

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

PARKTOWN, JOHANNESBURG

10

26 NOVEMBER 2018

DAY 30

20

PROCEEDINGS HELD ON 23 NOVEMBER 2018

CHAIRPERSON: Is there anybody there? Usually there is somebody standing there by the time I lift my head up.

MS NORMAN: Good afternoon, Mr Chairman.

CHAIRPERSON: Good afternoon, Ms Norman, good afternoon everybody.

MS NORMAN: Mr Chairman, first, I think there is something wrong with my mike here, is it an echo? Thank you. Mr Chairman, I wish to apologise for yesterday. I think that one thing that I learned from yesterday is that if I have an application to move I must do it myself and not ask anyone to do it for me.

10 I apologise I happened to be one of the woman who were chosen by the country to represent the values of Mama Sisulu and that function and those persons were happening yesterday. Then I requested my colleagues to stand in for me, but things did not go the way I planned. I sincerely apologise for that.

CHAIRPERSON: Okay, no, that is fine.

MS NORMAN: Thank you, Mr Chairman. And I was advised, Mr Chairman, that you would like to hear the application first today, is that correct?

CHAIRPERSON: Yes, I would like us to deal with it quickly.

MS NORMAN: Yes, thank you.

CHAIRPERSON: Yes.

20 **MS NORMAN**: Mr Chairman, this is an application for condonation for the late filing of the Rule 3.3 notices on Mr Wheatly, Mr Bobart, Mr van Rooyen and Mr Mabaso. Mr Mabaso is represented by Mr Denga, he is present today, but on the day when I moved the application, the initial day the representatives of Mr – of the other three implicated persons were present and they indicated that they were not opposing the application and so does Mr Denga. He also does not appose it.

PROCEEDINGS HELD ON 26 NOVEMBER 2018

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody.

ADV PAUL PRETORIUS SC: Good morning DCJ. The programme for today Chair will be the witness from Treasury Ms Macanda the last of the three Treasury witnesses for present purposes at least. She will be led by Advocate Mokoena and then Advocate Maleka will question Mr Manyi thereafter.

CHAIRPERSON: Okay, okay.

ADV PHILLIP MOKOENA: Morning DCJ.

CHAIRPERSON: Good morning Mr Mokoena. Before you proceed, I just want to
10 announce that tomorrow morning when we commence I will address some of the issues that have arisen recently relating to the Commission and some of the witnesses appearing before the Commission. Thank you.

ADV PHILLIP MOKOENA: Ms Macanda, unlike Mr Maleka and Mr Fuzile we did consult prior to you having to adduce your evidence today.

MS PHUMZA MACANDA: Yes we did.

ADV PHILLIP MOKOENA: Yes. Mr Chair we are leading the evidence of Ms Macanda, we will avoid any repetition of ...[intervenes]

CHAIRPERSON: I am sorry, I missed that. Whatever you said and the witness responded I did not hear.

20 **ADV PHILLIP MOKOENA:** At all Mr Chair?

CHAIRPERSON: Sorry?

ADV PHILLIP MOKOENA: You did not hear at all?

CHAIRPERSON: Oh, okay I did not hear at all. I heard that you were saying something and that the witness said something, but I did not hear what you were saying.

ADV PHILLIP MOKOENA: We were just confirming that we did consult with one another.

CHAIRPERSON: Oh.

ADV PHILLIP MOKOENA: Unlike Mr – unlike ...[intervenes]

CHAIRPERSON: Do you not want to ask that after she has been sworn in?

ADV PHILLIP MOKOENA: No Mr Chair it was just an introductory remark that I have made, conversed to the one ...[intervenes]

CHAIRPERSON: You do not want her to say that under oath?

ADV PHILLIP MOKOENA: She will in time Mr Chair. Mr Chair the evidence of
10 Ms Macanda when we lead it, we will avoid any repetitions of the evidence that has been led already by the two witnesses from Treasury. We will use her evidence to simply corroborate and highlight some of the important aspects of the testimony that has already been adduced by the witnesses that were led by Mr Maleka.

CHAIRPERSON: Are you saying you are going to try and avoid getting her to repeat that evidence?

ADV PHILLIP MOKOENA: Yes Chair.

CHAIRPERSON: Okay. You believe you have been of corroboration?

ADV PHILLIP MOKOENA: We believe – but we will put what we believe it is
20 necessary to corroborate and to highlight those aspects that might not have been much more clearer.

CHAIRPERSON: Ja.

ADV PHILLIP MOKOENA: And which relates to her. But we will avoid, you know to repeat the same evidence that is already before you Mr Chair.

CHAIRPERSON: Okay alright thank you.

ADV PHILLIP MOKOENA: Ms Macanda the Commission is currently addressing

issues relevant to term of reference 1.8, are you aware?

MS PHUMZA MACANDA: Yes I am aware.

ADV PHILLIP MOKOENA: Yes.

CHAIRPERSON: Hang on, hang on Mr Mokoena. No the witness must be sworn in. Registrar swear the witness in please before we can proceed or affirmation whatever the witness prefers.

REGISTRAR: Please state your full names for the record.

MS PHUMZA MACANDA: Phumza Macanda.

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

10 **MS PHUMZA MACANDA:** No I do not.

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

MS PHUMZA MACANDA: Yes I do.

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

MS PHUMZA MACANDA: So help me God.

PHUMZA MACANDA: (duly sworn stated)

CHAIRPERSON: Thank you very much. You may continue Mr Mokoena.

20 **ADV PHILLIP MOKOENA:** Thank you Mr Chair. In order to assist the Commission to properly ventilate those issues, you did provide a written statement?

MS PHUMZA MACANDA: Yes I did.

ADV PHILLIP MOKOENA: Yes. May I refer you to EXHIBIT P "P" for Phillip.

CHAIRPERSON: I am sorry Mr Mokoena. Have you covered who she works, where she comes from?

ADV PHILLIP MOKOENA: No it arises from the statement itself Mr Chair.

CHAIRPERSON: Oh okay thank you.

ADV PHILLIP MOKOENA: Now that ...[intervenes]

CHAIRPERSON: Is that "P"?

ADV PHILLIP MOKOENA: It is "P", "P" for Phillip.

CHAIRPERSON: And what page in "P"?

ADV PHILLIP MOKOENA: That document commences from page 22 Ms Macanda and it goes up until page 39. Are you there?

MS PHUMZA MACANDA: Yes I am.

ADV PHILLIP MOKOENA: Is that your statement?

10 **MS PHUMZA MACANDA:** Yes it is.

ADV PHILLIP MOKOENA: If you turn to page 39, there is a signature, is that your signature?

MS PHUMZA MACANDA: Yes that is my signature.

ADV PHILLIP MOKOENA: Do you confirm the contents of your statement under oath?

MS PHUMZA MACANDA: Yes I confirm the contents of the statement.

ADV PHILLIP MOKOENA: Yes. Now in paragraph 2 page 23 of your witness statement you neatly captures the term of reference which the Commission it is currently investigating. You set out saying in the following terms, you say that:

20 "I was subsequently advised on the 8th November 2018 that my statement should only cover the issues relating to paragraph 1.8 of the Commission's terms of reference."

Paragraph 1.8 concerns and you quote it:

"Whether any advisors in the Ministry of Finance were appointed without proper procedures, in particular and as alleged in the

complaint to the Public Protector, whether two senior advisors who were appointed by Minister Des van Rooyen to the National Treasury who were so appointed without proper procedures."

You proceed:

"That I therefore confine this statement to the knowledge that I have in relation to the two advisors and my interaction with them."

That is the reason Ms Macanda you are here today.

MS PHUMZA MACANDA: Yes it is.

10 **ADV PHILLIP MOKOENA:** Yes. Could you please share with us your qualifications?

MS PHUMZA MACANDA: I am a journalist by profession, I graduated from Rhodes University in 1996.

CHAIRPERSON: Sorry Ms Macanda please raise your voice a bit and look towards me not him.

MS PHUMZA MACANDA: Okay. I am a journalist by profession Chair. I graduated from Rhodes University in 1996 majoring in journalism and politics. I subsequently in 2006 did a certificate in Basic Economics from Wits University.

ADV PHILLIP MOKOENA: Yes. Where are you employed currently?

MS PHUMZA MACANDA: I am currently employed by ABSA Group Limited.

20 **ADV PHILLIP MOKOENA:** Yes.

CHAIRPERSON: Did you say ABSA Group?

MS PHUMZA MACANDA: ABSA Group Limited yes.

CHAIRPERSON: Okay.

ADV PHILLIP MOKOENA: When did you leave Treasury, National Treasury?

MS PHUMZA MACANDA: I left the National Treasury at the end of August 2016.

ADV PHILLIP MOKOENA: Then was the first time when you joined National Treasury?

MS PHUMZA MACANDA: I joined Treasury in March 2012.

ADV PHILLIP MOKOENA: In March 2012, which position did you occupy?

MS PHUMZA MACANDA: When I joined Treasury in March 2012, I was the Director of Media Relations and Communications.

ADV PHILLIP MOKOENA: To whom did you report at the time?

MS PHUMZA MACANDA: I reported to Mr Jabulani Sikhakhane.

ADV PHILLIP MOKOENA: In that capacity what were your responsibilities?

10 **MS PHUMZA MACANDA:** My job as the Director of Media Relations and Communications at Treasury was to assist in protecting, maintaining and enhancing the reputation of the National Treasury. It was to help build, understanding and support for National Treasury Policies. My job included disseminating information about Treasury activities and to ensure that in as far as the work of the Treasury, the Treasury was the primary source of information. It was also to make sure that the Treasury messages a narrative were always consistent, were always clear, the kind of the messages that build credibility of the institution.

In that capacity, therefore, I worked with journalists. I was the person who would receive inquiries from journalists, work with the Treasury officials to craft
20 responses to those questions. I was the person who was responsible for working with journalists, especially around key calendar events of the Treasury, in particular the budget, organising the lock-up that you would have and making sure that we get journalists to come to the lock-up and get the documents and understand what we are doing in that regard.

My job also included advising Treasury officials and the Minister of Finance

on which communication, platforms and media platforms to use to disseminate information and to ensure that such messages were always in alignment with broader Government messages.

ADV PHILLIP MOKOENA: Now around March 2015, which position did you occupy within Treasury?

MS PHUMZA MACANDA: In March 2015 Mr Jabulani Sikhakhane to whom I reported left the employ of the Treasury. I was then appointed in his position on an acting capacity and therefore I assumed his position as Chief Director of Communications in an acting capacity.

10 **ADV PHILLIP MOKOENA:** Yes. Until when did you occupy that position?

MS PHUMZA MACANDA: I was in an acting capacity until I was appointed permanently in October 2015.

ADV PHILLIP MOKOENA: Now in that new role what were your responsibilities?

MS PHUMZA MACANDA: Generally my responsibilities were the same, save in the new position, I was part of the Executive Committee of the National Treasury, I was part of senior management. I was also responsible for the administration of the Communications Unit and everyone who worked in the Communications Unit reported to me. I also was the spokesperson for that department and the Minister of Finance.

20 **ADV PHILLIP MOKOENA:** Yes. Now from page 25 paragraph 6 of your witness statement to paragraph 11, you are canvassing a meeting with the General Director at the time Mr Lugisa Fuzile. You preface that meeting with the dismissal of Mr Nene on the 9th December 2015. Could you please in your own words simply take us through those events?

MS PHUMZA MACANDA: I learned about the firing of Minister Nene late on

Wednesday the 9th December. I was on sick leave and I learned about his firing quite late on that day. The next morning when I went into the office, I sort out the Director General of the National Treasury Mr Lugisa Fuzile. The reason I sort him out was because the market reaction to the axing of Minister Nene was quite negative. The Stock Exchange was down quite significantly. The Rand Currency had depreciated in a similar manner and my phone was ringing constantly, because journalists wanted to know whether the National Treasury was going to release a statement about the Minister of – about the firing of Minister Nene and what would we say, would we say anything about what it meant.

10 **ADV PHILLIP MOKOENA:** Yes. Before you proceed any further. In your statement you captures that on paragraph 6. You say that the markets were going crazy and the Rand had tumbled. The Stock Exchange was in a mess. Now before you proceed, I just want to ask to unpack that statement in relation to the events known to you. What exactly were the indicators that you know you are attributing to the markets going crazy? Are you able to share with the Chairperson those specifics?

MS PHUMZA MACANDA: I think in that regard Chair, I would like to refer to the statement of Minister Gordhan who testified previously, where he outlines the negative market reaction.

ADV PHILLIP MOKOENA: Mr Chair the witness is referring to EXHIBIT N1 "A" with
20 particular reference to page 30 and paragraph 79.

MS PHUMZA MACANDA: Yes.

CHAIRPERSON: Thank you.

MS PHUMZA MACANDA: In his submission Minister Gordhan says that the devastating impact of this unexpected announcement on the South African economy is expected to be approximately R500 billion. He refers to market analysts who

described that over the 2 days the market value of the country's 17 biggest financial and property shares fell by R290 billion. The figure excludes the remainder of the equities market that was also hard hit by the decision. South African Bonds lost 12% of their capital value. The Rand depreciated sharply from R13.40 to R15.40 overnight.

ADV PHILLIP MOKOENA: What Mr Gordhan is conveying in that statement, does it accord with your recollection at the time?

MS PHUMZA MACANDA: Yes, yes it does.

ADV PHILLIP MOKOENA: Yes. Mr Gordhan also, for completeness, in order to link
10 your evidence with him in relation to the Rand having taken a knock. He states, if you may turn to EXHIBIT N2. Mr Chair you do not have to do any gymnastics exercise, we will simply read those relevant passages to the record. It is EXHIBIT N2, if you go to page 140, are you there?

MS PHUMZA MACANDA: Paragraph number, I am afraid not, I do not think I will be able ...[intervenes]

ADV PHILLIP MOKOENA: EXHIBIT N2 it is a separate file of Mr Gordhan. If you go to page 140 you will see the status of the Rand/Dollar exchange as at December 2015. You do not have to read it on the record, it was read by Mr Gordhan. When you look at those figures from Wednesday the 9th up until Friday
20 the 11th December 2015, would that accord to your experience at the time?

MS PHUMZA MACANDA: Yes I would say it is correct.

ADV PHILLIP MOKOENA: Now you may proceed to discuss in detail the meeting which you were dealing with between yourself and the Director General.

MS PHUMZA MACANDA: I went into the Director General's office to consult with him about the statement that we both agreed would need to be released and we both

understood that such a statement would need the approval of the Minister who was announced the previous night. The Director General then phoned the Minister in my presence. He put the Minister on speaker phone and explained to the Minister that I was also on the line and explained to the Minister why I was on the line.

ADV PHILLIP MOKOENA: That was Minister van Rooyen?

MS PHUMZA MACANDA: That was Minister van Rooyen.

ADV PHILLIP MOKOENA: Yes.

MS PHUMZA MACANDA: The Director General proceeded to congratulate the Minister and I will not repeat some of the things that he said, as he has testified to
10 them. But part of the conversation that I was particularly interested in was the one that concerned what statement we would release to the public. The Director General then talked to the Minister about the negative market reaction and explained to the Minister that there was need for the National Treasury to respond. He offered the services of National Treasury officials to draft such a statement.

I should explain that the process of drafting a statement is a consultative one and one you – it is impossible to do it within an hour.

ADV PHILLIP MOKOENA: Can you explain what does it entail to draft such a statement?

MS PHUMZA MACANDA: Yes in this case it would entail – and this is what the
20 Director General was suggesting to the Minister. He was suggesting that he was offering the services of the Senior Treasury officials to draft such a statement which the Minister would then approve and the plan was that shortly after his swearing in, that statement would be released to the public.

ADV PHILLIP MOKOENA: What was the Minister's reaction during the telephone?

MS PHUMZA MACANDA: The Minister told the DG that there was a statement that

was already drafted and that the National Treasury did not need to worry about such a statement. He said he would provide the statement to the DG later.

ADV PHILLIP MOKOENA: Now according to you, was that telephone call, you know, helpful at all in relation to what was happening in the markets at the time?

MS PHUMZA MACANDA: No it was not. It was not for the reason that I have given earlier that preparing a statement is a consultative process and we wanted such a statement to be released shortly after his swearing in ceremony. But also it was not helpful because we did not know what was in the statement that the Minister had told us had been prepared.

10 **ADV PHILLIP MOKOENA:** Yes. What were you hoping to achieve with the DG when you called the Minister? What were your expectations?

MS PHUMZA MACANDA: Our expectations was that the Minister would work with us, the Minister would give us his approval to start drafting a statement, but more importantly that the Minister would give us guidance on what he thinks should be said publically about the developments of the previous night.

ADV PHILLIP MOKOENA: Now during that period how was the staff moral?

MS PHUMZA MACANDA: We were in shock. There was almost a sense of mourning within Treasury that morning. A lot of us did not know what to make sense of the developments and we really were in shock, we were just standing around
20 talking to each other and we were in shock.

ADV PHILLIP MOKOENA: Did the DG, you know, address the staff around the issues that were happening at the time?

MS PHUMZA MACANDA: We discussed the DG addressing staff and the concern was that it was important for that to happen in the presence of the Minister. But in the phone call, one of the things that we discussed by the DG and the Minister was

the Minister coming to the office and the Minister had indicated that he would not be able to come to the office and that he would meet us at the Union Buildings at the swearing ceremony.

So given the shock that the staff was in and we discussed with the DG the idea of going to address staff and we decided that it was a good idea for the DG to address staff. He then went downstairs and the room was packed to the rafters, everyone wanted to hear what he said. He made few comments to the staff the essence of which was that, as National Treasury officials, our main responsibility is to serve the nation. No matter what the developments of the day were, we should be
10 less concerned about that and more concerned about going back to our desks and doing our job. He has already testified here about the fact that there was a lot of work that needed to be done on the budget. He encouraged the staff to go back to their desks and focus on that.

One of the things that he said was that we needed to remember that we serve the administration of the day, whoever that is and we are the link between the administration and the stability of the Department was the most important thing.

ADV PHILLIP MOKOENA: Mr Chair that is captured from page 27 paragraph 11 of the witness statement. Now you go on from page 27 paragraph 12 to deal with the meeting with Minister van Rooyen and Mr Mohammed Bhobat at the Union Building,
20 but you do so first by dealing with how you met with Mr Bhobat. Can you please take us through those events?

CHAIRPERSON: I am sorry, before she proceeds. Can I take you back Ms Macanda to the telephone conversation that the DG had with Minister van Rooyen on the morning of the 10th where he put the Minister on speaker phone and introduced you, you remember that?

MS PHUMZA MACANDA: Yes I do Chair.

CHAIRPERSON: Ja. As I understand it, your evidence is that when Mr Fuzile suggested to Minister van Rooyen that the Treasury staff could prepare a statement, a media statement for the Minister's approval, you say the Minister said that there was already a statement. Is that right?

MS PHUMZA MACANDA: He said there was already a statement that had been prepared and we did not need to worry about that.

CHAIRPERSON: Yes. What else transpired in that conversation, if you can remember, what else transpired in that conversation if you can remember?

10 **MS PHUMZA MACANDA:** I think the DG already referred to his conversation with the Minister in as far as the invitation to come to the office and perhaps meet with Minister Nene who had come to the office that morning and to clear his office. That was something else that came up in that conversation.

CHAIRPERSON: Yes. What was the Minister's attitude to that?

MS PHUMZA MACANDA: I did not find the Minister's attitude to be that of listening and being welcoming to the request and the invitation that the DG was making.

CHAIRPERSON: Yes. Is there anything else of importance that the Minister said to Mr Fuzile that you can remember that you can share with us?

MS PHUMZA MACANDA: Not that I recall specifically, no not that I recall.

20 **CHAIRPERSON:** Did you form any view about whether the Minister might have certain preconceived ideas about National Treasury based on the conversation?

MS PHUMZA MACANDA: I certainly did. As I said, the Minister said to the DG in a manner that I found to be almost dismissive of the DG's suggestions. I certainly – I came out of the conversation thinking this is going to be an interesting and perhaps half working relationship for all of us.

CHAIRPERSON: Yes. I do not see in your statement something that Mr Fuzile said. One of the things that Mr Fuzile said the Minister said during that conversation, was that the Minister said to him something along the lines that the National Treasury, or you people, or the National Treasury must – I think, must stop this tendency of issuing statements. I do not see anything like that in your statement. Is that because you did not hear it?

MS PHUMZA MACANDA: It is because I do not recall it.

CHAIRPERSON: Okay thank you.

ADV PHILLIP MOKOENA: Thank you Mr Chair. You were at the point where you
10 were going to tell the Chair about your first interaction with Mr Bhobat at the Union Building. You may proceed to do so.

MS PHUMZA MACANDA: So when I got to the Union Buildings ...[intervenes].

CHAIRPERSON: I am sorry again, and I may have missed this because Mr Mokoena you are now at or beyond paragraph 27.

ADV MOKOENA SC: Paragraph 12 Mr Chair.

CHAIRPERSON: Sorry?

ADV MOKOENA SC: Paragraph 12, one, two.

CHAIRPERSON: Oh that is fine, then you may continue, I think I may be ahead of you. Thank you.

20 **MS PHUMZA MACANDA:** When I got to the Union Buildings I asked the people from the Presidency that were waiting for us, I introduced myself and told them that I was here for Minister van Rooyen. I had previously been invited the previous night to come to the Union Buildings for the swearing in ceremony, and I asked them where I should go. They pointed me to a waiting room and told me that Minister van Rooyen would be coming and would be waiting there, and that is

the room in which I would meet with him. While I was standing there waiting for Minister van Rooyen, I noticed the people from the Presidency standing with this tall gentleman of Indian origin, and they pointed towards me. They pointed towards me. The gentleman then walked towards me and he informed me that he was the advisor to the new Minister. I did not think anything about that and he introduced himself and he told me that his name was Mohamed Bhobat.

ADV MOKOENA SC: During your telephone call that you related to the Chairperson earlier on, did Minister van Rooyen indicated to you and the DG that he has already appointed advisors or that he wanted the DG to assist him in
10 appointing any advisors?

MS PHUMZA MACANDA: No I do not – the Minister did not say anything about having appointed advisors already. Conversation about advisors actually did not take place in that conversation with the DG.

MR MOKOENA: Were you aware of any contracts that could have been concluded by the DG and any advisors on behalf of the Minister?

MS PHUMZA MACANDA: I would not say I was specifically aware at this time but I was surprised that the Minister, who was just announced, had already appointed advisors.

ADV MOKOENA SC: Alright there is Mr Bhobat coming to you now, introducing
20 himself and what happens thereafter?

MS PHUMZA MACANDA: So he came, he introduced himself and he said to me – he asked me what is your job, and I explained to him what my job was, and he says are you the one who releases statements for National Treasury, and I responded in the affirmative. He then said to me from now on no statement goes out without my approval. Every statement must be approved by me and the

Minister. I was very puzzled and taken aback by this for two reasons; firstly he was a little aggressive with me. It was not that there were no pleasantries that were exchanged but his manner was quite aggressive and almost hostile. It felt to me that it was important for him to assert his authority quite quickly with him, and also I was puzzled before, it just is part of practice and policy that every statement goes out be approved by the Minister and the DG. So that was not something that needed to be pointed out with me by someone who understands how the system works. I then said to him yes, yes, you know every statement that goes out is approved by the Minister, that is how we do things.

10 **ADV MOKOENA SC:** Did he tell you as to what his role was going to be as an advisor now that he was giving you instructions no longer to issue any statements?

MS PHUMZA MACANDA: He did not explain to me what his role was, that discussion did not come up, but he just told me that he was an advisor, and I must say as I understood the role of advisor, I did not understand it to include being part of approving statements, to the extent that they are advisors to the minister, they are privy to discussions they were in but certainly not in approving statements.

20 **ADV MOKOENA SC:** Now during this interaction between yourself and Mr Bhubat where was the DG?

MS PHUMZA MACANDA: At this point the DG had not arrived. We had travelled separately to the Union Buildings, but at some point he did arrive. So the DG was not witness to this exchange in my – ja in my recollection.

ADV MOKOENA SC: Yes, and then you met with – you had your first interaction with the Minister van Rooyen, can you tell the Chairperson about that interaction

or your meeting with him?

MS PHUMZA MACANDA: I then stepped into the room that we were told to wait in and I was waiting there, and at some point the Minister did come. He arrived, and he arrived with his family. He left his family in the other room and then came to join us in the room, and in the room was myself, the DG, Mr Bhobat and of course the Minister. And once the Minister arrived the DG then once again spoke to the Minister, and he spoke to the Minister about events that had transpired at the Treasury that morning. He explained to Minister that he addressed staff. He explained to Minister, I summarised for the Minister what it is that he said, and
10 then he once again talked to the Minister about the need for us to be releasing a statement as the Treasury, and explained that that was the reason I was there to assist with that specific task. And it was the second time that he was doing it because I was bothering him. Even though I had heard the earlier conversation, I was worried as I say, because the journalists were calling me. So I understood the importance of this. So he then explained to the Minister once again about us talking and agreeing about releasing a statement.

ADV MOKOENA SC: Now what was the Minister's reaction to that request?

MS PHUMZA MACANDA: The Minister took out a piece of paper and he gave it to the DG. The DG read the piece of paper, he gave it to me, I read the piece of
20 paper and in essence what the piece of paper was, was an introduction of the Minister, and generally it just – it was just an introduction to the Minister, and one of the key messages that were in that statement was that he would open up access to the Treasury. After reading the statement I felt that the statement lacked in the key messages that we needed to have in a statement that the DG had already explained to the Minister. Key messages for instance that would talk

about policy trajectory, policy stability and the importance of the Treasury sticking to the fiscal targets and sticking to all of those policy that have been announced. This was the main thing that people were asking, what does this appointment mean for policy. Does it mean that – does it signal a change in policy? I then said to the Minister, at that point the DG was – it almost – it felt to me that he was in that meeting but he was not there, because the interaction with the Minister did not yield fruit but also it was very difficult. So I explained to the Minister that the statement was a good start. I then offered to enhance it with the messaging that we use in the Treasury. I brought with me some of the documents that were

10 previously published to assist in that regard. The Minister was noncommittal, he would not give his approval for me to enhance the statement with the kind of messages that we had discussed with him.

ADV MOKOENA SC: Now what I fail to understand is the following, during that meeting that you are now relating to the Chairperson, was the Minister aware of the adverse ramifications which resulted flowing from him appointment and the removal of Mr Nene. I mean that removal of Mr Nene, the ramification to the economy itself, was he able to appreciate those factors at the time?

MS PHUMZA MACANDA: I cannot speak to his state of mind but I can say that that was explained to him twice by the DG, first in the telephone conversation that

20 took place that morning and secondly while we were sitting there.

ADV MOKOENA SC: Was he aware of the fact that the Rand was taking a knock at the time and there was a need for him to release a statement that would calm the market or at least you know, give some assurance of his plans to deal with those severe economic factors.

MS PHUMZA MACANDA: That is exactly what the DG was explaining to him. He

was explaining about the negative market reaction on the Stock Exchange and in the currency market and in the bond market. He was explaining to him about the fact that we needed to assure the market. We needed to assure the market that the appointment was not a signal for policy change, and he was explaining to the Minister all of these things while he was explaining why we needed to release a statement.

ADV MOKOENA SC: And you say that is part, all that, the statement that he took out from his pocket did not even begin to address those issues?

MS PHUMZA MACANDA: No it did not.

10 **ADV MOKOENA SC:** Now on page 30, from paragraph 22 to 24 of your statement you canvass what you refer to as the bizarre interaction between Mr Bhobat and Minister van Rooyen. Could you please share with us those events?

MS PHUMZA MACANDA: So at some point during the meeting once we had moved from discussing the statement and not getting the approval that we were hoping for from the Minister, Mr Bhobat said to the Minister I called you, why did you not return my call, and his tone was the same authoritative one that he had used with me. It lacked the hostility that he had shown towards me earlier but it certainly was contemptuous, I thought it was contemptuous. The Minister then said oh, I have been getting a lot of phone calls from people congratulating me,
20 and the thing is I do not have your number so I could not return your call.

ADV MOKOENA SC: So the Minister did not have the number of his own advisor?

MS PHUMZA MACANDA: That is what the Minister said, I do not have your number so I could not return your call.

ADV MOKOENA SC: Yes, and then what happened?

MS PHUMZA MACANDA: I was flabbergasted to say the least, I quite was shocked because I was thinking to myself firstly I was shocked by this manner towards the minister, as I say he was quite contemptuous and he was quite dismissive, but also one thing that I thought about was if he does not have the number then do these people know each other, and if they do not know each other how does he become the Minister's advisor.

ADV MOKOENA SC: Now may I link that part of your evidence, if you may refer to page give eight, 58, and that is the witness statement of Mr Fuzile. If you go to paragraph 18 simply to see that this is exactly what you also witnessed, he relate
10 that bizarre situation in different terms when he was told as to the new Minister that he was going to get. He says that:

"I asked him to elaborate what he meant. He said I should watch it, my new Minister, it is likely to come with advisors he does not know."

ADV MOKOENA SC: So Ms Macanda you also gained that impression at the time when you saw this interaction, that the Minister might not be knowing his own advisor Mr Bhobat.

MS PHUMZA MACANDA: I certainly was left with the impression that they did not know each other and if they did, they did not know each other very well.

20 **ADV MOKOENA SC:** Yes, now you also did attend the swearing in ceremony.

MS PHUMZA MACANDA: Yes I did.

ADV MOKOENA SC: Can you tell us about what transpired there?

MS PHUMZA MACANDA: So the ceremony took place ...[intervenes].

CHAIRPERSON: I am sorry Mr Mokoena, I may have missed this. You did get her to confirm the last two sentences of paragraph 24 right?

ADV MOKOENA SC: Yes.

CHAIRPERSON: They are important, you did?

ADV MOKOENA SC: Yes, she testified on those things Mr Chair.

CHAIRPERSON: Oh okay.

MR MOKOENA: But for emphasis she can still read paragraph 24 into the record, on page 30.

CHAIRPERSON: Okay, but if she did it is fine, I may have missed it but I leave it to you, if you want her to emphasise. I just ...[intervenes].

ADV MOKOENA SC: I do not want to lose it Chair, rather we, on the side of
10 caution. I know that she have done it but turn to page 30.

MS PHUMZA MACANDA: Okay.

ADV MOKOENA SC: Three zero, and if you may read paragraph 24 into the records.

MS PHUMZA MACANDA: What I was thinking was these people do not know each other. If they do not know each other how does Mr Bhobat becomes Minister's advisor. I then witnessed Mr Bhobat and the Minister exchanging phone numbers in our presence. I was left with the impression that they did not know each other.

ADV MOKOENA SC: And that is what we have canvassed earlier on.

20 **CHAIRPERSON:** And you are quite clear that you witnessed them exchanging their numbers?

MS PHUMZA MACANDA: Yes.

CHAIRPERSON: Thank you.

ADV MOKOENA SC: Thank you Chair. Yes, you were just about to relate the swearing in ceremony events?

MS PHUMZA MACANDA: So ...[intervenes].

ADV MOKOENA SC: Your mic.

MS PHUMZA MACANDA: So at some point the swearing in ceremony started. The Minister went into a different entrance, I went into the entrance and sat with the journalists and the journalists were eager to interview the Minister. They had been asking me whether the Minister would grant interviews after his swearing in ceremony. I had also explained this to the Minister, that I was getting a lot of requests for interviews, and he explained to me that he would not be doing interviews at ...[intervenes].

10 **ADV MOKOENA SC:** Now up until that point the Minister has not as yet been interviewed by journalists?

MS PHUMZA MACANDA: No, no.

ADV MOKOENA SC: Proceed.

MS PHUMZA MACANDA: The swearing in ceremony went ahead, and after it was – the Minister, I should point out the Minister took out the piece of paper that he had given to myself and the DG to read. He took out the piece of paper. He read from the piece of paper after he was sworn in and after the swearing in ceremony I followed the Minister and the President as they were leaving in a different entrance. He gave me the piece of paper because I needed to take it
20 back to the office and type it up so that we can release the statement.

ADV MOKOENA SC: And what happened to the piece of paper?

MS PHUMZA MACANDA: I am sorry?

ADV MOKOENA SC: What happened to that piece of paper?

MS PHUMZA MACANDA: I do not know. Once I typed the statement I probably disposed of it but I typed up the statement because I did not have an electronic

copy so I needed the hard copy.

ADV MOKOENA SC: May I refer you to page 40, four zero Mr Chair, it is Annexure PM1. You can also relate it to PM2, can you identify the document on page 40, PM1.

MS PHUMZA MACANDA: Yes.

ADV MOKOENA SC: And the purpose of that document.

MS PHUMZA MACANDA: So in page 41 it is a copy of the statement that I typed up, that I then consulted with Mr Bhobat as had been previously directed to, for the approval of the statement. In page 40 it is an e-mail I sent to Mr Bhobat with
10 the attachment of the statement, asking him to approve.

ADV MOKOENA SC: And the statement on page 41 is the statement which was issued by the Minister at the time when you say that the markets were crazy and that the Rand was tumbling.

MS PHUMZA MACANDA: Yes it is.

ADV MOKOENA SC: And as you have said that having read the statement it does not even begin to address those fundamental economic concerns at the time?

MS PHUMZA MACANDA: No, the statement did not address the concerns.

ADV MOKOENA SC: Now this statement, I take it that at some point it was
20 published in the website?

MS PHUMZA MACANDA: Yes the statement was published on the website once approved by Mr Bobcat.

ADV MOKOENA SC: How was it – how was the reaction locally and internationally about that statement?

MS PHUMZA MACANDA: The statement was benign in as far addressing some

of the concerns that had already been raised and it – the reaction to it was really – in fact some people were quite angry, and I recall receiving a phone call from one London based analyst, his name is Peter [indistinct] Montalto, at the time he worked for Nomura International, and Peter said to me what the hell kind of statement is this, what are you guys saying here. And I explained to Mr Montalto that my job was to communicate on behalf of the Minister of Finance and this statement was the communication from the Minister of Finance. He really expressed frustration and he said you guys are not saying anything there. And you know he then hung up on me.

10 **ADV MOKOENA SC:** Now did you get any other reactions from a journalist after this statement was released?

MS PHUMZA MACANDA: I got a lot of reaction from journalists in terms of continuing to ask for interviews with the Minister, one of whom was CNN, Eleni Jeokos, she sent me e-mail and she was phoning me constantly because she was saying you know we need to talk to the Minister, we need to talk to the Minister. But certainly not the kind of reaction where people were calmer after we released the statement because it addressed some of the concerns.

ADV MOKOENA SC: Yes. In your statement you deal with Mr Bobcat and his – and the manner in which he asserted his power. You do so by referring to an
20 incident about a fake Twitter account. Can you please share with us as to what transpired between yourself and Mr Bobcat in that regard?

MS PHUMZA MACANDA: So by the time that the Minister was sworn in there was already a fake Twitter account that was created in his name. It was not our first experience with fake Twitter accounts. We had previously had such with Minister Nene, with the Deputy Minister of Finance Mr Mcebisi Jonas and these

fake Twitter accounts generally were used by people that wanted to swindle people out of their money. So what we would normally do as the Treasury, we would release an advisory to the public, saying this is a fake Twitter account, please be cautious and make sure that you are not taken in by the scams. So late on the evening of the 10th I got a phone call from Mr Bobcat and he was demanding that I deal with the Twitter account of the Minister, and he said to me I want you to close the account and I want you to write a report for me in the morning. I want a report from you in the morning. Once again I found his tone to be very aggressive, and I explained to Mr Bobcat that to be able to close an account one would need to have the administrative login details of the account, which we did not have because we did not create the account. And I explained to him that we would not be able to close the account. The least that we can do is to alert the public to the fact that the account was fake. And you know he was abusive, I felt, and intimidating. And I wrote him an e-mail that evening and I explained to him what I would do in the morning and I explained to him also that I was on sick leave and I would not be coming into the office.

ADV MOKOENA SC: May I refer you to page 42.

MS PHUMZA MACANDA: 42?

ADV MOKOENA SC: 42, paragraph – Annexure PM3.

20 **MS PHUMZA MACANDA:** Yes.

ADV MOKOENA SC: Is that the e-mail that you said you ultimately wrote to Mr Bobcat?

MS PHUMZA MACANDA: Yes, this is the e-mail I wrote to Mr Bobcat.

ADV MOKOENA SC: And the contents, it is what you have already related to the Chairperson, as to what transpired.

MS PHUMZA MACANDA: Yes, yes, they are.

ADV MOKOENA SC: Now can you deal with the meeting of the 11th of December 2015, and before you do that may I premise those – your evidence by asking a few questions in order to place it into its proper context? That meeting, you said it took place on the 11th of December 2015 am I correct?

MS PHUMZA MACANDA: Yes, the morning after. The morning after. It was a Friday.

ADV MOKOENA SC: And who arranged that meeting?

MS PHUMZA MACANDA: I received a call that morning from Mr Marlon Gaswint,
10 who was the chief of staff of Minister Nene. I was not planning to come to the office. So I imagine Marlon arranged the meeting.

ADV MOKOENA SC: And do you know who else attended the meeting, from your recollection?

MS PHUMZA MACANDA: So my recollection, Momo was there, Mr Ismail Momoniat, who is the head of tax and tax policy at the National Treasury. I do recall Ms Kay Brown, who was in the meeting. She was acting on behalf of Mr Michael Sacks, who was the head of the budget office. Mr Sacks was already on leave. I do recall Mr Monale Ratsoma being in the meeting and there was list that was provided with people that were in the meeting. But in my
20 recollection I do not recall everyone there.

ADV MOKOENA SC: Yes.

MS PHUMZA MACANDA: But these were the people that were in the meeting.

ADV MOKOENA SC: And the Deputy Minister at the time, Mr Jonas, was he – did he attend the meeting?

MS PHUMZA MACANDA: No, that was strange; he was not in the meeting.

ADV MOKOENA SC: You have recorded this meeting as one of the important meetings that you had to attend and that is the reason you even had to cut short your sick leave to attend that meeting. Do you know why did the Deputy Minister not attend the meeting?

MS PHUMZA MACANDA: So I debated with myself about going to the office to attend the meeting but I felt that I could not be absent in a meeting, the very first meeting that the Minister of Finance has with senior Treasury officials. So out of respect for the Minister I went to the office. I asked my brother to drive me to the office and I went to the office, and the reason why I felt the meeting as important

10 was because I thought that the minister was going to talk to us about what was important in his agenda. I thought he was going to talk to us about some of the budget processes, things that still needed to be concluded so we would be able to table the budget in February. I thought the Minister was going to talk to us about what his agenda was going to focus on in the short term, things that we need to know. So I went to the meeting with a pen and paper to take notes so that I get to understand what was important to the Minister.

ADV MOKOENA SC: And you say that, but Mr Jonas was not in that meeting?

MS PHUMZA MACANDA: No, the minister came in and the Deputy Minister was not there, and I found that to be very strange. In fact I did not know whether the

20 Deputy Minister was in the office or not. I had not seen him that morning before I went into the meeting.

ADV MOKOENA SC: Alright, and then what happened during the meeting?

MS PHUMZA MACANDA: So the meeting started, started a little bit late and the Minister came in with two gentlemen, one of whom I recognised, I had previously been introduced to him the previous day, Mr Bobcat. He came into the meeting

with Mr Bobcat and another gentleman I did not recognise, and he then introduced the two gentlemen, and he introduced Ian Whitley as his chief of staff and Mr Mohamed Bobcat as his advisor. The Minister said that – he informed the meeting that whatever needed to come to his office, had to go through his advisor and his chief of staff.

ADV MOKOENA SC: But what did you understand him to mean when he said that, that everything that had to happen must go through the chief of staff?

MS PHUMZA MACANDA: The minister did say that everything that we did had to be done with the approval of the two gentlemen. So what I understood him to mean was the introduction was important because these were the people that we
10 would need to work with. These were the people that almost were in charge so we needed to know who they were.

ADV MOKOENA SC: Did he say anything about the role of the DG, as to what is going to happen with the role of the DG if now the two gentlemen are going to be in charge?

MS PHUMZA MACANDA: Not at that point, no.

ADV MOKOENA SC: Yes, then what happened in the meeting?

MS PHUMZA MACANDA: So after the Minister introduced the two gentlemen he then, you know, sat back and was looking at Mr Bobcat as if to hand over the
20 meeting to Mr Bobcat at which point the DG said "okay now wait a minute, hold on" and then the DG said "I think it is important that I introduce the people that I am with." The manner of the DG was quite angry I thought and this was surprising to me because he is a very even tempered man. I got to know him as a very sober and even tempered person, but in that meeting he was quite angry. In fact he was pointing his fingers at, towards the Minister and his advisors, and his advisors.

He then went around the room introducing each and every person that was in the meeting and explaining what their role in the Treasury was and then he said, he pointed his finger and said "here we do everything by the book. If I say to you no it is not going to be done it is not because I do not like your face it is because it is not right by regulations. If it is not according to the book, and the book that he was referring to was the Minister's handbook, he said if it not according to the book it is not going to be done." I found that exchange to be puzzling as I say because I did not think there was something that had happened in this meeting that explained his angry reaction. So I surmised that it was almost as if I was witnessing act two of a
10 play without having seen act one because he was angry.

ADV PHILLIP MOKOENA SC: Now do you recall if I take you back to the events of that meeting, if I take you back to the events of that meeting do you recall how the Minister introduced both Mr Bobcat and Mr Whitley in terms of their titles or their portfolios that they are going to be holding at Treasury from that time?

MS PHUMZA MACANDA: I do not have a specific recollection of this and I am aware that the other witnesses have testified to the Minister confusing the names. I have wracked my brain trying to recall that memory. I do not have a recollection of that.

CHAIRPERSON: I am sorry I did not get that. What is it that you do not recall?

20 **MS PHUMZA MACANDA:** I am saying that, I am sorry, I am saying that I am aware that other witnesses have testified that during the introduction the Minister confused the names of the advisors. That is not something specifically that I have a recollection of.

CHAIRPERSON: Okay thank you.

ADV PHILLIP MOKOENA SC: And in that meeting the Minister did not proceed to

deal with the economic situation or to give or outline his plan as to how was he going to address the negative impact on the Rand and other important issues regarding the economy?

MS PHUMZA MACANDA: No not at all. Once he had done with his introductions he was done and he was signalling, handing over the Minister to Mr Bobcat and it almost seems that that was the conclusion of the meeting at which point the Minister said "no, no just hold on."

ADV PHILLIP MOKOENA SC: And had a pen in the book, the book I take it that it was still empty, nothing to record?

10 **MS PHUMZA MACANDA**: I had nothing to record. I had no notes to take because nothing of substance was discussed in the meeting.

ADV PHILLIP MOKOENA SC: You told the Chair earlier on that Mr Bobcat was this person that was quite aggressive going around issuing instructions and in your statement you relayed an incident whereby he even had to stop a recruitment process, do you recall?

MS PHUMZA MACANDA: Yes. So after this meeting ended, the one that we had with the Minister Mr Bobcat had previously told me that he wanted to meet with me and he said to me he wanted to discuss the Communications Unit and I took with me the organogram of the Communications Unit and a few documents and I was
20 explaining to him the structure of the communications unit. My appointment as Chief Director of Communications in October had occasioned a vacancy for the position that I previously held. So I was explaining these things to Mr Bobcat and I was explaining to him that we had just started with the recruitment process for the Director of Media Relations and Communications at which point he said to me "no, no, no you need to stop that, you need to stop that" and I said to him "why" and he

said "we do not need to worry about that recruitment process." I explained to Mr Bobcat that, you know, he was having a conversation with the wrong person in this because he needed to have this conversation with the Director General of the National Treasury and the Deputy Director General who was responsible for Corporate Services. They would be people that could, that he could discuss it with.

ADV PHILLIP MOKOENA SC: Now at the time when he said you must stop with the recruitment process how far was the process itself?

MS PHUMZA MACANDA: I was appointed in October. So we had already advertised and I think at this point we had closed the advertisements and we had
10 received CV's. So the next, the next step in the process would be for me to go through the CV's and do a shortlist. So that is the state at which we were.

ADV PHILLIP MOKOENA SC: And despite all that he said that you must stop the process?

MS PHUMZA MACANDA: He said, he said "no you need to stop that."

ADV PHILLIP MOKOENA SC: And then what happened?

MS PHUMZA MACANDA: Well I mean as I say I explained to him that I, I was not authorised to make that decision. That authority rested with the DG of National Treasury, but I also found the meeting very unusual, because my understanding of his role as advisor did not include him being involved in the processes of the
20 department certainly not the HR processes of the department. So I was quite taken aback by what I thought was audacity on his part to be talking to me about what, how we should be running the HR process and once I explained to him that he needed to discuss the matter with the DG that was the close of, that was the end of the discussion.

ADV PHILLIP MOKOENA SC: Did you discuss this issue with the DG at the time?

MS PHUMZA MACANDA: I certainly did.

ADV PHILLIP MOKOENA SC: And what was his reaction?

MS PHUMZA MACANDA: He was angry. He was very angry.

ADV PHILLIP MOKOENA SC: Did he interact with, did you know if he did interact with Mr Bobcat on this issue?

MS PHUMZA MACANDA: I do not know if he interacted with Bobcat on that issue. I did not spend a lot of time on the second floor which is where the DG's office and the Minister's office were. I spent most of my time in my office. So I was only there for meetings. So if there were any interactions I did not see them.

10 **ADV PHILLIP MOKOENA SC:** You continue also in your statement, you know, to deal in the manner in which Mr Bobcat was exercising his power and demonstrating that the new sheriff is now in town he do so with relation to an incident pertaining to one official that had to surrender his office.

MS PHUMZA MACANDA: Yes. So I had to go up to the Minister's office because one of the things that we were being asked was a full CV of the Minister. We had posted a very short CV of the Minister that included his qualifications and that included his work experience and I was getting a lot of calls from people about Minister was the Mayor of Merafong and a lot of journalists wanted to know when and for how long was he mayor and also people wanted to know the qualifications
20 that he had listed, in which years were those qualifications obtained and from which institutions. So I was in the Minister discussing this and the Minister asked me "you know why are people interested in my CV" and I had to explain to the Minister why a CV of a Minister of Finance is important and I explained to him that someone in that role is entrusted with a lot of powers and because of that people want to know what his experiences are, what his, his policy views are and trust in the office of the

Minister of Finance equals trust in government. So the Minister took the CV and said okay I should wait outside of his office while he was going to fill in some of the blanks I had highlighted. While I was waiting outside the Minister's office I witnessed Mr Bobcat ordering Mr Marlon Geswint to vacate his office and he was saying to Marlon "you need to leave, this is where I am going to sit" and Marlon was explaining to him that no this office is the office for the Chief of Staff and the advisors sit on the other side and it is quite a distance to go to where the advisors sit and Mr Bobcat was saying "I need you out of this office right now and this is where I am going to sit" and he was also explaining that everyone needed to move because he needed to be
10 situated as close to the Minister as possible.

CHAIRPERSON: So did you get the impression that Mr Bobcat was basically beginning to take the roles that would, that he thought should be followed, you know, after his arrival?

MS PHUMZA MACANDA: I certainly got that impression Chair. I mean in my interaction with him I got the sense that he was ignorant of the rules, but he also was not interested in what the rules were, but even if the rules were there he would disregard them and he would make new rules, because I had explained to him when he was talking to me about stopping the recruitment process I explained to him that I was not authorised to do that, but it was, that was not important he was not
20 interested.

CHAIRPERSON: So what you had already witnessed in regard to him was one, the first time he saw you he told you that from then onwards he would have to approve any media statement that you issued, is that right?

MS PHUMZA MACANDA: Yes he did.

CHAIRPERSON: And then he told you to stop the recruitment process as well?

MS PHUMZA MACANDA: Yes he did.

CHAIRPERSON: And now he was being told where advisors to the Minister, what offices advisors to the Ministers use and he was saying he was going to use another one?

MS PHUMZA MACANDA: Yes he was telling people to move so that he can sit as close to the Minister's office as possible.

CHAIRPERSON: Yes. Thank you.

ADV PHILLIP MOKOENA SC: Now I take it that Treasury as a department had a recruitment policy. It must have had a communication policy. It must have had other policies that governed Treasury including in applicable pieces of legislation. Now
10 where was Mr Bobcat deriving his power from as an advisor?

MS PHUMZA MACANDA: I do not know. I do not know where Mr Bobcat derived his power from, but as I have previously testified in the two minutes, in the first two minutes that I met with him he made it very clear that he had authority. Where he derived it from I do not know.

ADV PHILLIP MOKOENA SC: And all this that you have related to the Chairperson happened within a space of two days?

MS PHUMZA MACANDA: It happened in a space of, yes inside of 24 hours.

ADV PHILLIP MOKOENA SC: And Mr Van Rooyen was the Minister of Finance for
20 two days.

MS PHUMZA MACANDA: He was the Minister for four days.

ADV PHILLIP MOKOENA SC: For four days?

MS PHUMZA MACANDA: Yes.

ADV PHILLIP MOKOENA SC: Chair that concludes the evidence of Ms Macanda and I am told that it is already past the tea adjournment.

CHAIRPERSON: Okay, but did you say that concludes her evidence? Okay. Let me just ask her one or two questions. Firstly Ms Macanda in case I forget thank you for coming to the Commission to give evidence about what you know happened and your understanding of what happened. Secondly, going back to the issue of Mr Van Rooyen introducing the, his advisor and his Chief of Staff you have already said you have no recollection of him confusing their names or their roles or confusing their roles or their names, is that right?

MS PHUMZA MACANDA: That is right I do not have a specific recollection of that.

CHAIRPERSON: Yes. How far were you sitting from or I assume you were all
10 sitting, sitting from where the Minister was more or less?

MS PHUMZA MACANDA: I was – I was quite at the end of the table. So the table is big and round. The Minister and his two gentlemen were at the head of the table and the DG was next to them. I was at the far end closer to the door.

CHAIRPERSON: Yes and how – where about was the then DG Mr Fuzile in relation to the Minister?

MS PHUMZA MACANDA: They were sitting very close to each other.

CHAIRPERSON: They were close to each other?

MS PHUMZA MACANDA: Yes.

CHAIRPERSON: And you were far you say?

20 **MS PHUMZA MACANDA**: I was quite – yes I was quite far.

CHAIRPERSON: Yes and where was the current DG Mr Mogajane in relation to the Minister?

MS PHUMZA MACANDA: So the table is round so it was the Minister, it would have been possibly Mr Bobcat and Mr Whitley. The DG was sitting here and the other chair was taken by Mr Momoniat and Mr Dondo was in the middle of...[intervenes]

CHAIRPERSON: Mr Dondo Mogajane?

MS PHUMZA MACANDA: Sorry Mr Dondo Mogajane was much closer to the Minister than I was.

CHAIRPERSON: Do you think that in the light of the position where you were you may have not heard something that was said or do you think that it was not said?

MS PHUMZA MACANDA: I am sorry?

CHAIRPERSON: I am sorry. Do you think that the position where you were sitting in relation to where the Minister was and where the then DG Mr Fuzile was and the current DG was do you think that distance may have disadvantaged you with the
10 result that you might have missed something that where the Minister said or do you think that you – you heard everything that was said by the Minister?

MS PHUMZA MACANDA: It is possible that my position at the table would have disadvantaged me in that manner but I think for me it was because I was waiting for the actual meeting to start. For me the most important thing that I was waiting for there was the part where the Minister would start talking to us about – about his agenda and the important things.

CHAIRPERSON: Yes. Okay so you are not in a position to say the confusion had not happened. You are simply saying you did not hear it and maybe the distance that the position where you were sitting may have affected that. That is all you are
20 saying?

MS PHUMZA MACANDA: Yes I am saying I did not hear it.

CHAIRPERSON: Yes. Yes. No, thank you very much.

ADV PHILLIP MOKOENA SC: Mr Chair, just one question. Ms Macanda, you said that you are a qualified journalist?

MS PHUMZA MACANDA: Yes.

ADV PHILLIP MOKOENA SC: Now at the time when the journalist wanted to know about the qualifications of the Minister did you yourself you know take any initiative to verify the qualifications of the Minister?

MS PHUMZA MACANDA: So verified perhaps I would not say I took time to verify but what I had asked for to be done by people in the communications unit was to source what we could find on Google so that we could have an interim sort of CV on the website because that is the thing that people were interested in.

They wanted to know who he was, where he came from and in the media he was being referred to as a back bencher. So I had done that but we really
10 needed a much more extensive CV that listed his experience, his background and help people form views about what kind of a person and what kind of a Finance Minister he would make.

ADV PHILLIP MOKOENA SC: Thank you, Chair.

CHAIRPERSON: Thank you. From your statement I think one, I got the impression that there is something else that you would like to share with the Commission but which might not have been considered necessary to include at this stage of the hearing. I just want to assure you that we are interested in hearing whatever else you may have that would help us understand what was happening in terms of other matters and if the Commission's legal team has not already taken the statement that
20 covers other matters they will be doing so soon because anything that relates to what we are anticipating that you might have information on will be important.

So you will be contacted in due course then with a view to either the obtaining of that statement and ultimately you will be – you would be asked to come back. So but thank you very much for coming and I am sure we will see you again. Thank you very much. You are excused. Thank you.

MS PHUMZA MACANDA EXCUSED

CHAIRPERSON: We will take the short adjournment now and resume at 11:40. We adjourn.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Mr Maleka?

ADV VINCENT MALEKA SC: Good morning, Chair.

CHAIRPERSON: Good morning.

ADV VINCENT MALEKA SC: Good morning, Mr Manyi.

10 **CHAIRPERSON**: Good morning, Mr Manyi. Thank you. Are you ready?

MR MZWANELE MANYI: Hopefully.

CHAIRPERSON: Should he be sworn in now?

ADV VINCENT MALEKA SC: Yes, Chair.

CHAIRPERSON: Okay. Registrar please do that.

REGISTRAR: Please state your full names for the record.

MR MZWANELE MANYI: Mzwanele Manyi.

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

MR MZWANELE MANYI: Yes I do.

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 MZWANELE MANYI: So help me God.

MR MZWANELE MANYI (d.s.s)

CHAIRPERSON: Thank you. Yes Mr Maleka?

ADV VINCENT MALEKA SC: Thank you very much, Chair. Mr Manyi, good

morning once again.

MR MZWANELE MANYI: Hi.

ADV VINCENT MALEKA SC: You recall that at the end of your testimony on 14 November 2016 through the Commission's attorney the legal team addressed a letter to you dated 15 November 2018. You recall that?

MR MZWANELE MANYI: Yes I do.

ADV VINCENT MALEKA SC: And you would remember that in that letter the Commission's legal team set out a number of topics that it intended to raise with you in the course of the resumption of your testimony this morning, correct?

10 **MR MZWANELE MANYI**: Yes I can confirm that.

CHAIRPERSON: Mr Manyi, it looks like if you keep yours on there will be no problem – your mic on there will be no problem.

ADV VINCENT MALEKA SC: And you will recall also that after receipt of that letter the Commission's attorney sent through to you a bundle of documents which comprises some material that the legal team would like to raise with you this morning. You received the bundle I take it?

MR MZWANELE MANYI: Yes I got the bundle.

ADV VINCENT MALEKA SC: Yes and you were invited to include whatever information that you in turn would have wanted to raise this morning, correct?

20 **MR MZWANELE MANYI**: Yes.

ADV VINCENT MALEKA SC: And you did so?

MR MZWANELE MANYI: Yes I did.

ADV VINCENT MALEKA SC: And that bundle is now before you and, Chair a copy has been transmitted to you in the course of Friday and may I remind you where it should be and with your permission admit it as an exhibit? You will recall that Mr

Manyi...[intervenes]

CHAIRPERSON: Before that Mr Maleka you say it was transmitted to me on Friday?

I do not know anything about that. I did not receive anything on Friday. I did not receive anything over the weekend. I see there is a bundle here.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: Which I am seeing for the first time. I am told by my Registrar that she was only told during Ms Macanda's evidence this morning that I was going to need EXHIBIT M.

ADV VINCENT MALEKA SC: Yes, Chair.

10 **CHAIRPERSON**: And she then – she made arrangements or arrangements were made for me to use this EXHIBIT M but we had not brought it.

ADV VINCENT MALEKA SC: Chair, first of all thanks that you now have before you EXHIBIT M and you will recall that that is the bundle on the strength of which Mr Manyi testified previously on the 14 November and that will be the bundle that I would canvas with him with reference to his version to Ms Williams' evidence.

I will get to it in a moment but what we did following upon the letter that Mr Manyi confirms he has received was to prepare a bundle of documents and we have now labelled that bundle as EXHIBIT M1 to follow sequentially from EXHIBIT N.

I have asked my colleagues to mark yours on the spine as EXHIBIT M1.

20 Chair, can I...[intervenes]

CHAIRPERSON: Well the one that is here is not marked M1 on the spine.

ADV VINCENT MALEKA SC: May I kindly ask...[intervenes]

CHAIRPERSON: Just to make sure that it is the right thing it is written Sectional Evidence Bundle of Mr Mzwanele Manyi.

ADV VINCENT MALEKA SC: Indeed. Indeed.

CHAIRPERSON: You...[intervenes]

ADV VINCENT MALEKA SC: May I propose that it be marked EXHIBIT M1?

CHAIRPERSON: Okay.

ADV VINCENT MALEKA SC: So that when the time comes to begin to write submissions we know where to find it?

CHAIRPERSON: This bundle which at pages one to three thereof reflects according to the index Auditor General Report to Parliament on the financial statements and performance information of Ward 7 Government Communications and Information Systems the bundle that has got that will be marked EXHIBIT M for Mary 1.

10 **ADV VINCENT MALEKA SC**: I am indebted to you, Chair.

CHAIRPERSON: Thank you. Is the witness's one already marked?

ADV VINCENT MALEKA SC: Yes, I understand from my colleagues that it has been marked and just to confirm Mr Manyi before you, you will have two bundles. The one is EXHIBIT N which includes your statements that you previously canvassed on 14 November 2018, correct?

MR MZWANELE MANYI: Yes that is correct.

ADV VINCENT MALEKA SC: And the second bundle will be the one that includes documents previously made available to you which has been marked EXHIBIT M1 at the back of it.

20 **MR MZWANELE MANYI**: Yes.

ADV VINCENT MALEKA SC: Chair, I think that underlines the data set that we will be dealing with. Mr Manyi, before I leave the identification of the data set can I confirm with you that you have now prepared yourself on the topics that we identified in the letter to you that we would like to raise with you and you are quite comfortable that we should raise those questions with you, correct?

MR MZWANELE MANYI: Yes, Chairperson I am so ready such that because I also am not assisted by any legal representative so therefore, Chairperson I seek your indulgence, Chairperson that I am allowed to go through my statement as I have prepared it and then so that I can, because I have been given these documents – these questions I can go through these questions in my own approach and then thereafter Mr Maleka is free to ask any question in whatever shape or form but I request, Chairperson that I be allowed to table my statement because I do have the questions and I have prepared answers and I request that I get given the opportunity. It is on the short statement Chairperson. It is about five pages that I go
10 through my statement. I am not going to read word for word. I go through my statement and I am sure I will be answering a lot of his questions so that he can then ask those that are outstanding.

CHAIRPERSON: Okay let me make sure I understand what you are saying. Mr Maleka was asking you the question whether you are ready for him to ask you any questions on the topics that they have indicated to you and then in your response you said you would like me to give you an opportunity to read, present your statement and then after that he can ask you any questions. Now let me ask first in regard to whether you are ready to answer any questions that Mr Maleka might put to you on the topics that you have been notified about is your answer that
20 you are ready but you would like that before that happens you be afforded an opportunity to talk to your statement as it were? You are not going to read everything but to just talk on what you want to present without being asked questions as yet and after that you can be asked questions. Is that what you are saying?

MR MZWANELE MANYI: Not precisely Chair. What I am asking is that because the Commission has been very kind enough to give me the areas of questions I have

prepared my statement in line with those areas of questions. So I am requesting to have a first bite at giving the answers of to those questions and if it turns out that there are some inadequacies anywhere Mr Maleka is free to fill in the gaps and probe some more, but I think in that way Chairperson there will be much more benefit for the Commission because I have sequenced, because what I have seen happening here you get, you get from page five to page 20 to page, it gets very disorienting Chairperson. So in order for me to have a proper flow I am requesting that I get given the opportunity to table the answers in the form of the statement which I already contained in my statement. I think in that way it will really assist.

10 **CHAIRPERSON**: Well Mr Maleka I do not know if you have any problem with that?

ADV VINCENT MALEKA SC: Not at all Chair as long as he identifies...[intervenes]

CHAIRPERSON: Yes, yes...[intervenes]

ADV VINCENT MALEKA SC: Where we get the statement in the bundle.

CHAIRPERSON: Yes. Okay Mr Manyi...[intervenes]

MR MZWANELE MANYI: Thank you Chair.

CHAIRPERSON: I will allow you to do that.

20 **MR MZWANELE MANYI**: Okay Chair thank you. So, so the first question Chairperson related to, related to me being at GCIS how does it happen and all of that and the straight answer there Chairperson is that my going to GCIS was from the Department of Labour. It was actually a transfer. That is a formal categorisation of how I went there. It is a transfer and with, when a transfer happens some of the questions that Mr Maleka has asked do not arise. For instance he has asked a question about whether was I interviewed, those questions do not arise Chairperson when getting transferred they arise when you get appointed. Then there is assessment and all of this, but I was already in the public service. So that question

does not arise. I was transferred and in fact I have tried to assist the Chairperson Mr Maleka in terms of whether how does that happen in the first place.

Chairperson I have got EXHIBIT 1 here which Mr Maleka will find on page 227 and page 228 in his bundle.

CHAIRPERSON: Is that now of...[intervenes]

MR MZWANELE MANYI: M1.

CHAIRPERSON: EXHIBIT M1?

MR MZWANELE MANYI: Yes Chair.

CHAIRPERSON: Okay thank you.

10 **MR MZWANELE MANYI**: Page 227 and 228 is the Public Service Act. I just took extracts there Chairperson of just two pages. Just a cover page of the Act and the actual paragraph which is section 12(3)(a) which reads;

"That the President may transfer the head of a national department or national government component before or at the expiry of his or her term of extended term to perform functions in a similar or any other capacity in a national department or national government component in a post of equal, higher or lower grading or additional to the establishment as the President considers appropriate."

20 So that is a section I trust Chair regularises what, my appointment and on top of that Chairperson on your bundle page 229 I have got EXHIBIT 2 which is actually my letter of transfer. So everything was done according to the book Chairperson and then I move on to my time at GCIS. One of the things that was asked was the issue around I think the issues around the bid adjudication committee. So what I have then done Chairperson is that on EXHIBIT 3...[intervenes]

CHAIRPERSON: Are you comfortable if I ask you about this letter before you proceed?

MR MZWANELE MANYI: Go ahead I am comfortable.

CHAIRPERSON: Or would you want to prefer to proceed and finish first?

MR MZWANELE MANYI: Yes, yes.

CHAIRPERSON: You are comfortable?

MR MZWANELE MANYI: Yes Chairperson.

CHAIRPERSON: Okay. I see that that letter is dated 22 February 2010 am I right?

MR MZWANELE MANYI: That is correct Chairperson 2011.

10 **CHAIRPERSON**: Oh it is 2011 not 2010?

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Was the, was it signed before you assumed duty at GCIS or was it, did it come after GCIS?

MR MZWANELE MANYI: It came afterwards Chairperson.

CHAIRPERSON: Okay thank you. Okay you may proceed.

MR MZWANELE MANYI: Okay. Right, okay so one of the questions that I need to answer Chairperson is on EXHIBIT 3 which talks to, I think it is probably a follow up, but Mr Maleka will then probe some more. It is just an EXHIBIT 3 Chairperson in terms of the financial delegations. The one that still responds to the issue of me
20 saying that, me saying that I did not say I wanted to sign off everything. I wanted to sign off that which was R500 000 and above and that was already, that was a financial delegation. So I just took one page of the financial delegation Chairperson. It is on your bundle page 230 that is where it is. It is just one page. There is something written there at the bottom about concurrence with the CEO prior to the finalisation that is when things are above R500 000. So that is one Chair. Then

there was a question about...[intervenes]

CHAIRPERSON: Well, I am sorry, for what it is worth because you in terms of the record you have mentioned your names as Mzwanele Manyi.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: And did not mention any other name. Shall we confirm that the name that is used there at 230 that refers to you?

MR MZWANELE MANYI: Yes Chairperson it is my slave name Jimmy.

CHAIRPERSON: I just want to make sure that whoever reads the record knows...[intervenes]

10 **MR MZWANELE MANYI**: Okay...[intervenes]

CHAIRPERSON: It is the same as the witness.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: That is referred to.

MR MZWANELE MANYI: That is correct Chairperson.

CHAIRPERSON: Okay thank you.

MR MZWANELE MANYI: Yes. It is part of the decolonisation exercise. I am trying to be African here. So, so yes Chairperson. So then the next issue was the issue around I am saying [indistinct] with other departments was done at Chief Director level. We use a system there which we call TELMAS to determine where to place
20 adverts. GCIS sits with the most objective tool in deciding where adverts should be placed. Departments via their Head of Communication would approve the placements. Sometimes they would actually even defy advice from GCIS.

Then I then make a point Chairperson that the issue of media diversity was at the centre of GCIS communication strategy that it was so much at the centre that GCIS even had a subsidiary called MDDA run by a very able, very able cadre Mr

Lumko Mtimde at the time. MDDA is Media Development and Diversity Agency. The brief of this agency was to ensure that government is assisting in terms of developing other platforms of communication. Government does not want a monologue. Government wants to make sure that all the voices of everyone in South Africa are heard as it were. So, so that is a posture of government. So within Media Diversity there are two groups of companies or two groups of media groupings that could be found there covered within the Act. It says in fact an act on this matter, MDDA Act as well. So, but there are two groups of media that you find there. There is what is called Community Media and there is also what is called

10 Small Media, Commercial Small Media. So those are the two groups of media that are covered within the Act.

So in my view Chairperson when the issue of the New Age came about it was a very welcome development because it fitted in very well with what government was trying to do. Government had a proper infrastructure of even helping the development of these agencies, of these companies. So when this one came on its own not even with the assistance, the direct assistance of government in there so I thought well this is a very welcome move and in particular the TNA, the New Age brought in a different editorial stance Chairperson which was decidedly not hostile to government, which was very important because at the time government was suffering

20 from a serious media onslaught generally and the challenge that government has had is to, is to be, is to say to media, try, we are not saying try to be nice to government but try and be balanced in your reporting, but it looked like Chairperson the posture of mainstream media is that when you do something right the attitude is that you get paid to do it in anyway. They wait until you do something wrong then they headline with that. Now the posture of TNA was the complete opposite. It was

a posture of saying the glass is half full as opposed to the glass is half empty. That was the posture of it. So it was a very welcome posture as it were and also even price wise it was not the most expensive in terms of the ads for the same amount of square centimetres in that page or there is half a page ad or full page ad they were still much more competitive than others.

Now Chairperson one of the exhibits which I did not submit because I did my research late, I do not know if the Registrar can give this to the Chair?

CHAIRPERSON: Have you got a copy for Mr Maleka?

MR MZWANELE MANYI: Okay I only have two copies here Chairperson. I want to
10 read on the one.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: Yes, unfortunately. Now...[intervenes]

CHAIRPERSON: Let me have a look first...[intervenes]

MR MZWANELE MANYI: Okay...[intervenes]

CHAIRPERSON: Then I will get the Registrar to give it to Mr Maleka.

MR MZWANELE MANYI: If Chairperson you can, the particular page I wanted to
look, to ask...[intervenes]

CHAIRPERSON: Yes?

MR MZWANELE MANYI: Is the second last page that starts with that is the concept.
20 The page before that one Chair it starts with that is the concept.

CHAIRPERSON: Yes?

MR MZWANELE MANYI: Now as you are browsing through this Chairperson this is a letter written by Mr Phumla Williams on the same subject of New Age and she was responding to a journalist here called Ranjeni Munusamy. So Ranjeni had raised a very interesting issue about that these breakfasts are elitist, they deprive people an

opportunity to come to these elaborate breakfasts and so on and why is GCIS involved in these breakfasts? Now and Ms Williams was here last time arguing that she was being pressured to support these breakfasts and all of that. That was her posture, but this is a letter Chairperson that I think we must thank Ms Ranjeni Munusamy that she had made this letter public. This is from the website Daily Maverick dated 6 February 2013. Now just to read just couple paragraphs of this Chair for the benefit of those that do not have this copy. This is an extract from the letter of Ms Phumla Williams responding to the issue of GCIS being involved in breakfasts and...[intervenes]

10 **CHAIRPERSON**: Okay, one second. Registrar, give this to Mr Maleka. Mr Maleka, do you want us to mark it in any way at this stage or maybe later?

ADV VINCENT MALEKA SC: Chair, can we take the liberty of marking it in due course?

CHAIRPERSON: Okay. Okay.

ADV VINCENT MALEKA SC: And we will distribute copies later.

CHAIRPERSON: Okay. All right. The concern is simply that he has given some evidence about it on record and whoever reads the transcript will not at that stage know where to find it but maybe we might not have an option.

20 **ADV VINCENT MALEKA SC**: Can I propose that it comes at the end of EXHIBIT M1?

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: And then it will begin at page 281.

CHAIRPERSON: Okay, all right.

ADV VINCENT MALEKA SC: I will take the liberty of...[intervenes]

CHAIRPERSON: Yes?

ADV VINCENT MALEKA SC: Paginating it.

CHAIRPERSON: Paginating it yes. So it will not be a separate exhibit. It will just be put at the end of the existing bundle EXHIBIT M1 already.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: And then all that will happen is that it will be paginated?

ADV VINCENT MALEKA SC: Indeed, Chair.

CHAIRPERSON: Thank you. Yes you may continue Mr Manyi.

MR MZWANELE MANYI: Thank you, Chair. So in addition to what I have said, Chairperson this is what Ms Phumla Williams said in February 2013 and I must
10 underline Chair but at that time I was not even in the public – I was not in GCIS at the time but this is how she responded here without my help that:

"The concept of the New Age breakfast meeting was one which appealed to government as it presented the best of both worlds."

She says:

"Government leaders could interact with the audience in attendance and at the same time reach millions of viewers watching on television."

She says:

20 "As a platform it allows government to speak directly to a variety of stakeholders such as business people, thought leaders and of course the people of South Africa."

And she says:

"It allows the audience to engage directly with government leaders to probe them and to obtain a deeper understanding

of policies and programs. At the same time the television audience has the opportunity to hear first-hand about issues which often directly affect them. Ms Munusamy in the article gives an impression that government Ministers and the President do not use platforms available to them from SABC and so.

10 The New Age/Morning Live platform is one of the platforms available that government uses to communicate with citizens. Ms Munusamy conveniently chose to forget that the President following the State of the Nation address has an SABC interview where he further elaborates on his message.

This platform compliments a suite of other platforms that are used by government to communicate with its citizens and no preferential treatment is given to any platform whatsoever."

On the next page just a short paragraph there, Chair if you indulge me.

20 "At the end of the day an informed citizenry is good for democracy and we will continue to strive to engage with people on every available platform we are fully aware that no single platform can reach every person therefore we will continue engaging face to face via all media channels in parliament and every other available platform.

A government communications system is a well-functioning system with its own weaknesses and successes.

The battle of ideas in a contested society such as ours cannot be won only through one platform but by use of all available to our citizens."

So that was Ms Williams, Chairperson responding basically to the question that Mr Maleka is posing here by way of why this breakfast and so on – say more about this breakfast, explain more. So this is the context that I agree with.

I differ with Ms Williams on a lot of things but on this one we are together. There it is, Chairperson.

CHAIRPERSON: I thought there was a point you were seeking to make in regard to
10 the article maybe reflecting something different from what she may have told the Commission. Not really? That is not your point?

MR MZWANELE JIMMY MANYI: It is actually also the point, Chairperson because I think in the Commission she had come here basically with a posture that is opposite to what is being said here and her posture, Chairperson was one that said it is one that was not understanding what she seems to be fully conversant with here and all that and yes her doing it last time it was more like I mean she used the word that she was being bullied into doing this thing but if I read this article here like I have just done, Chairperson you can see that this is a person that believed in this thing.

So this is why it is quite strange how Ms Williams operates that on the one
20 side she says this and the next time says something completely opposite which is without belabouring the point, Chairperson.

We have dealt with the SMS matter which was – also my surprise because the last time I left GCIS we were on very good terms. There were no issues at all. That is why I was comfortable to talk to her and then before I knew there was a 180 degree turn in her attitude.

So I just do not know what actually happens is happening in her space that she goes left, she goes right, she goes left, she goes right but anyway this is what she said.

CHAIRPERSON: Yes that article would it be an article that she would have written as part of her official duties or would it be an article that she may have just decided to write at a personal level or are you not able to tell?

MR MZWANELE JIMMY MANYI: No, I am able to tell, Chairperson. In fact I just want to read just a cover page of this article. It says:

10 "In an earlier article Ranjeni Munusamy criticised what she termed the [indistinct] of government communication in South Africa where only a select few who could afford it were privy to crucial information about our democracy as well as a non-performance by R429 million a year GCIS.

Unsurprisingly the GCIS disagrees. In the interest of broader debate we published a letter by Ms Phumla Williams Acting GCIS CEO in its entirety."

So Chairperson she was acting here as – this was written in her capacity as Acting GCIS CEO responding to the query about the use of New Age and so on and this breakfast.

20 **CHAIRPERSON**: Yes.

MR MZWANELE MANYI: So the whole question about breakfast...[intervenes]

CHAIRPERSON: Well you see the reason why I was asking whether she may have written in her personal capacity – official capacity is this. That is it not possible that insofar as she – as long as she was writing in her official capacity as Acting CEO of GCIS she was supposed to reflect the government's position as opposed to her

personal view and maybe on another occasion she might have been expressing her personal views.

MR MZWANELE MANYI: No, Chairperson I think – okay I hear you, Chairperson. There is nothing personal here, Chairperson. This is the position of the Department. I think this is why it is complemented by what I have said.

In my – in my – in my statement here I have said that the measures of the New Age was a welcome development so this backs it up. So this was our position, Chairperson. We wanted diversity, wanted a multiplicity of voices.

CHAIRPERSON: But you understand the point I am making?

10 **MR MZWANELE MANYI**: Yes.

CHAIRPERSON: And I am making it as whether there is a possibility namely if I speak as Deputy Chief Justice of the Republic in regard to certain matters at an official occasion I might not include my personal views. I might speak on the official position of the judiciary but maybe if I am speaking on another occasion when for example I might no longer be Deputy Chief Justice it may well be that I might then say well that was the official position that I had to convey because I was speaking in that capacity.

No I am no longer a Deputy Chief Justice and if you want my personal view this is my personal view.

20 **MR MZWANELE MANYI**: Yes. No, Chairperson I think I hear you but let me just read the first opening paragraph to contextualise what capacity she was speaking on. The first paragraph she says:

"In her column in the Daily Maverick on 1 February 2013
Ranjeni Munusamy erroneously attempts to paint a picture
that the government communication and information system

does not adequately fulfil its mandate of communicating with the public about government policies, plans, programs and achievements. This assumption is flawed on a number of levels. Firstly, government has a responsibility to reach every citizen."

Then she carries on. So Chairperson this is clearly somebody articulating her government position.

CHAIRPERSON: Well that is all the more reason why I keep on going back to the question because I thought to the extent that she may be expressing government position that might detract from the force that your point might have had if he said something else at a time when she was required to you know speak her views –
10 speak her views you know under oath and not necessarily government's position or attitude.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: You understand?

MR MZWANELE MANYI: I understand, Chairperson yes.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: I think this here is more government position.

CHAIRPERSON: Government position.

20 **MR MZWANELE MANYI:** Her statement under oath is probably a personal position.

CHAIRPERSON: It is something else yes. Okay thank you.

MR MZWANELE MANYI: Okay thank you, Chair.

CHAIRPERSON: You may proceed.

MR MZWANELE MANYI: Thank you, Chair. So, Chairperson there was also some question of whether I would have encouraged any DG or anybody to have used the

New Age. Almost definitely, Chairperson I would have encouraged everyone I could come across because this was actually assisting in the government's approach of multiplicity of voices.

So if anyone wants to come here and say Manyi encouraged me I am not going to create war to deny any of that because chances are that I might have and so on although I might not remember the specifics but it is something that generally I would do because I thought it is the right thing to do.

What I also liked about the New Age is that what they did, Chairperson is that the creativity and the innovation of reporting per province. So what you would
10 find in that publication is that at one sitting you could say okay let me check what is happening in North West and then you get a sense of what is happening in North West.

What is happening in Mpumalanga? What is happening you know the different provinces. So it had that. So it was a very useful publication and all that and I think also for government it would have been very useful because government generally has a problem – has a problem in having its messages carried across because media, mainstream media takes the position that says they are not the conveyer belt for government. They are the watchdog. This is the approach they take that they are the watchdog.

20 Now government has invested in a lot of equipment hoping in various press places I mean if you go to GCIS in Pretoria, you go to GCIS in Cape Town a lot of money has been spent by government to ensure that they use media as a partner in communicating, in its communication.

But media is not of the same mind. Media is there to say what wrong are you doing. They are there with a red pen. In fact when you go to a press briefing –

when you go to a press briefing you can go there, Chairperson and read 10 pages and all that and the very first questions that come after the press briefing is not anything about what you have written.

It is the things that they came to the briefing with. It is an opportunity for them to ask all these other questions. So as a result when you look at the newspaper the next day you will be lucky to find one sentence of what you had read reflected in there.

So when you have a paper like the New Age which has a different posture in terms of half – the glass is half full it was a very welcome posture and not that by the way, Chairperson it did not reflect some of the wrong things that were happening in government which I will take the Chairperson through just to illustrate that this paper was indeed balanced in its approach. Now one of the things for instance that would be used against this paper Chairperson would be that it is not a member of the ABC, Audit Bureau of Circulation. So what this means Chairperson that the big four in the media space, you know, your Times Media, your what is now called Tiso Blackstar, your independent, what is the other one Naspers and Caxton, the four big groups. They have this thing called Audit Bureau of Circulation where they work, they audit how much of the newspapers have been printed and have been circulated and sold and all of that and then based on that then they come up with a number through that audit process to say this newspaper has got a circulation of 100 000 and that circulation figure then gives a basis for the rate card. So in other words the rate card is a pricing mechanism to say do I price this, do I price this half a page this much? Do I price a full page this much and so on based on the reach that that newspaper would have and that, then that determines how much should an ad cost as it were. So that is what they would use.

Now the New Age was not part of that deliberately so, because they did not believe that that system was a welcoming system. It was the view of the New Age editors at the time that in fact this thing was also conflict because, riddled with conflict because all the people that sat on the board of this thing were all from, you know it is almost like a cabal of the same newspapers sitting here and deciding that okay you have this much, you have this much and all that and that determines, that determines the price of an ad.

Now this ABC thing Chairperson was also used if you like as a mechanism, artificial barriers to entry. So newspaper, Community Media would not make the
10 criteria required to be in this ABC and all that. So what that does then is that if this Community Media or New Age you go to a private sector company to try and get them to put ads in your paper. The first thing they ask you is your ABC and if you do not have that ABC they cannot do business with you. So this has been the problem.

So at the time when I was at GCIS it was not a B or an end all to ABC. So we would use Community Media deliberately so knowing they have not got ABC ratings, but because there are other ways of checking this for instance the New Age was using audit to say auditors must audit how many papers they are circulating, but it was not the approach of New Age in any case to look at circulation. Their approach was based on what they call readership and the philosophy here
20 Chairperson is that, the philosophy is that with readership for instance if there is a family of five not all five members of the family must buy a particular newspaper. One newspaper is enough maybe for the entire household as it were.

So New Age was using that kind of a system to say how many households are there. How many people are in a household. So if we sold one newspaper that newspaper will be read by ten people as an example. So that is a kind of philosophy

they were using in terms of saying what is the reach of their publication.

CHAIRPERSON: But how would they, how would they know how many able, how many people they were able to reach namely how many members of a family had read a newspaper if they did not know how many newspapers they sold?

MR MZWANELE MANYI: Yes. Thank you Chairperson it is a very important questions. Stats SA...[intervenes]

CHAIRPERSON: So in other words it seems to me that you have got to first know how many newspapers you have sold then before you can then say but how many people do we reach because just because one paper is bought by one person does
10 not mean necessarily that it will be read by that one person only.

MR MZWANELE MANYI: Yes. Yes thank you Chairperson. That is correct Chairperson. That is why I did say earlier there is an issue of audit. So there will be an auditor that would audit how many papers have been sold so to speak, sent, or because they used different models of distributing the paper or rather selling the paper. The one model was the retail model where you would go and sell like at the street corners and all of that, but the other model was subscription based.

So they would say this particular government department as an example requires a 100 copies. So it is very clear 100 copies go to Mpumalanga, a 1000 copies go to wherever. So there will be subscription based and the subscription
20 base was in fact the lion share in terms of the revenue streams because those were guaranteed and all that. So there would be all clear arrangements with various departments to say or various government departments to say I require so many newspapers and all that. So that would be one firm way of establishing exactly how many newspapers would be out and then you multiply that also by a factor of how many people are in that government department and in fact some of those people

will take the paper home and STATS SA is very meticulous Chairperson about the number of people in a household. So that information is readily available. In the TELMAS system all of those nitty gritty details are also in there just to get to know the reach of the paper and all that, but the important thing Chairperson on this matter is that the GCIS rather I beg your pardon the TNA approach was a lot more scientifically sound than the ABC in this way. One of the newspapers in this country that has got the biggest circulation is what is it, Daily Sun. Now the Daily Sun probably trumps everybody in terms of how many newspapers it circulates, but what ABC does not seem to take into account is something called psychographics, because it is all well and good to say my paper has gone to a million people, but what are the psychographics of those people? Can you, can you take an analysis of a judgment Chairperson and put it on a Daily Sun and hope that the Daily Sun market is going to read that? They would not. It is not their cup of tea. They are interested in other things as it were.

So therefore the TNA approach was much more targeted as well and therefore the issue of what we call spillage was less in TNA. So with these others there is a lot of spillage. I mean if I live in Northern Cape and one copy of a Sowetan is identical from the one, from the one side, from Limpopo to Cape Town is an identical copy of the Sowetan I mean that blunt approach how much value does it add to somebody sitting in Postmasburg and so on? You will find that there is nothing in Postmasburg covered in the Sowetan. In fact I can even bet even today if you were to open Sowetan today Chairperson I am almost sure there is not much covered in Postmasburg, but if you had the New Age you would have a focus on Northern Cape. You would have a focus on this and all that and what that does it helps even government in those regions to know what are the issues affecting

people in the various localities.

So instead of buying one paper that is just blunt that is just covering Gauteng issues and maybe something in Cape Town and Durban and so on but the rest of the country is almost non-existent as it were in terms of the coverage.

So that is the, what New Age did and that is why this ABC was actually not meaningful. In fact Chairperson I think government should be wary of insisting because I know here of lately they are insisting on this as well. This is part of the capture of government by the newspapers. Newspapers actually have captured government because government is now also almost insisting on ABC, which I think
10 is a mistake because it is anti-developmental. You cannot have a situation where government is going to insist on this thing, because this is an artificial barrier to entry. New players are not able to go into this. New players will not have a rate card that recognises them.

So it is a really big mistake. So I would really be, I would really be encouraging government not to be using ABC. They can use it but they must not exclude those that do not have it and all of that Chairperson. So that is that one. To proceed Chairperson then there is the issue of cost and the subtext of how much we paid and Chairperson as I go through this I am going to ask the Registrar, I do not know if you have got equipment here to be able to put and flag this, just one slide.

20 **CHAIRPERSON**: Well Mr Maleka are you able to be of assistance to Mr Manyi in regard to slides?

ADV VINCENT MALEKA SC: Chair I am technologically challenged, but what was indicated as a short statement has gone for far too long now.

CHAIRPERSON: Well, but in terms of assisting him with slides you say you are technologically challenged?

ADV VINCENT MALEKA SC: Yes we can make those arrangements during...[intervenes]

CHAIRPERSON: For later.

ADV VINCENT MALEKA SC: During the lunch adjournment.

CHAIRPERSON: Okay Mr Manyi so that can be dealt with later.

MR MZWANELE MANYI: Okay Chairperson.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: It is just one slide by the way.

CHAIRPERSON: Yes.

10 **MR MZWANELE MANYI:** I wanted to show.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: In terms of the costing.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Now...[intervenes]

CHAIRPERSON: Well before you say, well Mr Maleka you kind of complained that what was intended as a short statement has taken long. It is fine. I have asked Mr Manyi some questions. Let us allow him to complete. Thank you.

MR MZWANELE MANYI: Thank you Chair. Thank you for the protection Chair. Now Chairperson I had put a slide here. It is a pity that the Chairperson does not
20 have the copy of this here and I see also the printout of, printouts are not as clear, but my copy is much clearer that I wish I could even share it with the Chairperson.

CHAIRPERSON: I thought Mr Maleka said that you had sent to them documents that you wanted to use?

MR MZWANELE MANYI: Yes I have.

CHAIRPERSON: Which were included here, but there was the earlier one which

does not appear to have been included. Is that another one that...[intervenes]

MR MZWANELE MANYI: No this one is, actually it is part of the statement this one.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: On page, yes it is in the statement this one Chairperson on EXHIBIT 4 and 5 page 231 and 235, 236 to 240.

CHAIRPERSON: 231 to 236?

MR MZWANELE MANYI: 231, yes, Chairperson from 231.

CHAIRPERSON: Okay all right. Yes you may proceed then.

MR MZWANELE MANYI: Yes. What I am showing there Chairperson is that
10 financial year 2011/2012 because sometimes when we deal with TNA we deal with it
out of context. So I thought it is important that we must deal with it...[intervenes]

CHAIRPERSON: TNA being The New Age?

MR MZWANELE MANYI: The New Age, yes Chairperson.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: I think it is important that we deal with it in context. Now
on EXHIBIT Q4 Chairperson which will be there on page 231 to 235. There is a
whole list in those exhibit Chairperson of, from 231 to 235 of all the media that was
ever paid in GCIS in 2011/2012 which was my period. So the total bill for the year
was like R194 million. That is how much GCIS paid in the year 2011/2012. So I am
20 going to deal with the two years that I was there 2011/2012 and 2012/2013. So the
first date...[intervenes]

CHAIRPERSON: I am sorry Mr Manyi you have just mentioned the total.

MR MZWANELE MANYI: Yes Chairperson.

CHAIRPERSON: Where about is it? Is it on page 231?

MR MZWANELE MANYI: On, on my actual statement, the one I am reading now

Chairperson on 231 that will be a list of, there is a total at the top...[intervenes]

CHAIRPERSON: Yes.

MR MZWANELE MANYI: And the breakdown.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Yes so I am just talking to that.

CHAIRPERSON: The amount at the top is the total?

MR MZWANELE MANYI: Is the total that 194.

CHAIRPERSON: Involving all publications?

MR MZWANELE MANYI: Of all the publications.

10 **CHAIRPERSON**: Yes okay.

MR MZWANELE MANYI: Yes. So then the total is R194 million.

CHAIRPERSON: That is 199,132,58, is that right?

MR MZWANELE MANYI: It is 194 169 477,96.

CHAIRPERSON: Okay I am sorry. You are looking at the first column. I am looking at the second one. Now I know where you are.

MR MZWANELE MANYI: Have you got it Chairperson?

CHAIRPERSON: Now I know where you are, yes.

MR MZWANELE MANYI: Right.

CHAIRPERSON: That is fine.

20 **MR MZWANELE MANYI**: So that is, that is the global amount in terms of total spend on media by GCIS in the year 2011/2012. So the amount there is R194 169 477,96 that is the global amount.

CHAIRPERSON: And I assume that the reference to 2011/2012 refers to the financial year?

MR MZWANELE MANYI: Yes Chair.

CHAIRPERSON: Financial year.

MR MZWANELE MANYI: Yes financial year, yes.

CHAIRPERSON: Okay thank you.

MR MZWANELE MANYI: That is the financial year. Okay so just on a high level Chairperson then I then on my statement which I am reading now I just...[intervenes]

CHAIRPERSON: Before you, before you go to your statement the column if I may call it that where the total appears which you have told me about is at the top and then below that there is another column. Is that the one where you say, is that the one that you say reflects the breakdown of the various publications?

10 **MR MZWANELE MANYI:** Yes okay let me explain this what you see in front of you Chair. What you see right at the top you see 2011/2012 financial year expend right at the top and the number there is R194 169 477,96. That is right at the top-top-top-top.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: And then there is the next line is 2012/2013 and then 2013/2014 there is a blank because I was not there.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Now on, then you get this other table at the bottom supplier total expend that 199 that the Chair read is just for that one company called
20 Adreach.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: It is just the one company.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Then the next one there is Ads24 which is your Naspers at R17 million. So that is the one. So what I have then done Chairperson to, so that

there is about five pages of the spreadsheet that shows exactly which company was paid how much. Now what I have then done, Chairperson just to take just the ones that constitute the lion's share and I put only those on my statement...[intervenes]

CHAIRPERSON: Yes?

MR MZWANELE MANYI: Just to say of this 194 here with the big hitters of that.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Because the others are just sharing the spoils.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Yes.

10 **CHAIRPERSON**: So in terms of that then, Chairperson in the year 2011/2012 SABC was paid R68 889 851.50. That is how much was paid just to SABC.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Followed by just in terms of magnitudes, followed by Ads24. Ads24 is a marketing arm of Naspers. It is your City Press, Rapport all of that group, Chairperson.

That group got R17 995 122.27. That is what that group got and then you have got Avusa at the time which is now Tiso Blackstar which is where we are here today in this building those people in that year they got R11 219 856.86 and then there was Etv. Etv got R8 517 788.36 and then you get the New Age and the New
20 Age got R8 691 634.86.

So that is how the lay of the land was, Chairperson and if you compute that you then say what is the percentage of the New Age in this whole lot? The actual percentage, Chairperson if you work out the ratio between the R8 million and the 194 it is actually 4.5 percent.

Okay so of the total add spend of 2011/2012 the New Age got its piece of

the action was 4.5 percent. The rest was everybody else as it were.

CHAIRPERSON: But is your – is the basis of your comparison correct? I have not had time to study this.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: So I am thinking aloud. Take for example you say SABC for example got a certain amount which is a big amount but SABC is big and has got different TV channels, has got numerous radio stations, I do not know how many they are but numerous.

Now did you do the exercise of for example saying which – which radio
10 stations for example what did each one of the radio stations receive under SABC? What did each television channel under SABC receive because you see you are comparing them with New Age.

You know as I understand New Age did not have other children. It was just New Age.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: So it seems to me assume that we are talking of maybe a broadcasting company maybe competing with SABC one might have said well does it have, did it have as many radio stations?

Did it have radio stations and television or was it just you know television?
20 How many channels? How many radio stations because the more it has namely radio stations and TV channels then the more you can understand if it gets in terms of revenue from advertisements because then that would go to different ones.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: And if for example you were talking about a newspaper you know if you take a newspaper company that has a number of newspapers that it publishes

and you look at what it got from GCIS so let us say it has got five or six or whatever number of newspapers when you look at the revenue but you simply relate the revenue, the size of the revenue to the company and not to each individual newspaper you may well logically easily find that of course the revenue that New Age got is smaller than the revenue that this newspaper, other newspaper company got because it has got many newspapers.

To be fair you probably would need to take one newspaper under that group or that company which has go a lot of newspapers. Look at one and then look at New Age and say okay let us compare. What do you say to that?

- 10 **MR MZWANELE MANYI**: Yes – no, Chairperson I follow your logic but the figures here actually reflect that and by the way I am not complaining that they got more. As you can see R68 million I am not complaining.

Your line of thought is actually embedded in here and I am just showing what is it that we actually got – what actually what TNA actually got but not that I am complaining but I am saying this is the facts as they stand.

Now also if you maybe actually SABC is not even a competitor of TNA because it is electronic broadcast and all of that so there is other dynamics there and all that.

CHAIRPERSON: Yes.

- 20 **MR MZWANELE MANYI**: But put that aside, Chairperson. Even with the other newspapers the issue for me is that they may also be however big in terms of circulation but there is a spillage in the circulation.

So the effective communication does not happen there because it is just a blunt tool. It is just one paper that is universal for the country and its usefulness to the various parts of the provinces leaves much to be desired.

So therefore there must be some pricing consideration that takes into account target marketing versus a gunshot approach. So what we have here you have got newspapers that have got call it a gunshot approach and you just hope for the best and all of that whereas when you do the weighting of the quality of distribution that is what it comes to, Chairperson that you may have a quantity of distribution but the qualitative aspects of that might be lacking and as far as government is concerned government is interested in both quality and quantity.

CHAIRPERSON: But let us go back to my question. Let us take average for example. I understood you to be saying that is not one newspaper or what I wrong?

10 Average?

MR MZWANELE MANYI: Average yes.

CHAIRPERSON: Yes? What they got was R199 million something, is it not?

MR MZWANELE MANYI: No, it is R199 000. It is a small publication.

CHAIRPERSON: Just repeat that please.

MR MZWANELE MANYI: R199 000.

CHAIRPERSON: Oh, okay. Okay.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Which one did you – which one does City Press fall under? You mentioned one that...[intervenes]

20 **MR MZWANELE MANYI:** Ads24, just below that one, Chairperson that R17 million.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Does that not have a number of newspapers?

MR MZWANELE MANYI: They have got Afrikaans Rapport. They are a weekend newspaper mainly.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: So yes. So it is quite a big statement.

CHAIRPERSON: So one weekend newspaper?

MR MZWANELE MANYI: They have got City Press, has got one. It is a weekend newspaper.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: There is no City Press on a daily basis.

CHAIRPERSON: Yes so it is not a number of newspapers under them? That is what I am trying to look at bearing in mind what I was asking you earlier on.

10 **MR MZWANELE MANYI:** Okay.

CHAIRPERSON: In terms of comparing.

MR MZWANELE MANYI: Okay I hear you, Chairperson. The – I think the question is correct. There would be Ads24. Maybe that would include Rapport which is a different newspaper, City Press, I do not know whatever else they might have but they are mainly those two.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Really for this for what we are paying for here.

CHAIRPERSON: Yes.

20 **MR MZWANELE MANYI:** That will be the weekend newspapers really in terms of this one.

CHAIRPERSON: Yes. Do you accept the proposition that or do you have a problem with the proposition that it may be better if one compared a newspaper with a newspaper one, one as opposed to one newspaper as opposed to a group of newspapers in one company to get a picture of the ratio?

MR MZWANELE MANYI: Yes well, Chairperson it is not as – I hear you but it is not

as simplistic as that because there is also crosspollination. So for instance you find that – you find that the one newspaper could cover – the one newspaper in the group maybe to that point the one newspaper could cover this particular aspect.

That same aspect can be covered in another sister publication and all that. Similarly for instance you would find that with the New Age for instance they would have a system where much of what – they would cover whatever they cover in the newspaper but some of it would also be covered on the TV section without you paying more as it were.

10 So which mitigates the issue of a circulation of a newspaper because they have a TV aspect as well so when they go and do a value proposition a value proposition includes that although we pay for the newspaper but we will get some mentions on TV as it were.

So the mechanical one on one comparison does not work. The important thing here, Chairperson is that these companies is just – it is the companies that you deal with, with a particular editorial line as it were and...[intervenes]

CHAIRPERSON: Yes of course the reason why we are where we are that is you and me on this question is because my understanding was that your initial approach...[intervenes]

MR MZWANELE MANYI: Yes?

20 **CHAIRPERSON**: Was to simply say look at what Ads24 got for example. Look at what New Age got. It is much more smaller therefore blah, blah, blah and maybe I ask you to soon.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Maybe you were still going to say...[intervenes]

MR MZWANELE MANYI: No, no Chair.

CHAIRPERSON: You knew better.

MR MZWANELE MANYI: Yes. No, Chairperson – I think Chairperson perhaps that goes to the crux of the different understandings of state capture because the narrative out there is that the New Age was like gobbling up all government money so my response here is to show that they got what they got but let us not create the impression that this newspaper gobbled up all of government advertising. They just took what was due to them which was in proportion to their size as it were. So it is just talking to its size that to be four percent, 4,5 percent was probably in proportion to its size. So let us not create the impression that 4,5 percent is actually the 100 percent of the spend. This is the issue Chairperson. If you had a, if you had a New Age given its size being paid R68 million now you are talking, but if you have a New Age consuming only 4,5 percent given its size you then say but what is this big fuss all about because it is in proportion to its size.

CHAIRPERSON: Okay all right thank you.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: Mr Maleka may or may not take that further but you may proceed.

MR MZWANELE MANYI: Okay thank you Chairperson. So on, so that is what are the numbers in terms of 2011/2012 and also Chairperson on EXHIBIT Q5 which is on page 236 to 240 it is the same kind of thing. It is the same kind of thing just different numbers, but there you can see that again SABC given its size and everything nobody is questioning them but they got R71 million. Naspers got R20 million. Tiso Blackstar got, they went from R11 million in 2011/2012 to more than double to R28,7 million and that does not mean then Chairperson that they doubled their circulation. This is the thing. They went from R11 million without doubling their circulation, but they still more than doubled almost tripled actually their revenue Tiso Blackstar. So

that is the thing and I think after this Commission here they will be even much more richer as it were because this is still their group. So that is what is happening there Chairperson. ETV went from R8 million to R10 million and TNA went from R8,6 million to 7 it actually went down. So in the year 2012/2013 it was just a sliver. If you had these gadgets here just to show in proportion you will see then Chairperson that in 2012/2013 the New Age was actually 3,2 percent. So the number is even smaller as it were. So the notion that they got more than their fair share is really not supported by substance Chairperson. So, so yes. So that, I think that covers the question of cost and all that in terms of that one. Now Chairperson I want to deal

10 with the issue of Mr Maleka wanted to know the issues surrounding, surrounding the liquidation of the New Age. Now and I am saying here Chairperson in order to understand that it is important to understand the, how New Age/ANN7 that media house was perceived. It was perceived as friendly to government, but the sample I am going to show you is going to show that it was a balanced publication which was half full as opposed to half empty but at the same time if there is evidence of capture as it were this publication would show that and I think Chairperson I want to say that I think the demise of this publication was really because of its focus on what I would call white collar corporate capture of the State. This is what, this is a phenomena that I think is actually at play in South Africa the white collar corporate capture of the

20 State and this is exemplified by the kind of reportage that the New Age was doing and so on. So back in May 2017 Chairperson there was a project that was happening at National Treasury. That project was called IFMS, Integrated Financial Management System which is a system meant to integrate HR finance and all that, and all that. It is a project that was conceived way back in 2005 but it started to be rolled out from 2009 a R4,3 billion project. That project Chairperson allow me to

characterise it as a VBS cousin. Cousin of VBS that project.

You are sitting here Chairperson with and I will go through some of the findings of the internal audit in terms of what happened in that project. Total atrocity. You will not believe Chairperson as I take you through that you could find such a malfeasance, I heard this new word here mentioned a lot. You will be surprised Chairperson the malfeasance that is embedded at National Treasury that the New Age reported on, that ANN7 reported on, all of that which made these publications very unpopular with everybody that was part of this white collar corporate capture of the State. Now I take you through Chairperson to, by way of example if you go to

10 EXHIBIT 6. EXHIBIT 6...[intervenes]

CHAIRPERSON: What page?

MR MZWANELE MANYI: Page 241 to 246. Have you got it Chairperson?

CHAIRPERSON: Yes I think I have got it.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: This was a meeting of SCOPA, a recent meeting of SCOPA which was reflecting on the things that happened in this period of this IFMS. Now there is a lot written here Chairperson. There is only one important sentence.

CHAIRPERSON: The document which is marked, which is at page 241 maybe we
20 should not say exhibit whatever because that might confuse the reader of the transcript with other, other exhibits, but it is at 241 at EXHIBIT M1 it is written Parliamentary Monitoring Group or PMG, Parliamentary Monitoring Group.

MR MZWANELE MANYI: Yes that is the one.

CHAIRPERSON: And it says premium content from before 2017 is not available for everyone. Integrated Financial Management Systems IFMS herein with National

Treasury, Public Accounts (SCOPA) 5 June 2018. Chairperson Mr T Ghodi (APC).

Yes.

MR MZWANELE MANYI: That is the one Chairperson. I was only going to read of that Chairperson just one sentence. It is about six pages of this including the minutes of SCOPA here, but I know Mr Maleka is pressed for time. I will read just one sentence.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Where it says;

10 "Members noted that IFMS had cost R1,7 billion to date with
nothing to show for it."

I repeat Chairperson.

"Members noted that IFMS had cost R1,7 billion to date with
nothing to show for it."

Yes now that is very devastating here Chairperson coming out
of...[intervenes]

CHAIRPERSON: Well I just wanted to say Mr Manyi it is important that you also get
a fair opportunity to put what you want to put before the Commission.

MR MZWANELE MANYI: Sure.

20 **CHAIRPERSON**: So yes Mr Maleka may have complained about time but if there is
something else in this document that you wish to highlight other than one sentence
do feel free to do so.

MR MZWANELE MANYI: Okay. Thank you very much Chairperson for your
indulgence. So, so Chairperson this is what SCOPA had to say. Now this was a
project of R4,3 billion. So already almost halfway through we have not got a return
on our investment. Now what is crucial here Chairperson are the findings of this

internal audit report and if you go to EXHIBIT Q7 on page 247 to 259...[intervenes]

CHAIRPERSON: I am sorry Mr Manyi this document is it an auditor's report or what is it?

MR MZWANELE MANYI: Yes Chairperson it is an auditor's report.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: Internal audit report.

CHAIRPERSON: And, and is PMG, Parliamentary Monitoring Group the name of the auditing company or...[intervenes]

MR MZWANELE MANYI: Okay I beg your pardon Chairperson. That
10 PMG...[intervenes]

CHAIRPERSON: I just want to make sure...[intervenes]

MR MZWANELE MANYI: Yes...[intervenes]

CHAIRPERSON: We know who the authors of the document is before we proceed.

MR MZWANELE MANYI: Okay, okay. That PMG, that Parliamentary Monitoring Group is just the, it is a website where Parliament records electronically its proceedings.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: It is a Parliamentary...[intervenes]

20 **MR MZWANELE MANYI**: Monitoring...[intervenes]

CHAIRPERSON: Entity...[intervenes]

MR MZWANELE MANYI: Yes...[intervenes]

CHAIRPERSON: Yes, okay.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: Yes Chairperson. This is what recorded what transpired.

CHAIRPERSON: And what is recorded here would have been recorded by SCOPA.

MR MZWANELE MANYI: Yes it would have been recorded by SCOPA.

CHAIRPERSON: Okay, all right, thank you.

MR MZWANELE MANYI: Yes Chairperson. They even have names. If you go through there is about six pages of this. They even have names of which member said what. It is all there. Our Parliament is very transparent.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: Okay. So Chairperson everything is here. Now what was
10 tabled there Chairperson when we were having this discussion are the findings. Now in terms of where are these findings? I put this EXHIBIT Q7 here which you will find Chairperson on page 247 to 259 in your bundle. This is what was tabled, but I summarise it on my statement Chairperson, but these are all the things that were tabled there.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: But just so that I do not shuffle a lot of paper too much. In my statement I summarise what is here.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: What the internal audit found Chairperson is that in fact
20 what they found is that there were at least 54, 54 irregularities basically. 54 findings of irregularities and those findings were categorised into two. Catastrophic and high risk. Of the 54 findings that were there 49 of those findings were found to be catastrophic. So what does that catastrophic mean? It means extreme inefficient and ineffective operations of control. So basically on both these categories you could not put any reliance on the controls that were put there. It was total chaos

Chairperson. Absolute, absolute chaos that they found there.

They go through that report Chairperson, I have summarised here just some of the things that they mentioned in there. One of the findings that they make their Chairperson is inadequate payment procedures. So in other words you have no purpose, no scope, no objectives defined in the payment procedures. That is what they found. They found no budget information and no budget breakdown per year. This is National Treasury. In other words no supporting documents to justify the line items towards the R4,3 billion. They found no formal independent quality assurance function in place. So basically this thing was like on auto pilot. No one says you are
10 on the right track, you are on the wrong track it is just free flow and all that.

Then there is an office called PMO, Project Management Office. They found excessive expenditure there. They make an example Chairperson here that this PMO was allocated R145 million for five years, but what happened there within the first 16 months they had already spent R70 million of that. Almost 50 percent of that which shows that it was, in Khosa Chairperson we would have said [African language phrase] I just do not know it in English. Expenditure not related to the IFMS project. I mean really Chairperson how could you find such a thing at National Treasury? Expenditure not related to the IFMS when it is us as accounting officers when I was in government when you have a thing like this they hit you with
20 something very serious, they say, they say unauthorised expenditure. You have used money for the purpose it was not designed for. They come with a very serious thing and they say financial misconduct and they could even criminalise you for this, but it is happening right there at National Treasury. They spent something like R4 million to pay for something different. To pay for centralised supply database on a money that was mean for IFMS.

The audit found that there were gaps identified within the SLA agreement, Service Level Agreement. They found gaps which indicated, Chairperson that there were no penalty clauses, there were no performance criteria. This is quite shocking, Chairperson that such malfeasance can happen at National Treasury.

No timesheets to justify bills, hours billed. No timesheets. So in other words you know having worked in the consultancy space you put another item there that you did research on this matter for three hours. You bill for three hours.

These guys they did not have to do any of that but they were billing. I then added up time – added up amount in terms of just that one line item how much
10 did government spend? R73 million was actually spent if you were to total up all those timesheets where there is no justification of hours and all that.

There were also no sign offs or approval of invoices. You know, Chairperson in government you cannot just pay. An invoice must be approved and what that approval process entails is to check if things happened. It should go through all the checklist.

In this case National Treasury did not have the checklist and so one just billed and it is just approved. Internal audit also found there were duplicate payment so I find that quite interesting as to what that is. Duplicate payment, Chairperson talks to what I call staggered payment in my language.

20 So what would happen is that there would be a bill, a bill that says we are charging you from services from the 1st of this month to the 25th of the month. But then at the same time in that same period you will have another bill in the middle of that that will say from the 10th of this month maybe to the 1st of the next month.

So you have an area that is overlapping right there but both those invoices would be paid as if it is two pieces of work happening in sequence. So

actually it was a serious issue that was happening there. Now this is just – this is just Chairperson as it relates to payment services.

The auditors did not look at how those companies were procured. They did not look at all other things. This is just on the one line item on payment of services and this is how much atrocity they found.

I shudder to think what would have happened if they had also audited how all these suppliers were also part of this, Chairperson. So this does not help in terms of – in terms of engendering confidence. You know you hear – you hear, Chairperson people saying Treasury must be protected.

10 I am saying to myself that is very true. Treasury must be protected but the question is from who and I would say, Chairperson this is a kind of thing that National Treasury must be protected from but the narrative given out there is that it is otherwise everything well and Chairperson I think Mr Pravin Gordhan said something very important here that when you root out the cancer you must root out all of it.

I agree with him and this is part of the cancer that must be rooted out, Chairperson. I totally agree with him. We must root out all the cancer. So then what followed so I am mentioning this, Chairperson as some of the things that have made this media house unpopular because then there was...[intervenes]

20 **CHAIRPERSON**: So you are saying – are you saying that this is one of the issues that the New Age published for which it might have made it unpopular in certain circles?

MR MZWANELE MANYI: Correct, Chairperson. If you look – if you go to EXHIBIT Q8 it is actually there.

CHAIRPERSON: What is the page?

MR MZWANELE MANYI: On page 260.

CHAIRPERSON: Yes?

MR MZWANELE MANYI: On page 260 is an example of what New Age would have reported on this matter.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Yes. So that is what the headline Treasury chaos and all that. So that is what New Age would do and then we would have Treasury people saying we are targeting – they are saying Treasury is being targeted and all of that when in fact the New Age was reporting the truth something based on an internal
10 audit report of National Treasury.

This is what the New Age was reporting on and then the response is that – the response is that National Treasury is being unfairly targeted. There is no unfair targeting. We are exposing the rot that is being unearthed by the internal audit of National Treasury not of anybody else.

National Treasury Audit is the one that did this work and this is what is happening there. So Chairperson as I got towards the closure then this Chairperson in my view talks to – talks to the next thing I want to talk to is the issue of the – what then happened.

Then a forensic investigation was ordered just to cut a long story short.
20 There was a forensic investigation and I think...[intervenes]

CHAIRPERSON: I am sorry Mr Manyi. I did not look at the time. It helps when counsel is standing there because then they can tell me it is time for a lunch adjournment. I just realised now on my watch it is 13:11. How long still do you think you would take?

MR MZWANELE MANYI: Right, Chairperson let us go to lunch. I have

got...[intervenes]

CHAIRPERSON: It is better to go to lunch?

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Okay. All right. We will take the lunch adjournment and we will resume at 14:15. We adjourn.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Yes Mr Manyi?

MR MZWANELE MANYI: Thank you, Chairperson.

10 **CHAIRPERSON**: How much more time do you think you might need before you finish? I just want to have an idea.

MR MZWANELE MANYI: Half an hour.

CHAIRPERSON: Okay. All right let us hear.

MR MZWANELE MANYI: Okay. Okay. That does not include questions in between.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Unless you extend it.

CHAIRPERSON: Yes no I was not counting.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: It is just you on your own.

20 **MR MZWANELE MANYI**: Okay. Then, Chairperson just perhaps just to close on the previous presentation I just asked the team here to just put that slide on. Can you put it on? Just for the visual impression of those levels in context that is what was the spend of TNA through the GCIS system.

Everybody else is in that big pie and so on. So when we were having this discussion you see because Chairperson part of the narrative out there is that

whatever was paid on TNA was like irregular. There is no such a thing.

Everything – all processes were followed and all of that. There is nothing irregular there. So the impression created that if you spend one Cent you spend one Cent too much. That approach is really misguided.

So we need to just be clear that all of this is money that was – there was value derived for that money but at the same time when people pretend as if TNA captured GCIS is actually not true. These are the only slivers that they got there.

This is information from GCIS. So that one then Chairperson I just wanted to just flag.

10 **CHAIRPERSON**: Is that in the bundle?

MR MZWANELE MANYI: That is the one that is on the statement, Chairperson.

CHAIRPERSON: Oh. Okay.

MR MZWANELE MANYI: Yes so I just wanted it here because I see here that the photocopier is black and white. They do not have colour printers here.

CHAIRPERSON: Okay. Okay. No that is fine.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: Are we done then with the slide?

MR MZWANELE MANYI: Yes that slide is done, Chairperson. We can remove it.

CHAIRPERSON: Okay.

20 **MR MZWANELE MANYI**: Okay. Then Chairperson as I close on IFMS I would have thought – I was really disappointed Chair. I must say this by the attitude of National Treasury when I was asking for information and I say to them that I am not coming here last minute because I am disorganised so to peak.

I am coming to them last minute because I only knew last week that there will be further questions that I needed to ask and therefore I need more information

so I tried to appeal to them to say this is in the interest of achieving the objectives.

Can you please give me this report which I want to use as an example and they threw all the red tape they can throw at me, Chairperson to say – I spoke to the spokesperson Jabulani Skhakhane. He was saying to me no you must remember that you must go through the process and it is a 30 day process that you must go through in all this before we release this information and by the way, Chairperson having had the GCIS experience because I had the same kind of attitude when you are asking for information even 30 days later there is no guarantee that they will give you.

10 They will come up with some clause that gives them the right not to give this thing to you and then you have to appeal to the Minister like I did at GCIS but this time around I could not appeal to the Minister because they have not refused.

They have simply said we are still with our processes. We cannot just give and all that. So Chairperson I had to rely on the rules of the Commission Rule 6.1 which allows any evidence so to speak so I used that Rule 6.1 to bring the report because I do not want the Commission to be frustrated.

The report is right here, Chairperson and this is from the whistleblower. This is exact as it is so we will see 30 days later what happens but the report is here so that the work of the Commission is not frustrated by red tape.

20 I really would have thought that given the enthusiasm that National Treasury was on this place talking about this thing that they would say okay quickly here but they did not. They did not want to give it to me but that is the situation.

CHAIRPERSON: So the report that you are showing me is it the report from which...[intervenes]

MR MZWANELE MANYI: The findings come.

CHAIRPERSON: You got that – what page was it? 230? 231?

MR MZWANELE MANYI: That is where the fundings were, Chair.

CHAIRPERSON: The funding. Where the funding...[intervenes]

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Not the funding the revenues for different media.

MR MZWANELE MANYI: No. This report, Chairperson is the one...[intervenes]

CHAIRPERSON: For the project from Treasury.

MR MZWANELE MANYI: Project from Treasury.

CHAIRPERSON: That is the report that was...[intervenes]

10 **MR MZWANELE MANYI**: Tabled at SCOPA.

CHAIRPERSON: That served before SCOPA.

MR MZWANELE MANYI: That is right, Chairperson.

CHAIRPERSON: Okay. All right.

MR MZWANELE MANYI: This is the report. This is where the R1.7 billion...[intervenes]

CHAIRPERSON: Yes.

MR MZWANELE MANYI: There is nothing to show for it.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: This is the detail right here. So I will leave this copy.

20 **CHAIRPERSON**: Oh, you are making that available?

MR MZWANELE MANYI: Yes I am making – somebody can take it here. There it is right here.

CHAIRPERSON: Okay. But you are not talking to it. You are just making it available.

MR MZWANELE MANYI: No, no.

CHAIRPERSON: Okay I think...[intervenes]

MR MZWANELE MANYI: I am leaving it here.

CHAIRPERSON: I think the legal team will take it and then in due course they will indicate what is to be made of it.

ADV VINCENT MALEKA SC: Yes, Chair.

CHAIRPERSON: Thank you.

MR MZWANELE MANYI: Then, Chairperson a very important point because we are talking about the capture here and I am going to wrap up, Chairperson. It is my contention, Chairperson actually there has never been a time when the state had not
10 been captured.

There has never been a time. Not only has the state been captured, Chairperson even the laws have been captured and I am going to make a very quick example. Even the laws have been captured.

We have a very powerful and enabling clause in the Constitution of this country, Chairperson Section 217 that talks with the procurement. That section, Chairperson has got three sub sections and the one section talks to efficiencies you know everything about the sections of everybody keeps quoting but there are other two sections that nobody bothers about and the other two sub sections for instance sub section (2) says, let me just perhaps just to revise memories it is a very quick
20 one, Chairperson.

Procurement 217. Sub section 1 says:

"When an organ of state in the national, provincial or local sphere of government or any other institution identified in national legislation contracts for goods and services it must do so in accordance with a system which is fair, equitable,

transparent, competitive and cost effective."

Everybody stops there. Even PFMA stops here but the Constitution says sub section one which I have just read does not prevent the organs of state or institutions referred to in that sub section from influencing a procurement policy providing for:

- a) Category of preference in the location of contracts.
- b) The protection or advancements of person or categories of persons disadvantaged by unfair discrimination.

Then sub section three says national legislation must prescribe a
10 framework within which the policy referred to in sub section two must be implemented. Now you would then think then Chairperson that here is a directive from the Constitution to say there must be a national legislation to effect sub section two but the national legislation which we have in the form of a PPFA Procurement Policy Framework Act 5 of 2000 makes reference to what the Constitution says but what it does is something else.

So what this Act does, Chairperson and the reason I am saying this is because in the – in this forensic investigation when Treasury was to brief out, was to brief out for this job it then said it must go on a 90/10 principle. So what that means is that when they allocate the point they must allocate the points, 90 percent of the
20 points must go to the lower price, ten percent must be for historically disadvantaged considerations whether it is BEE or whatever.

So what that effectively means Chairperson this is the most elegant way to exclude black business in things because in terms of economies of scale black business is not about to be able to compete toe to toe with the established white corporate in this country. So when you say 90/10 you are using a legislative curtain

to shield your actual message. The actual message here is that you are looking for the established big corporates as it were. You do not want anybody else.

Now this is the challenge. I mean last time there was an interaction here between the Chairperson and somebody. I think it was Mr Gordhan or somebody about the issues of pricing. Now Chairperson it is impossible for black business to quote on exact same price with an established company for a number of reasons. Firstly, it is important for all of us in this country to understand the apartheid spatial development that because of that most black businesses that are in the townships or everywhere if they have to compete for the same opportunity for somebody in town
10 those people have got transport costs that they must put into the product. They have got all kinds of things, because you stay in the township you are deemed to be in a high risk area. So when you go borrow money you borrow it at prime plus three when others here that live in town they borrow it at prime minus two. So therefore at the end of the day including economies of scale an established corporate will always beat you with price.

Now if you have a government policy that says I am only interested in the lowest price it is an elegant way of saying black business do not bother taking, participating in this. So that is how captured the laws are of this country.

I then move on Chairperson to that forensic. That forensic has been done
20 and we await the report and in my statement...[intervenes]

CHAIRPERSON: I am sorry let us go back to what you were talking about just now.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: Of course you may be right that if the work is to be done in town and you are based in the township and you have to compete with other competitors who are based in town you might have a certain disadvantage in terms of costs and

so on because of you have to travel and so on and so on and other facts, but – and that may well exclude certain black people, but of course to the extent that there may be black businesses if we can call them that for convenience in town then that disadvantage in terms of costs, transport costs for example would not be there. There may be others but at least that would not be there, will I be right?

MR MZWANELE MANYI: Well except that Chairperson those black businesses in town are faced with high rental costs because they do not own property, they have to lease that property and they compete with people that own the fixed buildings. So that is a problem. So you find that your cost items as black business in town are far
10 higher than your next door neighbour.

CHAIRPERSON: Yes, no, no I understand that is why I was saying there may be other, other disadvantages...[intervenes]

MR MZWANELE MANYI: Okay yes Chair...[intervenes]

CHAIRPERSON: But at least the one for travelling would not be there if we are talking about black business that is based in town.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Okay, yes Chairperson.

CHAIRPERSON: Okay.

20 **MR MZWANELE MANYI**: I was just using a quick example.

CHAIRPERSON: Yes, okay.

MR MZWANELE MANYI: But it goes deeper this thing Chairperson, because there is a whole lot of things because what you then do as well now that Chairperson seems to be interested in this there is also other things like things that affect your liquidity. As black business your suppliers expect you to pay cash here and now.

The established businesses they do not have to do this. They can pay 60 days later and all that. Those are all the arrangements that enable them to do things in a much more competitive way. Now...[intervenes]

CHAIRPERSON: No, there is obviously just no, no doubt that, you know, if you are doing business as a black person and mostly you will not be on the same level in terms of economically with your white counterpart. At least most of the time.

MR MZWANELE MANYI: Yes and the constitution recognised that and the constitution said please put together a legislation that is going to cover that so that people are protected. People are preferred, but then the legislation that we have
10 seeks to create, seeks to treat unequal people equally. That is what it seeks to do
Chairperson and you appear like you will be asking for favours when you are trying to say but this is not fair. The playing field is not the same. The playing field is not level yet so we cannot have a situation where we are approached as if since 1994 we just switched on the light, everything is equal. No the landscape is still very much skewed. So we need to have an understanding of that. So Chairperson without dealing with any specific issue the general principle that the products from black business for them to be a bit more, to have a bit of a premium is something that must be expected and it is something that the state which purports to be a developmental state needs to take that as a given that will have that [indistinct]
20 otherwise it really means that the black people must not be in business.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Okay. Thank you Chairperson. Then I move on then Chairperson to then just in line, just in keeping with my statement this is the last page Chairperson of my statement just to say that another company was appointed and it was meant to have submitted the report and on that day I do not know what

happened, but bottom line...[intervenes]

CHAIRPERSON: Are you still within Treasury?

MR MZWANELE MANYI: Yes Chairperson. Yes Chairperson.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: I am just rounding off Chairperson. Bottom line is that as things stand right now I saw a Tweet, you know, the Chairperson of SCOPA is very active on Twitter so he keeps live updates. Although the first expectation was that on 20 November there would be that report but things happened between that company and National Treasury so the report did not happen, but on the 22nd of
10 November I think last week Thursday then that report was given raw as it is. I am sure National Treasury will still comment on it, but that report is there. I think it will be interesting to see what those auditors, what that forensic audit has unearthed there on that.

So that wraps up that one then Chairperson just as an example of the kinds of things that made TNA and ANN7 unpopular because these are the things they cut both way. It really means that National Treasury must think that we are attacking them as it were when in fact we want to do what Mr Pravin Gordhan said that we must root out the cancer wherever it is there. So root out all the cancer. So that is really what we thought we were doing there Chairperson. So I move on
20 Chairperson this is another critical story about the white collar capture of the state. This is classic what I am going to describe to Chairperson now. This is classic stuff that to try and find illegality and unlawfulness in this thing, the struggle, is elegantly done. It starts off somewhere and this is what we reported on. It starts off somewhere in November 2006 with a very innocent memo which I put as EXHIBIT 9 on pages 261 to 271.

So this memo from SARS Chairperson is a very interesting memo. This memo seeks to sanitise the appointment of a particular service provider at SARS in 2006. So in a nutshell what happens here is that the bid, this company gets brought in not through open tender process and some argument gets made about emergency and all that and therefore regulation 16(A)6.4 gets invoked which talks to it is not practical to go on an open tender.

So this company gets appointed and part of the reason used is that it is cheap when others were quoting R300-something million or R400 million this particular company was saying they can do this thing for R100 million. So then it
10 sort of like make sense okay R100 million and we need this thing here now and all of this let us just get on and get this company on board. So, and the person that makes recommendation, part of the officials of SARS that makes the recommendation instead of having a bid evaluation or a bid adjudication committee even for the handful that were selected the person says in my opinion I think we should invite this one, this one, this one. So the opinion counted instead of a proper committee that is supposed to do this. So one man decides that in my opinion we must do, we must only look at this one, this one, this one. So and the first one said I am not interested. The other one said about R400 million or something and this one said R100 million and said okay, this is our horse, we take this one.

20 Now the point here Chairperson is that what has since happened since the installation of this company and I am deliberately leaving names out because I am here to deal with the principle not to lambaste people. I am here to deal with the principle but all the details are here Chairperson. If the Commission wants names mentioned I will take direction from the Commission but I am leaving them deliberately. The names are here. This company starts off at a R100 million and

then what then happens since then to date this company has been getting its participation renewed internally no processes involved.

By 2016 already this company was racking in a billion Rand. This is the one that started subtly at one million and all processes to make it in terms of the Constitution, in terms of PFMA, cost effectiveness, openness and transparency and all that none of that. Internally this thing would get renewed, renewed, renewed. So what you have now I think now if you look at the IT bill of SARS I am told it is sitting at something like R8 billion, but this company is probably 1,5 or something of that. I have not got that number, the fresh number as it is, but it is in that astronomical figure as things stand right now. So what does this mean Chairperson? Now what we have this company plays a very important role in that it is involved in e-filing and all that. So now if you are to say this company must go on an open bid now and stop everything maybe somebody else a very solid argument is going to be made about how this is going to disrupt the collection of taxes and therefore you have a company that is there, that came in through ways that are not so transparent but now this company you [indistinct] dislodge it as things stand. It is almost a real risk now to dislodge this company and that is what I call white collar corporate capture of the state, because you then begin to understand Chairperson why even PFMA, PFMA it incentivises service providers that have got sort of government experience.

20 So what you find with PFMA is that if you are a new player PFMA is not friendly to you. PFMA is friendly to somebody who has got a foot in the door. So even if I was to have a state of the art IT company today, but my chances of bidding against this particular company at SARS are zero because this company is going to argue that they have already got the [indistinct], everything is smooth, to take them out will cause so much disruption. Someone is going to work out how much

confidence will be lost in the system and systemic risk and all of those things will be argued.

So you now have a company that is going to be entrenched like that, Chairperson. So that is the situation that you find there, Chairperson. So this is the things that TNA and ANN7 report on and obviously we can see it cuts both ways.

Private sector does not like this that we keep exposing some shenanigans that they do in collaboration with some of these state departments as it were. So that is it Chairperson. I mean even as we speak now I am told that this company is now being used to provide services on other departments.

10 So what we have now we have SARS as almost an agent so other companies do not have to go bidding. They ask SARS that we know we have got a good system. So SARS has now become some kind of a broker.

They now service other departments and the other departments paying to SARS, SARS pays into this company. That is the network that is in place so that for me, Chairperson is the blueprint of white collar corporate capture of the state that really we need to be dealing with and by the way Chairperson some of us when we make these points people think we are deflecting from Guptas.

No. If Guptas, we must put this very clear Chairperson, if Guptas are found to have done anything untoward, anything that is wrong the full wrath of the law must be – they must suffer the full wrath of the law but the law must not have eyes.

20 The law must be blind. The law must apply to all malfeasance wherever it rears its ugly head. We cannot have – we cannot turn a blind eye on some of these things and also Chairperson the reason I am raising this I am not digging up stuff of pre 1994.

This is current stuff as we are sitting now that IMFS, Chairperson is going to go this route. Once that system is embedded in the state no other service provider will be able to ever walk in there. Those that are there through the IMFS have embedded themselves for lifetime.

That is how it is going to be. So that is the white collar corporate capture that I am talking about. So that concludes my issues around why TNA was...[intervenes]

CHAIRPERSON: Liquidated?

MR MZWANELE MANYI: Yes, Chairperson, was hated by everybody. So the rest of
10 the liquidation thing is well covered in the affidavit.

CHAIRPERSON: In the questions.

MR MZWANELE MANYI: Mr Maleka will ask whatever he wants to ask. I am not going to go through that but then I have got two other questions – issues quickly Chairperson which are also emanating from the questions.

CHAIRPERSON: Yes?

MR MZWANELE MANYI: The one thing, Chairperson is the issue around the Standard Bank affidavit which has been put here as to that talks to what was I doing basically at the IMC...[intervenes]

CHAIRPERSON: At the meeting between one or other bank.

20 **MR MZWANELE MANYI:** Yes.

CHAIRPERSON: Or banks at a meeting that seems to have been chaired by Minister Zwane.

MR MZWANELE MANYI: Yes, that one.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: So Chairperson I have put an affidavit to this matter and

in the affidavit I point out that I actually attended the meeting at the directive/request of the Minister. I was the Advisor to the Minister when this was happening, part time Advisor at that.

I was an Advisor to the Minister so I went there as an Advisor. So the question is I must relate what transpired in that meeting. I think that request, Chairperson borders on being unlawful in this way. You see Chairperson if you – there are two groups of people in a meeting.

There are meeting participants. There are people that are in attendance. If I go to a board meeting in the board meeting you could have the board members. 10 If they say the quorum of the board meeting is five people and you have brought – you have invited all other departmental people there can be 20 in that meeting.

If the quorum is five board members and you have got two board members notwithstanding that you have got 20 attendees that meeting is not correct. That meeting will not happen. So to then ask an attendee of a meeting to relate what happened in the meeting is just not making sense because also what you say carries nothing, carries no weight because first and foremost I am not a spokesperson of the IMC.

So I have no mandate to be dealing with that. If the Commission is interested what really happened there the Commission and Chairperson who is 20 known and the Chairperson was reporting to Cabinet.

In fact what I have done there Chairperson in support and just to show this point EXHIBIT 11 on EXHIBIT 11 page 273 to 274 I have shown, I have brought here a Cabinet statement. I only have got two pages. I have highlighted 4.7 of these two pages.

In that it says on 4.7 of those two pages on 273 to 274 it says:

"Cabinet received a report from the Ministers of Mineral Resources, Labour and Finance following their constructive engagement with stakeholders in the banking industry. The outcome of this report will be communicated in due course."

The only reason I am raising this Chairperson is that it shows that there was a process that was flowing and if anybody is really interested they are the people that can be approached as Cabinet. You know Chairperson I also used to sit – I used not to sit – I used to attend Cabinet meetings but the fact that I attend Cabinet meetings that does not give me a right to then explain to people what
10 happened in Cabinet.

CHAIRPERSON: Well not really Mr Manyi. If you were present in an office or at a room where something was said or was done whether you were there officially or unofficially, whether you had a right to be there or not have a right to be there as long as you witnessed something, you saw something or you heard something being said you can be asked to say what did you see, what did you hear. What happened while you were present?

MR MZWANELE MANYI: Okay.

CHAIRPERSON: So the question of whether you are authorised or not might be another question but simply from the point of view of saying you were present you
20 saw something or you must have seen something, you must have heard something tell us what you heard, tell us what you saw. That is legitimate.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: I am only...[intervenes]

CHAIRPERSON: So I am just mentioning that point.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: It may be that based on what you are saying maybe I can leave it to Mr Maleka to deal with it if he wants to ask you questions about it but I thought I must just clarify that part yes.

MR MZWANELE MANYI: Okay. Okay, no Chairperson I think because it also happened, I do not know a while ago. All I can remember it was a decorum of the meeting. The meeting had a very good decorum. There was no screaming at anybody and the meeting was a proper meeting, exchange of views and whatever.

Discussion happened. The details are contained in the minutes of the
10 meeting which the secretariat can provide I think if asked.

CHAIRPERSON: Okay, no thank you. You are done?

MR MZWANELE MANYI: That is all.

CHAIRPERSON: Yes. Thank you. Mr Maleka?

MR MZWANELE MANYI: And then the last point, Chairperson...[intervenes]

CHAIRPERSON: Oh, okay.

MR MZWANELE MANYI: Then the last point part of the documents I was given what is commonly referred to as the Gupta Leaks and so on. Now Chairperson I just needed to understand something on this thing. I must first be clarified in this.

Except for the one email that is there – except for the one email in
20 January 2011 where there was an invite but that invite in the list of the things that was given there is a spreadsheet of people that were invited. This was an invite to the India versus South Africa or of India and South Africa friendship of 150 years that was happening at KZN.

But in that spreadsheet I was invited in my capacity as BMF not as President of the BMF not as government and so on. The rest of the other emails that

are there are emails when I was not in the public service.

I was not in GCIS and so on. I was not in government. Now I am perplexed Chairperson as to what is actually going on here. Here am I a business person, a private sector person sending emails or receiving emails or whatever with another private sector person.

No government involvement is mentioned there, absolutely nothing. It is just justified to characterise it briefly Chairperson it would be an email talking about room location. I do not even know the people that were dealing with those rooms.

Some operational matter about no let us arrange rooms for them but if I
10 look at the timing and everything it was during the wedding. I have always been on public, Chairperson to say I attended the Gupta wedding.

It was never hidden that point. I see – I saw nothing wrong then. I see nothing wrong today and so on. If they were to invite me tomorrow to another wedding I would still go and so on. So for me there is no issue attending a wedding and then if it is not a wedding then it would be maybe a CV that can be linked to have come from me and so on but even that Chairperson we do this all the time in the private space to send CV's of people around helping people to look for jobs and so on.

I have not understood why is this – what is the context of this but this is
20 what Mr Maleka has been explaining and as I close I just want to say something but as I close Chair I also wanted because the impression that I have is that this Commission is supposed to be impartial, fair and make sure that everybody is treated equally.

Now one of the things I just found very strange is that in this leaks Chairperson one thing that is not shown is what I have. Like for instance this picture

here it is in the exhibit...[intervenes]

CHAIRPERSON: Is it in the bundle here? There is a bundle here.

MR MZWANELE MANYI: I think it must be in the bundle there, Chairperson. Did you find it there? Yes it is in the bundle there, Chairperson.

CHAIRPERSON: Okay.

MR MZWANELE MANYI: This picture it might – maybe somebody...[intervenes]

CHAIRPERSON: What page is it?

MR MZWANELE MANYI: Can I just ask the Registrar to take it to the Chair there?

CHAIRPERSON: Or maybe if they tell me the page...[intervenes]

10 **ADV VINCENT MALEKA SC**: Chair, we have put it in a bundle as page 275.

CHAIRPERSON: Oh, it will still be put in the bundle or it is?

ADV VINCENT MALEKA SC: No it is already in the bundle.

CHAIRPERSON: Oh, okay 275?

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: Okay thank you.

MR MZWANELE MANYI: Now this picture Chairperson as you are going through it has got Advocate Thuli Madonsela with the Guptas. Now this...[intervenes]

CHAIRPERSON: Yes.

MR MZWANELE MANYI: This picture is not featured in the emails that are featured.

20 Maybe I am trying to understand the fairness of this process here Chairperson that here am I a former government person and I am being followed about where I send emails and I do not send emails.

Advocate Thuli Madonsela would have been sent an email to invite her to this thing. But I am not understanding that she is here to explain as to why did you get an email from the Guptas but everybody else must answer this Chairperson.

Where is the levelling of the playing field from this Commission?

CHAIRPERSON: Thank you, Mr Manyi. I understand you are done and Mr Maleka is now free to ask questions. He has heard you what you have said.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: Yes okay.

ADV VINCENT MALEKA SC: Mr Manyi before I get to the details of your evidence in the written statements many as they are that you have now submitted to the Commission and also your oral expansion of that evidence from this morning can I ask you this?

10 As you sit here today in the witness box do you accept that members of the Gupta family and the businesses that they own have been seriously implicated by way of credible evidence led before the Chairperson up to this point in serious malfeasance of state capture?

MR MZWANELE MANYI: Well Chairperson my approach in the issues affecting anyone in this country is that South Africa is a constitutional democracy. South Africa is a rule of law country. I mean I was astounded when Ms Barbara Hogan said to me I was at Eskom when I was not at Eskom as an example, Chairperson.

CHAIRPERSON: Well, Mr Manyi it will be helpful if you start by just answering the question. For example he is asking, Mr Maleka is asking whether as you sit there
20 you accept – whether you accept that in evidence led before this Commission the Guptas, Gupta family has been seriously implicated in corruption so one answer might be no, I do not accept that.

 Another answer might be yes I accept that but maybe you might want to contextualise your acceptance or your rejection of that proposition. So I am just mentioning that because if you start when you answer in that way it will make it easy

to make progress.

You are not prevented from contextualising where it is necessary but it helps if the first response goes to the question.

MR MZWANELE MANYI: Well my answer is I do not know.

CHAIRPERSON: Okay. Yes?

MR MZWANELE MANYI: Yes and Chairperson let me just finish then, Chairperson.

CHAIRPERSON: Yes?

MR MZWANELE MANYI: You see I was very hopeful Chairperson when the Estina Project was brought before the courts in Bloemfontein. I was really hoping. I
10 thought that was an open/close case and so on, but when the state lost its case there I was not sure anymore as to what is going on here and...[intervenes]

CHAIRPERSON: Yes...[intervenes]

MR MZWANELE MANYI: And that was a civil case.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: So therefore Chairperson I do not know where this is going to end up.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: Because when the State went there it went there I think with a lot more confidence than what I have seen here. People that I have seen
20 here I think Chairperson I must even if I have got to say so myself I must take the cup in terms of producing documentary evidence of things that I am talking about and people that have been here have been very poetic Chairperson without producing evidence and so I just do not know if we can just implicate people purely based on poetry.

People came here and they spoke, they spoke, they spoke, they spoke. I

was really hoping that they are going to do something similar to what I am doing. It might not be the best but I have tried Chairperson to listen to your counsel when you say people must bring evidence to corroborate. I tried to do that.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: I did not find it here Chairperson so I am struggling.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: To convict people...[intervenes]

CHAIRPERSON: Yes...[intervenes]

MR MZWANELE MANYI: Based on poetry.

10 **CHAIRPERSON**: Yes I just wanted to say just bear in mind that Mr Maleka did not say, he did not ask you whether you accept that they are guilty or not. He simply asked you whether you accept that they are seriously implicated.

MR MZWANELE MANYI: I think Chairperson it is important that maybe some of us that are not in the legal profession these things get explained.

CHAIRPERSON: Yes.

MR MZWANELE MANYI: In that there are two things for me. You can either be mentioned or implicated. For me I draw a line. You can be mentioned, they have been mentioned here but to be implicated for me is a step higher than being mentioned. So to be implicated there must be corroborating evidence to say indeed
20 you did this. So for me that is implication. So that is what I am saying I struggled to find evidence to corroborate the oral evidence that people were giving here.

CHAIRPERSON: Thank you. Mr Maleka?

MR MZWANELE MANYI: Mr Manyi do not un-contextualise my question. I have not asked you about proceedings involving the Gupta family relating to Estina in other courts. I have asked you questions about evidence in this Commission. You have

been following the proceedings of this Commission since it began, correct?

MR MZWANELE MANYI: No, in and out. I have been listening and not listening because sometimes I would come and listen here and be very frustrated that my whole morning is gone and I am not seeing any evidence. People are just talking and talking and talking. So maybe out of that frustration maybe when I left they produced something, but most of the times that I was here I was just seeing people giving us theoretical perspectives on matters and on that. So I do not have, I mean as I sit here now this is, I am speaking under oath. I sit here and now I cannot point to any piece of evidence that anybody here put on this table, but I know a lot of lyrics
10 that have waxed on everything, but...[intervenes]

ADV VINCENT MALEKA SC: You accept that the proceedings of this Commission are televised live and they are reported on credibly in news media both print and television almost daily? Do you accept that that happens?

MR MZWANELE MANYI: I, two things, yes I accept that happens, but I also think the Commission must not take it for granted that we are glued on TV and reading newspapers. For instance I do not buy newspapers just on principle, because of the amount of distortions that they have to correct people all the time. This morning on Twitter for instance being here I make a clear statement of reading from the internal audit report that whatever point I was making and then you have a journalist here
20 twisting that and saying that was a SCOPA observation or something and yet I was very clear that these were the findings of the internal audit report. So, so I have lost confidence in the newspapers. I do not buy, I do not read newspapers.

ADV VINCENT MALEKA SC: Yes but you watched the proceedings of this TV, of this, of the proceedings of this Commission on TV. That is why you were able to see what Ms Williams said about you in your absence from this Commission but on TV,

correct?

MR MZWANELE MANYI: I think it is important to contextualise that. I was written a letter, I was told that on the 31st of August she is going to be here. So I had a vested interest in that particular case, yes, but I do not get letters from the Commission every day to listen to everybody.

ADV VINCENT MALEKA SC: Mr Manyi you know, do you not, that Mr Maseko came to tell the Chairperson about the extent of unlawful instructions imposed upon him by a member of the Gupta family, you know that?

MR MZWANELE MANYI: Yes.

10 **ADV VINCENT MALEKA SC:** Mr Maseko came here and testified almost or the whole day about that evidence. Do you have reason to doubt what he told the Chairperson?

MR MZWANELE MANYI: Do I have reason to doubt?

ADV VINCENT MALEKA SC: What Mr Maseko told the Chairperson about the true nature of the instruction given to him or imposed upon him by a member of the Gupta family?

MR MZWANELE MANYI: Yes I have reason to doubt.

ADV VINCENT MALEKA SC: Do you have reason to doubt what then Deputy Minister Jonas told the Chairperson about the offer that was made to him by a
20 member of the Gupta family?

MR MZWANELE MANYI: Let me start with the first one. I will come to that one.

ADV VINCENT MALEKA SC: Please answer the second question because you have answered the first. You can explain the second question later on.

MR MZWANELE MANYI: Yes I have reason to doubt.

ADV VINCENT MALEKA SC: Minister Nene then Minister of Finance came here to

tell the Chairperson a number of things including the way he was dismissed. Do you have reason to doubt what he told the Chairperson in that regard?

MR MZWANELE MANYI: I did not listen to Mr Nene's one, but I listened to these two.

ADV VINCENT MALEKA SC: You did not listen to the evidence of Minister Nene.

MR MZWANELE MANYI: No.

ADV VINCENT MALEKA SC: Did you follow the evidence of Minister Gordhan?

MR MZWANELE MANYI: That is where I struggled actually. I came very excited. I booked off the whole day to listen to Minister Gordhan because I thought because he
10 was the Minister of Finance he is going to have tangible information, paper trail and all that. I struggled, I sat here and I listened and I listened and I lost concentration to be honest.

ADV VINCENT MALEKA SC: But you heard what he said to the Chairperson even though you may have lost concentration.

MR MZWANELE MANYI: I think by definition it means if you have lost concentration you cannot hear as effective.

ADV VINCENT MALEKA SC: Do you have reason...[intervenes]

CHAIRPERSON: Mr Maleka I am sorry. Well for what it is worth Mr Manyi let me mention that if I recall correctly Mr Gordhan like I think a number of people who were
20 at National Treasury at some stage have indicated and I think he also indicated that he has other matters in regard to which he wanted to give evidence, but he was advised by the Commission's legal team that that would need to come later because at this stage the Commission is dealing with certain specific terms of reference. So I just want to mention that he might not be done...[intervenes]

MR MZWANELE MANYI: Okay...[intervenes]

CHAIRPERSON: In terms of things that he wants to cover.

MR MZWANELE MANYI: Okay Chair thank you for that Chair. I will listen when he does that.

CHAIRPERSON: Thank you.

ADV VINCENT MALEKA SC: Mr Manyi you heard the evidence of Mr Fuzile?

MR MZWANELE MANYI: Yes partly.

ADV VINCENT MALEKA SC: You heard that part of his evidence when he told the Chairperson about what Mr Godongwana said to him...[intervenes]

MR MZWANELE MANYI: About Mr?

10 **ADV VINCENT MALEKA SC**: Godongwana.

MR MZWANELE MANYI: About the phone call or something?

ADV VINCENT MALEKA SC: Yes.

MR MZWANELE MANYI: Yes I heard that part.

ADV VINCENT MALEKA SC: You heard that evidence?

MR MZWANELE MANYI: Yes.

ADV VINCENT MALEKA SC: Yes. Do you have any reason to doubt what he said to the Chairperson as you sit here today?

MR MZWANELE MANYI: Well yes I do.

ADV VINCENT MALEKA SC: Just explain to me why?

20 **MR MZWANELE MANYI**: Because I would have thought, you see, I could start from the beginning the three people that I say I have reason to doubt so that it is clear. For instance let us start with Mr Maseko. He said the President said [African language phrase] Gupta. Now in other words and the Chairperson was very clear to explain that statement bullet by bullet what it means that help these Gupta brothers so to speak. Now I was a DG myself. So Ministers because they are public reps

they are the face of the department. They are the chief face of the department. So people interface with Ministers, people interface with the President because these are the people that go on the ballot box.

So people go to them naturally to say I need this, I need that and the Presidents and the Ministers do not have the apparatus. The only thing they can point to is to the DG and the DG must then point the people to processes that must be followed and all that. I mean if Mr Maseko had said that the President said to him I do not care about what processes that must be followed and all that. I did not hear him saying this. He just said help. So that would have been said to me by a number
10 of people or Ministers to say help these people and we would call the people in, you explain to them how the process works, that is helping the people. So that is what, that is my understanding, but the characterisation of that request was a characterisation that could lead to only one and one conclusion only that the President was sort of getting him to do something that was unlawful. So that is why I do not, I have doubts about the rest of everything else.

Mr Jonas for instance, Mr Jonas for instance he makes a claim that he makes and the next thing he is not even clear who actually did this. At one point he says it is Mr Ajay Gupta, then he is not clear, then somebody else, then I am not sure if what is this thing and so on and by the way part of the disturbing thing Chairperson
20 which is in the public domain is that they were in some hotel and then they drove with Duduzane. I am saying to myself why does the Deputy Minister leave his bodyguards and everybody and drive with this young chap on a car to some place that he said he is not even familiar with this place.

So all those kinds of things they just leave you wonder as to what exactly was at play here. So things like that Chairperson for me they just are things that I

just do not understand. So I cannot vouch for people that have got those kinds of what I think are gaps in their depositions.

ADV VINCENT MALEKA SC: Yes. Mr Manyi you indicated earlier on that TNA lost its government business because it was punished for revealing what you call white collar corporate capture of the state. Did I understand your evidence to be correct...[intervenes]

MR MZWANELE MANYI: Yes...[intervenes]

ADV VINCENT MALEKA SC: When I characterise it that way?

MR MZWANELE MANYI: I was punished for that.

10 **ADV VINCENT MALEKA SC:** Yes. When in your view did this punishment begin?

MR MZWANELE MANYI: This punishment started I think around 2017. In fact as I come into TNA you will see, you will see that it is in my affidavit that I came into a loss making conversation. It was already bleeding. This thing was bleeding something like R5 million per month roughly and I thought I was going to stem the tide and my biggest preoccupation with this Chairperson was the big thing for me was to save jobs. That stable had employed 500 people and I thought if I replace the Guptas there I can save those 500 jobs, but it was not to be. As we sit here and now 500 people are without a job and something in my view that could have been prevented. So it is a very sad state of affairs.

20 If somebody had a problem with a Manyi or the Guptas that should have been dealt with but the business should not have been undermined which was providing an alternative view in the media space which was providing employment to a whole lot of young people mainly black. So I really think that was a tragedy Chairperson to have lost that business.

ADV VINCENT MALEKA SC: I thought that you told the Chairperson that the

reporting slant of TNA from the beginning was not to behave like an enemy of the state but also to slant reporting in a manner that reflects positive elements of state activity and that is why you liked it, correct?

MR MZWANELE MANYI: Yes. Yes, so Chairperson I am happy you raised this because this thing has got dates. When we did the IFMS report this happened around May/June 2017 as it were. This is when the height of hatred began actually around that time around May 2017, because the system works in collaboration Chairperson you then have a situation where the whole business model which Mr Maleka wanted to, is alluding to in his questions as to what is a business model, the
10 business model was both private and government. So the private sector people they are very, they hunt like a pack Chairperson. You mess up with one you have messed up with all of them. So when they saw how we report on this, but because they know some of them are doing these things elsewhere so they say now these people are not good because they are the people that are exposing our secrets. So let us shut them down and so on.

So that started to – and in fact they create – what then happened Chairperson they create such a frenzy around the New Age, such a stigma because then there is a whole, there is a whole cabal of four big media companies that inform, that inform the narrative of this. So they paint this narrative, the stigmatise
20 TNA such that even Ministers get harassed in Parliament how much money do you spend with TNA? Now Ministers, members of Parliament even at a Provincial level were beginning to be uncomfortable now because of this because you have got the DA on that side and that is also anti some of the transformation messages that this media house represents. So therefore because they have created this monster called the Guptas they have created this monster. So they want to know who is

dealing with this monster. Now if this was such a monster Chairperson the question is why is it that National Treasury still had it in its systems, because really if this was such a rogue activity by this public, this house it should have even qualified to have been on the Treasury system and all that, because it is something that is doing things that are wrong, but because at a factual level there was no substance to all this. This was all just a media hype designed to kill an alternative view, designed to entrench a mainstream narrative. This is what they did.

ADV VINCENT MALEKA SC: Chairperson can I place on record that my questions are fairly straightforward. They elicit a yes or no answer and they do not require this
10 longwinded explanation which I did not call for.

CHAIRPERSON: Try the best that you can Mr Manyi to answer the questions directly, but when I say that I am not saying necessarily that you cannot contextualise, but just try your best.

MR MZWANELE MANYI: Chairperson I think it is an unfair request this way. Let me give an example. It is an unfair request because let me give an example. One of the questions given here is where you interviewed? Now if the answer is yes or no then I am going to say no I was not interviewed then media goes out there with the headline Manyi got the job without an interview when in fact the truth of the matter is that the interview issue does not arise because I was transferred. So a yes and no
20 answer can be very misleading.

CHAIRPERSON: No I understand what you are saying Mr Manyi. I understand what you are saying, but if we were to answer on the basis of all the erroneous things that the media is going to do we would be here for a very long time. So what I am saying is I acknowledge that there may be questions where legitimately you might wish to say more than yes or no. That is accepted but there may be others

where maybe the explanation might be too long so let us take it each on its merits.

MR MZWANELE MANYI: Okay. Thank you, Chair.

CHAIRPERSON: Yes it is a general thing.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: I am not saying say yes or no all the time. Just exercise your judgment and let us see how it goes.

MR MZWANELE MANYI: Yes but at the same time, Chair there are loaded questions. I think let us just be alive to that. Sometimes...[intervenes]

CHAIRPERSON: No, you must feel free if you wish to say something. You can
10 indicate to me if you want to add more.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: The idea is not to – is not to have a situation where your evidence is not fairly portrayed.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: Or fairly given but it is to strike a balance.

MR MZWANELE MANYI: Okay.

CHAIRPERSON: Between taking too long and giving an answer that you are not happy with or it is too short.

MR MZWANELE MANYI: Okay. Thank you, Chair.

20 **CHAIRPERSON**: Okay, Mr Maleka.

ADV VINCENT MALEKA SC: Thank you, Chair and Chair can I just explore the last question on Mr Manyi's liking for the New Age media newspaper and his dislike for the so called mainstream media with your permission.

You see Mr Manyi, you have now told the Chairperson that the reason you regarded the mainstream media as a cabal included the very fact that they were

critical of the state in their reporting, correct?

MR MZWANELE MANYI: I beg, you disappeared there. They were what in their reporting?

ADV VINCENT MALEKA SC: They were critical in their report about state activity and that is the reason why you did not like the slant of being almost always critical against government.

MR MZWANELE MANYI: Is that in term so the mainstream?

ADV VINCENT MALEKA SC: Yes.

MR MZWANELE MANYI: No. That was just ten percent of the issue. The rest of
10 the issue with the mainstream media is that most of the time they get things wrong. They get things wrong most of the time. So one could not – one cannot place reliance Chairperson on what you see in the media. It is wrong all the time. Most of the time it is wrong.

ADV VINCENT MALEKA SC: For that part of ten percent you are talking about they were critical of the state, correct?

MR MZWANELE MANYI: I do not know what you are talking about.

ADV VINCENT MALEKA SC: Well I am just repeating what you told the Chairperson.

MR MZWANELE MANYI: You are saying critical mistakes?

20 **ADV VINCENT MALEKA SC:** For that ten percent of the reasons why you did not like the cabal.

MR MZWANELE MANYI: Yes?

ADV VINCENT MALEKA SC: It is because they were critical of the state in their reporting.

MR MZWANELE MANYI: Okay yes.

CHAIRPERSON: I am sorry. I just want to make sure I understand that. Mr Maleka is your question to Mr Manyi this? That one of the reasons or the reason why he did not like mainstream media is because mainstream media is critical of the state?

ADV VINCENT MALEKA SC: In the way they reported on the state activity.

CHAIRPERSON: You mean the way they reported on state matters?

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: Okay and the answer Mr Manyi?

MR MZWANELE MANYI: The answer, Chairperson is that no, the issue was not – the issue was not because they were critical of the state. The issue was not they
10 were getting their facts right. The state is always open to criticism but the issue is that when they criticise they criticise using wrong information. That is the problem. That is what we do not like about it.

CHAIRPERSON: Okay. Okay in other words what you are saying is they were not doing their homework properly?

MR MZWANELE MANYI: Yes, Chairperson.

CHAIRPERSON: Thank you.

ADV VINCENT MALEKA SC: You see Mr Manyi a media criticism of the state and what state actors are doing is nothing new. When TNA was criticising the state on your version it was revealing problems about National Treasury about this what you
20 call wastage of R1.7 billion. That was nothing new. The media has always done that.

CHAIRPERSON: But are you not Mr Manyi proceeding, Mr Maleka proceeding from the point that it is the criticism that you say he had a problem with whereas he has made it clear that his problem with mainstream media was not the criticism but it was them getting their facts wrong.

ADV VINCENT MALEKA SC: Yes. Chair, I understood him to say that there are many reasons. One of them relates to what he calls ten percent of the critical reporting by the mainstream media of state activity.

CHAIRPERSON: Maybe you can clarify Mr Manyi.

MR MZWANELE MANYI: Yes. No, here is the issue, Chairperson. The IFM one is an example. The story was broken by our group. It was broken by TNA and ANN7 and the length and not only did the story get broken on hearsay and whatever. It was broken and broadcasted on using tangible information from this same audit report I just dropped off here and what would happen in the media space,

10 Chairperson?

When is others – when it is others when they do their thing whatever they do there is some kind of collaboration of sorts then you would just find that all the newspapers are pretty much saying the same thing and what have you.

So we were not part of that part. So what then – what that does is that it then diminishes the impact of what you are trying to say because they do not want to report what we reported on not that we needed to be done that way but then what they then do when they do their own reporting then they just find ways sometimes to if they like a particular department then they will find ways to find a positive spin of things.

20 So with us what we were doing – what The New Age and ANN7 was doing was to try and report things very sharply whether it is right or wrong. When it is right we really heap praises on it. When it is wrong we do what we do and we do not try to be the spokesperson of various departments.

ADV VINCENT MALEKA SC: Chair, may I clarify the question by being factual?

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: I think it might help all of us. Mr Manyi can you go to EXHIBIT M1.

MR MZWANELE MANYI: Yes?

ADV VINCENT MALEKA SC: Are you at EXHIBIT M1?

MR MZWANELE MANYI: Yes I have got.

ADV VINCENT MALEKA SC: Can you please go to page 231?

MR MZWANELE MANYI: Yes.

ADV VINCENT MALEKA SC: You have explained to the Chairperson that EXHIBIT, sorry page 231 reflects the total out spend by GCIS to all the media competitors.

10 Correct?

MR MZWANELE MANYI: Yes, that is correct.

ADV VINCENT MALEKA SC: And you have indicated that the total out spend for that year 2011 to 2012 was R192 million odd, correct?

MR MZWANELE MANYI: No not correct. 194 I indicated.

ADV VINCENT MALEKA SC: 194?

MR MZWANELE MANYI: Yes.

ADV VINCENT MALEKA SC: Right let us work with the figure and you have indicated that on that figure TNA for that year and that year alone...[intervenes]

20 **CHAIRPERSON:** I am sorry Mr Maleka. I think I just need to say something to Mr Manyi relating to what he was discussing earlier on for what it is worth.

ADV VINCENT MALEKA SC: Yes.

CHAIRPERSON: Mr Manyi you were mentioning at least in part that the mainstream media was getting certain facts or was getting facts wrong or that they were not doing their homework and you said something about what The New Age was doing, how it was getting things.

I think I must just mention to you that well The New Age is not there anymore now as I understand the position but after my appointment as Deputy Chief Justice they asked for an interview with me which I granted and following that interview they published an article in which I had – in regard to which I had lots of complaints.

This was raised with them and it was indicated to them that a lot of things that they said in that article had simply not been part of the interview and they were asked – they had indicated the journalist who attended had indicated – promised to send the article before it was published so that I could have a look at it. It was
10 published without being sent to me for me to have a look at it first and then when I saw it I found that it had a lot of things that were never part of the interview and this was pointed out to them.

Fortunately Mr Nathi Ncube of the Office of the Chief Justice was present throughout the interview and had actually recorded everything.

MR MZWANELE MANYI: Yes.

CHAIRPERSON: So they refused to correct the article and apologise and...

MR MRZWANELE MANYI: No, no, the end of your question.

CHAIRPERSON: Oh, he did not hear the end of your question, just repeat it.

ADV VINCENT MALEKA SC: Am I correct when I suggest to you that The Times is
20 a daily publication?

MR MRZWANELE MANYI: Was a daily publication, yes...[intervenes]

ADV VINCENT MALEKA SC: It was?

MR MRZWANELE MANYI: It is shut down now.

ADV VINCENT MALEKA SC: Yes, at that point in time, am I correct that in 2011/2012 it was a daily publication?

MR MRZWANELE MANYI: Yes.

ADV VINCENT MALEKA SC: And look at the amount of government, advertisement revenue it received from GCIS, it is about R183 379,20, correct?

MR MRZWANELE MANYI: Chairperson, I – what is the right word? We can do this the whole day, the answer is the same that Mr Maleka has taken a mechanical approach and I have been explaining that things are not as mechanical as you reach them to be. I have explained that there is a bit more sophistication in deciding where the ad should go. There is something called target marketing and all that.

10 It may very well be that Telma would have told the people otherwise, the ones that are placing the ads, so this is an outcome of largely what Telma does, but it is more than that Chairperson. Not only does GCIS follow Telma. GCIS also had a transformation mandate for instance. There are many of the publications that even on the programming of Telma they will not feature, but GCIS is an organisation with a strategy on media development and diversity, had a duty and a responsibility to make sure that the support media other than, over and above Ministry Media it supported everybody including Ministry in Media.

It cannot be that GCIS is expected to just support all others, except those that do not have big names, it cannot be.

ADV VINCENT MALEKA SC: Yes.

20 **CHAIRPERSON:** Thank you.

ADV VINCENT MALEKA SC: You know, Chair, Mr Manyi produced these figures in order to persuade you that in the broader scheme of things TNA got about what? 5/6% of the total ad spent from government in 2011/2012. When we try to examine that broad proposition on a granular basis with reference to his own figures we are told that that is a technical exercise.

The key question is what is the point of producing these figures if you do not want us to examine them closely on a more accurate analytical basis?

CHAIRPERSON: No, no, you certainly are entitled to ask him questions and he is certainly entitled to answer and to give an explanation if he has an explanation, because the – what you have done now is to look at daily publications...[intervenes]

MR MRZWANELE MANYI: Yes, Chair.

CHAIRPERSON: To say okay with regard to the City Press you say it was a weekly newspaper, let us look at other daily newspapers like which – other newspapers which were daily publications in the same way as the New Age was.

10 **MR MRZWANELE MANYI**: Yes.

CHAIRPERSON: That is where you are. He has given an answer in regard to The Times, he has given an answer in regard to, I think...[intervenes]

ADV VINCENT MALEKA SC: Chair, if you look at – and I will be quick here, if you look at three columns above The Times you will see The Star and you will see that The Star for that total 12 months period and R97 000.

CHAIRPERSON: And then The Citizen is not too far above that.

ADV VINCENT MALEKA SC: Yes, it is 247.

CHAIRPERSON: 247.

ADV VINCENT MALEKA SC: You have The Harold and the list goes on and on.

20 **CHAIRPERSON**: Yes.

ADV VINCENT MALEKA SC: So on any comparative basis and I would like to put this conclusion to Mr Manyi for him to comment if he wants to.

CHAIRPERSON: Ja. Yes, put it to him.

ADV VINCENT MALEKA SC: These are newspapers which have been in business for quite some time and all of them, at least those that we have looked at less than

R200 000 per annum and TNA in its first year of business earns more than 8.5 million, correct? The first year of business?

MR MRZWANELE MANYI: Ja.

CHAIRPERSON: Do you want to say something about that?

MR MRZWANELE MANYI: Okay, yes, Chairperson, because I understand what is wrong about that, because usually when things are new people embrace them. So TNA brought fresh...[intervenes]

CHAIRPERSON: Sorry, I missed that?

MR MRZWANELE MANYI: People embrace new things, so if TNA was new people
10 were having a first embracement of wow, for a change now here is a publication that is different, that is not going to be riddled with all kinds of factual inaccuracies. I mean even today as I showed you The Star, why did The Star have my picture on assets that I have nothing to do with and so on.

You know, so it just shows, Chairperson, the kind of media that we have. Now if we have something fresh, must have been welcome, and by the way, Chairperson, as I make this point is that GCIS, GCIS cannot take the blame for being briefed by government departments.

What Mr Maleka should be asking is who are the government departments that did this, because GCIS, Chairperson does not have its own
20 budget? Let this be very clear. The only budget that GCIS has and I think Mr Maseko is playing this, is really just to pay for staff and all that. There is no – if there is anything, probably at best be something that we would get from environment, if other departments did not spend and so on and you are trying to make sure that money goes into good use. That is about the only time that GCIS would do anything creative like advertisement or something, but otherwise GCIS is a conveyor belt. It

carries out mandates from different government departments.

So you cannot have a situation where GCIS must now answer why did monitoring and evaluation or why did Public Works or why did anybody like that...[intervenes]

CHAIRPERSON: Ja, no, no, that may be so Mr Manyi, but the point as I understand it which Mr Maleka is making to you, and allowing you an opportunity to respond to is this, he is saying as The New Age was entering the market the first year it comes in, there are established daily publications, newspapers which had been there for a long time. He says when you look at the revenue that it made from GCIS, GCIS
10 accepting that GCIS gets money from – it's a conduit pipe as you said, it is a conduit. Accepting that he says but look at the amount of revenue, the difference between what this newcomer was making compared to what established newspapers were making.

He says it made in the first year more than R8-million, but newspapers such as The Star made in the same year R97 000. The Citizen made R247 000, I see The Harold above that made R255 000. You cannot deny, can you, that the difference is vast?

MR MRZWANELE MANYI: I think what, Chairperson, the contention of Mr Maleka fails to appreciate is that...[intervenes]

20 **CHAIRPERSON**: But let us start from this, do you acknowledge that the difference is vast?

MR MRZWANELE MANYI: Yes, I acknowledge that.

CHAIRPERSON: You acknowledge that?

MR MRZWANELE MANYI: Yes.

CHAIRPERSON: Okay, continue.

MR MRZWANELE MANYI: But I think it was justified. It is justified, because I suspect that, because government was generally frustrated by this factual inaccuracies, when a new player came it was a relief that for the first time now maybe things are going to be reported correctly and all that. I think it was the freshness that was brought in that got people to say, I think this is the place to go and so on.

So I think the important thing, Chairperson, in all of this is, was there value derived from this? You see for me that is the issue and...[intervenes]

CHAIRPERSON: Well, that may be so and I am going to allow you to finish, so do not forget the point you wanted to make. I will let you make the point, but if what you are saying – if I understand what you are saying correctly I must conclude that what you are telling me is all this other newspapers were not doing their homework. Only The New Age was doing its homework, that is why it made, it got such a lot of revenue from government at least in the perception of government?

MR MRZWANELE MANYI: Chairperson, I do not want to speak...[intervenes]

CHAIRPERSON: Is that your approach, and I am asking...[intervenes]

MR MRZWANELE MANYI: Yes.

CHAIRPERSON: Because I need to make sure that I do not attribute to you something that you do not mean to say.

20 **MR MRZWANELE MANYI**: Chairperson, there are two, there are two issues. One is the Telma, two is the transformation agenda of government. Government is very serious, has always been very serious about transformation. So when, I mean as I said, Chairperson, that government has even set up a whole subsidiary MDDA to try and make sure that alternative media is supported. There is a whole organisation just to focus on this, it just shows how serious the issue is.

Then you have a player that comes in line with that strategy, so government then would have looked warmly towards that. I mean I have read out here the letter by Ms Williams 2013 when she was explaining this thing that government had to use all available platforms. All of these other platforms were also being used, but this one was used in line with what Telma was saying coupled with the transformation agenda.

If you look, Chairperson, I think at some point there are even targets of the government spent, there was a deliberate strategy to say the 30% of spend should go towards community media. That is a deliberate strategy. So you would
10 then if you look at the analysis of that and you look at the media strategy that is being spent, you will find these kinds of what appears to be anomalies, as it were, when in fact it is the execution of the developmental agenda.

If you do not do that, Chairperson, then you are paying lip service to the transformation agenda.

ADV VINCENT MALEKA SC: Chair, I see it is past 16:00, but can I just make one point and in fairness ask Mr Manyi to think through it, because it is going to be important.

CHAIRPERSON: No, that is fine. Before we continue can we agree whether we can stop at 16:30? Would that be fine with you Mr Manyi?

20 **MR MRZWANELE MANYI:** I am easy, Chairperson.

CHAIRPERSON: Ja, would that be fine?

ADV VINCENT MALEKA SC: Yes, Chair.

CHAIRPERSON: Okay, thank you.

ADV VINCENT MALEKA SC: You see Mr Manyi you talk about government being dissatisfied and government welcoming a new player, but in fairness this ad spend is

decided by GCIS through media buying over which you exercised corporate control, correct?

MR MRZWANELE MANYI: Chairperson, I need to qualify this answer. I was not personally involved in these things. There as a Chief Director doing – I was indeed in charge of the entire GCIS. All departments reported to me, it is not just media buying, all of them they reported to me, including the one that was doing all kinds of irregular things. They all reported to me, Chairperson, but on a day to day I was not personally involved.

The Chief Director Donald Dubuc was a guy and before him it was somebody else at a Director level, but there are individuals that do this on a day to day basis as you were to implement a strategy. So it is incorrect to try and now make this a Manyi thing.

It is not a Manyi thing, it is a government strategy being implemented by people best qualified to do it.

ADV VINCENT MALEKA SC: Chair, let me move on. Mr Manyi you earlier on indicated that the most objective vehicle to determine where government should place its business for media buying is the Telma system. Do you recall that? My notes says that you accredited Telma as the most objective tool to determine where government should place its advertising business. Do you remember that?

20 **MR MRZWANELE MANYI**: Yes, I said that.

ADV VINCENT MALEKA SC: And you know, do you not, that part of the Telma requirement is that a publication where government decides to place its business must have an accredited audited readership and circulation figures, correct? You shake your head up and down, what does that mean?

MR MRZWANELE MANYI: I thought it was an understood convention, it means yes.

ADV VINCENT MALEKA SC: Yes, but the point is...[intervenes]

CHAIRPERSON: I am sorry, I did not hear the whole answer?

MR MRZWANELE MANYI: No, Chairperson, he is saying I am shaking my head, I had nodded.

CHAIRPERSON: Yes.

MR MRZWANELE MANYI: So I said I thought nodding is a convention understood to mean yes.

CHAIRPERSON: Oh, okay, no that is fine.

ADV VINCENT MALEKA SC: But, Chair, the record does not capture nodding.

10 **CHAIRPERSON:** Yes, no, what – well that has not been explained to Mr Manyi. When you nod or shake your head that is not captured for purposes of the record, so I think Mr Maleka simply meant to say it is not enough if you just nod, you must say the answer. I think that is what he meant.

MR MRZWANELE MANYI: Yes, he should have said so, Chairperson, but he did not say that. He says that he does not understand.

CHAIRPERSON: Yes, I agree, he did not say that, ja, okay.

ADV VINCENT MALEKA SC: We now agree that part of the Telma tool of evaluation requires that a publication which would receive government business must have accredited and audited readership and circulation figures. It is quite clear
20 on what you have told us now, up to now that TNA did not have those accredited readership and circulation figures, correct?

MR MRZWANELE MANYI: No, incorrect. What is correct, Chairperson is that TNA was using audited figures, but the difference is by who? It was not using the ABC figures which the Ministry Media was using. It was using auditors to audit the figures. That was what was happening.

ADV VINCENT MALEKA SC: So TNA chose to use a totally different model of auditing its own figures?

MR MRZWANELE MANYI: Correct.

ADV VINCENT MALEKA SC: When you or Mr Dubuc assessed whether or not GCIS should place its business with TNA you are telling the Chairperson there would be audited figures from TNA?

MR MRZWANELE MANYI: Ja, TNA was using audited figures. I am not understanding the follow up question, because I did answer this question. I am not understanding what is lacking with the answer.

10 **CHAIRPERSON:** Do you want to repeat your question Mr Maleka?

ADV VINCENT MALEKA SC: Remember the analysis is done by Telma, which is a template and the template would decide all things being equal which publication should enjoy government business, it is a template. Are we agreed on that?

MR MRZWANELE MANYI: Yes, we are agreed on that.

ADV VINCENT MALEKA SC: And the template will show immediately on the spot which publication enjoys the audited accredited circulation figures, because newspapers would have submitted those figures, correct? It is on the template. You do not have to go and make an inquiry elsewhere, it is on the template.

20 **MR MRZWANELE MANYI:** Ja, once again, Chairperson, I think again Mr Maleka is putting the mechanical ahead and I keep saying that the ABC figures, the circulation figures are just a cold number with no brain, just a cold number, no thinking involved. It is just to say how many people and all that.

Now when you are doing placements you got to use a bit of sophistication to take into account the kind of psychographics that we are also looking at. Not just cold numbers. So Telma would do a bit of that, but we would have to also use a bit

of – because we have got professionals there who are not just going to take everything and lap it as is. You then need to put a bit of qualitative aspects as well that are informed by what it is that a particular department is saying should be – is being targeted. The actual target group that is being targeted.

CHAIRPERSON: Would you agree that the one thing good with using just figures only, I think you called them cold figures, if you just use...[intervenes]

MR MRZWANELE MANYI: ABC.

CHAIRPERSON: Yes, if you use just what how many newspapers are sold with the circulation, you know, that has got some objectivity about it in the sense that it does
10 not depend on anyone's opinion, you know. You can prove or not prove what the readership is and I must say that I am partly I do not know about some of the newspaper things, but you know, the moment you go to the issues of the quality of maybe of the articles in the newspaper, you know, then there is a certain level of subjectivity, but if you want to just compare and say look, which one, if you just use figures, then that is very objective.

MR MRZWANELE MANYI: I do not agree, Chairperson.

CHAIRPERSON: Sorry?

MR MRZWANELE MANYI: I do not agree, Chairperson.

CHAIRPERSON: Yes, explain?

20 **MR MRZWANELE MANYI**: I do not agree, because it is again the thing of being mechanical. The fact that you have a particular circulation which means that you have got a particular purported number of people who lay their hands on that newspaper, does not address the purpose of why every person, a particular department wants to put an add in a particular paper.

The departments they put ads not because they are bored, they put ads,

because they want to communicate a particular message to certain people to say we want this message to go to this target market as it were.

CHAIRPERSON: No, no, I understand that. I understand that. I am not saying that is wrong. I am not saying it is wrong. I am just saying to the extent that we may be dealing here or we may be dealing with a situation where one is looking at why would more adverts from the same source go to that publication and not to that publication to the extent that one is looking at that?

If the position were that it was to be accepted that all we should look at is the circulation the advantage of that would be that there is not much subjectivity.

10 You just look at who has greater publication, but I am not saying that other factors are not important.

MR MRZWANELE MANYI: Chairperson, let me just make this example.

CHAIRPERSON: Ja.

MR MRZWANELE MANYI: If you – I also have a car industry background, I used to work for Toyota at one point. Now they each have one of their small cars at that time called Toyota Tazz. Now you can sell 100 Toyota Tazz, 100 what will be paid to you for selling 100 Toyota Tazz would be miniscule of what would be paid to somebody selling a Rolls Royce but both of you are selling cars.

20 So therefore to look at just purely how many Tazz's I produced when in fact somebody is talking about a Rolls Royce, you are actually comparing incomparables.

CHAIRPERSON: Yes, no, no, no.

MR MRZWANELE MANYI: But we are all selling cars.

CHAIRPERSON: I think you and I are on the same level there, but there is some misunderstanding. I accept that there may be other factors that – other than the

figures that may be important. All that I was simply saying is, is it not true that maybe some of the factors as to how important they are, what weight should be attached to them might involve some subjectivity compared to things like simply the figures of circulation? Without saying necessarily – without saying the figures should be the only factor?

ADV VINCENT MALEKA SC: Chair, if I may add on that score. I mean we are a country of laws.

CHAIRPERSON: Hang on Mr Maleka. Let him respond.

MR MRZWANELE MANYI: Ja, Chairperson, I think we are probably going to go
10 around in circles.

CHAIRPERSON: Yes, I think you make your point and then we move on.

MR MRZWANELE MANYI: Yes, okay, the point, Chairperson, is that if you would then go and even interrogate actually how those numbers are arrived at and then you would come to a very clear conclusion that even the reliability of these numbers that are so called audited is another kettle of fish, because even those numbers it is not like it is gospel. It is not even gospel even in those numbers, Chairperson.

What people do they take a whole bundle of newspapers, they go and give them to a company and you go to any company, Chairperson, and you will find bundles and bundles of newspapers left at the reception area, nobody reads them,
20 but those newspapers would be counted as part of the circulation as it were.

So whether how many eyes actually get to them is another story. So even those numbers are actually cooked. So you cannot sign your life on ABC numbers, that would be irresponsible.

CHAIRPERSON: Thank you, you may continue Mr Maleka. You wanted to say something and I stopped you.

ADV VINCENT MALEKA SC: Chair, we are a country of laws and here the law requires that Telma should be applied.

CHAIRPERSON: Yes.

ADV VINCENT MALEKA SC: It does not require that Telma should be ignored. If someone has difficulty with Telma, you go and apply for an obtained deviation.

CHAIRPERSON: You want to put to put that to Mr Manyi?

ADV VINCENT MALEKA SC: Yes. Mr Manyi you accept that Telma is part and parcel of the law that require lawful placing of government advert business?

MR MRZWANELE MANYI: No, there is no law that says so.

10 **ADV VINCENT MALEKA SC:** No but, you say that Telma is meaningless?

MR MRZWANELE MANYI: I beg your pardon?

ADV VINCENT MALEKA SC: Do you say that Telma is a meaningless process in deciding where government should place business?

MR MRZWANELE MANYI: No, but you said part and parcel of the law. There is no law, there is no law that says that you must use Telma.

ADV VINCENT MALEKA SC: But I thought that...[intervenes]

MR MRZWANELE MANYI: This is a tool, Chairperson, that we are using to try and make sure that the outcome is somewhat objective. If where Mr Maleka is leaning towards was correct it would mean that for all the community media that we have
20 spent on, that is irregular expenditure, which is not the case.

So you can spend, you do not need Telma for everything. You need Telma for certain and others, you do not have to use Telma necessarily, but we use Telma just to try and say to departments that we do here is informed by some level of objectivity as it were, but using or not using Telma is not in the Treasury regulation.

ADV VINCENT MALEKA SC: Are you saying that you could ignore Telma and go ahead and place government business with any publication?

MR MRZWANELE MANYI: The departments, Chairperson, are doing that as we speak. In fact GCIS is struggling. I do not know now, but I can even show you that even now newspapers, yes, they do that, most departments they go directly. The 194 number, let us look at these years that I was involved. I think more than double that number, Chairperson was placed directly outside GCIS.

My biggest struggle was to get everybody to come into GCIS and departments had their own relationship, they did not have Telma. They do not have
10 Telma even as we speak, but even decisive today, I am sure there could still be a few departments that have got direct relationships. So yes, no, Telma is not a regulated tool, no.

ADV VINCENT MALEKA SC: I am not talking about other businesses, I am talking about – and I am not talking about other departments. I am just talking about GCIS, because this is the entity which you and I are talking about with reference to your own figures.

MR MRZWANELE MANYI: GCIS is a government department. They are same rules. There are no different rules for GCIS. We are all governed by the same rules. Yes, so if other government departments can place media directly without using
20 GCIS and Telma and they are not red carded, you cannot red card GCIS for not using Telma.

And as I say, Chairperson, with the Committee Media in particular Telma does not even feature. So, and there is no irregularity there.

CHAIRPERSON: So you are basically saying that Telma is really not being used as – is not regarded as something binding?

MR MRZWANELE MANYI: Yes, Chairperson, it is not binding. I mean sometimes...[intervenes]

CHAIRPERSON: By GCIS or by other departments?

MR MRZWANELE MANYI: Yes, Chairperson, I mean you would go and tell the department this is what the system says, but the department, some of those departments with relationships with media directly they would insist, and GCIS did not have veto powers, this is another problem.

GCIS does not have veto powers. If a DG from another department, it is his money, he says you shall place this with Sunday Times, even if I say, but Telma
10 says put it with City Press and he says I said Sunday Times. So what you then do, because what we are all about is economies of scale, then you would look at how many other Sunday Times in the system and everything.

So when you go to Sunday Times to bargain for a price you then go there with a bigger number and you try and negotiate a price down, that is as far as you can do.

ADV VINCENT MALEKA SC: Chair, I see it is 16:30.

CHAIRPERSON: Okay, alright. How much time do you think you will need?

ADV VINCENT MALEKA SC: Chair, I am hesitant to hazard a guess in the light of the answers that I am getting, because there is not a straightforward answer. So I
20 might well be misleading you in suggesting to you that this is the time I think I would be able to deal with.

CHAIRPERSON: Maybe we should start early tomorrow?

ADV VINCENT MALEKA SC: Yes, we are available, Chair.

CHAIRPERSON: Mr Manyi, you may not have had an idea that we might have to go over to tomorrow. Are you able to come back tomorrow?

MR MRZWANELE MANYI: Yes, Chairperson, I am here.

CHAIRPERSON: Yes, yes, and we can start early like 09:00.

MR MRZWANELE MANYI: 07:00 I am easy.

CHAIRPERSON: Even 07:00. Okay, alright, we are going to then adjourn and tomorrow we will start at 09:00.

ADV VINCENT MALEKA SC: Thank you, Chair.

CHAIRPERSON: We adjourn.

MEETING ADJOURNED

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