

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: In terms of Section 16 of ...

CHAIRPERSON: Hm.

20 **MR MACGREGOR KUFA:** The Constitution Freedom of Expression.

CHAIRPERSON: Hm.

MR MACGREGOR KUFA: They have the freedom of expression but what now that - what they are doing is that they are now stubbornly embarking on conclusions of facts which I believe is ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: It is - it is hinders the project - the - I mean the process of the Commission but I stand ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: Guided by you Chair.

CHAIRPERSON: You see I was saying what I was saying because I have not read the ...

MR MACGREGOR KUFA: Yes.

CHAIRPERSON: The document you have drafted. It may be that when I have read it I feel that I am able to do something immediately. It may
10 be that after I have read it I feel that maybe certain things must be checked before I can say anything and therefore whatever I might do might delay until those things have been checked. So that is the only reason - reason I was saying well maybe I might be able to deal with it immediately maybe later in the day maybe tomorrow morning.

So that is the only - but I - I understand that you - you have said it - it is something that you would if possible like to be dealt with urgently. I have heard that. So I will look at it. I just do not want to promise you anything before I read here.

MR MACGREGOR KUFA: True Chair. Can I then pray to you Chair
20 that if we can after tea just - I am not trying to put you under pressure ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: To deal with this issue ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: To sort of briefly address you still on this

aspect ...

CHAIRPERSON: Yes.

MR MACGREGOR KUFA: Before you can make a conclusive on this issue.

CHAIRPERSON: Yes, okay. No let us - let us do that then when we come back from tea.

MR MACGREGOR KUFA: Thank you Chair.

CHAIRPERSON: Yes, okay. Alright.

ADV THANDI NORMAN SC: Thank you Chair.

10 **CHAIRPERSON**: I am about to excuse Mr Motsoeneng.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes, thank you.

CHAIRPERSON: Mr Motsoeneng thank you very much for coming to give evidence to the Commission and to share your experiences at SABC as you have done. The arrangements are that you have not dealt with everything that you should deal with. Arrangements will be made for you to come back and deal with matters that you have not dealt with today and in the interim whatever documents or information that we
20 have talked about over the past two and a half days that might not be at hand which is important for the Commission you will assist in whatever way to make sure it can be found.

I do remember that I think you were referred to some minutes of board meetings yesterday and you will give information to the legal team of the Commission so that they can approach the SAB with a view

to finding that information and any other information that maybe relevant. Thank you very much.

MR HLAUDI GEORGE MOTSOENENG: Thank you very much Chairperson.

CHAIRPERSON: Hm.

MR HLAUDI GEORGE MOTSOENENG: I am ready Chairperson to assist the Commission. I am also ready Chairperson to welcome your findings at the end of the matter because this is the first time Chairperson where I was treated fairly with respect. Even your team
10 Chairperson because you do investigation you do not come to conclusion before the investigation that the person is guilty like the SIU is doing Chairperson and I want to emphasise Chairperson the reason why they write me that letter is because they were aware that I was going to be called by the Commission.

They have come to the conclusion not doing the investigation. I am in court but they themselves Chairperson they did not follow the process. They abused the process of the SIU Chairperson. I think it is a serious matter from where I am sitting Chairperson and I want to appeal to the Commission Chairperson because if you are going to deal
20 with all this problems you cannot leave SIU outside especially when you have evidence in front saying but this man that you have taken to court he is not part of this.

Here is the affidavit. This people they recuse themselves. The same with the former Public Protector because no one is above the law Chairperson. I will appeal Chairperson they must come in this

Commission and deal with these issues that why did they mislead people. Why they are abusing the power when the facts are there Chairperson? Thank you very much Chairperson.

CHAIRPERSON: Thank you very much Mr Motsoeneng and you are excused for now. Thank you.

ADV THANDI NORMAN SC: Thank you Chair. May we take the tea ...?

CHAIRPERSON: We are a few minutes before quarter past but I think we can take the tea break now ...

ADV THANDI NORMAN SC: Yes thank you Chair. Now until ...

10 **CHAIRPERSON:** And resume at half past as normal?

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

CHAIRPERSON: Yes we will take the tea break now and we will resume at half past 11.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: We adjourn.

ADV THANDI NORMAN SC: Thank you.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Ms Norman we need to deal with the request from Mr Motsoeneng's counsel.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: The time that I have had is just not enough ...[intervenes]

ADV THANDI NORMAN SC: Me too Chair.

CHAIRPERSON: To look at this number one, number two I was not asking for drafting what I would say, I was asking for what the complaint is and what the factual basis of the complaint is, who said what and what the position is and what the complaint is about that, so that I could see and make up my own mind whether I needed to do something and if so what it is that would be appropriate, so I might not have made myself clear.

So – but you wanted to say something before I hear Mr Motsoeneng’s counsel.

- 10 **ADV THANDI NORMAN SC:** Yes Chair I have not had time at all to consider it and also because the complaint itself relates to certain media articles, which are not attached to that document.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Now it’s difficult to look into the context and appreciate where the complaint actually arises from, for that reason Chair I would suggest it’s really a matter that should be dealt with at some other time now.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you.

- 20 **ADV MACGREGOR KUFA:** Thank you Chair or the indulgence, I feel a bit constrained with this issue.

CHAIRPERSON: Yes.

ADV MACGREGOR KUFA: You know why Chair I feel a bit constrained about this because remember – because I went through the rules and I also went through the Commissions Act because these are the

empowering provisions in the determination of issues before this Commission.

CHAIRPERSON: Yes.

ADV MACGREGOR KUFA: The Act, Section five gives provision of what happens if there is a hindrance or obstruction of the process of the Commission. I think at the time when the Act was [indistinct] they did not envisage where newspapers and media can actually obstruct the work of the Commission by misleading a negative stories about the work of the Commission and that's one of the issues which is also – if
10 you look at the rules it's absent how do we deal with such an issue. So it's either we do such an issue either in terms or Rule 11 where substantive application can be made with the Commission on a notice of motion with the facts and the disputed facts and the attachments like what Miss Norman is alluding to or we can deal with it in terms of Rule 12, where you as the Chair can give directions as to how – if such an issue arises how do we deal with it. Like I said Chair, I'm in your hands because we don't want to...[intervenes].

CHAIRPERSON: I'll tell you what, I mean at the moment it's just a question of not having enough time to look at this, I have had a look
20 but I haven't finished looking at it but I have made – some of the observations that I've mentioned. I think the one wherein which it can be dealt with is that I will have no problem if Mr Motsoeneng wishes to issue a media statement that clarifies whatever it is that the media might have misunderstood from his part, just so that from the point of view of the public he's able to point out if the media is saying things

about him that are not true or do not reflect accurately what he has testified in the Commission. Now if he does that it may be that there might be no need for the Commission to do anything itself but it may well be that the Commission might decide that, that notwithstanding it will do something but it would help to balance the interest because his interest and the Commission's interest because I'm not going to issue anything or say anything until I have got all the facts properly and the concern now is simply that I don't seem to have everything that I need. So the one option or now is simply that you – to the extent that this

10 document you gave me might not have addressed this and I can't say that it doesn't because I didn't finish reading it. To the extent that it might not address what I'm looking for, you could later on send a document that addresses what I'm looking for. What I'm looking for is, a document that says A, B and C did the following on that day in that media or whatever, this was wrong because of A, B, C, D and it – I would like the Commission to do A, B, C, D about it so I can see what was – what is said to have been done, what the basis of the concern is and then I can then take it from there. So that's what I'm looking for, at this stage I'm not looking at it as being a substantive application

20 necessarily, I just want a document, whether it's in the form of a note, a memo or a letter but something that will give me a full picture so that if I make any – if I say anything I know that I say it from an informed position.

ADV MACGREGOR KUFA: Thank you Chair, if you look at the brief submissions I've made we've alluded to that.

CHAIRPERSON: Yes.

ADV MACGREGOR KUFA: We've identified the media houses, the Daily Maverick, the reporter is Marianne Thamm, we've identified the issues the article and even have a footnote and which date that Act was been accessed which was today and we've even just quoted some of the issues in the article to assist. What we did not do was to print the article but we just thought since we've given proof where the article is accessible online that can be done and in terms of paragraph 16 we then request what we intend the Commission to do with this.

10 **CHAIRPERSON:** Yes.

ADV MACGREGOR KUFA: If you feel that is not enough to substantiate the complaint or the submissions before this inquiry we are prepared to argue or supplement that and then on the issue...[intervenes].

CHAIRPERSON: No that's fine as I said I haven't read the whole of it so if you - if you think that once I've had a chance to read the whole document I should be able to find everything that I'm looking for, that's fine and I'm quite happy that if, once I've had a chance to read the whole document, if I feel that I need some more information then the
20 Commission will communicate with you and then you can supplement that.

ADV MACGREGOR KUFA: Thank you Chair and then on this second issue which you suggested from the onset that whether Mr Motsoeneng should give a media statement, whilst it's a noble idea but we have challenges with that because every time the newspapers report

something negative about him, then he always has to issue a media statement and remember with, already the current narrative against Mr Motsoeneng which media is going to give him that platform or the time to do that. So it becomes a piecemeal fashion that whenever something is – that's why I'm saying we need an all encompassing direction not only directed at the Daily Maverick but directed at all newspapers, we're not saying we're gagging them we don't want to gag them, all we are saying is that let there be responsible reporting. Remember there was the issue of the [indistinct] business school where

10 a lot of media also misconstrued what has happened before this Commission. We cannot keep on going at that rate because it really does not all go well for the work and the task at hand of the Commission that's why we're saying that the order is not only directed at the Daily Maverick but it is directed at all media practitioners to ensure that – we're not saying they shouldn't report about the work of the Commission because it is best that they actually report but let them not make conclusion, like the conclusion that the Daily Maverick has made that Mr Motsoeneng made a ruining of the financials of the SABC to 3.2billion which is not true, so, I mean I don't want to ventilate

20 further issues but I'm just giving some – a few highlights just to assist.

CHAIRPERSON: Ja you see I am presently not contemplating issuing directions as such, I'm contemplating saying something to the media if a proper case is made out but if one is talking about issuing directions that is when it may be necessary to look at a substantive application and so on, so let me have a chance to read it and then you will be

informed in one way or another whether I need anything further before one can take it further but as I say it's up to Mr Motsoeneng what I sought address by way of that suggestion is where he feels that something needs to be put out in the public domain without delay that corrects whatever the media might have said, that which is not correct and I'm saying at this stage, until I've read this properly and applied my mind I can't promise that I can do – we can do that within the time he has in mind. So that was – it was meant to address that but if he says, look we will wait as soon as the Commission indicates whether it
10 will be able to do something or it wants further information, we will cooperate, that's fine.

ADV MACGREGOR KUFA: Okay I think we'll wait for [indistinct] Chair thank you.

CHAIRPERSON: Alright thank you. Miss Norman?

ADV THANDI NORMAN SC: Yes thank you Chair, the next witness Chair is Mr Lawrence Roy Kruger, Chair that will be in Exhibit CC20, I've asked the registrar to place it before you Chair, it's Exhibit 20 to 24.

CHAIRPERSON: Yes I've got it.

20 **ADV THANDI NORMAN SC:** This witness Chair talks to the DTT project.

CHAIRPERSON: Yes thank you.

ADV THANDI NORMAN SC: Thank you, if you are satisfied may the witness then be sworn in Chair.

CHAIRPERSON: Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record.

MR LAWRENCE ROY KRUGER: Lawrence Roy Kruger.

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

MR LAWRENCE ROY KRUGER: No.

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

MR LAWRENCE ROY KRUGER: Yes.

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

MR LAWRENCE ROY KRUGER: So help me God.

MR LAWRENCE ROY KRUGER: (duly sworn, states)

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair. Mr Kruger could you
please, there is a file in front of you marked CC20 to 24 on the spine,
and if you turn to page one of that file that is a statement from you, is
that correct?

MR LAWRENCE ROY KRUGER: That's correct ja.

20 **ADV THANDI NORMAN SC:** Thank you and then if you turn to page
13.

MR LAWRENCE ROY KRUGER: Ja.

ADV THANDI NORMAN SC: Is that your signature that appears on
there?

MR LAWRENCE ROY KRUGER: That is ja.

ADV THANDI NORMAN SC: And that you signed that statement on the 21st of August 2019?

MR LAWRENCE ROY KRUGER: Correct.

ADV THANDI NORMAN SC: And that the contents of this statement are true and correct?

MR LAWRENCE ROY KRUGER: True.

ADV THANDI NORMAN SC: Yes thank you, is it correct that you were approached by the investigators of the Commission to deal with your engagements on the migration project between the SABC and the
10 Department of Communications?

MR LAWRENCE ROY KRUGER: Yes.

ADV THANDI NORMAN SC: Were you involved in that project?

MR LAWRENCE ROY KRUGER: I was ja.

ADV THANDI NORMAN SC: Yes thank you, but before we continue, you had asked me that you would like to have an opening statement about what you do and how does that tally with your statement?

MR LAWRENCE ROY KRUGER: Ja.

ADV THANDI NORMAN SC: May he then be allowed Chair to do that?

CHAIRPERSON: Yes.

20 **MR LAWRENCE ROY KRUGER:** Thank you, my name is Roy Kruger I've been working in the telecommunications and broadcasting industry for more than 40 years. I've worked for big companies like Dimension Data, Business Connection in countries like Nigeria, Uganda, Malawi, Sirrea Leone and I'm currently based in Maputo where I'm the project manager for rolling out the exact same project we've done in – trying to

do in South Africa with the broadcasting digital migration. They've currently been going for 18 months, I can't reveal all their information but suffice to say that the project will be completed by December, it took two years. In South Africa I'm not sure of the exact start date but it was something around 2004/2005 and until today it's still not complete for one simple fact. Now besides the policies, I'm talking as an engineer and I don't know what the politics is behind this but in my opinion there's one simple fact why we're not complete and that is a system called set top box control. Now in the broadcasting world there

10 is no such term as set top box control, it is something that was put together in South Africa. The actual equipment used to do set top box control is called a conditional access system. In simple terms it's a computer with a lot of software and a lot of capabilities, you can either implement some of them or all of them. In January 2012 I approached a personnel company to find employment and I was directed to the Department of Communications and through an interviewing process I was appointed as the technical advisor to the then Minister, Dina Pule as a technical advisor on the broadcasting and on their data side, on the broadband side and soon after I'd started, within two or three

20 weeks I'd gone through a lot of documents to make myself *au fait* with what's happening. I found that the SABC had been out on a tender, an open tender to request a conditional access system which, as I say in South Africa they termed it a set top box control system and they hadn't appointed anybody because it seemed to be – it was a bit of infighting on who would pay for this thing, would it be the private broadcaster

such as E-TV and Multichoice and the SABC or would it just be the SABC. So the tender wasn't adjudicated but on further investigation in my tasks I came across SENTECH which is the government's signal distributor for TV and broadcasting radio signals and I found that they already had a conditional access system in place. They had engineers trained on the system, they had the product up and running and the reason they had it was that, from my readings is that two or three years prior to that SENTECH had been sending out signals via satellite totally unencrypted, which meant that citizens, for example in Botswana were

10 buying set top box that you want, a set top box is a decoder that you use to receive the signals and in Botswana they were watching SABC1, 2, 3 and E-TV for, in inverted commas, for free. The Botswana Government said this can't happen what about our own local broadcasting and they took action against SENTECH and from what I understand and documents I've read, SENTECH lost the case and they had to pay a certain amount of money, millions of rand to compensate the Botswana Government and they then were instructed to put in a conditional access system and fully encrypt all signals which they did.

CHAIRPERSON: Just one second, I'm sorry to interrupt you,

20 Botswana citizens and residents were watching SABC 1, 2 and 3 for free in Botswana for free because SENTECH had done what?

MR LAWRENCE ROY KRUGER: SENTECH had transmitted the SABC 1, 2 and 3 TV signals via satellite. Now when you send a signal via satellite it covers a huge geographical area, typically the whole of Africa so a number of - I suppose you can call them entrepreneurs

found that listen, we can sell you a set top box and you can pick up SABC 1, 2 and 3 for free.

CHAIRPERSON: Oh but I thin what I'm looking for is to establish whether this was a case where SENTECH had deliberately wanted to benefit Botswana citizens in some way, maybe for some fee or whether they were simply trying to do what they were required to do in South Africa for the South African citizens within the borders of South Africa but technologically people in Botswana could actually access the same benefits without SENTECH having intended that, that should happen?

10 **MR LAWRENCE ROY KRUGER:** No I don't think SENTECH deliberately intended for them to get the information, I think it was maybe, either a lack of money or a lack of knowledge that led SENTECH to send the signals without encryption.

CHAIRPERSON: Okay.

MR LAWRENCE ROY KRUGER: So it was just an open signal which meant you could buy set top box off any street market and it would pick up the signal because there was no encryption it was an open-ended signal.

20 **CHAIRPERSON:** Oh they would have needed there to be encryption in order for the Botswana citizens not to be able to access it?

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: Okay alright.

ADV THANDI NORMAN SC: Thank you Chair. Could you just expand on that encryption issue because it becomes a bigger issue later whether the South African policies as you understood them as a

technical advisor at the time, provided for encryption and whether what ultimately happened in the end was non-encryption.

MR LAWRENCE ROY KRUGER: When I joined in...[intervenes].

CHAIRPERSON: Sorry before you say so I know that I interrupted you while you were on a certain line, so Miss Norman is asking you that question now there's something to stop you on that but to make sure that we don't forget this part, just in case there was still something important you wanted me to know, I just want to make sure that you don't forget about that one.

10 **MR LAWRENCE ROY KRUGER:** Okay no what I wanted you to know Chair is that I've got a lot of knowledge in this business and I am based in Maputo right now, I'm doing this project similar to here and that our – in my opinion the only thing holding up the roll-out of the broadcasting digital migration in South Africa, even today is this question about encryption and set top box control and even in places like Mozambique they use full conditional access, encryption/set top box control and I'll go through some of the reasons why and the benefits for South Africa and the citizens of South Africa, that's all I wanted you to know there.

20 **CHAIRPERSON:** Then there is the question that Miss Norman put.

ADV THANDI NORMAN SC: Thank you Chair, could you then describe to the Chairperson the difference between the encryption and the non-encryption status is happening and the benefits of encryption?

MR LAWRENCE ROY KRUGER: Ja when I joined in 2012 and reading the previous documents from round about 2005/2006 the department

had actually put out a policy document which required that South Africa should have a fully encrypted digital TV network. Then reading through further documents and attending meetings – I'd like to just give you a bit of a background, a week after I joined Chair, I went to a presentation in Johannesburg where the ITU, the International Communication Union, they seem to have a yearly thing, it's in South Africa, just to kind of update people what's happening in the rest of the world and I happened to be sitting next to a guy I didn't know him and he was from Multichoice and the reason I knew this is, he had the

10 South African Policy document on his desk and he was sitting listening to the chap speaking from the ITU and the next thing he got a phone call and the phone call was to update him because right at that moment Minister Dina Pule's group of people who do policy were releasing a policy document on that day and this chap got the phone call and he kind of said, listen they haven't changed it at all set top box control is still in here and I wondered who this chappie is. He turned out he was an engineer from Multichoice and I'll tell you why – if we can just put that into the background now it's going to come up why that's important. So to get back to the question of encryption and non-

20 encryption, the reason that networks encrypt their networks is first of all is to protect the content. Now most major movie houses are insisting that broadcasters encrypt the content so that you can't copy these things, otherwise your copy rights are infringed and people can just take and copy and make and sell products which they've copied and it's not their right and what happened is, a number of people took

this encryption thing and started putting out stories that when you encrypt a system or a network it becomes, not free. There's a term called free to air channels and free to air, if I can just read you an encyclopaedia definition, it's a very simple definition, what free to air means,

“Free to air TV is television transmitted over the air unencrypted or encrypted without charge for the delivery of the signal to the viewer”,

That's what free to air means, it means you and I sitting at home we don't pay for free to air channels but I can tell you now people within SABC took this information and started telling, even the community TV guys, if the Minister implements encryption, all your viewers at home will have to pay, which is a total lie. Free to air means free, the examples of free to air which we have today, first of all SABC's free to air, SABC 1,2 and 3 free to air, totally unencrypted, no encryption. The next free to air channel is the first broadcaster appointed in South Africa E-TV, they have a TV company called open view which broadcasts free encrypted, not unencrypted, free encrypted, free to air TV which I'm not sure if you have E-TV at home, I do, I pay nothing it's for free, that is free to air. However, Multichoice took this and started banging on it and telling people you are going to pay, you have to not have encryption. Now my personal opinion is that they didn't want the Minister to implement any type of encryption or set top box control because they didn't want or they still don't want competition in the pay TV market and they fought this tooth and nail, they came up

with things like, Minister why is the government giving our poorer people set top boxes for free, they're only going to be one more year and then they're redundant. Well the fact of the matter is, if you go and read the background to set top boxes, the market has grown exponentially to the extent that even Multichoice have released up to four new decoders over the past two years because they are very flexible, they can give information which people who can't afford computers you can send it via the set top box and they can get it on their TV. So one of the – maybe I'm jumping the gun
10 here...[intervenes].

ADV THANDI NORMAN SC: No actually you are dealing most or some of the aspects you deal with in your statement, so as you are speaking I am just...[intervenes].

MR LAWRENCE ROY KRUGER: Can I carry on like that or do you want to ask specific questions?

CHAIRPERSON: Well you may carry on I think you may carry on.

ADV THANDI NORMAN SC: Yes. Thank you.

CHAIRPERSON: Okay at a certain stage she will ask you if you are of the ...

20 **MR LAWRENCE ROY KRUGER:** Of course. Alright.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: So people then say well what is the benefit of having a set top box control system and I would like to re-emphasise that set top box control is not a term in the broadcasting industry. It is called conditional access. Now conditional access if we

take those two terms conditional means you must meet the condition. In the pay TV environment the simple condition that you must meet is that you must pay your bill. And if you pay your bill you get access. Conditional access. That is the simple version or example of that. So the benefits of these conditional access systems.

CHAIRPERSON: Hang on one second. I thought that when you said the correct term is conditional access not the set boxes and so on. I thought that would apply to both encrypted and non-encrypted – that is not correct

10 **MR LAWRENCE ROY KRUGER:** No it is correct.

CHAIRPERSON: It is correct?

MR LAWRENCE ROY KRUGER: Ja. As I said earlier on it is a computer.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: It has a number of functions.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: You can encrypt, you can non-encrypt, you can add set top box control.

CHAIRPERSON: Yes.

20 **MR LAWRENCE ROY KRUGER:** You add messaging. There is a whole plethora of

CHAIRPERSON: Yes. But in terms of what it is that enables a situation where the public does not pay that has got nothing to do whether it is encrypted or not – non-encrypted.

MR LAWRENCE ROY KRUGER: It has got nothing to do with that.

CHAIRPERSON: What is it that makes that difference in the equipment or whatever the arrangement is? Because you see you have just – you just made a point which I think is probably very important namely that certain people apparently started going around and giving disinformation saying if ABC – if the Minister does this you will have to pay or people will have to pay.

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: When in fact as I understand your evidence people would not have to pay.

10 **MR LAWRENCE ROY KRUGER:** Hm.

CHAIRPERSON: You know. So I am trying to – to establish what makes the difference in terms of the two. In terms of this program where does the difference lie? If you have this – if you want free to air this is what you must have. If it is going to be – it is not going to be a free to air and people have to pay then this is what you have to have.

MR LAWRENCE ROY KRUGER: Okay I understand Chair.

CHAIRPERSON: I might not be articulating this as – as eloquently as I would like to.

MR LAWRENCE ROY KRUGER: No, no, no that is fine.

20 **CHAIRPERSON:** But partly it might be my lack of knowledge of this technology.

MR LAWRENCE ROY KRUGER: Okay. No as I said earlier on Chair. Free to air is exactly what it says.

CHAIRPERSON: Hm

MR LAWRENCE ROY KRUGER: Whether we encrypt or we do not

encrypt.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: The end user gets the channel free.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And the free to air channels are I am assuming by law have been implemented

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: To say that the end user must never pay.

10 **CHAIRPERSON:** Yes.

MR LAWRENCE ROY KRUGER: No matter what the technology is behind it.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: No matter if there is encryption or not it is free.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Finished.

CHAIRPERSON: So the whole project was based on it being a free to air project?

20 **MR LAWRENCE ROY KRUGER:** Yes.

CHAIRPERSON: Is that right?

MR LAWRENCE ROY KRUGER: Ja.

CHAIRPERSON: But what you are saying is that when at a certain stage MultiChoice and maybe and I think you said some people within the SABC began to say to people you are going to have to pay if bla,

bla, bla, bla.

MR LAWRENCE ROY KRUGER: Yes.

CHAIRPERSON: Which you say was not true because the whole project was based on it being a free to air project.

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: So I am trying to understand whether in giving what you would refer to as disinformation or misleading the public what it is that they may have been using that could easily cause confusion to people as to whether they were right to say they would have to pay or
10 not? Or it was simply false information being distributed on the assumption that people will believe.

MR LAWRENCE ROY KRUGER: It is false information.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: That is the bottom line. It is false information.

CHAIRPERSON: Yes. Okay alright. You may continue. Yes.

MR LAWRENCE ROY KRUGER: Okay.

ADV THANDI NORMAN SC: Sorry I beg your pardon Chair. Just following – how does – because you have just termed it conditional
20 access meaning that you can access it having satisfied certain requirements. How does that link up then we encrypted or non-encrypted.

MR LAWRENCE ROY KRUGER: Well as I said the conditional access system has the capability to encrypt your information. In other words the signal it can encrypt it or it does not have to encrypt it. You can

just do that via the computer. So you have an encryption or you do not have encryption.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Oh I think – I think maybe I am kind of getting to what was confusing me.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: You said conditional access simply means you will have access if you meet the conditions.

MR LAWRENCE ROY KRUGER: Hm.

10 **CHAIRPERSON:** I think what was confusing me is that you said when we talk about this set boxes it is really conditional access and then I was wondering why are you saying let us talk about conditional access when the whole project is meant to be

ADV THANDI NORMAN SC: Free.

CHAIRPERSON: Free to air project. I think that is where I was getting confused.

MR LAWRENCE ROY KRUGER: Okay.

ADV THANDI NORMAN SC: Yes.

20 **CHAIRPERSON:** Because I got the impression that you were saying whether you are going to end up with a free to air project or a not free to air project this system that you are going to need to use is called conditional access and then I was thinking why call a system conditional access.

MR LAWRENCE ROY KRUGER: Okay.

CHAIRPERSON: If it is actually not conditional.

MR LAWRENCE ROY KRUGER: Okay. If I can maybe just then step back one step. The conditional access system is a computer. Let us put that on the side. Here it sits here. Conditional access. SABC, E-TV and MultiChoice sit here and they send signals to the network and you – you watch these signals.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Some of those signals are called free to air. So they send free to air signals up and down.

CHAIRPERSON: Yes.

10 **MR LAWRENCE ROY KRUGER:** The end user does not pay.

CHAIRPERSON: Yes. Yes.

MR LAWRENCE ROY KRUGER: A conditional access the Minister in the beginning said listen we want to encrypt those signals.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Because we getting pressure from movie houses etcetera and there is a number of other issues which I will go through just now. We want to protect our local industry from – local manufacturing industry and I will tell you why.

CHAIRPERSON: Hm.

20 **MR LAWRENCE ROY KRUGER:** So he said we are going to use the conditional access to encrypt these signals but it will still be free for the people at the end.

CHAIRPERSON: Oh.

MR LAWRENCE ROY KRUGER: Okay conditional access, computer can encrypt but it is for free for the people on the end. That is it.

CHAIRPERSON: But ordinarily – ordinarily a conditional access

MR LAWRENCE ROY KRUGER: System

CHAIRPERSON: System is based on – on the fact that the end user will pay.

MR LAWRENCE ROY KRUGER: No. The end user does not pay. I just mentioned that in a pay TV operation.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: They also have conditional access. MultiChoice has got a conditional access system;

10 **CHAIRPERSON:** Yes.

MR LAWRENCE ROY KRUGER: As well.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And one of their conditions to watch TV is you must pay.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: But the one that Sentech has got we are not going to – one of the conditions is not payment.

CHAIRPERSON: Yes.

20 **MR LAWRENCE ROY KRUGER:** There is no conditions for you to watch. So it is not conditional.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: But the computer is still called conditional access.

CHAIRPERSON: Oh so in the end the computer remains called conditional access.

MR LAWRENCE ROY KRUGER: Yes.

CHAIRPERSON: But that does not necessarily mean that...

MR LAWRENCE ROY KRUGER: That you have to pay.

CHAIRPERSON: Anybody using it has to pay.

MR LAWRENCE ROY KRUGER: Ja. Nobody has to pay.

CHAIRPERSON: Okay now I think I understand.

MR LAWRENCE ROY KRUGER: I just gave that as an example that pay TV guys you must pay.

CHAIRPERSON: Yes. Okay. Yes Okay.

10 **MR LAWRENCE ROY KRUGER:** That is one of the conditions.

CHAIRPERSON: Okay. Okay that is fine.

MR LAWRENCE ROY KRUGER: But it has many other applications.

CHAIRPERSON: Yes okay. Thank you.

ADV THANDI NORMAN SC: Thank you. Thank you Chair. So then the way you have described it to the Chair that was your role at the time when you were Technical Advisor that you had to go and actually take control so that people understood exactly what the system was all about?

20 **MR LAWRENCE ROY KRUGER:** Ja I think you know part of my job description if you want was to make sure that people with – in the Department of Communication which they had about 450 staff understood what this whole project was about exactly. Now I did not want to go into deep technical detail but I know there is a lot of people just did not have the understanding of exactly what they are doing. So I used to have lectures to try and give information to these guys. But

at the end of the day we ended up with a policy document which then stated that there should be set-top box control in the South African Policy document that there will be set-top box control. There will be a messaging system which is – the conditional access system it can do set-top box control. It can do messaging and it can do – there was another piece of software to check set-top boxes. Let us call it a set-top box checker software. The conditional access can do those three so the Minister put that in the policy and said listen Sentech via our policy we want those three implemented. The main one being set-top
10 box control. And ...

ADV THANDI NORMAN SC: The initial.

MR LAWRENCE ROY KRUGER: The SABC was with us all the time. The SABC approved. Lulama Mokhobo wrote the Minister a letter – oh sorry I need to step back one. So when I found out that Sentech had this conditional access system already in place I went to the Minister I said Minister I see SABC has gone out on tender for a conditional access system. They do not need to. Sentech's already got one. The Minister was kind of surprised. He – oh ja. So I said yes. So all we have to do is advice SABC. You do not have to go out on tender you
20 will use – you will...

CHAIRPERSON: The Sentech system.

MR LAWRENCE ROY KRUGER: I am using that word so that you can understand – you will use Sentech.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: So which year was this now?

MR LAWRENCE ROY KRUGER: Pardon? That was 2012.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: In 2012.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: So and she wrote a letter to Doctor Ngubane and she told him please advise SABC.

CHAIRPERSON: To Doctor who?

MR LAWRENCE ROY KRUGER: Doctor Ngubane.

CHAIRPERSON: Oh Doctor Ngubane?

10 **MR LAWRENCE ROY KRUGER:** Yes.

CHAIRPERSON: The Chairperson of the board at the time.

MR LAWRENCE ROY KRUGER: The Chairperson yes.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Please you will use Sentech they have already got the system in place. They have bought it. They have got engineers trained on it. They have a help desk to help people. So it is available. Then E-TV decided.

20 **CHAIRPERSON:** I am sorry. At that time do you have any recollection as to how far the tender process had gone at SABC for the same system?

MR LAWRENCE ROY KRUGER: It – the first tender had lapsed.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And they renewed it.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: For another 90 days.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: It lapsed again.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And they were about to renew it.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: When I actually stepped in.

CHAIRPERSON: Okay, alright.

MR LAWRENCE ROY KRUGER: Ja. So

CHAIRPERSON: This letter was sent to Doctor Ngubane [indistinct].

10 x**MR LAWRENCE ROY KRUGER:** Ngubane ja and E-TV – it is strange kind of setup but at that stage E-TV did not support set-top box control. So they took the Minister to court and this basically got rid of 2012 deep into 2013 when we eventually ended up in court. And the reason they took the Minister to court was they said you as the Minister do not have power to tell – to direct SABC what they will and will not do. Strange but I thought the Minister had power but it turns out in law she did not have power. And E-TV won the court case.

CHAIRPERSON: But if – but if the Minister did not have power to tell the SABC what to do how was that prejudicing them?

20 **MR LAWRENCE ROY KRUGER:** It was not that the prejudicing SABC but – oh you mean E-TV?

CHAIRPERSON: No, no, I mean E-TV you know where did they come in?

MR LAWRENCE ROY KRUGER: I think it was because they did not like the fact that the Minister was saying you will use Sentech's set-top box

control system whereby – I need to step back again. The tender that SABC sent out was done on behalf of a consortium and the consortium was E-TV, SABC, MultiChoice and the community TV broadcasters. So by the Minister saying listen SABC – although she wrote the letter to SABC it would affect the other guys because she is telling SABC no, no, no forget about that tender you will use Sentech and the E-TV said ah, ah, ah we want to go out on tender.

CHAIRPERSON: I just remember because of the question that I asked that you talk about E-TV taking the Minister to court. I think that is a
10 matter that ended up in the constitutional court at some stage.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And I was part of the panel that heard the matter but that is neither here nor there.

MR LAWRENCE ROY KRUGER: No I think you talking about –

CHAIRPERSON: But I think that...

MR LAWRENCE ROY KRUGER: There is a second court case on now.

CHAIRPERSON: Or maybe it was ...

MR LAWRENCE ROY KRUGER: Ja.

CHAIRPERSON: Okay. But the – I am raising that because I seem to
20 remember that even during the hearing of that matter I may have asked the same question to say but where does – where did E-TV come in here? I want to understand why would they have that complaint you know? What was their basis for – for even going to court about this because I may thought that the papers, the affidavits did not seem to explain that? So – so but you may proceed.

MR LAWRENCE ROY KRUGER: Okay.

CHAIRPERSON: Ja I will have to look at the affidavits and the judgment and refresh my memory.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: As to what happened. Yes continue.

MR LAWRENCE ROY KRUGER: Okay. So we then – we got a letter got back from SABC from Lulama Mokhobo saying yes this is all systems go, we fully support you, our project team headed up the CTO or acting CTO at that stage from SABC Siphon Masinga. We sat in the
10 project team. We went through all how we are going to implement this to the extent that we actually had agreements set up by Doctor Setuma Mohapi from Sentech how he would implement the set-top box control, the costs involved from the broadcaster's side not the end user. The end user pays nothing. The broadcasters what they would pay, the monthly costs, how it would be implemented? And SABC fully behind us. Then it – then it came a change in the Minister's – Minister Dina Pule was recalled and...

CHAIRPERSON: Just – I am sorry. Just before you go to the new minister coming in. So the position we are – you were at at the time
20 when Minister Dina Pule left was that the tender process that the SABC had initiated in order to get conditional access had been stopped because the Minister on your advice wrote a letter to the Chairperson of the board and the board and the management of SABC accepted the instruction, direction or whatever it was or suggestion from the Minister that there is no reason to seek to obtain a conditional access because

Sentech has got it ready. That is the – that is what – that is what the position was.

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: When Minister Dina Pule left.

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: Okay. Alright yes. So Minister Pule left.

MR LAWRENCE ROY KRUGER: Maybe and kind of happening at the same time – at the same time what was happening is that MultiChoice was also objecting to all kind of things in the policy document which they did not like. And – sorry I am just trying to get my thoughts there. Because a am just trying to tie up the time line when the Minister changed and Minister Yunus Carrim came in.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: There was already a complaint from MultiChoice and suddenly – I just cannot get the exact time but the SABC decided we no longer want to cooperate in this we do not need a conditional access/set-top box control system. So we as the SABC are not participating. Now we were shocked because we had like I say we already had contracts set up with Sentech that the SABC would sign. E-TV – E-TV in fact I think they might have even signed their side of it. It was just SABC still to put their signature. And the next thing SABC ...

CHAIRPERSON: So at that stage E-TV was in line with your views?

MR LAWRENCE ROY KRUGER: Ja.

CHAIRPERSON: In terms of what should happen, is that right?

MR LAWRENCE ROY KRUGER: Yes.

CHAIRPERSON: Okay yes.

MR LAWRENCE ROY KRUGER: Ja.

CHAIRPERSON: Continue.

MR LAWRENCE ROY KRUGER: It is strange but remember they took the Minister to court but then they kind of changed their mind.

CHAIRPERSON: Oh.

MR LAWRENCE ROY KRUGER: But they were then in line with us.

CHAIRPERSON: Oh okay. The stage where Minister Pule left.

10 **MR LAWRENCE ROY KRUGER:** Ja.

CHAIRPERSON: Had E-TV taken the Minister to court already?

MR LAWRENCE ROY KRUGER: Yes.

CHAIRPERSON: Had that litigation been finalised?

MR LAWRENCE ROY KRUGER: Ja that was finished.

CHAIRPERSON: And what was the outcome of that litigation?

MR LAWRENCE ROY KRUGER: The outcome ...

CHAIRPERSON: As you recall.

MR LAWRENCE ROY KRUGER: Oh in the court

CHAIRPERSON: Ja in the court as you recall it.

20 **MR LAWRENCE ROY KRUGER:** The Minister lost the case.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And her letter had to be withdrawn from the SABC.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: But that was my understanding.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: She was – she had no power to tell SABC what to do.

CHAIRPERSON: Okay. That issue that went to court in regard to that litigation related to the letter from the Minister that said stop the tender process because Sentech has got what you are looking for.

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: Okay alright so after the outcome of the case as you understood the position was the position therefore that the SABC board
10 was the one that was said to have the power to decide whether they would need to go to tender process or to continue on the path that had been suggested by Ms – Minister Pule?

MR LAWRENCE ROY KRUGER: That is how I would understand it yes.

CHAIRPERSON: That is how you understood it?

MR LAWRENCE ROY KRUGER: Ja, ja.

CHAIRPERSON: But after the Minister had left then what happened?

MR LAWRENCE ROY KRUGER: So as I say one day we kind of getting ready to sign these contracts and SABC via Siphon Masinga says we no longer going to participate the SABC has decided they do not want any
20 set-top box control, any encryption or anything to do with the conditional access system from Sentech. Now we were kind of surprised because we had these like war room meetings every week to update and get ready to go. So I decided to try and find out why and then talking to colleagues in the SABC it turned out that the SABC had signed the contract with MultiChoice and the DG at that stage Ms

Rosey Sekese she called me and said listen have a look at this contract. There is a clause I cannot remember which clause but there are two or three clauses what does it mean to us as a Department of Communications and the SABC? And I will summarise it but those clauses said – we as MultiChoice will give you I think – I do not know what the exact numbers are R500 million a year for you to put your channels on our network but you are – oh I am using my own words now – you are banned from using encryption or set-top box control on this network. Which is – how can a MultiChoice tell the government you will
10 not use set-top box control. But somehow they convinced the SABC and that was the end of that. So the Minister – SABC said we no longer want. So – but our – as I say I do not know the time lines. Even Ms Ellen Tshabalala she became the new CEO of SABC also during that time.

CHAIRPERSON: Oh she was [indistinct].

MR LAWRENCE ROY KRUGER: Also during that time. Even she wrote us a letter to Minister Yunus Carrim he just started and she listen you have got my full support, go ahead, let us sign up with Sentech, we fully support you. Within a week she sent a letter sorry we have
20 changed our mind.

CHAIRPERSON: Ha.

MR LAWRENCE ROY KRUGER: I am still flabbergasted today because that whole process is why South Africa is not finished with their digital rollout. That whole process is stopped right there. Because there were influences from other people, other companies that have somehow

stopped the whole thing. They came with this free to air that people must pay. Oh the costs are going to be ridiculous and the more we – the Minister Yunus Carrim called – he called conferences and he got MultiChoice and everyone to try and come up with a consensus. He gave them leeway. He came up with new – he asked them to put in. And then we came up with a – in fact we even got a new policy, a totally new policy which we took to Parliament and they passed the policy. And it was a brand new policy and that policy said, Okay the SABC does not want encryption so what we will do is we change the

10 policy to say okay the set-top box control system will allow – allow or disallow encryption depending on what the broadcaster wants. If E-TV wants encryption we will allow it but they will pay what the government decides. To me it was a simple system. Either you wanted it and you paid or you do not want it and you do not pay. And Parliament passed the thing that is it. They passed the policy. Not good enough. And that is why we are still sitting where we are today. Somebody still did not like it.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So what was the – or what were the important

20 differences between the policy as it was before Minister Carrim came in and the policy that he took through Parliament and got passed. What was the main ...?

MR LAWRENCE ROY KRUGER: The main difference was that – call it Minister Pule's policy said there will be set-top box control. Minister Cariim's policy said there will be set-top box control if you want it.

CHAIRPERSON: But then you must pay.

MR LAWRENCE ROY KRUGER: Then you pay, if you do not want it there will not be set-top box control.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And we even – sorry Chair. At the – at Sentech a Doctor Sethuma Mohape he is a very intelligent guy he actually came up and drew pictures and said listen okay this is what the network is going to look like. Here are SABC network – channels running through the network, totally unencrypted. Here is E-TV running
10 through the network, through the conditional system payment because they are going to now pay us and they will be encrypted. He made it so simple for people but no the SABC and MultiChoice said no we want nothing, nothing.

CHAIRPERSON: Now...

MR LAWRENCE ROY KRUGER: Because people are going to pay. So now I got to add it on because the user – the viewer is going to pay.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Which is rubbish.

CHAIRPERSON: Is the position that certain – those who were opposed
20 to this from the point of view of entities wanted to benefit from a system without paying anything. Was that the issue as you understand it or was the issue a much bigger one maybe relating to the suppression of competition or whatever?

MR LAWRENCE ROY KRUGER: Chair there is – there are a number of issues. First of all if you can imagine the government's decided listen

we are going to give 5 million free set-top boxes to poor people. So now we put set-top box control in and E-TV comes along what do they inherit? They inherit 5 million subscribers so MultiChoice jumped on that. This is rubbish. We have had to go and find out own 5 million subscribers through marketing and programming and whatever. E-TV is coming along, jumping on – and they getting 5 million free – free subscribers. So they opposed it vehemently and in one way I can kind of say ja well that is fine but it is – it is one of those things. Those 5 million customers are already there. Sorry and then I say to – I said to
10 MultiChoice their engineers but listen MultiChoice you are also getting those 5 million customers for free because you are on the same net – you are coming onto the same network so you getting another 5 million customers and yes E-TV is getting but we changed the policy. Minister Carrim changed the policy so they [indistinct] pay. So what is the big issue? Well I know the big issue is politics and that is not my issue. I am an engineer I know that this network will work in simple terms.

CHAIRPERSON: But is the issue politics or is the issue corruption?

MR LAWRENCE ROY KRUGER: Ja look I do not want to speculate between those two but you know it is one of those things somebody you
20 do not – those big corporations do not just do something because they think oh well we just going to do it.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: There has got to be some give for us.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Why do they do it?

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: But I am – like I say I do not want to...

CHAIRPERSON: So you say you do not have the facts to ...

MR LAWRENCE ROY KRUGER: I do not have facts to say it is corruption.

CHAIRPERSON: Yes, yes but ...

MR LAWRENCE ROY KRUGER: I have the engineering facts to say listen why do you do it? I mean it is – you are not going to lose anything and me as a simple citizen like you are not – you gaining 5
10 million customers in this case, they gaining customers. Common sense says geez.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: I mean my network is going to grow.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And if I do my marketing properly with my extra 5 million poorer people I am going to market towards that lot. I am going to get even more revenue. So I – common sense cannot put it in place why they did not do it and specifically SABC. Here you got 5 million people it has been now ten years that this thing has not been
20 rolled out. The revenue streams that they have lost. And now I am going to jump ahead because I am – I need to move – well ...

CHAIRPERSON: Okay alright.

MR LAWRENCE ROY KRUGER: I am – ja – I just want to more [indistinct] because they said what about – why would you put a set-top box control system in not just because it is policy. There are some

issue – some benefits for that. One of them is that again my opinion but it is an engineering opinion. The SABC is looking for revenue streams why can they not become a pay TV operator? You have got a set-top box control system in – a conditional access system. It is there – it is [indistinct] it is working. Put it in and become a pay TV operator and be in opposition to MultiChoice. No, no we cannot have opposition like this. That is not – what is not fair? SABC is a private company why can they not compete? The second thing is if they do not want to become a pay TV Operator there is a technology called pay-per-view.

10 Pay-per-view on the – in Europe and America multi billion dollars.

Now there are some people in South Africa - let us call them the Boere - they like rugby but they cannot afford to fly to the World Rugby Cup now and they - they cannot afford DSTV.

So they are not going to see the Rugby World Cup. SABC with the conditional access system can tell them listen for 300 bucks we will put the channel onto your TV and you can watch it. Do that times three or four million people millions of Rand flowing in there. I do not know why they do not do it. That is why I said that the set-top box control system has got so many advantages.

20 It is unbelievable. Then - then MultiChoice will come and SABC but to - what we have to do is we have to put a little chip in - in the decoder. Yes you have to. It cost \$2.00. It is R29 to put it in but you can generate millions. R29, ja but who is going to pay that? The taxpayer. Yes the taxpayer. Yes it is a lot of money but the revenue kickback one you do your model it is a non - you do not even have to

think about it because you are going to make so much money out of it but they fought against it. So I - I know I get worked up because it irritates me.

CHAIRPERSON: No, no I ...

MR LAWRENCE ROY KRUGER: When simple things can get - get solved by ...

CHAIRPERSON: That - that is very important Mr Kruger because as I say you know I was involved in the Constitutional Court when the case came - at least I think it would have been the first one relating to this
10 project and I seem to recall that there were just certain things that did not seem to make sense in positions that were being taken by certain people - entities and - and you were involved in the project quite closely.

You are an engineer you understand all of these things. It is very important that you share with me exactly your own understanding of what the challenges are. What is the problem because you will - you would know what is possible and what is not possible and because I asked some witnesses last week already here about this issue.

I said from my recollection of the court papers in that matter
20 this whole thing the Government began to talk about policy - about this project way back in the mid-2000 there about and I think one witness said 2002 ...

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: Initially and I say we are in 2019 and it still has not been you know - what is going on you know. So - and it is interesting

that you are telling us that in Mozambique they started after - after South Africa?

MR LAWRENCE ROY KRUGER: Ja. Last year - 18 months they have been going.

CHAIRPERSON: 18 months they - they will be done. So it is important that we find out exactly what it is because if it is corruption. Then it needs to be dealt with very urgently and properly because in the meantime I mean costs are going up. I mean in the end you know certain things might be free to the end user but probably somebody
10 else pays you know.

You know. So - so often we say things are free but the - the truth is that somebody else pays so that you do not pay you know. So - so I am very keen. So do not feel bad about being worked up because I want to try and ...

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: Really understand what is going on and you are trying your best to put me in the position to understand.

MR LAWRENCE ROY KRUGER: Huh-uh.

ADV THANDI NORMAN SC: Yes.

20 **CHAIRPERSON:** Thank you.

ADV THANDI NORMAN SC: Thank

MR LAWRENCE ROY KRUGER: Okay.

ADV THANDI NORMAN SC: Thank you Chair. Mr Kruger in fact you have actually dealt with everything in your statement ...

MR LAWRENCE ROY KRUGER: Hm.

ADV THANDI NORMAN SC: But there are just areas that I am going to just take you back. So that you can just ...

MR LAWRENCE ROY KRUGER: Okay.

ADV THANDI NORMAN SC: Deal with those just thoroughly but answering the Chairperson you ended up just dealing with everything that -

MR LAWRENCE ROY KRUGER: Okay.

ADV THANDI NORMAN SC: That you dealt with but can I just take you to paragraph 25 at page 7 of your statement. I know that you did touch
10 briefly on the - on the useful functions of the STB. Could you just emphasise those that you have in paragraph 25 please?

MR LAWRENCE ROY KRUGER: Okay. I - I would also like to Chair you - you were talking about corruption. Now again I cannot say there - there was corruption but I am in the simple common sense you say something went wrong.

These set-top boxes they are simple devices and when I started there the policy document the Government had budgeted I think it was R750 per set-top box multiplied by five million gives you a billion Rand and - and people were saying and now you want to go add
20 another R29 - this is now down the road - for - for this set-top box control but there is - end result is that the set-top boxes came right down and today you can buy them for R300 including set-top box control.

So Ms Dina Pule calls me and says listen we need to go out on tender for this. Can you please arrange the whole thing? As an

advisor I can - I can do the documents but I cannot participate in it. According to the law apparently but I mean I did the technical document. I did the tender specifications and we sent the tender out and we got a reply from I think about 35-odd companies and the Government's policy was to develop the electronic manufacturing industry here specifically for small manufacturers but more specifically for Black entrepreneurs.

So we made sure that this is the area that we are going to get into to make sure that South African entrepreneurs score and to the
10 extent that we went to the South African Bureau of Standards and they set up a specific standard that every set-top box sold in South Africa must comply with this standard. Specifically for the subsidised - we call them subsidised units for the - the five million that the Government is given away.

They must comply with this standard and everybody SABC, MultiChoice, E.TV, community operators all agreed - they all signed off the document at SABS and in that document it says there must be set-top box control. So the reason for that is if you do not protect these boxes you can go and buy a foreign imported box for literally
20 R20.

That would kill the local manufacturing industry. So we - our group at the - at the - under Minister Yunus Carrim and - and under Dina Pule were adamant that we have to have the set-top box control to protect the boxes. So to come to the lawyer's questions is one of the benefits of putting set-top box controlling is to protect the local

industry from dumping of cheap set - set-top boxes.

Now I know maybe some people say but I want a cheap set-top box. The problem is when you talk about poorer people if something goes wrong - they had this in Mauritius. They just opened up and let anybody bring set-top boxes in. When the thing goes faulty they phoned the Government call desk and said listen my box is not working.

I cannot see SABC and the guy on the call what is the name of the box and says oh well it is a - it is Wang Dang 1 and they say we
10 do not have this on our list. I do not know and that guy is left. He cannot watch TV. So we come up with a standard. All the boxes comply with that. We put set-top box control in. You cannot bring your box into this country unless you take it to SABC and get it verified.

So that was the - that is the one benefit of having set-top box control is that we can - we can keep our local manufacturing industry under control. The other thing is and they sound simple for people like us here maybe all of us that a set-top box control system has got a number of intelligent systems. Number one we can send information to people.

20 It is called a messaging system but you can send it because when - when you get a set-top box and you go pick it up at the post office which is the way we were going to distribute it. You fill in a form so we have got all your details. It is on the set - it is on the subscriber management system part of the conditional access system computer there is a subscriber management system.

So we have got your details and we know that you speak Zulu and we know that guy speaks Sotho. He is English. He is Afrikaans. We know that. Now the Government wants to have elections. They can send out information in the language of that person to say listen on that date we are having elections you go there - very valuable information. To me that is a benefit for the Government.

That is why you set-top box control in. Not only that. If there is a disaster coming in an area you can send disaster reports in that area's language or the individual to say listen there is a disaster
10 coming. You need to get out and you can go to this and this place.

CHAIRPERSON: And - and those messages come out on - on the screen - on their ...

MR LAWRENCE ROY KRUGER: On the screen, *ja*.

CHAIRPERSON: On their TV screens?

MR LAWRENCE ROY KRUGER: On the screen.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: So you will see a little - a little - I do not know those who have got DSTV sometimes you get a little message there a little envelope. It is a message. You go and click on it and it
20 tells you. So - so you can do that.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: So - what else?

ADV THANDI NORMAN SC: Yes, you have - you have touched - you have dealt with 25.1. You have dealt 25.2 when there is an emergency or you know whether and then elections you have dealt with and then

let us deal with - then with - although you did touch upon it being able to disable foreign intrusion you deal with that in paragraph 27.

MR LAWRENCE ROY KRUGER: Huh-uh.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: Another function of the set-top ...

CHAIRPERSON: I am sorry.

MR LAWRENCE ROY KRUGER: Box control system ...

CHAIRPERSON: I am sorry. Before you do ...

ADV THANDI NORMAN SC: Yes.

10 **CHAIRPERSON**: Do that just to make sure I follow. I thought that when you - when you started you said we actually do not need the set-top boxes. South Africa did not need them ...

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: Because of SENTECH. I misunderstood that part.

MR LAWRENCE ROY KRUGER: No, no, no.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Sorry Chair. Every - every household in South Africa with any kind of TV ...

CHAIRPERSON: *Ja*.

20 **MR LAWRENCE ROY KRUGER**: Must have a set-top box.

CHAIRPERSON: Yes, okay.

MR LAWRENCE ROY KRUGER: Whether you have - if you get one from - from MultiChoice that is your choice. You pay ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: But if it is from the free-to-air

channels ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: You can collect it at the post office -
the indigenous people ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Or those who do not they have to buy
it from ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Dions or wherever but everybody must
10 have a set-top box. Sorry. I - I

CHAIRPERSON: Okay.

MR LAWRENCE ROY KRUGER: Maybe I failed to mention it.

CHAIRPERSON: No, no. My understanding at that time when you were
speaking and I must have misunderstood you ...

MR LAWRENCE ROY KRUGER: Oh.

CHAIRPERSON: I - I got the impression that what you were saying was
South Africa seems to be obsessed with this idea of set-top boxes ...

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: But there is a system ...

20 **MR LAWRENCE ROY KRUGER:** Hm.

CHAIRPERSON: Which is maybe more modernised much better and if
you - if you use that system which I - I understood to be the SENTECH
System ...

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: If you use that system you do not really need this.

MR LAWRENCE ROY KRUGER: Hm.

CHAIRPERSON: I thought that is what ...

MR LAWRENCE ROY KRUGER: *Ja*.

CHAIRPERSON: That is not true?

MR LAWRENCE ROY KRUGER: Sorry. No, no that is not true ...

CHAIRPERSON: Okay. No that is fine.

MR LAWRENCE ROY KRUGER: Because some of the - some of the TVs that the poorer people have got they are very old and they still have what they call an analogue interface where - where you plug your
10 antenna into.

CHAIRPERSON: Okay.

MR LAWRENCE ROY KRUGER: And now we need the set-top box to convert to digital ...

CHAIRPERSON: Okay.

MR LAWRENCE ROY KRUGER: And stuff.

CHAIRPERSON: No that is fine.

MR LAWRENCE ROY KRUGER: So *ja*. You do need it.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. Thank you Chair.

20 **MR LAWRENCE ROY KRUGER:** So sorry. The other benefit which it is linked to is ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And it is in the policy document of South Africa.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Is that you need to be able to disable set-top boxes that are stolen ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And you can only do that by having a set-top box control system.

CHAIRPERSON: Huh-uh, hm.

MR LAWRENCE ROY KRUGER: Now subsequent to that another new Minister came in Minister Muthambi and - and she got some engineers from MultiChoice ...

10 **CHAIRPERSON:** Hm.

MR LAWRENCE ROY KRUGER: Who came up with this - I do not know if I must call it the ingenious idea ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: But you do not actually need this conditional access system. We can just (indistinct) a bit of software. They call it Multiplex Verification ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And it is a simple software which can be hacked at any time and - and that will disable the - the set-top box control and that is what they were going to implement as South Africa's
20 set-top box control system.

ADV THANDI NORMAN SC: Hm.

MR LAWRENCE ROY KRUGER: Rubbish. So I do not agree with that system.

CHAIRPERSON: Yes. Talk more about the merits - merits and

demerits of what they came up with.

MR LAWRENCE ROY KRUGER: The merits and demerits of?

CHAIRPERSON: Of what they came up with. Their - their proposal.

MR LAWRENCE ROY KRUGER: Oh.

CHAIRPERSON: Those ingenious.

MR LAWRENCE ROY KRUGER: As I say the software they came up with for set-top box - first of all - I assume the Minister's team. They said but messaging - messaging is quite simple. If you watch your TV every day you see at the bottom ...

10 **CHAIRPERSON:** Hm.

MR LAWRENCE ROY KRUGER: That little - they call it tickertape running there.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: We can send messaging there.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: That defeats the objective of sending it in - imaging sending 11 languages on that tickertape there.

CHAIRPERSON: Hm.

20 **MR LAWRENCE ROY KRUGER:** I think you will probably confuse half of ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: You probably confuse all the White people but certainly most of - a lot of the Black people will be confused because so many languages ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And I think you will lose the message but that was their idea. So we do not need a set-top box control because we will send our messaging via that.

CHAIRPERSON: That is the MultiChoice engineers ...

MR LAWRENCE ROY KRUGER: I - I am assuming ...

CHAIRPERSON: Who are saying that in terms of your (intervenes).

MR LAWRENCE ROY KRUGER: I think the SABC engineers.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: They - they used some advisors.

10 **CHAIRPERSON:** Oh, some advisors, yes.

MR LAWRENCE ROY KRUGER: Ja, let us use that or they used some advisors ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: To give them ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: How do we kind of - in my opinion ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: How do we bypass this policy ...

CHAIRPERSON: Yes.

20 **MR LAWRENCE ROY KRUGER:** But not bypass it in terms of we still sticking to the basic clauses.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: So we saying set-top box control, yes. We will do Multiplex Verification ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Which is not a set-top box control. It is just a piece of software ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: But - but it still complies. It still set - we are still controlling the set-top box.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Oh - oh the policy says messaging. Oh, *ja* we will just sending messaging at the bottom then. So they still comply ...

10 **CHAIRPERSON:** Hm, hm.

MR LAWRENCE ROY KRUGER: And that is how - how this kind of thing ...

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: Got stuck somewhere along the road.

CHAIRPERSON: Hm. Apart from the weaknesses of that proposal that you have - the said - what other weaknesses in this proposals of the SABC advisors that - that they came up with?

20 **MR LAWRENCE ROY KRUGER:** Well I think the thing is it comes back to and I think that is the whole emphasis of my - my ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Input here Chair ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Is encryption or non-encryption.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: If you do not encrypt basic systems like your WhatsApp that you use ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Is fully encrypted.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Now there is two ways of doing encryption. You can do what they call end encryption ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Or you can do end to end encryption.

10 **CHAIRPERSON:** Hm.

MR LAWRENCE ROY KRUGER: End encryption means like from the transmitter ...

CHAIRPERSON: Huh-uh.

MR LAWRENCE ROY KRUGER: To one side of that other transmitter you can encrypt.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Let me give you an example. If we go back to this conditional access. Say for example you have not paid your bill ...

20 **CHAIRPERSON:** Hm.

MR LAWRENCE ROY KRUGER: At ET - ag ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: At MultiChoice.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: The conditional access system ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Will send out what they call an entitlement control message ...

CHAIRPERSON: Huh-uh.

MR LAWRENCE ROY KRUGER: And it encrypts it. Just here by the computer ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And it sends out this encrypted message over the network. It does not encrypt it on the network.

10 **CHAIRPERSON:** Hm.

MR LAWRENCE ROY KRUGER: When it gets to the other side the set-top box control - ag the set-top box ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Decrypts it ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And says listen this set-top box has not met the condition ...

CHAIRPERSON: Hm.

20 **MR LAWRENCE ROY KRUGER:** To be switched on because you have not paid your bill.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: So it tells the set-top box do not switch me on.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: So you sit at home why is it not

working. Well you have not paid your bill.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: You then go and pay your bill ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And the conditional access system then sends out a thing called ECM. An Entitlement Control ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Message.

CHAIRPERSON: Huh-uh.

10 **MR LAWRENCE ROY KRUGER:** It encrypts it.

CHAIRPERSON: Huh-uh.

MR LAWRENCE ROY KRUGER: Sends it on to the network. It does not encrypt. It is already encrypted ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And it sends it to the set-top box ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And says listen this guy has paid.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: You can now ...

20 **CHAIRPERSON:** Hm.

MR LAWRENCE ROY KRUGER: Switch him on ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And that is what it does. So that is the end encryption.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: It is just on the end ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: And - and at the set-top box.

CHAIRPERSON: Hm, hm.

ADV THANDI NORMAN SC: Just before you move on is that what you described at page 24? You have a diagram there. Would that talk to ...?

MR LAWRENCE ROY KRUGER: *Ja*.

ADV THANDI NORMAN SC: Yes. Could you just - could you just take
10 the Chairperson to that page? Page 24 - 2-4.

MR LAWRENCE ROY KRUGER: So you then get end to end encryption ...

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: Which is fully encrypted across the network and the reason you do that - *ja* that - that in essence if - if you look at that.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: There we have input. We have encryption and no encryption and then the set-top box sits with the
20 control chip inside it and - and your channels come out the other side for free.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: But - I have lost my train of thought for a minute.

ADV THANDI NORMAN SC: So you were still describing one - then

somebody has (intervenes).

MR LAWRENCE ROY KRUGER: The end to end ...

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: Encryption.

ADV THANDI NORMAN SC: *Ja.*

MR LAWRENCE ROY KRUGER: That means from when the - for example where we are sitting now the guy - there is the camera. He is taking a movie of me. As soon as it goes out the camera into his Multiplex we encrypt. We then send that across to SENTECH fully
10 encrypted. Why do I say fully encrypted and what is the benefit?

Say for example - can I use politics as a - our political system ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: As an example.

CHAIRPERSON: Huh-uh.

MR LAWRENCE ROY KRUGER: Say you have got - I have been a member of the ANC for 40 years or nearly 40 years but I want to do something against the DA. So now you and I Chair we are sitting and talking I say listen the DA we need to sabotage them and - and I am
20 talking to you now. So it is going on the movie but I have encrypted it. It goes out and there is somebody from the DA who is an engineering wizard.

He is sitting there with a receiver which can receive all these frequencies and he takes this and he says listen what Roy Kruger said and he rushes off to his side and said listen check this line. They spy

and so effectively they are spying on us. Sorry that was a - if it is not encrypted but if it is encrypted they cannot get that information.

So an unencrypted network is very easy to sabotage because people can just come in onto your frequencies take over and start using the network but if you have got a set-top box control in here he cannot do it unless he has already hacked the condition and access system which by then - well there is - there is problems on the whole computer network but encryption is the most important thing.

WhatsApp uses it. Facebook uses it and there is pressure
10 because people are stealing people's personal information because it is not encrypted. So you will see today hence Mozambique, Kenya, Namibia everybody is putting in encryption and the big movie houses are insisting on it. Thanks Chair. I think that is all I have got to say on this.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So - so coming back to the South African situation when you left what was the Government's position? I say Government as in the Minister of Communication's position whoever he or she was at the time you left the Department of Communications. What was their
20 - were they wanting encryption? Did they - did they not want encryption? What was the position?

MR LAWRENCE ROY KRUGER: The Minister at the time was - is Minister Yunus Carrim. He put the new policy to Parliament and his position was that we are going for set-top box control and we will have encryption or no encryption but if you want it you will pay for it and that

was the final policy.

CHAIRPERSON: So - so his position was kind of a compromise?

MR LAWRENCE ROY KRUGER: *Ja.*

CHAIRPERSON: Minister Dina Pule's position was encryption ...

MR LAWRENCE ROY KRUGER: *Ja.*

CHAIRPERSON: And that is it and Minister Carrim's position was well we will have encryption but if you want - if you do not want to encryption then you can have your non-encryption but then you must pay for it.

10 **MR LAWRENCE ROY KRUGER:** *Ja.* It is exactly - that picture that you see on page 24 ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: It shows you E.TV Chair.

CHAIRPERSON: Hm.

MR LAWRENCE ROY KRUGER: It goes through that orange block. It says encryption ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Because they wanted encryption.

CHAIRPERSON: Yes.

20 **MR LAWRENCE ROY KRUGER:** SABC, Community TV and Future TV they did not want encryption.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: So you bypass it.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: That is what we offered them in the

final policy ...

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: And that is how - I am sure that is still how it is today. I am not sure Parliament changed that policy.

CHAIRPERSON: Yes, yes. So and again you said it is the no encryption regime that is open to easy sabotage?

MR LAWRENCE ROY KRUGER: Huh-uh.

CHAIRPERSON: Yes.

MR LAWRENCE ROY KRUGER: Correct.

10 **CHAIRPERSON**: Okay, thank you.

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: Thank you ma'am.

ADV THANDI NORMAN SC: Thank you Chair and you also mention it is open to sabotage and terrorist - terrorist attacks and all of that?

MR LAWRENCE ROY KRUGER: *Ja*.

ADV THANDI NORMAN SC: Yes. Then you have already dealt with - with MultiChoice - MultiChoice's attitude and E.TV's attitude. Then you have mentioned and Mr Motsoeneng has been given we call the Rule 3.3. Notices in term ...

20 **MR LAWRENCE ROY KRUGER**: Say that again.

ADV THANDI NORMAN SC: You have - you mentioned Mr Motsoeneng in your statement. Am I correct?

MR LAWRENCE ROY KRUGER: *Ja, ja*.

ADV THANDI NORMAN SC: Yes and he has been given notice and he did testify yesterday that he would have preferred that you testify first

because you referred to him in your statement.

MR LAWRENCE ROY KRUGER: *Ja.* I refer to Mr Motsoeneng because on my investigation on - on why does the SABC all of a sudden change its mind it then turned out that Mr Motsoeneng had signed this contract with MultiChoice whereby MultiChoice banned the SABC from using set-top box control system. So that is why I mentioned that.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: In terms of that as you call it ...

MR LAWRENCE ROY KRUGER: Huh-uh.

10 **CHAIRPERSON:** The set-top boxes that had been intended to be used would no longer be allowed. Is that right? Is that what you say?

MR LAWRENCE ROY KRUGER: There would be no encryption allowed.

CHAIRPERSON: There would be no encryption allowed?

MR LAWRENCE ROY KRUGER: *Ja.* The set-top boxes will still be used ...

CHAIRPERSON: Oh.

MR LAWRENCE ROY KRUGER: But there is no encryption in it.

CHAIRPERSON: Yes. That is what I wanted to understand.

MR LAWRENCE ROY KRUGER: Hm.

20 **CHAIRPERSON:** Okay. So the - the agreement as you understand it that SABC signed with MultiChoice through Mr Motsoeneng insisted that the SABC would have to use non-encryption?

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: And that is - that would open the SABC up in terms of this project to very easy but serious sabotage of the system?

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: Yes. Okay, okay.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair and the other point that you make in paragraph 41 if you could just turn to that page and then summarise what you - you convey to the Chairperson there.

10 **MR LAWRENCE ROY KRUGER:** On page 41?

ADV THANDI NORMAN SC: Yes. Paragraph 41 page 11.

MR LAWRENCE ROY KRUGER: Paragraph 41.

ADV THANDI NORMAN SC: Sorry. Page 11 paragraph 41 and you already mentioned what you say in paragraph 40 but could you just deal with what you say in paragraph 41. I think these are the - this is a consequence of - of that agreement.

MR LAWRENCE ROY KRUGER: Ja. I think we have spoken about the free-to-air ...

ADV THANDI NORMAN SC: Yes.

20 **MR LAWRENCE ROY KRUGER:** Where - where MultiChoice was using this as one of the convincing statements that - to the SABC and in fact to all the community TV broadcasters that free-to-air would no longer be free-to-air if they include encryption.

ADV THANDI NORMAN SC: Yes. So - and then if you go to - I just want - so that I make sure that you have covered everything in ...

MR LAWRENCE ROY KRUGER: Hm.

ADV THANDI NORMAN SC: Your statement. You have already dealt with the letters of support that Ms Mokhobo and Ms Ellen Tshabalala had submitted supporting the encryption model. Then you say something in paragraph 47 where you deal with the change of Ministers. You have already mentioned this slightly but there is something that you say in the last two sentences. Could you just tell the Chairperson what you convey there?

MR LAWRENCE ROY KRUGER: Paragraph 47?

10 **ADV THANDI NORMAN SC:** Paragraph 47 page 12.

MR LAWRENCE ROY KRUGER: *Ja, ja.*

ADV THANDI NORMAN SC: Yes.

MR LAWRENCE ROY KRUGER: That is why I mentioned that earlier that when - when the new Minister - Minister Faith Muthambi came in they then with the SABC fully supported changing or in fact not implementing set-top box control and that is public knowledge that the Minister then went again - against the ANC policy or the - or the Government policy.

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

20 **CHAIRPERSON:** I am sorry.

ADV THANDI NORMAN SC: Sorry.

CHAIRPERSON: Which Minister was that now?

MR LAWRENCE ROY KRUGER: Faith Muthambi.

CHAIRPERSON: Okay. The - as you understood it the Government policy and the ANC policy was in favour of encryption?

MR LAWRENCE ROY KRUGER: Yes. Yes sir.

CHAIRPERSON: But Minister Muthambi took an - the different approach?

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: And said there should be no encryption?

MR LAWRENCE ROY KRUGER: Correct.

CHAIRPERSON: Yes. Well I - I must just say I mean I have already said that I was involved in hearing the matter that came to the Constitutional Court relating to litigation around this matter. I - I could
10 not understand why if the Government policy and the ANC policy was to the effect that encryption was the right way - was the way to go how there could be a Minister who is a member of the ANC who is deployed by the ANC in Government who is part of the Government how such a Minister could afford to go against both Government policy and the ANC policy and still remain Minister. You understand?

MR LAWRENCE ROY KRUGER: I am engineer but I understand.

CHAIRPERSON: I mean it - it does not make sense to me. If - if the ruling - I mean the ruling party says all the time that it deploys people in Government ...

20 **MR LAWRENCE ROY KRUGER:** Hm.

CHAIRPERSON: It says deploys even the President. The President of the country would be the President of the ruling party and how do you have a situation where a Minister who is subject to the ANC who is subject to the Government of which he is part continue to go against Government policy and ANC policy and nothing happens.

She continues to be Minister. Well I am sure there will be more people who will come here and Minister Muthambi will - will come here also and put her side of the story and maybe she will be able to explain.

MR LAWRENCE ROY KRUGER: Hm, *ja*.

CHAIRPERSON: Maybe - maybe you might think that with the position she took was against Government policy, maybe she would be able to show that it was not against government policy, even if it was – it may have been against the ANC policy, I don't know, but it is something that
10 I am very interested in getting enlightenment on, because in the Department of Communications there has been a high turnover of Ministers while this whole project lingers on.

Now you tell me, and you are involved in a similar project in Mozambique, you tell me that in Mozambique 18 months was enough for it to – for this project to be implemented, where in South Africa it has been ages, we – it has been ages and to the extent that this whole project was in part intended to benefit poor people.

MR LAWRENCE ROY KRUGER: *Ja*.

CHAIRPERSON: It means those poor people are not benefitting, there
20 is no service delivery and the question is why, and if it is true and I do not know if it is true at this stage, I will hear evidence, but if it is true that Minister Muthambi took a position that was against both government policy and against the ruling party's policy then I think both leaders of government and leaders of the ANC at the time may have a lot to explain, to say how do we have a situation where such an

important project has been decided upon, lots of money involved and there is just some rambling that is going on and at a certain stage a position is taken by a Minister that goes against Government policy and so on. As I say I do not know whether it was against Government policy and I don't that it was against the ANC policy but I do know that I have read things to that effect, and the relevant people will come and will explain.

MR LAWRENCE ROY KRUGER: Thank you Chair.

ADV THANDI NORMAN SC: Thank you Chair, and then lastly you
10 mention some of the benefits which you deal with at paragraph 49 which would enable citizens to get information relating to applications for ID documents, visa's and passports, it is an aspect that you did not mention.

MR LAWRENCE ROY KRUGER: No, I was just saying about all the different types of messaging that – to benefit poor people by sending messages you know for example I stay in George, which is a nice area but – and I do some work in the community, and there is a little, call it a squatter camp up the road from my house and when I say up the road it is about eight kilometres and I go there and I say to people listen you
20 need to vote and they say but we have not got an ID book and you kind of say well you and I as a normal person well why don't you just go to Home Affairs and get one.

Well I don't know if you have ever walked eight kilometres, gone to Home Affairs, walked eight kilometres back, then you wait three or four weeks, Home Affairs is quite efficient, but you don't have a post

box, so they don't know how to get the – that the ID book is ready and it lies there and lies there, if you go to most Home Affairs they've got thousands and thousands of ID books because people don't know they are ready and they don't get informed, but if they are then you have to get up and walk another eight kilometres, get your book and walk eight kilometres back.

For people with cars it's very easy but for poor people it is not, and the set up was control system via the messaging, you can send the message, if the person hasn't got a TV, I don't know many households
10 that don't have TV's, whether they're poor or not but at least via a family member the message can come through to say listen this is how you apply for the book, this is where you get it and yes it is ready for you to come and pick up now, so you know I don't want to belabour the point but to me it's just impossible not to have this system for the benefit of South Africa.

Thank you Chair.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Well Mr Kruger I think I would like you to do some extra work, if your situation permits. You were involved with this
20 project quite closely from the Department of Communication side and you are an engineer, you are able to explain certain things that somebody who is not an engineer might not be able to explain.

I would – I believe I may benefit a lot if you were to have the opportunity of reading the papers that were placed before the Court in the litigation letter we are talking about that went to the Courts, and

now I don't know whether at that time you may have been still part of the Department of Communications and I don't know whether your affidavit might have been put in to explain certain things or not, but I would very much like a situation where you could see what had been placed by – before the Courts by all sides and be able to see whether the Courts got a full and correct picture of what the position was about this project at that time, and if you think that the full and correct picture did not emerge from all those affidavits, from all sides, then prepare an affidavit that says here is maybe misrepresentation that was
10 made if there is misrepresentation, here is where there are gaps, this should have been explained to the Court, here is what we give the Commission, a correct and complete picture.

Is that something that your situation will permit you to do and possibly there will be assistance from the Commission but I know you work in Mozambique, you might not be easily accessible but I just want to know about the principle whether in principle provide that the logistics can be worked out whether it's something that you could consider.

MR LAWRENCE ROY KRUGER: *Ja* I can consider that, I mean it won't
20 be an immediate thing, but certainly I can yes Chair, no problem.

CHAIRPERSON: Yes, no thank you very much. The Legal Team I would like you to talk to Mr Kruger and make available to him a full set of papers that were filed in the High Court and the Constitutional Court in that matter.

ADV THANDI NORMAN SC: We will do that Chair.

CHAIRPERSON: It is a lot of – it is bulky.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: But I just want to be sure that the Courts were given the correct and complete picture, because if those papers do reflect the correct and complete picture as at that time then I know that if I look at them it's a complete picture.

MR LAWRENCE ROY KRUGER: Okay.

CHAIRPERSON: And if they did not represent the complete picture you can fill in the gaps by way of an affidavit to say here is what was left
10 out which completes the picture.

MR LAWRENCE ROY KRUGER: Okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Thank you very much.

ADV THANDI NORMAN SC: Thank you Chair ...(intervention)

CHAIRPERSON: I must just thank you then for coming to give evidence to the Commission and to share what you know about this project with the Commission, I think it is important. We may ask you to come back at some stage, I am not sure, but if we do I am sure that you will do what you can to make yourself available.

20 **MR LAWRENCE ROY KRUGER:** Thank you, thank you, no problem.

CHAIRPERSON: Yes, but thank you very much and for now you are excused.

MR LAWRENCE ROY KRUGER: Okay, thank you very much.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Chair. May we now take the

lunch adjournment Chair.

CHAIRPERSON: Yes, we are at ten past one.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: We can take the lunch break now and return at ten past two.

ADV THANDI NORMAN SC: Yes Chair, Chair may I also warn Chair that we might, this witness, the next witness is not going to be a long witness, we might adjourn earlier than four o'clock today.

CHAIRPERSON: Oh, okay.

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

CHAIRPERSON: And tomorrow, I thought there were a few witnesses that we were supposed to have heard yesterday.

ADV THANDI NORMAN SC: Yes Chair but I will come and just advise you on what is happening yes Chair.

CHAIRPERSON: Yes okay.

ADV THANDI NORMAN SC: Those are the witnesses that deal maybe just to so that it is open they will, with the lot – lots of reports and we are going to – yesterday we tried but there were a lot of people queuing to see you Chair, just to ask for other days.

20 **CHAIRPERSON**: Yes, okay.

ADV THANDI NORMAN SC: Because they will not finish today and tomorrow yes thank you, but we will come, we will approach you in chambers, yes thank you.

CHAIRPERSON: No that's fine. Okay we will take the lunch adjournment and we will resume at two o'clock.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are we ready?

ADV MPHONG RASIVHETSHELE: We are indeed Chair. We are ready.

CHAIRPERSON: Yes.

ADV MPHONG RASIVHETSHELE: Chair the next witness is Mr Lekgetho.

May the witness please be sworn in?

10 **CHAIRPERSON:** Thank you.

REGISTRAR: Please state your full names for the record.

MR LEONARD LEKGETHO: Leonard G Lekgetho.

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

MR LEONARD LEKGETHO: No.

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

MR LEONARD LEKGETHO: Yes.

20 **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 LEONARD LEKGETHO: So help me God.

MR LEONARD LEKGETHO: (duly sworn, states)

CHAIRPERSON: Yes. You may proceed.

ADV MPHONG RASIVHETSHELE: Yes Chair. The - the file that you have in front of you Chair that would be CC5 to CC16 and the particular

folder that we will go to is CC10. Chair as we have earlier conveyed that the earlier affidavit ...

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: By Advocate Mutebi (?) has been placed in front. However Advocate Mutebi was unable to come ...

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: And therefore Mr Lekgetho had then come in his place and his statement will be found under folder 10 - 10.1 - CC10.1 and that can be found on page 1-1-8.

10 **CHAIRPERSON:** Do the two advocates talk about the same thing?

ADV MPHO RASIVHETSHELE: Chair they more or less talk about the same thing, yes.

CHAIRPERSON: Okay. This lever arch - arch file have we admitted it?

ADV MPHO RASIVHETSHELE: Yes we have admitted this ...

CHAIRPERSON: Oh.

ADV MPHO RASIVHETSHELE: This ...

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Arch lever file ...

CHAIRPERSON: Alright.

20 **ADV MPHO RASIVHETSHELE:** Chair.

CHAIRPERSON: Thank you. You may proceed.

ADV MPHO RASIVHETSHELE: Thank you Chair. Mr Lekgetho the document in front of you can you just go over to your file please. That document on page 1-1-8 can you identify that document please?

MR LEONARD LEKGETHO: I can identify it Chair.

ADV MPHONG RASIVHETSHELE: What - what is that document Mr Lekgetho?

MR LEONARD LEKGETHO: The first page it is written EXHIBIT CC10.1 - Statement of Leonard Lekgetho.

ADV MPHONG RASIVHETSHELE: And if you turn over the next page what - what document is that?

MR LEONARD LEKGETHO: The next page it is a statement that I have made.

ADV MPHONG RASIVHETSHELE: And if you turn over to page 1-2-1. Is
10 that your signature?

MR LEONARD LEKGETHO: That is correct.

ADV MPHONG RASIVHETSHELE: And you signed at - you signed this statement in Pretoria on 6 September 2019. Is that correct?

MR LEONARD LEKGETHO: That is correct.

ADV MPHONG RASIVHETSHELE: Mr Lekgetho are you employed? Where are you currently employed?

MR LEONARD LEKGETHO: I am currently employed at the Special Investigating Unit as the Chief National Investigating Officer.

ADV MPHONG RASIVHETSHELE: And can you please inform the Chair
20 what are your functions as the Chief National Investigations Officer?

MR LEONARD LEKGETHO: My function as the Chief National Investigating Officer is to overlook all the investigations relating to national departments including the SOE. I manage all the investigations that relate to all those departments.

ADV MPHONG RASIVHETSHELE: Thank you Mr Lekgetho and in

paragraph 3 on that first page - on 1-1-8 of your statement you state that you are going to be dealing with the affairs of the SABC. Can you just elaborate on that?

MR LEONARD LEKGETHO: That is correct. I have been called to come and - and give progress in terms of the investigation that we are currently dealing with in - on SABC.

ADV MPHO RASIVHETSHELE: And these are various investigation matters and so forth concerning the SABC?

MR LEONARD LEKGETHO: Correct. There - there are several
10 investigations that we are currently dealing with at SABC and I think when I am ready I will take you through the progress which should outline all the progress that we have today and the name of the specific contract that we are looking at.

ADV MPHO RASIVHETSHELE: Thank you. Chair if I can just take you to the slides in which Mr Lekgetho will be referring to in all the matters that the SIU is currently dealing with concerning the SABC. You will find those slides Chair on page 1-5-3 of that same folder ...

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: But however Chair we do have an
20 updated version of these slides that were furnished to us this morning by the SIU. It is more or less the same just an updated version that was presented to Parliament on 10 September 2019 and these slides will basically incorporate the table that is highlighted as from paragraph 6 of Mr Lekgetho's statement that could be found on page 1-1-9 of Mr Lekgetho's statement.

Upon Chair's approval I beg leave to hand up the updated slides on which Mr Lekgetho is going to take us through.

CHAIRPERSON: You - you know what I am thinking unless there is a concern that he - there has been an excessive delay in the investigation process in regard to a certain matter I - and I want to be satisfy why nothing has been done or why progress is slow there is no particular reason that I can think of why I would want to be given evidence about what the progress is.

ADV MPHO RASIVHETSHELE: In ...

- 10 **CHAIRPERSON:** That is - that is what - what I am thinking about now. You know we have heard cases where somebody says we - I reported to the Hawks this particular complaint or the SAP and they have done nothing. Then one wants to find out if it is something that relates to corruption and so on that falls under the terms of reference.

Otherwise I am not sure that if it is not that kind of situation I am not sure that I particularly need to hear evidence about how far they have gone. Assuming for example that everything is - you know on track.

ADV MPHO RASIVHETSHELE: Of - yes indeed.

- 20 **CHAIRPERSON:** You - you understand what I mean?

ADV MPHO RASIVHETSHELE: Yes Chair.

CHAIRPERSON: Is there - is there an angle that I am missing that you might wish to tell me about?

ADV MPHO RASIVHETSHELE: Well Chair the purpose of - of Mr Lekgetho coming this afternoon was to update the Commission on

the progress particularly in terms of what is going on with specific matters at the SABC. This will be dealing with you know the irregularities and so forth and matters they have referred to for instance to the SAPS and - and so on.

Mr Lekgetho did come and convey that he does not necessarily want to dissect each and every matter because they are before courts and they have been referred to the relevant platform and so forth. So Mr Lekgetho will just be dealing as to you know what is happening with this particular contract the progress and so forth.

10 **CHAIRPERSON**: Yes but that is what I am talking about. If there is no concern that they have delayed unduly why should I spend time listening to them telling me how efficiently they have dealt with the matters. If they explain that to a Parliamentary Committee which has oversight of them - over them that I can understand.

ADV MPHOS RASIVHETSHELE: Huh-uh.

CHAIRPERSON: But I do not exercise oversight over them. I am interested only in terms of issues relating to State Capture and corruption but where they were supposed - where there is a concern that they were supposed to have investigated certain matters relating to
20 corruption for example and there has been a delay I could then want to hear what is going on.

You know but otherwise if there is no such concern I am not sure that I really need to hear how they - how they or what progress they have made.

ADV MPHOS RASIVHETSHELE: Indeed so Chair. We can ask if

Mr Lekgetho because he - he is privy to all their ongoing investigations and so forth. If he could then highlight exactly if there have been delays and so forth because particularly these ...

CHAIRPERSON: No but I am saying as things stand unless you tell me something that I might be missing. As things stand unless there are matters where there is a concern that there has been a long delay I do not see why I should - I need to know what progress they - they have been making. In other words if everything is going according to plan.

10 There is no need for me to - to spend time hearing his evidence along those lines.

ADV MPHONG RASIVHETSHELE: Indeed so ...

CHAIRPERSON: If - it maybe that it is - it is a report that might be of interest at some stage to read but I do not think that I should hear oral evidence simply about that.

ADV MPHONG RASIVHETSHELE: Indeed so Chair. If ...

CHAIRPERSON: Hm.

ADV MPHONG RASIVHETSHELE: Upon Chair's approval can I put to Mr Lekgetho if there has been any undue delays in any of these matters and so forth ...

20 **CHAIRPERSON:** Hm.

ADV MPHONG RASIVHETSHELE: Because he would be privy to everything that is going on.

CHAIRPERSON: Hm.

ADV MPHONG RASIVHETSHELE: Can I put that question ...

CHAIRPERSON: Well ...

ADV MPHO RASIVHETSHELE: To him?

CHAIRPERSON: Well if you do not - if you do not have the concern of a delay why would you put that question to him? You - you would be wanting - you would be - you would be fishing for information? He might say no there is nothing and that is the end. You understand?

ADV MPHO RASIVHETSHELE: Yes indeed so Chair. I do understand what ...

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: The Chair is trying to convey.

10 **CHAIRPERSON:** Okay. Maybe we will - we will say this the matters that are taking care of - that are dealt with in this report are there are any matters that have delayed for long periods while they were being investigated by the SIU?

MR LEONARD LEKGETHO: No Chairperson. All the matters are on track.

CHAIRPERSON: They are all on track?

MR LEONARD LEKGETHO: Yes Chair.

CHAIRPERSON: Okay.

20 **ADV MPHO RASIVHETSHELE:** Chair just to bring to the Chair's attention that these matters that Mr Lekgetho was going to talk about are matters that are being investigated by the Commission. It is not just only the SIU that have taken those responsibility of investigating. So the investigators are on these matters as well and that is why - that is why we felt that it was important for Mr Lekgetho to talk about this - the matters that are ongoing and so forth.

CHAIRPERSON: Well if they are being investigated by the Commission let the investigation be finalised first and then witnesses can be brought at the time.

ADV MPHO RASIVHETSHELE: Indeed so Chair. We also have a witness that is coming in due course that will talk about the reports - the investigative - the forensic reports and he will come and talk to those reports. So there is a link between these cases that the SIU have taken on and the upcoming witness that is coming to talk about these reports that the SABC themselves have investigated.

10 **CHAIRPERSON:** Well if there is a link what - what may be possible is that hearing his evidence now does not reveal the relevance but if it comes later after certain witnesses who deal with the reports have - have given evidence it maybe that then it is relevance would become apparent.

You see it might be that it - it is coming at a wrong time in that sense because at this stage as I say if - if it is matters that they are investigating everything seems to be under control. I am not exercising oversight over them but if a matter was reported to them a long time ago that falls within our jurisdiction and they seem have done
20 nothing about it.

Then I would welcome evidence that tells me what happened. What is going on? You understand?

ADV MPHO RASIVHETSHELE: Yes Chair. I appreciate ...

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: The - the Chair's concern.

CHAIRPERSON: Huh-uh.

ADV MPHO RASIVHETSHELE: I would then propose Chair with your approval ...

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: That we hear our upcoming witness that is going to testify about the forensic that is happening at SABC and then at a later stage have Mr Lekgetho dependent also of Mr Lekgetho's availability that then he would then come back.

CHAIRPERSON: Yes. No what we can do is if you think that once the
10 evidence of certain witnesses has been had in relation to certain reports the relevance of his evidence about the progress might become apparent. Then take that decision at that stage and if you propose to bring him back then I can at it at that stage but at this stage I do not think that I really need to hear what progress they - they are making if there is no complaint that they are not doing their job.

ADV MPHO RASIVHETSHELE: As the Chair wishes.

CHAIRPERSON: *Ja.*

ADV MPHO RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: So - so you - you understand what I am saying?

20 **MR LEONARD LEKGETHO:** I understand Chairperson.

CHAIRPERSON: Yes. So you may be asked later on but for now maybe it is not the right time.

MR LEONARD LEKGETHO: Thank you Chairperson.

CHAIRPERSON: Okay, alright.

MR LEONARD LEKGETHO: Thank you.

CHAIRPERSON: Thank you. You - you are excused.

MR LEONARD LEKGETHO: Thank you Chairperson.

CHAIRPERSON: Thank you.

ADV MPHONG RASIVHETSHELE: Chair ...

CHAIRPERSON: Hm.

ADV MPHONG RASIVHETSHELE: Due to Mr Lekgetho being excused that would then conclude the witnesses of today and we do have a witness lined up for tomorrow.

CHAIRPERSON: For tomorrow?

10 **ADV MPHONG RASIVHETSHELE**: Yes Chair.

CHAIRPERSON: At this stage do you know whether we - the - the witnesses for tomorrow is able to be here at 10 o' clock or is that something that is still uncertain?

ADV THANDI NORMAN SC: Thank you Chair. We are still awaiting confirmation ...

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: But in the event that particular witness is not available we have lined up another witness that could start at 10 o' clock.

20 **CHAIRPERSON**: Oh.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay. So should we - I mean there are two options.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: If the witness that is scheduled for tomorrow is only going to be here like at 11 ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Then we could say we start at 11 but if - but another option would be that we start at 10 ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: And if she is here at 10 we start with her. If she is not here we start with somebody else.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: *Ja* and then we take it from there.

ADV THANDI NORMAN SC: Yes Chair. I am - I am just worried that in
10 the event that she is not able to - to make it tomorrow then we would be
wasting a day.

CHAIRPERSON: Yes, yes.

ADV THANDI NORMAN SC: Maybe we should adjourn until 10 Chair.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Chair then I will have the 10 o' clock
witness ready.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay.

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

CHAIRPERSON: Alright. We will adjourn the proceedings for the day.
We will start at 10 o' clock tomorrow.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: We adjourn.

ADV THANDI NORMAN SC: Thank you.

REGISTER: All rise.

INQUIRY ADJOURNS TO 13 SEPTEMBER 2019