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20

PROCEEDINGS ON 5 SEPTEMBER 2019

CHAIRPERSON: Good morning everybody.

ADV MPHO RASIVHETSHELE: Good morning Chair.

CHAIRPERSON: Thank you. Are we ready?

ADV MPHO RASIVHETSHELE: We indeed are ready Chair.

CHAIRPERSON: Thank you.

ADV MPHO RASIVHETSHELE: Chair this morning we are going to present the evidence of Ms Krivani Pillay. She was part of the ACBC8 all 3.3 Notices were sent in terms of her statement to Mr Hlaudi
10 Motsoeneng and Mr Jimi Matthews. Mr Jimi Matthews has responded however it is in CC25 his response to Ms Krivani Pillay and that we will put it to her at the end of her evidence.

CHAIRPERSON: Yes.

ADV MPHO RASIVHETSHELE: May the witness please be sworn in

CHAIRPERSON: No thank you. Please administer the oath or affirmation?

REGISTRAR: Please state your full names for the record?

MS KRIVANI PILLAY: Krivani Pillay.

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

MS KRIVANI PILLAY: No.

REGISTRAR: Do you solemnly affirm that the evidence you will give shall be the truth; the whole truth and nothing but the truth, if so please raise your right hand and say, I truly affirm?

MS KRIVANI PILLAY: I truly affirm.

ADV MPHOS RASIVHETSHELE: Ms Krivani you have submitted two statements to the commission.

CHAIRPERSON: Ms Pillay.

ADV MPHOS RASIVHETSHELE: Ms Pillay sorry. We have become very acquainted – apologies. Apologies Ms Pillay.

MS KRIVANI PILLAY: No problem at all.

ADV MPHOS RASIVHETSHELE: Ms Pillay you have submitted two statements to the commission the first statement being your main statement and the second statement being your supplementary
10 statement. The purpose of your second statement was to correct mistakes from your first statement.

MS KRIVANI PILLAY: That is correct.

ADV MPHOS RASIVHETSHELE: And also just to put forth additional information that was not contained in your second statement – in your first statement.

MS KRIVANI PILLAY: That is correct.

CHAIRPERSON: Ms Pillay is your first name spelt with an I after R?

MS KRIVANI PILLAY: That is correct Chair.

CHAIRPERSON: Or with an E – an I?

20 **MS KRIVANI PILLAY:** It is an I – Krivani.

CHAIRPERSON: Yes. I think that the people who prepare these bundles you have to check. Remember was it yesterday – not yesterday the day before yesterday that instead of writing Mzwamadoda in regard to Mr Mxakwe they had written something else which I did read out just something else and I see here with Ms Pillay in the statement it is

written correctly but on the divider it is Kre – they must just take the trouble to make sure people's names are written correctly, their surnames are written correctly. It is not difficult.

ADV MPHO RASIVHETSHELE: Yes Chair. We will relay that message Chair.

CHAIRPERSON: Yes okay alright.

ADV MPHO RASIVHETSHELE: Apologies for that.

CHAIRPERSON: Thank you.

ADV MPHO RASIVHETSHELE: Ms Krivani.

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

ADV MPHO RASIVHETSHELE: Thank you Chair. Ms Krivani the first page of the document in front of you can you identify that document?

MS KRIVANI PILLAY: This is the statement that I provided to the commission.

ADV MPHO RASIVHETSHELE: Your main statement?

MS KRIVANI PILLAY: My main statement.

ADV MPHO RASIVHETSHELE: And if you turn on page 8 of that same document.

MS KRIVANI PILLAY: Yes.

20 **ADV MPHO RASIVHETSHELE**: Is that your signature?

MS KRIVANI PILLAY: That is correct.

ADV MPHO RASIVHETSHELE: And when did you sign this statement?

MS KRIVANI PILLAY: On the 13th August.

ADV MPHO RASIVHETSHELE: And if we go to your second supplementary statement that would be on page 23.

MS KRIVANI PILLAY: .Yes.

ADV MPHONG RASIVHETSHELE: And we turn over to page 24 is that your signature on that statement?

MS KRIVANI PILLAY: That is correct?

ADV MPHONG RASIVHETSHELE: And can you just identify the corrections...

CHAIRPERSON: I am sorry what page is the supplementary?

ADV MPHONG RASIVHETSHELE: It is on page 23 Chair.

CHAIRPERSON: 20?

10 **ADV MPHONG RASIVHETSHELE:** 23, 23

CHAIRPERSON: 23. Well I have just seen what they wrote in regard to Mr Mxakwe which I talked about. They wrote Mzwamadod instead of Mzwamadoda so – okay, yes.

ADV MPHONG RASIVHETSHELE: Ms Pillay.

MS KRIVANI PILLAY: Hm.

ADV MPHONG RASIVHETSHELE: Can you just identify the corrections that you wanted to amend on your main statement?

MS KRIVANI PILLAY: My – the correction was the chronological order just to get the date of the time of events which was paragraphs 10 and
20 11 in my original statement and in my supplementary I added the letter that my colleagues Busisiwe Ntuli and Jacques Steenkamp had sent to Mr Motsoeneng and the news executives.

ADV MPHONG RASIVHETSHELE: And other than that though – other than those corrections and additions are you satisfied with both your main and supplementary statement?

MS KRIVANI PILLAY: Yes oh sorry one more thing is in paragraph 20 of my main statement I mentioned that I received an email saying that there would no analysis of President Zuma's State of the Nation Address the correction it was not an email it was a verbal instruction.

ADV MPHOS RASIVHETSHELE: Thank you Ms Pillay.

MS KRIVANI PILLAY: Thank you.

ADV MPHOS RASIVHETSHELE: Ms Pillay can you please tell us where you are currently employed?

MS KRIVANI PILLAY: I am currently employed at the SABC in my
10 current title of Executive Producer of SAFM Current Affairs. I was recently seconded for the duration of November 2018 to June 2019 as Head of Elections for SABC News coordinating election content for radio, television and digital. I am now back to my original title of Executive Producer of SAFM Current Affairs.

ADV MPHOS RASIVHETSHELE: And can you just give us just a short background of how long you have been with the SABC and just a short career background?

MS KRIVANI PILLAY: I have been a journalist for almost nineteen years of which sixteen has been with broken service at the SABC. I
20 started off as an intern while studying at Rhodes University at the SABC newsroom in Durban and subsequently once I got my undergrad, my Bachelor of Journalism from Rhodes I worked at the university a little bit and then I went on to join the newsroom as a field reporter and as a current affairs anchor. I worked my way up through the ranks particularly in radio and then was head hunted to join SAFM Current

Affairs in 2006 – 2007 where I stayed and worked my way up to senior anchor, senior producer. I then took a break from the SABC and I went to the EWN newsroom and ENCA newsroom where I worked as both an anchor and then assignments and editor for ENCA. Came back to SABC in the position that I currently hold. My qualifications I matriculated at Durban Girls Secondary School. I then have a Bachelor of Journalism from Rhodes as well as a Masters. I have a diploma of European Journalism from the [indistinct] School of Utrecht in the Netherlands. I have a diploma in Advanced Broadcasting from the Thomson Foundation and Cardiff University. I have a diploma in Essentials in Broadcast Management from the Saul Plaatjie Institute in Rhodes University and I have a diploma in Media Executive Training Program with Bloomberg and the Gordon Institute of Business Science with the University of Pretoria.

ADV MPHOS RASIVHETSHELE: Thank you Ms Pillay. Ms Pillay in paragraph 3 of your main statement that will be on page 1 the investigators of the commission approached you, can you just identify the purpose of this approach?

MS KRIVANI PILLAY: Well it was to find out about the so called editorial interference at the SABC and to get – to share the evidence and our experiences of what we went through in the Watershed time of 2016 for about a period of about eighteen months as the so called SABC8.

ADV MPHOS RASIVHETSHELE: Thank you. Ms Pillay from paragraph 6 that would be on page 2 of your main statement where you highlight the

editorial and political interference. There was a media statement that was issued according to ban protest policy. Can you just touch base and talk to that?

MS KRIVANI PILLAY: Okay so on the 26th May 2016 Chair we had heard through a media statement that Hlaudi Motsoeneng had decided to implement – it was not – we called it the protest policy but there was not a formal policy where you would ban visuals of protest action and we were not told as a news division officially we all had to find out through a media statement. And as the executive producer of the show
10 of SAFM Current Affairs I together with my colleague Aubrey [indistinct] we co-manage a team. At the time the shows were called AM Live Mid-Day Live and PM Live and our team of senior producers decided to tackle this issue on the Sunday morning edition of the program called The Editors. The Editors is a program that really looks at the media industry as a whole. We reflect on the decisions we have made as editorial staff. We look at how our colleagues over the different platforms have covered news and it is interesting to give this kind of information to the citizenry because the angles that certain broadcasters, certain newspapers may take could have to do with who
20 owns them. You know some people take one angle of covering the story others take a different view and it is – and it is part of our approach in the editors to give our listeners all types and it was a very popular programme. And on the Sunday the first Sunday after this media statement was issued the editors took to analyse this – this statement. And when we did so we have editors coming in. We have

listeners calling in and we have an anchor who manages the program. Unfortunately that did not go down well with Motsoeneng – Mr Motsoeneng and we were subsequently called in to discuss why we had taken that stance. I ...

CHAIRPERSON: I am sorry that – that program where the editors have this engagement would it be on SAFM?

MS KRIVANI PILLAY: Yes it was on SAFM on a Sunday morning.

CHAIRPERSON: From a certain time to a certain time?

MS KRIVANI PILLAY: Yes.

10 **CHAIRPERSON**: And the editors would it be editors within SABC or you would invite editors from outside as well or how was it composed?

MS KRIVANI PILLAY: Because the program was a SABC news program we would try our absolute best the senior producers and the producers would try their best to ensure that one SABC editor would be on the program and then the other supporting editors would be from other

CHAIRPERSON: Media houses.

MS KRIVANI PILLAY: Media houses that is correct.

CHAIRPERSON: But – but the focus would not just be SABC news it would include other media houses their publications.

20 **MS KRIVANI PILLAY**: That is correct.

CHAIRPERSON: And their broadcasts.

MS KRIVANI PILLAY: That is correct Chair.

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: Chair so sometimes some newspapers will have an exclusive. They would break a story. For example the Rapport or

the Star we would invite that editor to come that weekend.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: To give us the background to that exclusive breaking story.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: How did they get the information? How long did the story take you know from the time they got it to the time that they broadcast it. Because what happens generally in the media industry is one publication or broadcaster can break a story but once it is out
10 there it is fair play for everybody else to then start tackling the story in their news diary. So this is one of the reasons we do that. We find the first people to have – you know have that exclusivity and we invite them on the show.

CHAIRPERSON: Would – would part of what you would be looking at in that program be to what extent there had been fairness to affected parties in regard to each story and so on?

MS KRIVANI PILLAY: We could...

CHAIRPERSON: Would that be part of what you look at to enable the citizenry to appreciate what trouble editors take in order – before a
20 story is issued.

MS KRIVANI PILLAY: Hm.

CHAIRPERSON: Or not really?

MS KRIVANI PILLAY: No, no you are absolutely right Chair. We would discuss that. For example I remember when I was sitting in as an anchor for that show. We did a program where there was a bloodied

picture on the front page of the newspaper and we discussed the merits of publishing such a picture because you know it is free for all and children are actually also having a look at that. Because in broadcasting you have Watershed times and you can protect children from some content. But for example – so we – so I remember on that particular day – so that would be some of the – the discussions we have. Did that particular newspaper make the right decision in putting such a bloodied picture in – on their front page? Those are the kind of editorial discussions that takes place.

- 10 **CHAIRPERSON**: So then within the context of the policy that had just been issued the media statement in relation to the policy about protest pictures that came in in regard to asking the question is it appropriate? Is it right for the media not to show protest action? That would be the angle.

MS KRIVANI PILLAY: That was precisely the angle Chair.

CHAIRPERSON: Yes okay thank you.

MS KRIVANI PILLAY: Yes.

ADV MPHO RASIVHETSHELE: Thank you Ms Krivani. Ms Krivani – Ms Pillay.

- 20 **MS KRIVANI PILLAY**: You can call me Ms Krivani.

CHAIRPERSON: No please stick to Ms Pillay. Then during the tea break you can – you can revert to Krivani.

ADV MPHO RASIVHETSHELE: Yes. Ms Pillay you talk about a meeting where you were summoned. You were summoned with Mr Krige, is that correct?

MS KRIVANI PILLAY: That is correct.

ADV MPHOS RASIVHETSHELE: What was the purpose for being summoned to Mr Motsoeneng's office?

MS KRIVANI PILLAY: The purpose of that was – it was about 48 hours after the Sunday program. So Mr Motsoeneng was aggrieved that the program criticised his decision because callers that had come in on the program wanted the merits of such a decision. At the SABC and for a public broadcaster it is rather bizarre when you are supposed to be giving a plurality of views and different perspectives on a story for
10 someone to issue a directive to say we are now banning these pictures. We are supposed to give and we are duty bound to give the South African public all access to the South African news and you know in all its manner and form so that they can shape their own opinions of the information we are disseminating. By effectively making such a directive you are choosing then to decide, to edit what the audience, what your viewer, what your listener, what your reader is then going to view. You are making that decision. So this is the kind of criticism that went on on that show on Sunday. And we then called to his office on the Tuesday to discuss Sunday's program.

20 **ADV MPHOS RASIVHETSHELE:** And who else was in attendance at this meeting? You have highlighted that on paragraph 9 on page 3 of your main statement.

MS KRIVANI PILLAY: It was Mr Motsoeneng, it was Jimi Matthews, the acting at the time he was the acting Group Chief Executive Officer, it was the acting GE of News Mr Simon Thebele, it was Anton Heunis,

Anton Heunis was introduced to us as Mr Motsoeneng's advisor, it was the GM of Radio News Ms Sebolelo Ditlhakayane, SABC spokesperson Mr Keizer Kganyago and then Mr Krige Foeta and myself.

ADV MPHO RASIVHETSHELE: And in this meeting you state that the meetings were recorded and everybody was aware that this meeting was recorded.

MS KRIVANI PILLAY: This is actually the amendment that I made to my supplementary. So this – the point 11 Chair point 10 and 11 of this was actually the recording of a news workshop.

10 **CHAIRPERSON:** Oh.

MS KRIVANI PILLAY: Not the recording of this meeting.

CHAIRPERSON: Oh okay.

MS KRIVANI PILLAY: That was the correction that I made.

CHAIRPERSON: Yes okay.

MS KRIVANI PILLAY: In my supplementary.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Thank you Ms Pillay. In paragraph 12 of page 3 of your statement you have highlighted what Mr Motsoeneng had said in that meeting – particular meeting. Could you just read it out for the record?

20

MS KRIVANI PILLAY:

“We are cleaning up the organisation people are doing their own stuff. There are many journalists outside that want to work for the SABC. The environment outside is bad. No person within the

SABC is independent. The SABC is independent this is the new SABC. You must adapt or find a job somewhere else. Editors' forum must go. Its advertising for rival newspapers."

And then he added.

"If people do not adhere get rid of them we cannot have people who question management and this is the last time we will have a meeting of this kind."

ADV MPHO RASIVHETSHELE: And Ms Pillay I have noted that this is
10 in quotations was this word for word of what he had said? Did you take notes of it? How was it – how were you able to put this in your statement because it is quotation marks?

MS KRIVANI PILLAY: So to be quite honest with you Chair this statement caught me off my guard because I was just in shock that I was actually listening to these kinds of statements. So this particular statement I had only in shorthand and – but Foete Krige had made very detailed notes. So when I – when we had done the meeting Foete had tabled – I mean typed out his notes and I compared to my notes and this was verbatim.

20 **CHAIRPERSON:** Okay. Okay.

MS KRIVANI PILLAY: So there are some parts where I have also got it verbatim. Ja.

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: Thank you Ms Pillay. And just to just jump to paragraph 13.

MS KRIVANI PILLAY: Yes.

ADV MPHOS RASIVHETSHELE: It continues onto page 4 of your statement in terms of what Mr Krige had asked Mr Motsoeneng about broadcasting vandalism of public property and so forth. Can you just talk to that paragraph please?

MS KRIVANI PILLAY: So Mr Krige tried to ask Mr Motsoeneng Chair what empirical evidence do you have for all of these decisions to be made. We are not averse to change. Even in the newsroom change is good. Programs need to be changed. We need to keep up with the
10 trends. As long as we follow and adhere to the journalistic prescripts. If a program does not work it is not popular enough we need to make changes? So we are not averse to change. But when it comes to saying the editors must go a popular program that has deep editorial values attached to it. A program that has a long history. In fact when I was trying to do research on how long the program was it is – even way before 1994 the editors has been in session. So Mr Krige tried to find out, well what is the thinking behind such decisions that the editors must just go? And Mr Motsoeneng was not able to give us an editorially sound reason. He was not able to rationalise his reasoning.
20 He basically just said we must defend the organisation. No journalist is independent. The COO has final responsibility for news. If people do not adhere get rid of them we cannot have people who question management. I remember still having my hand up he refused to even take my question. He was really upset. According to him we had brought the SABC or my program had brought the SABC into disrepute

because we were discussing a decision he sanctioned and we were discussing a decision he made. But we have to be introspective. We have to be reflective as a newsroom and as an organisation and...

CHAIRPERSON: And it was a matter that affects the public?

MS KRIVANI PILLAY: Absolutely. I mean we are not here for our own personal welfare. We are here for country duty and we are here for public service. And he did not seem to get that.

CHAIRPERSON: So the reference to editors' forum was a reference to your program?

10 **MS KRIVANI PILLAY**: My program.

CHAIRPERSON: That is what it was called?

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: And he made – when he said that newspapers must go Chair he was making reference to two parts of the newspapers. On a Monday to Friday a program called AM Live hosted by Sakina Kamwendo had a newspapers slot where she would review the headlines of the newspapers'. We would not get through the newspaper...

20 **CHAIRPERSON**: Yes.

MS KRIVANI PILLAY: Page by page.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: But we would look at the general headlines of the day.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And then the editors would also have a few minutes about three minutes where we look at the Sunday papers. And it is common practice. It is age old tradition. It is done on international broadcasters as well. One of the reasons we do this it – actually there is two reasons we do this.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Some newspapers are not national they are only available in certain parts of the country. It is important for listeners and viewers to know what is happening around the country. That is
10 number 1. Number 2 it is also important to see what angle the SABC has taken and what angle Times Live has taken. Or what angle the SABC has taken and what angle the Citizen has taken for example. It is to give that kind of varying coverage plurality of views and perceptions – perspectives to – I mean this really is what the editors is all about.

CHAIRPERSON: Well I happen to know that in one of the TV channels that shows what is happening in England they have those discussions like that I think particularly I think on – I think Saturday evening. Well I happen to know that in one of the TV channels that shows what is
20 happening in England they have those discussions like that I think particularly I think on – I think Saturday evening.

MS KRIVANI PILLAY: The BBC

CHAIRPERSON: Evening for the Sunday ones.

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: You know preview and look at different newspapers

and I think within the country there are other people who do the same.

MS KRIVANI PILLAY: Ja.

CHAIRPERSON: Ja.

MS KRIVANI PILLAY: It is common industry practice ja.

CHAIRPERSON: Yes but he did not like that either.

MS KRIVANI PILLAY: Well I do not think he – I do not think he had an issue with the program at all itself.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: It was just because this Sunday catapulted him
10 to the top of the agenda. His decision was criticised. His decision was then being debated and disputed on the show. And this must have got his attention.

CHAIRPERSON: But because of that he was now saying the program must go.

MS KRIVANI PILLAY: The program must go.

CHAIRPERSON: Because they are – that is what you say here. Okay.

MS KRIVANI PILLAY: And the newspapers must go as well. So the newspapers on the AM Live portion of the morning and the newspapers on the Editors program.

20 **CHAIRPERSON:** Yes. Yes. Okay.

ADV MPHOS RASIVHETSHELE: Ms Pillay you have just stated in paragraph 13 what Mr Motsoeneng had said just in the second line.

“The COO has the final responsibility for news.”

Was this the first time that you have heard that the COO has the final responsibility for news or was this a norm?

MS KRIVANI PILLAY: This was the first time that I had heard from him that the final responsibility of news because I had only come back to the SABC – sorry Chair I have sorry.

CHAIRPERSON: Yes you must look at me more than at her.

MS KRIVANI PILLAY: Sorry Chair. Chair this was the first time that I had heard that because I had only just recently returned to the SABC. It was a couple of months prior to that. So when I had heard that I thought maybe he made a mistake. But then Jimi Matthews was sitting you know right next to him and he did not correct him. And that is
10 when I had also heard subsequently no but this is the angle in which he is moving toward. He has apparently made changes that – that the Editor in Chief is now the COO and not the CEO.

ADV MPHO RASIVHETSHELE: Ms Pillay and in paragraph 15 of you statement you talk about the cancellation of the editors. What was the aftermath and consequence of the removal of this show?

MS KRIVANI PILLAY: It was awful. Chair...

CHAIRPERSON: So the program was actually moved?

MS KRIVANI PILLAY: It was cancelled. It was cancelled immediately. It was the lowest point of my career because it was left up to me to
20 have to go to my colleagues, my senior producers and producers and let them know what had just transpired in a meeting. I felt embarrassed. I felt like I let the team down. I did try my best to garner reasoning from Mr Motsoeneng that I can take back to my team. He would not listen to any – he would not even entertain my questions at that meeting and I was basically told you have no choice on the matter

and if you do not do it you know my job was threatened.

I subsequently came back to the office and we made the announcement to the team. I - it did not sit well with me at all. I had sleepless nights afterwards because when I was a student at Rhodes University SAFM was the program - it was the pinnacle program that a journalist worked toward and the fact that I was now sitting in a position that I had aspired to be sitting in and - and a program of this calibre was removed under my watch I really felt that I let down my team and I let down listeners and I took it quite personally.

10 My colleague Busisiwe Ntuli then after hearing about what happened - Thandeka and Busisiwe had come to my office and Busisiwe basically said what are you going to do about it and I said I cannot be quiet anymore because this has gone too far and that is when Busisiwe Ntuli, Jacques Steenkamp and myself sat down to draft this letter to Mr Motsoeneng and Busisiwe and Jacques said we will support you.

It is not our program but we will support you because we believe in the program and - and we also believe that what he has done is wrong. So we got together the three of us and we drafted this letter.

20 By this time our colleagues Thandeka, Foeta and Suna were already suspended. Thandeka joined us when we had our meeting and we looked at the journalistic prescripts.

We looked at editorial independence. We drafted a letter and we asked Mr Motsoeneng we just want you to tell us - guide us as to your thinking as to why these programs in the newspapers are

cancelled. Tell us why you are suspending colleagues who are just debating and - and we sent that letter off and I only felt better once that letter was sent.

So we - we sent off that letter but the senior producers I had asked them to keep all the emails and Chair every day without fail every day we were getting emails. I still have them stored on my laptop. The senior producers were collecting disgruntled emails from listeners who have been listening for years and listeners who are in rural areas. Remember radio is a very powerful tool.

10 There is only a few people that are on social media but radio is accessible to everyone and they were very upset and they wanted the program to come back and quite a few listeners including one Anita Jonker as a lecturer at a university she went straight to the BCCSA and the rest of the listeners came to us and we still forwarded those emails to Mr Motsoeneng but nobody was willing to listen.

CHAIRPERSON: Can I take you back? I should have asked you earlier when this - the media statement that told the public about what you later termed the protest policy you said that you only got to know about it from the media. Was it usual at SABC that if there was to be a new
20 policy on something or if there was to be a change of policy on something there would be no consultation - prior consultations with all those who may be affected by it?

MS KRIVANI PILLAY: Yes and no Chair. Sometimes there is consultation and sometimes there is not. We have in the organisation what we call rediffusion where everybody from across the country and -

all the offices tune in and listen when either the executives of the board get together to - to disseminate information to us or to perhaps talk about the possibility of introducing a new policy to gauge views.

So that is one way. Sometimes it happens but this there was certainly no consultation. This was a directive.

CHAIRPERSON: Hm. On - on this ...

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: On this particular one and the issue that the final responsibility for news now lay with the - with him and I think you have
10 said and other witnesses said that the norm was that the Editor in Chief would be the Group CEO. Now was that also not notified to the newsroom - to the news people in advance?

MS KRIVANI PILLAY: I stand to be corrected Chair.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: In my recollection I was not notified via ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Email or via rediffusion ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Or anything.

20 **CHAIRPERSON:** You only got to know at the meeting?

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Yes, okay. Alright. Thank you. Then let us go back to you - you were talking about the reaction of the listeners of the program ...

ADV MPHOS RASIVHETSHELE: Hm.

CHAIRPERSON: To the cancellation of the program. If you still want to say something you can continue.

MS KRIVANI PILLAY: Chair, I also - I received a lot of hate mail on social media which - some of it is still there - where - where people thought that I made the decision to cancel the editors because I am the Executive Producer of the show. It was very hard for me to have to go through that because it was not of my doing but I was not going to - to undertake a discussion with - with listeners on - on social media.

A - a statement was never issued to say that it was
10 Mr Motsoeneng's decision. So I had to bear the brunt but eventually obviously with the advent of speaking out and - and with Parliament etcetera then the viewers realised it was - it was not of my personal doing that the - that the program was cancelled. Also I used to field a lot of telephone calls.

My - my office number was circulated and I would sit on the phone with listeners and they were very upset. Ja, and - and that is the extent of the disgruntled nature of our listeners and which was - it was very sad because this is effectively the people we have to serve.

ADV MPHO RASIVHETSHELE: Hm.

20 **CHAIRPERSON:** The media statement which had announced the policy did it not make it clear that it was Mr Motsoeneng who had made the decision?

MS KRIVANI PILLAY: I ...

CHAIRPERSON: Did it simply say SABC without saying who?

MS KRIVANI PILLAY: I - I do not recall. I wonder if it is here as a ...

CHAIRPERSON: Okay. Well if it is we will check. I just ...

MS KRIVANI PILLAY: Okay.

CHAIRPERSON: I just - I just think of this situation where people think you are the one who made the decision.

MS KRIVANI PILLAY: Hm.

CHAIRPERSON: When you did not make the decision.

MS KRIVANI PILLAY: It is - public deception is a cruel thing Chair.

CHAIRPERSON: Yes, yes.

MS KRIVANI PILLAY: Even when a year ago there were changes made
10 to SAFM where current affair hours were reduced drastically from six
hours to two hours a day. I was - also had to bear the brunt of social
media bullying because it was very popular programs that were
cancelled.

AM live and PM live and that too - listeners thought that I was
behind that and they - some of them went as far as likening me to
Mr Motsoeneng saying that I am as bad as - as he is and - and again I
kept quiet. I blocked people who were bullying me on social media but
I never engaged. I just did not engage with the public on social media.

CHAIRPERSON: Thank you.

20 **ADV MPHO RASIVHETSHELE:** Thank you. The media statement we
currently do not have it but during the tea break we can attempt to - to
source it Chair.

CHAIRPERSON: That is fine.

ADV MPHO RASIVHETSHELE: Ms Pillay just to stay just on top of
your evidence. You mentioned a letter that was sent. That is attached

on your - on your supplementary statement. That is on page 25 Chair.

CHAIRPERSON: Actually earlier on I thought I had found the supplementary statement but I discovered that I had not. Now I found it.

ADV MPHO RASIVHETSHELE: Thank you Chair.

CHAIRPERSON: So you say the letter is attached to the supplementary statement?

ADV MPHO RASIVHETSHELE: Yes Chair on page 25.

CHAIRPERSON: Okay. Yes, thank you.

10 **ADV MPHO RASIVHETSHELE:** Ms Pillay that is - that is the - is this the letter that was sent to Mr Motsoeneng after the canning of the editors?

MS KRIVANI PILLAY: That is correct.

ADV MPHO RASIVHETSHELE: Chair this - this letter is quite lengthy but I find it very critical that Ms Pillay does read it into record.

CHAIRPERSON: Yes. Well she can do one of two things. One, if she able to tell me the main features of the contents of the letter without reading it. Maybe reading one or two paragraphs that is fine but if you think there is particular importance you know reading the whole letter
20 that will be fine. What is your own sense?

ADV MPHO RASIVHETSHELE: Chair my own sense is that the entire letter is important because it touches base on the editors. It also touches base of you know ...

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: The purge and suspension of the other

members of the SABC eight and so forth ...

CHAIRPERSON: Okay (intervenes).

ADV MPHO RASIVHETSHELE: In that context.

CHAIRPERSON: That is fine.

ADV MPHO RASIVHETSHELE: Okay.

CHAIRPERSON: She may read it.

ADV MPHO RASIVHETSHELE: Ms Pillay can you just also just identify you know from the top who the letter was sent to, who was also cc'd in the letter and the contents of the letter?

- 10 **MS KRIVANI PILLAY:** Okay. Chair the letter was for attention SABC Chief Operating Officer Mr Hlaudi Motsoeneng at SABC Radio Park corner of Henley and Artillery Road. It was also copied to Jimi Matthews Acting Group CEO, to Simon Tebele Acting GE News, to Sebolelo Ditlhakanyane GM Radio News, to Nyana Molete Acting GM TV, to Angie Kapelianis National Editor Radio Current Affairs, to Nothando Maseko Acting Head TV Current Affairs and to Zolisa Sigabi National Bulletin Editor. The title was:

20 “Request for Editorial Policy Clarity and Concern over Unfair Suspensions: we the undersigned write this letter to you to register our displeasure and increasing concern about the recent developments occurring in the SABC Newsroom. Our newsroom has become a source of derision, despair and criticism from the people that we are fundamentally accountable to the public at large. In particular the

developments of the past week have heightened the sense of fear, lack of clarity about our journalistic responsibility and low staff morale permeating our newsrooms because of what we considered to be normal editorial engagements and the usual contestation of ideas during a diary meeting. In addition we are of the view that the recent decisions to remove the newspaper slots and the editors on SAFM's AM live amounts to what we

10 consider censorship unless reasonable and professional explanations can be advanced within in the framework of our Editorial Policy and our obligation to serve the public. As seasoned journalists within the SABC we maintain that the reasons given for these sudden decisions contradict our governing policies and legislation. Namely the SABC Editorial Code, the South African Broadcasting Act and the South African Constitution. As journalist having to operationalise

20 the policies of this public institution which is important for the promotion of our democracy we feel aggrieved that the image of our institution, our journalist integrity continues to be compromised by unconstitutional pronouncements that erode the credibility of the SABC and the journalistic integrity

of all of us who work for it. Furthermore we wish to register our deep concern for our colleagues who have been suspended for expressing their right to freedom of expression by simply debating and assessing the newsworthiness of events as expected during editorial meetings. As such we view the suspensions of Thandeka Gqubule, Foeta Krige and Suna Venter as acts of victimisation. An editorial meeting is to debate, deliberate, argue and find consensus on news stories. However based on the recent developments it seems that this no longer allowed during editorial line talks. A situation that we believe needs to be challenged. We are ethically and legally bound by the provisions of the South African Constitution in particular Section 161(a) Chapter 2 in the Bill of Rights. Likewise we are bound by the Broadcasting Act and the SABC's mandate from the South African public. We are shocked by the latest pronouncements that fundamentally erode the right of the public to know the whole story about the developments in their communities and to display such stories in a responsible manner as has been done as per ICASA and BCCSA requirements. These pronouncements

affectively render our newsrooms incapable of providing compelling audio visual content that educates and informs the public to disseminate balanced and accurate information. We the undersigned therefore request an urgent meeting with the COO to gain clarity and resolve the above indicated matters. Our primary interest is to clarify the confusion and find a lasting solution that will also provide guidelines on all issues editorial.

10 Lastly we hope that this will also restore our public image and uphold our integrity in the eyes of those we are meant to serve. Signed, Busisiwe Ntuli Executive Producer Special Assignment, Krivani Pillay Executive Producer SAFM Current Affairs and Jacques Steenkamp Senior Investigative Reporter.”

ADV MPHO RASIVHETSHELE: Thank you Ms Pillay. Did you ever receive a - a response or you know a meeting with the then CEO Mr - Mr Motsoeneng?

20 **MS KRIVANI PILLAY:** No Chair I did not.

CHAIRPERSON: I - I take it that - that reference to Section 161(a) Chapter 2 in the Bill of Rights may have been a - a typo because the - you must have been referring to the Section 16.

MS KRIVANI PILLAY: 16, yes.

CHAIRPERSON: Subsection 1(a) ...

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Which deals with freedom of expression and so on?

MS KRIVANI PILLAY: That is correct Chair.

CHAIRPERSON: Yes, okay. No that is fine.

ADV MPHO RASIVHETSHELE: Thank you Chair. What was the consequence if any what - what happened after issuing this letter?

MS KRIVANI PILLAY: After issuing this - this letter was issued on Saturday or Sunday. On the Monday morning Jimi Matthews had resigned via social media. We all found out via social media Chair and
10 then four days later on a Thursday afternoon I was given notice to appear before a disciplinary hearing on the Friday. I was given less than 24 hours' notice to appear.

CHAIRPERSON: When that happened there had been no response from Mr Motsoeneng to the letter or there had been?

MS KRIVANI PILLAY: There had been no response. That was the first time ...

CHAIRPERSON: Oh or was that the response?

MS KRIVANI PILLAY: That was the response was the disciplinary hearing.

20 **CHAIRPERSON:** Okay, hm.

ADV MPHO RASIVHETSHELE: Ms Pillay if you can just turn to page 27? It is just after the letter.

MS KRIVANI PILLAY: Yes.

ADV MPHO RASIVHETSHELE: Is this the letter you - you are speaking about the response that you received for you to go to a disciplinary

hearing? Can you just talk to this letter?

MS KRIVANI PILLAY: So this is the letter I received after the disciplinary hearing. There is one letter missing which is the first one which we will try and get to you.

ADV MPHO RASIVHETSHELE: Okay.

MS KRIVANI PILLAY: Sorry Chair. Sorry.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: The one letter is the invite to the ...

CHAIRPERSON: The disciplinary hearing.

10 **MS KRIVANI PILLAY:** The disciplinary hearing.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Which was a Thursday afternoon to be there for a disciplinary hearing on a Friday morning. I had not been unionised at that time and my colleagues quickly rallied around me to basically sign union membership forms. The first union I called was CWU. I was told that a shop steward would come and meet me. The shop steward came and basically wasted my time because I subsequently found out that CWU had no intention to represent me.

I called BEMAWU. I was not a member of BEMAWU but
20 BEMAWU already had another disciplinary hearing that - that their shop steward was attending the next day. I effectively had no assistance. I waited till 7 o' clock for CWU to return to my office to assist me in preparing for this disciplinary hearing. Nobody arrived. I then looked out of the SABC.

A friend of mine is a lawyer by profession. She then arrived

at my home and upon one look at the notice for DC laughed it off saying it was less than 24 hours to appear before a DC. That in itself is against labour laws but she did nevertheless help me prepare. I got to the DC on Friday morning and ...

CHAIRPERSON: Before we - before we get to the DC what was the charge that the letter that called you to a disciplinary inquiry told you, you were going to face or charges?

MS KRIVANI PILLAY: They said that we were - we - we had basically brought the SABC into disrepute. So that we wrote a letter ...

10 **CHAIRPERSON:** Oh -oh is the letter at 27 - page 27 the one that you got ...

MS KRIVANI PILLAY: Hm.

CHAIRPERSON: Or does it reflect the charges?

MS KRIVANI PILLAY: So this is similar to the charges that were in the first letter.

CHAIRPERSON: Oh, okay.

MS KRIVANI PILLAY: Ja. So that is why I am - I am trying to recall - I beg your pardon Chair ...

CHAIRPERSON: Yes.

20 **MS KRIVANI PILLAY:** What was in that first one which ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: I will ensure that I get to the evidence leaders.

CHAIRPERSON: Yes, but you say the charges referred to here ...

MS KRIVANI PILLAY: These are pretty much ...

CHAIRPERSON: Are basically the same?

MS KRIVANI PILLAY: That is correct Chair.

CHAIRPERSON: Yes, okay. Let us - let us hear what the charges are before we get to the actually hearing. Maybe she can read.

ADV MPHO RASIVHETSHELE: Yes Ms Pillay can you just read the charges.

CHAIRPERSON: Yes or just say what the charges are.

MS KRIVANI PILLAY: “You are hereby notified in terms of
Schedule 8 of the Labour Relations Act Number 66
of 1995 that allegations have been received that
10 you are continuing to commit further acts of
misconduct after receiving your letter informing you
of your disciplinary hearing.”

So these were additional to the - to the first disciplinary ...

CHAIRPERSON: To the first ones?

MS KRIVANI PILLAY: Letter Chair. So the fact ...

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: That we were speaking to the media - so:

20 “You wrote a letter to the SABC COO raising
concerns in relation to the instruction given by him
and leaked it to the media platforms thereby
displaying disrespect and persistence in your
refusal to comply with an instruction pertaining to
the Editorial Policy of the SABC as well as the
directive not to broadcast visuals, audio of the
destruction of property during protest action. Since

the policies and personnel were ...”

CHAIRPERSON: I am sorry. Before that ...

MS KRIVANI PILLAY: Oh.

CHAIRPERSON: Am I right to think that paragraph 1.1 which you have just read seems to suggest that even raising concerns with this COO was a problem?

MS KRIVANI PILLAY: That is correct Chair and that is also how ...

CHAIRPERSON: How - how can that be a problem when somebody raises concerns with - with you about issues at work?

10 **MS KRIVANI PILLAY**: This is the kind of environment we worked in at that time Chair. Nothing made sense really. The - the directives that were issued out, the - just nothing made sense. I want to say it was the ramblings of a madman. So - you know to edit it but ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Really nothing made sense. Just us inquiring ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: About it and it as a very diplomatic letter in my - in my opinion that we had sent out.

CHAIRPERSON: Well may - may - maybe - maybe there might - in
20 certain circumstances maybe there might be something about any allegation of leaking it outside but when one reads there one gets the sense that part of - of the problem is that you raised concerns.

MS KRIVANI PILLAY: Yes. We questioned the decision.

CHAIRPERSON: And how - how does it become

MS KRIVANI PILLAY: And how do you work in a newsroom?

CHAIRPERSON: Objectionable to these concerns?

MS KRIVANI PILLAY: Newsroom - journalistic principles are all about asking questions. Any story you do you ask a question. That is how we get out stories and how is it that you can run a newsroom without allowing the very people who are supposed to be asking questions by profession are not supposed to ask you questions.

CHAIRPERSON: And what do you do if you do not understand the directive ...

MS KRIVANI PILLAY: Well we would not know ...

10 **CHAIRPERSON:** Without raising concerns?

MS KRIVANI PILLAY: Because we were never afforded the audience or
- or ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: The response to our letter.

CHAIRPERSON: Yes, okay. Alright. 1.2.

MS KRIVANI PILLAY: 1.2:

20 “Since the policies and personnel regulations are
incorporated into your employment contract your
conduct as stated above constitutes a contravention
of Paragraph 2(d) of the Regulations in that you
made comments or published an article in the media
on your terms and conditions of the contract while
you were in service of the SABC without prior
consent of the Group Chief Executive.”

1.3:

“It also contravenes section - Regulation 2(e) in that it constitutes a refusal to obey and carry out reasonable and lawful instructions including the policies and regulations of the SABC. It amounts to insubordination and contravenes Clause 2.1 of the Disciplinary Code and Procedure.”

1.4:

10 “It undermines the editorial responsibility and authority of the SABC as vested upon its Chief Operating Officer in terms of Paragraph 2 of the SABC Revised Editorial Policy 2016.”

Point 2:

“Since receiving your ...”

So those are just the charges now Chair.

CHAIRPERSON: Yes, yes.

MS KRIVANI PILLAY: *Ja.*

CHAIRPERSON: Yes, okay. Maybe for the sake of completeness you can read the ...

MS KRIVANI PILLAY: Okay.

20 **CHAIRPERSON:** The - the last two paragraphs.

MS KRIVANI PILLAY: Point 2:

“Since receiving your disciplinary hearing notice you continuously took part in media interviews with various daily newspapers resulting in the publication of articles wherein you had criticised

and displayed disrespect and persistence in your refusal to comply with an instruction pertaining to the Editorial Policy of the SABC as well as the directive not to broadcast visuals, audio of the destruction of property during protest action. Your conduct constituted a contravention of the prescripts set out in Paragraphs 1.2 to 1.4.”

Point number 3:

10 “You are accordingly afforded an opportunity to state your case in response to these allegations. In that regard you are entitled to prepare that response with the assistance of a trade union representative, a fellow employee or lawyers of your own choice. Such response must be delivered to my office no later than 4 o’ clock on Friday 15 July failing which I will assume you have no answer to the allegations levelled against you.”

20 **CHAIRPERSON:** Okay. Before we proceed I just want to take you back to soon after you had sent the letter to Mr Motsoeneng and to the copies - copied other people including Mr Jimi Matthews. You said that you had sent the letter on a Saturday and ...

MS KRIVANI PILLAY: I beg your pardon Chair. It was a Sunday.

CHAIRPERSON: Oh a Sunday?

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Yes and then you say - you said soon thereafter or

was it the following day Mr Jimi Matthews resigned?

MS KRIVANI PILLAY: So we - if I correctly remember it was early evening Sunday night Chair. We had sent off the letter. We had all met to sign - scan it and send it and on my way to work on Monday morning roundabout 7 o' clock I received a phone call from another media house asking if I had heard about the resignation of Jimi Matthews and that was how I found it and it was about a couple of hours later that I had seen the social media post that he had indeed resigned.

10 **CHAIRPERSON:** Do - do you know whether his resignation was connected in anyway with the stand that you would or what you said in the letter as a group or you do not ...?

MS KRIVANI PILLAY: I found the timing to be quite coincidental ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: But I - I could not say for sure Chair.

CHAIRPERSON: You could not say? Okay. Thank you.

ADV MPHO RASIVHETSHELE: Thank you. Ms Pillay on that letter page 28 paragraph 2 it is stated that ...

CHAIRPERSON: I am sorry. What page?

20 **ADV MPHO RASIVHETSHELE:** Page 28 Chair.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Paragraph 2. It is stated that the directive not to broadcast destruction of property in - in protests and so forth. Was that in line with the Editorial Policy?

MS KRIVANI PILLAY: That was not in line with the Editorial Policy.

The Editorial Policy is clear Chair - I beg your pardon. The Editorial Policy is clear. The only thing that we are not going to broadcast if something incites violence or racism or things that are against our Bill of Rights in the Constitution. That is - you know there is - there is just - there is a whole lot of prescripts - editorial prescripts.

I do not understand how showing the destruction of property - I want to give you some context Chair. These protest policy - protest action are service delivery protests that were have - that were occurring across the country. The timing of this was just weeks before
10 an election. All the people that we were interviewing that we were viewing that we were - the community leaders that we had on our programs talked about service delivery.

They talked about access to water and sanitation. They talked about homes. They talked about jobs. They talked about food. They talked about infrastructure, right. They - they then named their councillors. They named the governing party. They named Government. According to them their leaders were to blame for non-service delivery.

So when somebody says I am going to ban this, the audio and
20 the video, weeks before an election, when somebody is criticising an administration in power, that's also running for the same election, how else do you interpret that Chair?

For me that was already the start of a capture.

CHAIRPERSON: Well let me take you back before we proceed, let us go back to that meeting where you were confronted about the protest

policy as you came to call it. You said that Mr Krieger did say something, you said that you raised your hand you wanted to say something but you were not given a chance. Were there other people who spoke at that meeting other than Mr Motsoeneng and I think you said Mr Jimmy Matthews also spoke, were there other people who spoke at the meeting, and if so what did they say?

MS KRIVANI PILLAY: The GM of radio Miss Sebolelo Ditlhakanyane was there with us, she attempted to defend the show, the editors but he still wouldn't listen to her even though she was my line manager's
10 manager. So very senior person but he wouldn't even let her finish her sentence as senior as she was. So he didn't let her speak and he didn't let me speak.

CHAIRPERSON: I just want to make sure I don't mix up issue, there's only on meeting, I think that we have talked about so far, did it discuss both the issue of the problem – the editor's forum and newspapers and the protest policy or was there no meeting at which the protest policy was discussed?

MS KRIVANI PILLAY: This was the one and only meeting I had with Motsoeneng Chair in which he discussed the editors and the
20 newspapers with my programmes and – because those programmes were talking about the protest policy.

CHAIRPERSON: Oh so the protest policy was discussed because of that okay, so I got it right.

MS KRIVANI PILLAY: The content yes on those programmes.

CHAIRPERSON: Okay so I got it right, okay so only those people

spoke at that meeting?

MS KRIVANI PILLAY: Yes.

ADV MPHO RASIVHETSHELE: And Mr Krieger spoke but did Mr Motsoeneng say to you why he thought it was justified to come up with this policy at that meeting?

MS KRIVANI PILLAY: There was no justification Chair, he said he was in charge, to paraphrase Chair, these are not the exact word, it was basically my decision goes.

CHAIRPERSON: Yes, yes okay thank you and I think we were – when
10 I interrupted you we were about to talk about the disciplinary hearing and because I wanted to know what the charge were, we went to a letter that seems to have been a later letter, is that right?

ADV MPHO RASIVHETSHELE: Yes Chair.

CHAIRPERSON: Yes so I just want to make sure we don't end up skipping the disciplinary hearing, what happened to it.

ADV MPHO RASIVHETSHELE: Yes, Miss Pillay you stated, just for clarity purposes because we have dealt with this subsequent letter you received after the first letter.

MS KRIVANI PILLAY: Yes.

20 **ADV MPHO RASIVHETSHELE:** You said you received less than 24 hours to appear at the disciplinary hearing, you receive it on Thursday, Friday was supposed to be your DC. Now with this letter it's dated the 8th of July and you were to write a response to these charges on the 15th of July, now that's more than 24 hours. When did you receive this letter, the third letter?

MS KRIVANI PILLAY: So this is the second letter, 8th of July – Chair it's the second letter.

CHAIRPERSON: Yes the one that you got on the Thursday, you said you don't have here but you would try to get it for us.

MS KRIVANI PILLAY: I don't have so that would be Thursday's date for Friday's disciplinary, Friday...[intervenes].

CHAIRPERSON: Was it the 16th of June, I think I saw some date the Thursday...[intervenes].

MS KRIVANI PILLAY: No it couldn't have been the 16th of June Chair
10 it would have been early – it would have been end June early July.

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: Chair so I went to the disciplinary hearing with Jacques Steenkamp and Busisiwe Ntuli who had their labour union reps with them and solidarity kindly offered to assist me free of charge because I was, for want of a better word, a lone ranger there on Friday without any union representivity and solidarity had told me that they would represent me pro bono and sit with me in the DC. That DC started and because of the argument that we had...[intervenes].

CHAIRPERSON: And who was chairing it?

20 **MS KRIVANI PILLAY:** Chair, I can't remember but it was a gentleman that was flown in, I think, from Free State Province, flown in specifically to chair this DC.

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: And –so into it the union representatives argue why the DC could not go ahead and the...[intervenes].

CHAIRPERSON: I'm sorry, this DC you have mentioned a number of other colleagues of yours that came with you, but that DC was for you only or were there a number of you facing charges in the same disciplinary hearing?

MS KRIVANI PILLAY: The three of us who wrote the letter to Mr Motsoeneng *et al.*

CHAIRPERSON: So it was a joint disciplinary hearing?

MS KRIVANI PILLAY: It was a joint disciplinary hearing for the three of us.

10 **CHAIRPERSON:** Okay alright, you may continue.

MS KRIVANI PILLAY: Thank you Chair and when they argued that this DC could not go ahead for various reasons, it was then adjourned but it was never re-scheduled. The re-scheduling was the 8th of July Chair, this letter.

CHAIRPERSON: You got this letter yes.

MS KRIVANI PILLAY: We got this letter to then provide a written response by the 15th of July and then in this letter they added more because they felt because of the media interviews and all of that...[intervenes].

20 **CHAIRPERSON:** You were continuing?

MS KRIVANI PILLAY: Exactly so there were more charges here and then our lawyers subsequently responded to that letter, meeting the deadline of 4 o'clock on the 15th of July but unfortunately they didn't find our responses good enough and we were subsequently fired on the 18th of July.

CHAIRPERSON: Now there was no disciplinary hearing now?

MS KRIVANI PILLAY: No.

CHAIRPERSON: Originally the idea was that there was going to be a disciplinary hearing.

MS KRIVANI PILLAY: Yes Chair.

CHAIRPERSON: And this letter of the 8th of July had said that your response had to reach them by 16h00 on Friday 15 July failing which the writer would assume that you had no answer to the allegations levelled against you. So one could say well, if there was no response
10 by the deadline, they might have taken the attitude that there's no need for a hearing because these people are admitting these allegations but the response was filed and one would then have expected that there would then be a date for a disciplinary hearing but you say there was no such date, there was just a decision to fire?

MS KRIVANI PILLAY: That's 100% correct Chair.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Chair they actually acknowledged receipt of our response and I didn't – they – I'm paraphrasing again I don't know the legal jargon that was used basically to say, your lawyers have sent us a
20 response we've gone through it and we've taken the decision to terminate.

CHAIRPERSON: Okay something like the response has no merit or something like that?

MS KRIVANI PILLAY: Absolutely.

CHAIRPERSON: Ja okay, yes?

ADV MPHO RASIVHETSHELE: Thank you Miss Pillay, so you filed – your legal representatives filed their responses on Friday before 4 o'clock and you were subsequently fired, you said the 18th, was the 18th on that Monday?

MS KRIVANI PILLAY: On that Monday, I remember it clearly because it was Nelson Mandela's birthday Chair and that's a personal hero of mine so it just felt very ironic that the person who encouraged me to get into journalism, I would be fired on his birthday.

ADV MPHO RASIVHETSHELE: Miss Pillay on paragraph 18, let's go
10 back to the statement on page five.

CHAIRPERSON: We go back to what page?

ADV MPHO RASIVHETSHELE: Page five of the main statement Chair, that would be under folder 14 Chair.

CHAIRPERSON: Yes you must just remind me about the folder...[intervenes].

ADV MPHO RASIVHETSHELE: Folder CC14.

CHAIRPERSON: Because I close when we move to another page, I close completely.

ADV MPHO RASIVHETSHELE: That's fine Chair, I will remind you.
20 Paragraph 18 – well the second paragraph just under 18, the subsequent paragraph. It states that the cancellation of the editors, Mr Motsoeneng justified it, can you just elaborate on Mr Motsoeneng justification of the cancellation of the programme?

MS KRIVANI PILLAY: Okay so it seems then that the only reason for the cancellation was that the programme criticised, Chair, the decision

of Mr Motsoeneng protest policy. The argument that Mr Motsoeneng made was that the programme was promoting the sale of newspapers whose editors were interviewed and I felt that, that argument was irrelevant because newspapers are not the direct competition of any broadcaster. Mr Motsoeneng made this argument at the time when the SABC was promoting the Gupta owned New Age newspaper through its New Age breakfast briefings on SABC TV. I also want to add that when they cancelled the newspaper, shortly after the actual newspaper was removed citing austerity measures, one of the reasons the actual

10 newspapers we usually use every morning when we're – you know before we do our diaries, those were removed but there were copious amounts of the New Age everywhere, ten copies per table, you know, almost. Like the – it was really bizarre because if you're going to cite, you know, selling newspapers then that newspaper had no business of being there with so many copies.

CHAIRPERSON: Did you or people in the newsroom raise this to say, you have just said, you know, we are not going to have these newspapers anymore for – as part of austerity measures, how come we have, you know, stacks and stacks of the New Age?

20 **MS KRIVANI PILLAY:** We didn't raise it formally Chair, we did speak about it amongst ourselves, the producers, the senior producers we even brought it to the attention of our line managers and austerity was cited as one of the reasons for removing the main newspapers, the ones that we were used to getting every day and when we made the – we didn't really make a formal argument, we all just, amongst

ourselves, you know in our...[intervenes].

CHAIRPERSON: To say is this austerity measures if you bring in this one and not just in big volumes.

MS KRIVANI PILLAY: Absolutely but we also knew which were our battles, if he wasn't going to respond to a formal letter that senior journalists had written, was he going to answer about the New Age newspaper?

ADV MPHO RASIVHETSHELE: Miss Pillay you talk about the New Age newspapers being a stack of ten per table and so
10 forth...[intervenes].

MS KRIVANI PILLAY: Well the meeting table – meeting table not per desk, sorry.

ADV MPHO RASIVHETSHELE: Yes was the distribution of the New Age newspapers, was this a daily occurrence of these newspapers being brought in, was it an astronomical amount, was it, you know a manageable amount, you know, that it's ne newspaper per employee, can you just talk to that?

MS KRIVANI PILLAY: I can't really put my finger on the number Chair, I would arrive for my shift and there'd probably be about five or six of
20 the newspapers stacked around the meeting table, there would be one or two around other tables, ja but unfortunately Chair I'm so sorry but I can't put my finger on the exact number that was there on a daily basis, I just know that there were many copies of the New Age available.

CHAIRPERSON: By the time this – by the time of your disciplinary action and the removal of other newspapers do you have a recollection

of – about how long the New Age had been around in terms of being made available at SABC being delivered in big numbers?

MS KRIVANI PILLAY: I honestly can't recall Chair.

CHAIRPERSON: You can't remember?

MS KRIVANI PILLAY: No.

CHAIRPERSON: But it had been there for some time?

MS KRIVANI PILLAY: Yes as far as my memory – yeah.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Thank you Chair. Chair I've noted
10 that it's quarter past eleven I don't know if the Chair would like to take
the tea break now before we carry on with further with the
editorial...[intervenes].

CHAIRPERSON: How much more time do you think we need before
she's done?

ADV MPHO RASIVHETSHELE: I think we would take about, my
estimation, 45 minutes at most.

CHAIRPERSON: Oh okay no that's – I was looking at her statement
and I was thinking it's less than that but that's fine, I think let's take
the tea break, I think your watch and my watch are not giving us the
20 exact time, mine is still a few minutes before quarter past but it's okay
there's no point in starting another question now.

We will take the tea adjournment now and we'll resume at half
past eleven, we adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes let us proceed.

ADV MPHO RASIVHETSHELE: Thank you Chair. Chair just during the tea adjournment I had asked the – our team's investigators just to acquire that media release by SABC. They on it and as soon as we get it we will then submit it.

CHAIRPERSON: Okay thank you.

ADV MPHO RASIVHETSHELE: Thank you Chair. Ms Pillay on paragraph 19 that is on page 6 Chair on your main statement you talk
10 to your editorial woes that had begun. You emphasise on the day before the State of the Nation Address that was to be given by the President. Can you just elaborate on any editorial interference that you guys endured in that period?

MS KRIVANI PILLAY: Chair – Chair – I beg your pardon. Chair on the – in February 2016 as is tradition for the President to do a State of the Nation Address and part of our public service mandate our teams fly down to Cape Town to give almost wall to wall coverage. So it would be a preview to the State of the Nation Address and a post analysis and response and reaction to the President's address. And we do this
20 every year and it is one of the things that is a main attractor to our station because I would like to say we do it so well. But in February 20...

CHAIRPERSON: That is now SAFM?

MS KRIVANI PILLAY: This is SAFM yes Chair.

CHAIRPERSON: Yes Okay.

MS KRIVANI PILLAY: In February 2016 so the production teams they would plan ahead. They would organise who we call political analysts, economic analysts, social you know anyone who is able to give some kind of post SONA analysis. And we had an analyst lined up. We usually find them in the provinces where we have to travel in order to also keep the costs down. And we were told there will be no analysis of President Zuma's address. Obviously that coming from the top and I had to make the unfortunate call. My team were too embarrassed to call the analyst because they felt that they had not taken that decision
10 and they should not be the one to have to call and cancel the analyst. So I called and cancelled with the analyst 24 hours before the State of the Nation Address. And that was...

CHAIRPERSON: And you would have made arrangements with that journalist about how long before the actual date of the State of the Nation Address?

MS KRIVANI PILLAY: You mean analyst?

CHAIRPERSON: The analyst that you had to cancel. You would have made arrangements about how long before the State of the Nation Address day?

20 **MS KRIVANI PILLAY:** A couple of weeks before because we do...

CHAIRPERSON: So long before?

MS KRIVANI PILLAY: Long before.

CHAIRPERSON: Yes okay.

MS KRIVANI PILLAY: We –and we also because you know we know some of the analysts who are well read who – so we try and book them

in advance as possible so that other broadcasters may not have not first dibs – dibs on them.

CHAIRPERSON: Oh you – you want to – you book them before your competitors book them?

MS KRIVANI PILLAY: Absolutely. Absolutely.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: And so this is how the team works, this is how the senior producer in charge of that broadcast would have worked. They would have booked and they basically told me well if you want
10 them cancelled you are going to have to cancel it because I am not – we have booked them and so I was the unfortunate – had the unfortunate task. And I had to very diplomatically call and say unfortunately we will no longer be requiring your services. That – that speech went on without political analysis. There was only political party response to the speech.

CHAIRPERSON: Yes but you say the instruction came from the top and I see in paragraph 20 of your statement that you say it was an email. Who did the email come from?

MS KRIVANI PILLAY: So this is another correction in my
20 supplementary.

CHAIRPERSON: Oh. Oh okay.

MS KRIVANI PILLAY: Yes Chair.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: It was a verbal instruction and not an email.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: I – I was just trying to recall.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: And even when I consulted with my colleagues they were like email nothing was done on email.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: And then I – they reminded me it was a verbal instruction and that is when I very quickly called the evidence leaders to tell them me.

CHAIRPERSON: Yes. Who gave the verbal instruction?

10 **MS KRIVANI PILLAY:** I think at that time it was the acting GE of news Simon Tebele. He would have given the instruction then so Mr Motsoeneng would have given the instruction to him and he would have given the instruction to the GM of Radio and you know filtered down. Ja.

CHAIRPERSON: Oh you heard it from your – do you call them supervisor or manager?

MS KRIVANI PILLAY: Yes, yes.

CHAIRPERSON: Ja but it did not necessarily come from ...

MS KRIVANI PILLAY: I was not called directly.

20 **CHAIRPERSON:** Oh you were not called directly?

MS KRIVANI PILLAY: No, no.

CHAIRPERSON: You heard it when it had been given?

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Okay alright. But in terms of who exactly it emanated from did you get to know that or was it just speculation?

MS KRIVANI PILLAY: The speak at the time was it is from the top that is how we were used to.

MS KRIVANI PILLAY: Yes. Was there a general understanding who the top referred to?

MS KRIVANI PILLAY: Yes Chair.

CHAIRPERSON: Who was it?

MS KRIVANI PILLAY: Mr Hlaudi Motsoeneng.

CHAIRPERSON: Okay thank you.

ADV MPHO RASIVHETSHELE: Ms Pillay you talk about booking the
10 political analyst weeks before was this a service that was paid for by the SABC to book that analyst?

MS KRIVANI PILLAY: No we seldom – sorry Chair. We seldom pay for services. We usually only book and pay during an election period because over that period you know we need them – it is wall to wall coverage and we need them you know to be with us for 24 hour broadcasting. But we do not necessarily pay for analysts. We – it is done out of good will. We look for researchers, we look for experts and we invite them to be participants in a program. So they would join us. They would be part of you know their accreditation we assist with the
20 accreditation etcetera. But we are not known for paying for such services and if an analyst request payment then unfortunately we would have to let them go because we are not – we do not do that. Generally all – most broadcasters and publications usually pay for analysts mostly over an election period when you exclusive use of analysts.

CHAIRPERSON: Yes okay. Let me just go back to this instruction that

there would be no analysis of the State of the Nation Address. Were you ever told why that – what the basis was for that instruction? It just seems quite strange to me. Well it might be a bad thing but I can understand an instruction that says, make sure you get analysts who will speak favourably. Because then you know that the person who gives that instruction does not want people who will criticise the State of the Nation Address. But the instruction seems to exclude even those who may have spoken well about the Nation Address – State of the Nation Address. I wonder whether whoever gave the instruction had

10 seen the State of the Nation Address and had taken a certain view of it that maybe lots of analysts would be very critical of it. Did you ever get to understand what the basis was and did you get any information in regard to why this instruction was given?

MS KRIVANI PILLAY: Chair I almost admire your optimism that there would be reasons afforded to us for any decision. Unfortunately we were working in an environment where it was just issued, orders were just issued without justification or reason. I would also take it that yes if you wanted to promote the President you could say here is a list of maybe analysts that you could use. But I think given the circumstances

20 of the time, of the manner in which the leader of the time was being lambasted across the media, across the public I can only imagine that the reason would be to avoid at all circumstances criticism against the leader.

CHAIRPERSON: Or maybe – maybe it was seen as better to simply say there would be no analysis because if you said only the following

analyst then it becomes more blatant.

MS KRIVANI PILLAY: Absolutely Chair.

CHAIRPERSON: Yes okay.

ADV MPHONG RASIVHETSHELE: Thank you Ms Pillay. Apologies just to backtrack a little bit. I think I might – I have left this out and it is very critical because Mr Matthews has responded to paragraphs particularly paragraphs 14 of your main statement on page 4. In the meeting where you and Mr Krige were summoned to Mr Motsoeneng's office where Mr Matthews had stated that if it is cold outside if you do not like this you
10 can go. You have two choices the door or the window.

MS KRIVANI PILLAY: Yes.

ADV MPHONG RASIVHETSHELE: Can you elaborate what was the response to this? You said you were particularly surprised why is that so?

MS KRIVANI PILLAY: I was particularly surprised because even though Chair Mr Matthews and I did not have a close working relationship I knew of him and he was someone that as a young journalist I had admired and almost – you know you – as you grow up in the ranks of journalism you kind of spot the journalist you want to be
20 and you spot them in the veterans. And Mr Matthews was one of those people ...

CHAIRPERSON: It happens with law students and lawyers too.

MS KRIVANI PILLAY: You know in the television industry that you know – I know that he also had an eye for pictures and storytelling and I was aware of you know his career. So when somebody like that and

you know you have admired as a student says something like that instead of defending you at a meeting it is confusing and it is worrying and then you start to wonder well what is in it for you? Why – I mean you have been such a good journalist for so long and then why does the tune change. You know. And I almost expected afterwards to get a call from Mr Matthews to say perhaps I was under duress and you know.

CHAIRPERSON: Kind of explain.

MS KRIVANI PILLAY: Explain himself but I never heard from him.

CHAIRPERSON: Yes. You – maybe you will deal with this. You will
10 remember Mr Pillay that earlier on I asked you whether you got to know whether his resignation was connected in any way with the letter that some of you had written. I think in his response to Mr Krige's statement Mr Jimi Matthews in his response to Mr Krige's statement I think I read something along the lines that he said there were certain things that he had done of which he was not proud. I got the impression that he was saying his resignation may have been connected with him coming to the conclusion that he had done certain things that he should not have done that were wrong and that people might not have expected from him. That is the impression I got. It
20 might be a wrong impression that I got and that is part of the reason why I was asking whether you knew whether there was a connection because your letter raised certain issues which may or may not have made him to reflect. Ja okay thank you.

ADV MPHO RASIVHETSHELE: Thank you Chair. Ms Pillay when this instruction was given not to have any political analyst and so forth in

paragraph 21 you state that you protested this instruction to the general manager of radio news. Who exactly was at the time the general manager of radio news?

MS KRIVANI PILLAY: It was Sebolelo Ditlhakayane.

ADV MPHO RASIVHETSHELE: And what was her response?

MS KRIVANI PILLAY: I remember going to her office and I had brought this to her attention and she said she tried to explain it to Mr Motsoeneng – sorry Chair – why it would not work. Why this instruction would not work and basically he had not – he told her that she had no
10 option and we had no option.

ADV MPHO RASIVHETSHELE: Ms Pillay what would have happened hypothetically if you had you know said no I am going to have those political analysts and so forth. What do you think the consequences would have been had you not followed the instruction?

MS KRIVANI PILLAY: Chair I think I would have been fired much earlier than I was.

ADV MPHO RASIVHETSHELE: Let us got to the second occasion when this happened that you have highlighted in paragraph 22 of your statement – your main statement.

20 **CHAIRPERSON:** I am sorry. This thing of prohibiting analysis is quite strange.

MS KRIVANI PILLAY: it is very strange.

CHAIRPERSON: Because analysis means you look at all angles of a story and you ask why this, why not that, why that and you comment where you know somebody has done well and – and you criticise where

they have not done well. It is meant to be an analysis and an analysis must be to the benefit of everybody because everybody is supposed to want to be exposed to all angles and perspectives to a story.

MS KRIVANI PILLAY: You hit the nail on the head Chair that is exactly what analysis is about.

CHAIRPERSON: Hm.

ADV MPHO RASIVHETSHELE: Ms Pillay just to pick up on that. What do you think the intention was to prohibit this analysis? What do you think the primary goal was?

- 10 **MS KRIVANI PILLAY:** Not that it was precisely communicated as such but for somebody who has been in the industry long enough and to use my powers of assertion and deduction that there was a view not to criticise President Jacob Zuma. Not to paint him in a poor light. Not to paint his leadership in a poor light. Not to show that service delivery failures at the hands of government or the governing party in weeks before an election and for me that is the only deduction.

ADV MPHO RASIVHETSHELE: Thank you Ms Pillay. You also state that that was not the first occasion whereas you were prohibited to include political analysis. You have highlighted that in paragraph 22.

- 20 **MS KRIVANI PILLAY:** Yes.

ADV MPHO RASIVHETSHELE: Can you just talk to that?

MS KRIVANI PILLAY: On the 23rd August Parliament's Portfolio Committee Chair they met the SABC board. It was televised live. The board – by this time there was a lot of upheaval about what was going on at the SABC because we had obviously publicly rebuked these

decisions. And the board and some of the members of the executive called us disgruntled journalists. They went as far as calling us liars and we were told there would be no analysis of that appearance before the ...

CHAIRPERSON: The Portfolio Committee.

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: I take it that date 23rd August is 23rd August 2016?

MS KRIVANI PILLAY: That is correct Chair.

CHAIRPERSON: Okay. But so this instruction was now coming from ...

10 **MS KRIVANI PILLAY**: Again.

CHAIRPERSON: From – it was coming from the executives? Well I guess all of them were coming from one or other executive?

MS KRIVANI PILLAY: Ja.

CHAIRPERSON: Okay so this was another occasion?

MS KRIVANI PILLAY: Another one. From the top filtered down.

CHAIRPERSON: Yes. But now were you told this time also why not?

MS KRIVANI PILLAY: I once again went to my line managers Chair and...

CHAIRPERSON: Yes.

20 **MS KRIVANI PILLAY**: One of the conversations we had we would not have analysis but why do we not get communications experts or broadcast experts or media experts to come in. I was trying to circumvent this issue, move around it, find a commentator, an expert, a researcher, an academic.

CHAIRPERSON: You were trying to make the best of a difficult

situation.

MS KRIVANI PILLAY: Yes. And it was not working and – but I do remember a conversation saying yes we could do that but not a political analysis of it. Which was a very fine line you know between the two.

MS KRIVANI PILLAY: Hm. Now at this stage August 2016 who were the executives in terms of the hierarchy that would have – that you would have expected to have had something to do with this instruction?

MS KRIVANI PILLAY: It would have been – well Mr James Aguma and Mr Hlaudi Motsoeneng were working quite closely together as
10 executives...

CHAIRPERSON: It was an acting GCEO/

MS KRIVANI PILLAY: That is correct Chair.

CHAIRPERSON: At that time.

MS KRIVANI PILLAY: That is correct.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: I think the acting GE was Simon Tebele. I am just trying to recall I beg your pardon Chair.

CHAIRPERSON: Yes. Well if you do not remember all of them it is fine I just wanted to have an idea so that one does not necessarily think of
20 somebody who might not have been there, who might have left.

MS KRIVANI PILLAY: Okay sure.

CHAIRPERSON: You know for example. But this was also quite – I know the prohibition of the analysis in regard to this meeting was quite – would have been quite strange because of the job of a Parliamentary Portfolio Committee. The board and the executives go there because

the Portfolio Committee exercises oversight and they need to get answers on what may be happening on certain things within the SABC and the public needs to know about that. And there have been problems at SABC for many years and the public is – is supposed to know about that and they are supposed to know what is Parliament doing about it because it has an obligation to exercise oversight. But that is being prohibited.

MS KRIVANI PILLAY: Chair in my opinion Parliament's Portfolio Committee of Communications failed in their oversight role. Because if
 10 you go back and get the Parliamentary tapes of the 23rd August even the lining – line of questioning from some of the MP's was not of an oversight body it was almost of friends speaking to friends. Or one team mate speaking to the same team mate. So the line of questioning was not to find the whole story and the whole truth and nothing but the truth about the goings on at the SABC. So I also encouraged the investigators to look at that tape of the 23rd August and to see the line of questioning of that oversight body and to see the kind of responses that the executives gave to Parliament.

CHAIRPERSON: Hm. Well that must be done and you – well being in
 20 the media you probably would know that I have said one of the things that the commission needs to do is to see to what extent Parliament exercised its oversight obligations properly in regard to the executives, in regard to various government departments and SOE's. So that if at the end of the work of the commission I conclude that indeed there was State Capture I can look at what is it that Parliament could have done?

Did they do it? If they failed was there justification for them failing to do what they could have done because otherwise it may well be that things might have been arrested before they got to where they got to. And also the question of the levels of corruption. One has got to ask has Parliament and its various Portfolio Committees have they exercised their constitutional obligations the way they should? And because it may be that if they have not and if they had exercised their obligations properly a lot of damage could have been avoided.

MS KRIVANI PILLAY: Chair I would also like to put on record that the
10 SABC 8 through our legal team Aslam Moosajee and Advocate Steven Budlender wrote to Baleke Mbete the speaker of Parliament to point out these kind of inefficiencies and the failure of Parliament as an oversight body. And we – we for want of a better word pestered them until we got what we got which ended up being the first ever inquiry into the SABC in Parliament. But it took a while before we could get that.

CHAIRPERSON: Yes. Well probably it would be good to even get that kind of correspondence.

MS KRIVANI PILLAY: Sure.

20 **CHAIRPERSON:** An exchange of correspondence because you would have been doing nothing more than saying Parliament must perform its job.

MS KRIVANI PILLAY: That is precisely what we were doing.

CHAIRPERSON: And from what you say it looks like it took quite some time before it happened and maybe if you had not persisted the way I

understand you did maybe it might not have happened. So – so that plus any other information that you at SABC and other people at SABC might have that would give this commission a picture of how the communications committee was exercising its oversight over the years if you have got any information then the commission would really welcome that.

MS KRIVANI PILLAY: Thank you Chair I will pass the message on.

CHAIRPERSON: Yes. Thank you.

ADV MPHO RASIVHETSHELE: Thank you Ms Pillay. On paragraphs
10 23 of your statement that would still be on page 6 of your main statement you talk to a pre-election workshop and what was said at that pre-election workshop. Can you just – Mr Krige has touched base on what the election – the pre-election workshop is about and so forth so you do not have to go in that detail but however you talk to on the next paragraph on paragraph 24 what Mr Motsoeneng had stated in that workshop on paragraph 24 on page 7. Can you just read that out into the record and comment thereafter?

MS KRIVANI PILLAY: Okay. Chair at the workshop Mr Motsoeneng made the following deeply concerning remarks.

20 “Do not focus on negative stories.
Reporters at the SABC do not know the world.
When they report they mislead listeners.
Today I am going to talk to the press club, to all
editors. I am going to tell them they cannot try to
influence SABC.

I am going to tell them they cannot tell us what to do.

Look at your editorial policy.

We have removed news and replaced with content.

If you as SABC mess up the organisation you mess up your life.

I am in charge.

News is now part of operations.

We change the world.

10 We must have news with content.

I am in charge, you must adhere to my instruction.

President Zuma is the President of the country.

I do not regard him as ANC.

You cannot treat him the same.

We will give him more time.

You can question everyone.”

And he referred to Mr Mantashe etcetera.

“Except our President.

We need to respect him especially you SABC.

20 I expect you to align with my instruction.”

ADV MPHO RASIVHETSHELE: And...

CHAIRPERSON: I am sorry. Probably my ignorance. What does it mean to say we have removed news and replaced it with content?

MS KRIVANI PILLAY: So in the editorial policy Chair when we talk about news content could mean anything. Content...

CHAIRPERSON: Other than news?

MS KRIVANI PILLAY: Yes. Absolutely.

CHAIRPERSON: Adverts?

MS KRIVANI PILLAY: Absolutely.

CHAIRPERSON: Oh okay.

MS KRIVANI PILLAY: Content could be a music video.

CHAIRPERSON: Yes okay.

MS KRIVANI PILLAY: Content could be a kids program.

CHAIRPERSON: Okay.

10 **MS KRIVANI PILLAY**: News has very clear prescripts of what is a news item?

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: So he is effectively removed it and muddled the waters of what the news prescripts are.

CHAIRPERSON: So – so what did this mean? Look at your editorial policy we have removed news and replaced it with content. What did that mean? Did he remove anything in the policy relating to news? Or what did that mean? I am trying to understand it. Firstly I did not understand the – the context which you have now explained but what
20 did it actually mean? What was there that was removed and where was it removed and what did it say?

MS KRIVANI PILLAY: The way I understand it and I stand to be corrected perhaps my other colleagues could give you a better explanation but that news content, news items, news programming was being watered down.

CHAIRPERSON: Oh, okay. Okay but the watering down was taken care of in the policy because he says look at the Editorial Policy or ...?

MS KRIVANI PILLAY: That is where he swapped. So in the news editorial - in the - in the section of news ...

CHAIRPERSON: *Ja.*

MS KRIVANI PILLAY: In the Editorial Policy ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Because we have mandate. We have language. We have sport and education etcetera in the section of news. So where
10 we talk about news values or - or prescripts it would be content.

CHAIRPERSON: Oh. In the policy?

MS KRIVANI PILLAY: In the actual 2016 changes.

CHAIRPERSON: Policy?

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Okay, okay. Thank you and the effect of that was - was what at a practical level in the newsroom?

MS KRIVANI PILLAY: It would mean that there would be no robust political ...

CHAIRPERSON: Debates?

20 **MS KRIVANI PILLAY:** Debates.

CHAIRPERSON: Oh you would just report?

MS KRIVANI PILLAY: You would just report.

CHAIRPERSON: *Ja.*

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Without having debates and so on and so ...?

MS KRIVANI PILLAY: You would have debates but they would then

CHAIRPERSON: But watered down?

MS KRIVANI PILLAY: Be watered down.

CHAIRPERSON: Okay. So at a practical level would you like have to tell your - your guests if they were going to talk to say well do not be too harsh or anything? How would it work or you would be careful in how you choose them?

MS KRIVANI PILLAY: Chair at the risk of sounding insubordinate ...

CHAIRPERSON: *Ja.*

10 **MS KRIVANI PILLAY:** I actually did not listen to this instruction.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: I continued and so did my colleagues.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: The producers and senior producers and anchors we continued to work ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: As journalists.

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: Yes.

20 **CHAIRPERSON:** Okay. Thank you.

ADV MPHO RASIVHETSHELE: Ms Pillay on the - more or less the last paragraph of that statement. It says:

“I am in charge. You must adhere to my instructions. President Zuma is the President of the country. I do not regard him as the ANC. You

cannot treat him the same. We will give him more time.”

How do you interpret this? More time was this more coverage of President Zuma? You know. Can you - can you talk to this? How was your interpretation or the general interpretation amongst your colleagues for the statement?

MS KRIVANI PILLAY: So Chair in the context of this - this was a pre-election workshop. So when it comes to election coverage there is something that - that we use that ICASA prescribes and that is
10 equitable coverage. It is not equal coverage but it is equitable coverage. It is a formula moved based on the number of seats you have in Parliament etcetera.

So obviously the governing party will have a slightly longer coverage than the say the official opposition who will then have slightly coverage to the second opposition party etcetera. What I understand this to be is that you will give the President more time. Almost disregarding equitable.

CHAIRPERSON: Oh. In other words more than whatever ...

MS KRIVANI PILLAY: More than equitable.

20 **CHAIRPERSON:** Be prescribed by ICASA?

MS KRIVANI PILLAY: Exactly.

CHAIRPERSON: Okay, which - which would be more in any event?

MS KRIVANI PILLAY: Yes.

CHAIRPERSON: Okay.

ADV MPH O RASIVHETSHELE: And Ms Pillay how did you - what was

the reaction? Was there any kind of descending views from anyone who put up their hand and said well you know I do not agree with this?

MS KRIVANI PILLAY: I do remember - I do remember that immediately nobody - people were looking around. It was almost this unease because some of us could not believe what we were listening to. Some obviously heard it again and they - like I said they were used to the kind of utterances of this individual. It was my first time back after a few years as I mentioned.

So I was - I know I was bewildered when I saw - I did not
10 raise my hand. I did not say anything. We had adjourned for a lunch - a tea break or a lunchbreak and I do remember people not being very happy by that but there was no kind of formal caucus where we then stopped him in his tracks and - and asked him questions.

People did put their hands up, asked questions and you know tried you know in a - in a way to - to voice their discontent but this is the kind of individual who commanded this room in this almost way that what I say goes and even if somebody attempted to rationalise or be reasonable with him they would not win. *Ja.*

CHAIRPERSON: At this meeting was the - was the Acting GCEO there
20 or the highest ranking executive was Mr Motsoeneng?

MS KRIVANI PILLAY: The Acting GCEO was there. Mr James Aguma was there because I remember asking a question. I remember putting my hand up to say that one of the things that irks me as an Executive Producer is when reporters do not have the adequate resources to do their work and can only file stories when they come back to the office

and why do they not have the 3G data cards etcetera and I remember Mr James Aguma was there because Mr Motsoeneng said but we have got the money and he must just make it happen. That - *ja* that the reporters get the 3G cards ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And they get the resources that they need ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: To get the job done.

CHAIRPERSON: Hm, okay.

10 **ADV MPHO RASIVHETSHELE:** Ms Pillay I have - I have noted that in paragraph 24 what we have just read what Mr Motsoeneng had stated is in quotes. Was this word for word that was said by Mr Motsoeneng?

MS KRIVANI PILLAY: Yes because ironically I was the scribe at this workshop Chair.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: There was - there was a few of us that were asked to scribe ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And this - and this workshop was the recorded
20 workshop.

CHAIRPERSON: It was recorded?

MS KRIVANI PILLAY: A (indistinct) was placed in front ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: And every single session was recorded ...

CHAIRPERSON: Huh-uh.

MS KRIVANI PILLAY: And we had turns to take notes.

CHAIRPERSON: Okay. So - so this is not just based on your notes?

MS KRIVANI PILLAY: No this is based on - on my notes.

CHAIRPERSON: It was mechanically recorded as well?

MS KRIVANI PILLAY: Yes. I did not - I did not get my hands on the recording.

CHAIRPERSON: Oh.

MS KRIVANI PILLAY: So these are just my typed notes.

CHAIRPERSON: Yes, but ...

10 **MS KRIVANI PILLAY:** Yes.

CHAIRPERSON: But you say ...

MS KRIVANI PILLAY: There ...

CHAIRPERSON: There was a mechanical recording?

MS KRIVANI PILLAY: A recording exists somewhere.

CHAIRPERSON: Yes, okay. Alright.

MS KRIVANI PILLAY: Ja.

ADV MPHO RASIVHETSHELE: If we could just turn to page 10 Annexure 1. Ms Pillay can you identify that document in front of you?

MS KRIVANI PILLAY: That is the minutes of the workshop.

20 **ADV MPHO RASIVHETSHELE:** Dated?

MS KRIVANI PILLAY: 6 June.

ADV MPHO RASIVHETSHELE: 6 June 2016?

MS KRIVANI PILLAY: Yes.

ADV MPHO RASIVHETSHELE: And if we turn to page 17 of that same document.

MS KRIVANI PILLAY: Yes.

ADV MPHO RASIVHETSHELE: In the middle of the document there is a heading COO Hlaudi Motsoeneng.

MS KRIVANI PILLAY: Yes.

ADV MPHO RASIVHETSHELE: Is this what was the minutes of what the content in - in which what he was saying?

MS KRIVANI PILLAY: That is correct.

ADV MPHO RASIVHETSHELE: There is just a few because it is - it is not numbered. There is just a few particular paragraphs that I want you
10 to give comment on.

CHAIRPERSON: I am - I am sorry. Did you say page 1-6?

ADV MPHO RASIVHETSHELE: 1-7 Chair. Sorry. 1-7.

CHAIRPERSON: Oh 1-7. Okay.

ADV MPHO RASIVHETSHELE: That would be under the heading of COO Hlaudi Motsoeneng.

CHAIRPERSON: Oh yes, okay. Yes.

ADV MPHO RASIVHETSHELE: The first two lines of - of that document is said:

20 “Concerned About News: there is laziness in the newsroom. When we compare broadcasters there is a huge difference between us and them.”

Was this a contribution to maybe the low morale between the journalists and so forth? You know him stating that the journalists the newsroom is lazy and so forth. How did you guys react to that comment, if any?

MS KRIVANI PILLAY: Chair at this workshop would have only been editors, specialists, desk editors, assignment editors, regional editors. So basically the editorial leadership of the news division. So the journalists themselves would not have been - there would have been maybe one or two but the journalists themselves would not have been at that workshop.

So I do not think he would have said this face to face to the journalists. He said that to us as editors in the hopes that we would take his concerns about the shoddy camera work. For example he used
10 - he talked about inconsistencies in camera teams, needing to train camera people. He said that the journalists need to be passionate. They need to go back to basics.

So he - he said all of this in the hopes that we would take this message back to our teams in preparation for elections.

ADV MPHOS RASIVHETSHELE: And Ms Pillay did you feel that you know being the editor that the journalists - the newsroom was lazy or so forth or do you think that his comment was misdirected?

MS KRIVANI PILLAY: Chair I do believe that some of his comments are misdirected because to my recollection Mr Motsoeneng never came
20 to the newsroom. He never - I do not recall him meeting journalists, getting to know them, getting to know their work. Journalists work under - often long unsociable hours filing and you really have got to understand the nature of the work that we do and he to my recollection never did that.

So this was the first time that I - I had his opinion of the

quality of news being disseminated but I am not in charge of the input team which is the journalists. My team - I co managed a team of output producers, senior producers and anchors where they would then use the stories of the input journalists in - in our programs. So I was not - I am not in a position to assess whether his comments had any validation.

ADV MPHO RASIVHETSHELE: And just to go to the bottom of the last paragraph on that page there are some typo errors and so forth so I am just going to read it as - as well as I could or Ms Pillay can you read
10 that last paragraph ...

MS KRIVANI PILLAY: Sure.

ADV MPHO RASIVHETSHELE: Starting with journalists?

MS KRIVANI PILLAY: “Journalists who belong to an
organisation is not independent. In the new
Editorial Policy it is clear that the organisation is
independent not the individual. When we issue an
instruction it is an instruction. We are not asking
you. No one is independent. SABC has a clear
agenda. The way we report is unique from other
20 media. If you are not in line the door is open.
Revamping the SABC is not about just content. It is
also personnel. Need people who support the
agenda of the SABC.”

ADV MPHO RASIVHETSHELE: Ms Pillay so that last line:

“Revamping the SABC is not just about content. It

is also about personnel.”

How would you interpret that? Would revamping mean you know also revamping our personnel? Taking personnel out or how would you interpret that?

MS KRIVANI PILLAY: I would - I would understand if you cannot do the job or - or if you cannot ...

CHAIRPERSON: Comply with the instruction?

MS KRIVANI PILLAY: Exactly.

CHAIRPERSON: Hm.

10 **MS KRIVANI PILLAY:** Then - then out you go.

CHAIRPERSON: Hm. Did you understand or do you understand how it is possible to speak of the SABC being independent but the journalists - the individuals not being independent?

MS KRIVANI PILLAY: That is a difficult one Chair ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Because he - I think he viewed the SABC as an entity on its own.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And him being at the helm ...

20 **CHAIRPERSON:** Hm.

MS KRIVANI PILLAY: Of that entity ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And whatever he saw that organisation to be ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Is what us as journalists and staff members had

to be in line with.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: So there - therein strips the independence ...

CHAIRPERSON: Hm, hm.

MS KRIVANI PILLAY: But to be in line with his vision ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Of leadership ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: For this so called ...

10 **CHAIRPERSON:** Hm.

MS KRIVANI PILLAY: Independent institution.

CHAIRPERSON: So effectively he would determine where the independence starts and where it - it would end?

MS KRIVANI PILLAY: That is how I understand it.

CHAIRPERSON: And the journalists had to simply that whatever he did he took into account independence and theirs must just be to comply?

MS KRIVANI PILLAY: Comply. That is it.

CHAIRPERSON: Hm. Okay.

ADV MPHO RASIVHETSHELE: Okay.

20 **MS KRIVANI PILLAY:** Sorry. Chair for the record I ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: I - I do - I cannot remember if I - if I said at this meeting that James Aguma he was there as CFO ...

CHAIRPERSON: Oh, okay.

MS KRIVANI PILLAY: Not as CEO.

CHAIRPERSON: Oh, okay.

MS KRIVANI PILLAY: Because I remember the conversation being about we have money for these resources.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: You know the - the - to do our work.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Ja, so it was ...

CHAIRPERSON: So he was the finance person?

MS KRIVANI PILLAY: Yes. I would like to make that correction please.

10 **CHAIRPERSON:** Okay, thank you.

ADV MPHO RASIVHETSHELE: And if we turnover to page 18 still on the minutes paragraph - the fourth paragraph starting with “changed”. Can you just read that into the record?

MS KRIVANI PILLAY: “Changed Supply Chain Management

Exclusion: if anything affects broadcasting then we classify those as emergencies.”

ADV MPHO RASIVHETSHELE: Can you give comment on that on the changed Supply Chain Management in that aspect?

20 **MS KRIVANI PILLAY:** I - I - I am sorry Chair. I am unable to do so because I - I cannot recall in - in what context this ...

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: This was said.

CHAIRPERSON: Hm, hm.

MS KRIVANI PILLAY: I do not know the changes in this - in the - in the Supply Chain Management.

CHAIRPERSON: Yes.

MS KRIVANI PILLAY: Ja.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Okay; and the next - the next paragraph where it starts with - the next two - well there are two sentences then straight underneath that there is a discussion by him about freelancers. Can you read that out into the record?

MS KRIVANI PILLAY: “On the issue of freelancers only rude open for abuse is freelancers. There is no scrutiny.

10 Caution that to do it in transparent manner if not and we know of shenanigans we are ruthless now as far as fraudulent use - use of organisation resources.”

ADV MPHO RASIVHETSHELE: And - and the next paragraph.

MS KRIVANI PILLAY: “News has got 1 000 employees. That - news should have 1 000 employees. That should be sufficient. If - if they all news I will worry if you need another 500. This financial year I will focus on freelancers.”

20 **ADV MPHO RASIVHETSHELE:** And what was his intention to focus on freelancers? Can you give comment to those two - two paragraphs?

MS KRIVANI PILLAY: On the freelance issue I do know that the freelancers Chair had some issues that they had taken to - you know brought to his attention but I - I do not know the details of that communication between freelancers and Mr Motsoeneng and how

exactly he was going to focus on freelancers. Unfortunately I would not be in attendance of freelance meetings as I am a permanent staff member.

ADV MPHO RASIVHETSHELE: And on paragraph 25 and also to touch base with paragraph 26 that is on page 7 of your main statement. You stated that Mr Motsoeneng's instructions at that workshop went against the Editorial Policy and so forth. Can you just talk to those two paragraphs please?

MS KRIVANI PILLAY: Okay. Chair well Mr Motsoeneng's instructions
10 went against the International Journalism Code of Conduct, the Editorial Code of the SABC and the legally binding documents of the South African Constitution and the Broadcasting Act and my own personal views.

These instructions by Mr Motsoeneng have created a rift between those who want to adhere to the South African Broadcasting Act and those who feared losing their jobs and this is precisely the situation that was as the SABC three years ago and - and I want to on the record state that there were a lot of people that did not like what he did but there were single moms who could not afford to lose their jobs.

20 There were single head households who could not afford to lose their jobs. So not everybody - it was not that we could afford to stand up but there were some people who the risk - the price was too high to pay to stand up.

CHAIRPERSON: Yes. Yesterday I heard evidence from Ms Mokhobo who was Group CEO at some stage at the SABC that within a week or

within - *ja* within a week or so after her appointment as GCEO she was taken by Mr Motsoeneng to meet the Guptas who wanted to congratulate him (sic). As at this time was there any knowledge generally speaking within SABC as to whether Mr Motsoeneng had any relationship with the Guptas ...

MS KRIVANI PILLAY: I was not aware Chair ...

CHAIRPERSON: Or is that something that you - *ja*.

MS KRIVANI PILLAY: Because at this time I was actually at ENCA.

CHAIRPERSON: Oh, okay.

10 **MS KRIVANI PILLAY:** At the time of Ms Mokhobo's ...

CHAIRPERSON: Okay.

MS KRIVANI PILLAY: Tenure, *ja*.

CHAIRPERSON: Okay.

ADV MPHO RASIVHETSHELE: Ms Pillay you said that there were those who feared to lose their jobs. Was there anyone - besides the SABC eight - was there anyone that you have - that you had worked with at the SABC that stood up that detested these instructions and actually lost their job?

20 **MS KRIVANI PILLAY:** Yes. My colleague Vuyo Mvoko at least we were reinstated but Vuyo Mvoko's fight continued. He was without a salary for almost two years and - and that was a very painful experience.

CHAIRPERSON: And he was part of the eight?

MS KRIVANI PILLAY: He was part of the eight. It was just that his employment contract was different to ours.

CHAIRPERSON: You - you were permanent?

MS KRIVANI PILLAY: We were permanent and he was freelance ...

CHAIRPERSON: And he was a freelancer.

MS KRIVANI PILLAY: And he bore the biggest financial brunt ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Of standing up.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: A lot of people would have wanted to stand up ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And have come to us and given us support ...

10 **CHAIRPERSON:** Hm.

MS KRIVANI PILLAY: And explained why they could not afford to lose their jobs ...

CHAIRPERSON: Their situations.

MS KRIVANI PILLAY: And - and I - and I hold no grudge against my colleagues at all because they would have wanted to but we have also in this economy Chair ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: With - with sometimes the reality in South Africa is one salary ...

20 **CHAIRPERSON:** Hm.

MS KRIVANI PILLAY: Feeds more than one family ...

CHAIRPERSON: Hm, huh-uh.

MS KRIVANI PILLAY: And you have got to keep that in mind.

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Whistleblowing is often ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: It is not a very glamorous ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: Task ...

CHAIRPERSON: Hm.

MS KRIVANI PILLAY: And - and there are some heavy consequences that come with it.

CHAIRPERSON: Hm. *Ja*, it is - it is - it is a reality. I - I often express the concern even with regard to the court of the Commission that there
10 must be many people in Government departments and maybe some who in the past were Ministers and maybe some are still Ministers and some who - who may have been DGs, Deputy DGs and so on and CEOs of some SOEs who must have a lot - they know that should be brought before the Commission but who have not done so and some of them may be - it is that kind of situation.

They are employed in Government and they have a fear that if they were to come and reveal what they know either they would lose their jobs or they might fear that something else might happen ...

MS KRIVANI PILLAY: Hm.

20 **CHAIRPERSON:** To them emanating from whoever they might implicate and it is - it is quite a challenge because on the one hand you do not want to close your eyes to your reality but at the same time you say can we change the country for the better if we do not know exactly what happened.

MS KRIVANI PILLAY: Hm.

CHAIRPERSON: If we do not know the full extent of what may have happened.

MS KRIVANI PILLAY: Hm.

CHAIRPERSON: So it becomes quite a difficult thing. You - it is difficult to criticise people who are in that situation but at the same time you - you know that there - there may be people - there may be still a lot of people who - who can afford to come forward who are not as desperate - who are not as in as desperate a situation as some people maybe but it - it becomes quite difficult.

10 **MS KRIVANI PILLAY:** Hm.

CHAIRPERSON: Striking the balance you - you admire those who are able to come forward because it is because of people who have behaved like that who have come forward who have had that courage that some of the things have come to the fore and without those people come forward. Lots of things might have happened which did not happen because they come - came forward and the country could be in a worse situation.

20 So - so we as a nation need to make it clear how much we appreciate those in various Government departments, State Owned Entities and just in community who come forward and say this is my country. I know things that have gone wrong. There is an opportunity to make a contribution that might help with the change. I will come forward. I know that it is not risk free but I will come forward and I will play my role.

So - so - but one just does not know what to do to encourage

more people while accepting that there are some who definitely would like to but feel that their situation is too desperate.

MS KRIVANI PILLAY: Hm.

CHAIRPERSON: Ja. So - so I understand, ja. Thank you.

ADV MPHO RASIVHETSHELE: Thank you Chair. Ms Pillay Mr Matthews had - has answered in terms of a 3.3 Notice that was issued. That would be CC25 Chair. On page 20 of CC25 that would be at the tail end of that document Ms Pillay. At that affidavit under your heading - under your name Krivani Pillay he states:

10 “In paragraph 14 of Ms Pillay’s affidavit she refers to the same extract of the meeting referred to by Mr Krige in paragraph 14 of his affidavit. I accordingly repeat his paragraphs 15 and 16 above in response thereto.”

We have read the same paragraphs to Mr Krige but he is also responding to you. So can you comment - kindly comment on - with these individual paragraphs that I am going to be reading on the record?

MS KRIVANI PILLAY: Is that paragraphs 15 and 16?

20 **ADV MPHO RASIVHETSHELE:** 15 and 16 that would be found on page 12 of CC25. Yes, have you got it? Are you there?

MS KRIVANI PILLAY: (No audible reply).

ADV MPHO RASIVHETSHELE: On paragraph - paragraph 15 it states that:

“That decision was made by Motsoeneng. Just to

clarify that decision was. The decision was that the ACBC (sic) would no longer show any visuals of the destruction of property.”

It further states:

10 “It was quite clear that the news staff were not happy with the decision and many had decided not to implement it because it breached the editorial policies of the SABC and the principle of fair news coverage. It was in that context that Motsoeneng arranged to meet with those who dared to undermine his decision. I was present at some of those meetings and at the meeting held on 31 May 2016 where amongst other things Motsoeneng is reported to have said Simon if you do not adhere get rid of them. We cannot have people that question management. This is the last time that we will have a meeting of this kind.”

15.2:

20 “And thereafter I reported to have said to journalists that it is cold outside. If you do not like it you can go. You have got two choices the door or the window.”

Can you just give a brief commentary on those paragraphs?

MS KRIVANI PILLAY: This is - this Chair was - was at the - at the meeting that we had when he decided to cancel the - the editors and he

is basically confirming what Mr Krige and I have told this Commission in our - in our evidence. *Ja*.

CHAIRPERSON: Well I see at paragraph 17 of Mr Matthews' statement that he says:

"It was because of the corrosive circumstances in which I had found myself that I finally felt that the only alternative was for me to resign from my position with the SABC with immediate effect."

And if one reads this in the context of his entire affidavit it
10 does appear that he is saying that he, himself was not going along with some of these decisions from Mr Motsoeneng but he says Mr Motsoeneng was such that it was very difficult to disagree with him or express dissenting views and he says that he was just carrying out Mr Motsoeneng's instructions. So going back to the question I'd asked earlier about whether his decision to resign may have been connected with the issues you raised in the letter, it may well be that, I mean the issues you raised in that letter went to the same issues about the breach of editorial independence and so on, the policy and so on, yes okay.

20 **ADV MPHOSIVHETSHELE:** Thank you Chair and lastly just to - in response to your statement Miss Pillay, in paragraph 16 Mr Matthews states that,

"I accept that I did not stand up to Motsoeneng or voice my concerns about his decision or his stance and I repeat that it was extremely difficult to disagree with him or take a different

view in an atmosphere that was highly corrosive. I also accept that it was an unfortunate choice of words that I was merely trying to warn the journalists of Mr Motsoeneng's approach to dissenting views in what had become a trite method of the way he operated. That anyone who opposed him or voiced a dissenting view would face the prospect of dismissal but I deny any invitation that, by my presence in such meetings I had associated myself with his accusations that such staff were guilty of destabilising the SABC and somehow on my own or by association assumed responsibility for the dismissal of SABC8 in circumstances when my resignation had preceded the dismissals",

Can you give comment on that Miss Pillay?

MS KRIVANI PILLAY: Chair this was the first time this response – Mr Matthews response is the first time that I've heard of his response to anything that I have presented in public since that May meeting three years ago. This may have no relevance to the Commission but I'm Hindu by belief and a God fearing person and I believe to err is human and to forgive is divine and that this is the closest of any kind of explanation or even to stretch it to an apology that I will ever receive from Mr Matthews but I do want to place on record that if he deemed and felt this way he had many opportunities to come to the fore, like Parliament and like this Commission itself because it really is important to show, Chair, how the newsroom was abused because it really was abused. There's a lot of trauma in our newsroom that's very slowly

starting to heal but I accept Mr Matthews' explanation and I hope that this Commission can in some way or another, in your findings or recommendations ensure that this kind of reasoning will never hold water ever again in the newsroom in the Public Broadcaster. We need to have unfailing leadership for such a massive institution. Everybody wants their hands on the Public Broadcaster, it's the first place you will start if you want to capture a mind or capture a nation or for that matter government and now's the time to ensure that whatever recommendations you make, Chair, will all due respect, that this

10 newsroom and this organisation is duly protected.

CHAIRPERSON: No, no I understand that – it will be important that media people like yourselves, journalist and people at SABC, they keep track of the progress of the Commission because at a certain stage I would be very interested in getting submissions from various stakeholders as to what they think would be the right recommendations to make in regard to their own situations or their own institutions with regard to may have happened in the past in their own institutions to make sure that if those recommendations are implemented it never happens again. So it will be important that, you know, people in the

20 media, journalists and everybody who is concerned with the media, they begin to reflect on what types of recommendations they would like to put forward before me to consider for when I have to make my recommendations in regard to various sectors that the Commission has been looking at.

MS KRIVANI PILLAY: Chair would you like me to take that message

back to our newsroom?

COMMISSIONER: Please, please yes, you know, not just the SABC everybody, you know, other media houses, I'm very interested in getting submissions in due course on what recommendations I should consider to make sure that if those recommendations are implemented we prevent some of the things that have happened in the past from happening in the future because that's very, very important. So please do take it back to the newsroom.

MS KRIVANI PILLAY: Thank you, will do.

- 10 **CHAIRPERSON:** But I also wanted to ask the question, you referred to some of your colleagues, who, when these things were happening to the newsroom and to the SABC8 came to you and gave you support but indicated that they couldn't give you open support or couldn't take the same stand because of their situation. Those people were fearing losing their jobs, maybe Mr Motsoeneng had the power to dismiss them, but I don't imagine he had power to dismiss the acting GCEO to the extent that Mr Jimi Matthews may have been acting GCEO at that time maybe that is a different time because I'm trying to understand his fear of Mr Motsoeneng of saying no to him and saying – he says it was
- 20 difficult to argue with him it was difficult to take a different view to him. My question is, he was so senior, why was it so difficult, now you may or may not be able to explain that to me as you understood the situation. It may be that you say, look I know how the situation was, maybe the acting GCEO would tremble when Mr Motsoeneng stepped in or came into the room, I don't know, I'm trying to understand why,

somebody at that senior level would feel that they couldn't stand their ground against Mr Motsoeneng. Now it may be that if this was during the time when he was acting GCEO the fact that he was acting meant that he remained as vulnerable as if he was not acting because he could go back to his position in due course and then he could be dismissed. It may be that he was not acting GCEO at the time, he was just in his position but I'm wondering even if he was not acting GCEO at the position which he occupied which might not necessarily have been above that of Mr Motsoeneng and might not even have been, 10 maybe at the same level I don't know, whether nevertheless somebody at that level, although it would be unreasonable to have expected that somebody at that level would stand up and say no.

MS KRIVANI PILLAY: Chair you raise a very interesting point, I mean the GCEO, like you heard from Mr Madodo this week and he is the final accounting officer, he is the final voice and signature for many of the decisions, so it would be very hard to explain the dynamic Chair between Mr Matthews and Mr Motsoeneng. I hadn't come into contact with them much at all in fact before being summoned to that meeting. So I wouldn't be able to understand the dynamic that exists there but 20 just in this, kind of, new SABC that we're experiencing with the new executives that on-board, there's a lot more transparency than we have been used to or have been exposed. There's a lot more communication to us than we've been exposed or have experienced and I'm not saying that, you know, they are going to take us out – I'm hoping they are going to take us out of our current situation but it's a refreshing

leadership Chair. I have certainly not experienced this at the SABC.

CHAIRPERSON: In a long time?

MS KRIVANI PILLAY: In a long time, so it would be difficult for – from what I see from the current executives and how they communicate to us to what I've experienced with Mr Motsoeneng and Mr Matthews in that meeting is chalk and cheese but to talk about whether – why Mr Matthews, wouldn't, as acting GCEO stand up to the COO would be very difficult for me to kind of understand why that happened or why it didn't happen.

- 10 **CHAIRPERSON:** Well maybe others are witnesses – among the other witnesses from the SABC who will give evidence there may be somebody who might be able to give their own perspective in regard to that. I know that yesterday Miss Mokhobo also testified that there was a time before she decided to leave the SABC, apart from her fights and disagreement with the, then, Chairperson of the Board Ms Tshabalala she said she had lot of fights with Mr Motsoeneng, now Mr Motsoeneng I take it was at a lower level because obviously Group CEO is the ultimate within the executive management but from what she said, I got the impression that Mr Motsoeneng, and I hope I'm not being unfair to
- 20 him and I hope I'm not misconstruing Miss Mokhobo's evidence but I got the impression that she was saying Mr Motsoeneng was also kind of pressurising her to leave or making life difficult for her and part of what I'd like to know is, what was going on, how is it possible for this person who is not the CEO, who is the COO, of course that's still quite a high position to seem to have power to make it difficult not just for

people under him but even those who are above him to just make life difficult with the result that maybe he was just getting things his way, but you will not be able to explain, maybe somebody will be able to explain yes, thank you.

ADV MPHOSASIVHETSHELE: Thank you Chair. Miss Pillay we've reached the tail end of your main statement and supplementary statement apart from what was said and is there anything else that you would like to disclose or any commentary and so forth, further commentary?

10 **MS KRIVANI PILLAY:** Thank you Advocate, Chair I have just before in preparation for evidence today, as you know even though I am giving evidence mostly on SAFM current affairs I am part of the so-called SABC aids and some of us had a brief caucus yesterday and there are a few things that I would like to put on record if you don't mind?

CHAIRPERSON: Yes you can go ahead ja.

MS KRIVANI PILLAY: So despite everything that has happened, during our fight as the SABC8 we have found that the majority of support we've had has been overwhelmingly from democracy loving people and we want to place on record our thanks to the South African
20 public and our thanks to the entire journalism community. It is one event that – we can't recall in recent history where one of the journalism community came together regardless if you were private or public and regardless of what platform you belong to. They came together to give us support and our public support was generously – went into crowd funding where we – when we were fired we received a

sum of money from the public that assisted us but unfortunately what happened here at this Commission was a very generous and innocent crowd funding idea, was then usurped when Bosasa claimed that Bosasa had made a donation to this which was proven to be completely untrue and we want to put on record our absolute thanks to the people who have put together that fund during our time of need. Also Chair we want to put on record our thanks to Aslam Mussa G and Advocate Stephen Budlender, who over months worked with us pro bono and really stood the test of time with the SABC8 but we also want to put on

10 record something that we are quite disappointed with and that's the recent editorial inquiry report from Dr Jo Klawe, we are disappointed in the results of that report because we have been to Parliament and have, under oath, stated our experiences of the protest policy of the removal of the programme and we find it very difficult to understand that conclusion. We understand that there will be no telephone call proof or email proof or photographic proof or video proof but we do find that, that kind of conclusion was quite worrying and concerning to say the least. We also believe that when the SABC introduced the two

20 inquiries, sexual harassment and the editorial inquiry, our colleagues were guaranteed anonymity to come forward with information, this was honoured by the sexual harassment inquiry but it was not honoured by the editorial inquiry. The final report published all the names of everyone who came before. I personally don't mind because whatever I have brought to your attention is already in the public domain which I have brought to Dr Joe Klawe's attention but there are some people

who stood up for the first time with the anonymity guaranteed and whose names were then plastered all over that report. My concern and our concern as the SABC aids is that going forward should anybody want to whistle blow or bring anonymously issues to the fore will their identity be secure. As journalists we have to protect our sources, journalists were the sources here and nobody protected them. So we want to bring that and put that on the record Chair and finally I want to say that when a programme is removed and when you decide what the public needs to see or hear, who does that benefit? It certainly doesn't
 10 benefit the citizenry it doesn't benefit the public we are meant to serve. When you take out plurality of views and different perspectives and you decide what your audience, your viewer will see and hear, who does that benefit? Surely all of this amounts to a form of capture, media capture in my opinion. So Chair I implore this Commission to please safeguard the rights of the SABC newsroom and to ensure its longevity and to help save our organisation and that's all I wish to submit.

CHAIRPERSON: Thank you very much Miss Pillay and once again thank you for coming to share with the Commission your experiences and what you know, we appreciate it, if a need arises we will ask you to
 20 come back, but thank you very much and you are excused.

MS KRIVANI PILLAY: Thank you Chair.

CHAIRPERSON: Thank you.

ADV MPHOS RASIVHETSHELE: Thank you Chair...[intervenes].

CHAIRPERSON: We are at ten to one and maybe your watch says we are at eight minutes to one.

ADV MPHO RASIVHETSHELE: Ten to one Chair.

CHAIRPERSON: Okay, yes I guess maybe we should start the next witness at two?

ADV MPHO RASIVHETSHELE: that would be perfectly fine.

CHAIRPERSON: Because it's just ten minutes ...[intervenes].

ADV MPHO RASIVHETSHELE: That's absolutely fine Chair.

CHAIRPERSON: If we try to start now we would have to break before much has been said.

ADV MPHO RASIVHETSHELE: Indeed so Chair.

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

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you ready Ms Norman?

ADV THANDI NORMAN SC: Yes thank you Mr Chairman.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Good afternoon.

CHAIRPERSON: Good afternoon.

20 **ADV THANDI NORMAN SC:** Mr Chairman the next witness is also from the SABC and his name is Mr Mwaba Phiri. I had asked the Registrar to open up Exhibit CC16 before you Mr Chairman.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you. We will also make reference to Exhibit 25.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Which is Mr Matthews' statement.

CHAIRPERSON: Okay.

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

CHAIRPERSON: Yes. Please administer the oath or affirmation.

REGISTRAR: Please state your full names for the record?

MR MWABA PHIRI: Mwaba Phiri.

REGISTRAR: Do you have any objection with making the prescribed affirmation?

10 **MR MWABA PHIRI**: I have no objection.

REGISTRAR: Do you solemnly affirm that the evidence you will give shall be the truth; the whole truth and nothing but the truth; if so please raise your right hand and say, I truly affirm?

MR MWABA PHIRI: I truly affirm.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman.

CHAIRPERSON: Yes you may proceed.

20 **ADV THANDI NORMAN SC**: Yes I may proceed. Thank you. Mr Phiri you have in front of you a lever arch file and I had asked that you have a look at a divider marked CC16 which contains what appears to be your statement, is that correct?

MR MWABA PHIRI: That is true.

ADV THANDI NORMAN SC: Yes thank youj. If you go to that page 1 of that document it has your names, your full names there and then I would like you to have a look at page 6?

MR MWABA PHIRI: Page 6.

ADV THANDI NORMAN SC: Is that your signature?

MR MWABA PHIRI: That is my signature.

ADV THANDI NORMAN SC: Thank you. And then if you go to page 7 did you depose to that affidavit at Brixton 21st – on the 21st August 2019?

MR MWABA PHIRI: Yes I did.

ADV THANDI NORMAN SC: Yes thank you. And are the contents of your statement true and correct?

10 **MR MWABA PHIRI:** They are true and correct.

ADV THANDI NORMAN SC: Yes thank you. Mr Phiri is correct that you employed by the SABC?

MR MWABA PHIRI: It is correct.

ADV THANDI NORMAN SC: In what position are you employed?

MR MWABA PHIRI: I am an Executive Producer in the Current Affairs department.

ADV THANDI NORMAN SC: Yes. For how long have you been with the SABC?

MR MWABA PHIRI: The SABC recruited me from Lusaka in 1996.

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

MR MWABA PHIRI: My maths is very bad. 20 – sorry that should be 25 years.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: Yes.

ADV THANDI NORMAN SC: Could you just – just briefly place your

qualifications on record?

MR MWABA PHIRI: Okay.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: I hold a Post Graduate Diploma in Business Management from Milpark Business School. Or am I going about it the wrong way? Should start from my matric?

CHAIRPERSON: No Mr Phiri you can ...

ADV THANDI NORMAN SC: But just be careful not to...

CHAIRPERSON: You can start from anywhere because you know
10 sometimes maybe if you start in a certain way people think you belong to a certain age group. So start where you want to start.

MR MWABA PHIRI: Thank you Chair. Thank you Chair. And I also hold a Bachelor of Mass Communications Honours Degree from the University of Zambia obtained in 1989. I matriculated in Zambia in Pati Mufulira Secondary School.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: In 1975. Thank you.

ADV THANDI NORMAN SC: Yes thank you.

MR MWABA PHIRI: That is all.

20 **ADV THANDI NORMAN SC:** And now in terms of your career you told the Chairperson that then you were recruited in 1996. Before that if you were in Zambia what positions were you holding there?

MR MWABA PHIRI: Oh I worked in various organisations. I worked with Zambia Information Services, Zambia News Agency and Zambia National Broadcasting Corporation.

ADV THANDI NORMAN SC: Yes thank you. Did you then when you were recruited to South Africa did you – to the SABC rather did you progress through the ranks or were you recruited just to hold positions in the executive or management positions?

10 **MR MWABA PHIRI:** No I went through the ranks. I was initially recruited because the SABC was on a very big program to venture into the continent. So Channel Africa Radio Station is the one that brought me to Johannesburg. But then as I was here the SABC started the first 24 hour news channel it was called SABC Africa and then I – I was moved from the radio to television. From 1998 up to now I have been rising – yes I might say what you call rising through the ranks.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: Happened to me.

ADV THANDI NORMAN SC: Yes thank you. And then in paragraph 3 of your statement at page 1.

MR MWABA PHIRI: Paragraph 3.

ADV THANDI NORMAN SC: Page 1.

MR MWABA PHIRI: Yes Chair I have got it.

20 **ADV THANDI NORMAN SC:** Yes you state there that you were approached by the investigators of the commission hence you deposed to this affidavit. Is that correct?

MR MWABA PHIRI: That is correct.

ADV THANDI NORMAN SC: Yes thank you. What – would you just briefly tell the Chairperson about the question time program that you deal with in paragraph 5 at page 2 of your statement as to what was

this program and how long did it last and how did it end?

MR MWABA PHIRI: Question time was a program designed to interrogate news makers of various what should I say, professions.

CHAIRPERSON: Different sectors.

MR MWABA PHIRI: Different sectors.

CHAIRPERSON: Ja.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: It was providing an in-depth kind of feel about what is break – what is making news? Like right now the violence is making news. We would have probably brought in the Home Affairs Minister or various NGO's.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: It was that kind of program.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: It started just initially with the – with the start of the SABC News channel in 2012. So we were on air from 2012 up to 2018.

ADV THANDI NORMAN SC: Yes. And then how did you halt that program?

20 **MR MWABA PHIRI:** Sorry I did not get your question.

ADV THANDI NORMAN SC: How did you put an end to the program or why?

MR MWABA PHIRI: I never put an end to that program. The program was halted in very, very controversial circumstances. During reign of Mr Motsoeneng, Mr Hlaudi Motsoeneng the program was quite

controversial in that we brought people that were not friends of for lack of a better word yes not friends people whom management was not happy about to our platforms and this annoyed most of our managers. So much so that we used to – we ended up coming in and fulfilling our mandate rather secretly.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: Like the instances I have put in my affidavit where we have – we had to smuggle in Ms Madonsela, Ms Thuli Madonsela after she had released the report on the SABC,

10 **ADV THANDI NORMAN SC:** Yes. Now we going to talk about that just now. But I would like you to tell the Chairperson as to how were you told that this program is going to come to an end and what the reasons were for putting it – for halting that program?

MR MWABA PHIRI: I was told in 2018 by Ms Maseko, Ms Nothando Maseko that the program would not continue. Then I proceeded to request reasons behind that. She did not have any reasons so I in upward referral...

CHAIRPERSON: I am sorry did you say she did not give you reasons

MR MWABA PHIRI: She did not give me reasons.

20 **CHAIRPERSON:** Ja.

MR MWABA PHIRI: But nevertheless because of upward referral I decided to take it to the acting – I thought [indistinct] it was the acting CEO. She called for a – sorry she did not call for a meeting I cannot remember what happened. I think we ...

CHAIRPERSON: Did you say acting COO or acting CEO?

MR MWABA PHIRI: Acting CEO.

CHAIRPERSON: CEO?

MR MWABA PHIRI: Yes.

CHAIRPERSON: Okay in 2018?

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: And who was the acting CEO at the time?

MR MWABA PHIRI: It was Ms Nom – sorry I forget – her second name Nomsa.

CHAIRPERSON: Oh you forget the surname?

10 **MR MWABA PHIRI:** The second name I forget it.

CHAIRPERSON: Okay no that is fine I am sure we will find out.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes okay you may continue.

MR MWABA PHIRI: Ja at the meeting we heard – I think we discussed this issue. She thought it needed to be resolved between me and the COO. The COO.

CHAIRPERSON: The COO?

MR MWABA PHIRI: The COO then was Mr Maroleng, Chris Maroleng.

CHAIRPERSON: Chris Maluleka? Okay.

20 **MR MWABA PHIRI:** Yes Chair. Her directive was never enforced. He never came back to me despite my queries on whether we would go ahead and do what the CEO had requested of us.

CHAIRPERSON: Who would take the whole process forward?

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Yes and ...

CHAIRPERSON: But I am sorry.

ADV THANDI NORMAN SC: Oh sorry.

CHAIRPERSON: Before you go for – forward let us go back to the actual program. Are you saying that its nature was that you would look for people who are knowledgeable in different sectors?

MR MWABA PHIRI: Exactly Chair.

CHAIRPERSON: And bring them in and interview them?

MR MWABA PHIRI: And interview them.

- 10 **CHAIRPERSON:** Ja. If it was something that needed Home Affairs you might bring the Minister of Home Affairs. If it was something relating to energy you might bring in the Minister of Energy and maybe you might bring in an expert on energy, that kind of thing. That is what is was dealing with.

MR MWABA PHIRI: Precisely Chair. Precisely.

CHAIRPERSON: And then – and then you would ask questions and there would be answers and so on?

MR MWABA PHIRI: Exactly Chair.

CHAIRPERSON: That is what it was like?

- 20 **MR MWABA PHIRI:** That is what it was.

CHAIRPERSON: Okay alright thank you.

ADV THANDI NORMAN SC: Thank you Chair. What was the frequency okf this program, Question Time?

MR MWABA PHIRI: It was a daily program. From Monday to Friday initially – sorry Monday to Saturday initially then we changed it some

two years into the operations of SABC News into a four day program.

ADV THANDI NORMAN SC: Yes and what time during the day?

MR MWABA PHIRI: What I would call 17:30 is what time now – half past five pm.

ADV THANDI NORMAN SC: Half past five pm. So you walk into your work establishment one day and you are told that it is not going to – your program has come to an end?

MR MWABA PHIRI: I was given some 30 days' notice.

ADV THANDI NORMAN SC: Yes.

10 **CHAIRPERSON:** So – oh there would be some notice?

MR MWABA PHIRI: Yes Ms Maseko sent me a memorandum which said next – from next month this program will not be on air.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Well before – before you proceed. You said that you were bringing into the program people that the management did not like?

MR MWABA PHIRI: Which news management did not like.

CHAIRPERSON: Why did you bring only people that the management did not like?

20 **MR MWABA PHIRI:** Maybe I made a sweeping statement. It is not always but everybody that we brought in was not liked. But we had the audacity for lack of a better word to bring in even the people that management did not want because we felt they were driving the news.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes but were you bringing in a mix of people so there

would – there were some that management liked or should have liked and there were some that they did not like and maybe should not have not liked.

MR MWABA PHIRI: Definitely so Chair.

CHAIRPERSON: Okay alright.

ADV THANDI NORMAN SC: Yes thank you. Thank you Chair. The name of the person that you forgot just to remind you is that Ms Nomsa Philiso?

MR MWABA PHIRI: Philiso yes.

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

MR MWABA PHIRI: Yes.

ADV THANDI NORMAN SC: Thank you. Could you then tell the Chairperson about the incident then in your drive then to bring the people onto your program? You have mentioned that after the release by the Public Protector of the – of her report governance – when governance and efforts failed in 2014 – February 2014. So you say you decided that you were going to bring her to your show?

MR MWABA PHIRI: Yes Chair.

ADV THANDI NORMAN SC: Or invite her to your show?

20 **MR MWABA PHIRI**: Yes Chair. At our daily editorial meeting we decided – my team decided we needed to have Ms Madonsela even if she was giving a report that was quite negative for the SABC.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Is this now between the date when you received the notice to say your program will come to an end in 30 days' time

MR MWABA PHIRI: No this is actually before.

CHAIRPERSON: Oh this is before okay. Okay alright.

MR MWABA PHIRI: This is before. This is in 2014.

CHAIRPERSON: Oh okay. Okay. Ms Norman

ADV THANDI NORMAN SC: Yes Mr Chair.

CHAIRPERSON: I think he had not finished saying what happened.

ADV THANDI NORMAN SC: The answer.

CHAIRPERSON: But it may be that you might wish to finish everything that happened before.

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

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Oh before the termination?

CHAIRPERSON: Yes because...

ADV THANDI NORMAN SC: Yes, yes.

CHAIRPERSON: There was the question of the process not being taken forward in terms of which he and the COO were supposed to talk further.

ADV THANDI NORMAN SC: To meet yes and deal with it.

CHAIRPERSON: To meet and so on.

20 **ADV THANDI NORMAN SC:** Yes thank you Chair. Maybe we could finish that so that I do not forget.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you. You say then the CEO had given sort of a direction that you had to meet?

MR MWABA PHIRI: Mr Maroleng had to meet me.

ADV THANDI NORMAN SC: Yes Mr Maroleng.

MR MWABA PHIRI: To resolve this issue.

ADV THANDI NORMAN SC: You had to meet and resolve the issue but that never happened?

MR MWABA PHIRI: That never happened up to today it has not happened.

ADV THANDI NORMAN SC: So I would imagine then when Mr Maroleng was not getting back to you you would have gone back to the CEO and say CEO nothing is happening, what is happening with my
10 program?

MR MWABA PHIRI: I indeed went back to the acting CEO. I still did not receive any response.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: She did not give you any response?

MR MWABA PHIRI: I was not given any response.

CHAIRPERSON: Oh but did you speak to her? She – did she just stand there and not say anything or did you just send something in writing?

MR MWABA PHIRI: I communicated in writing.

20 **CHAIRPERSON:** In writing oh okay.

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: And you did not get any response?

MR MWABA PHIRI: I did not get any response.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Yes. So then during that 30 day period

that you – of notice that was given to you then as a person who was producing this program I would imagine that would be the time for you to be telling your listeners and your viewers that this is going to come to an end, is that what you did during that period?

MR MWABA PHIRI: I must admit I was defiant and I thought announcing to my audience that we are going off air I would be agreeing that – agreeing to the wrong decision that the program should go off air. I had not agreed. If they were going to give me a rationale of some kind I would probably have gone and told my audience that yes
10 the program is coming to an end but they did not come back to me.

ADV THANDI NORMAN SC: Yes. Was this...

CHAIRPERSON: But I am sorry. But actually as I understand the position from what you have said although you had been given notice that a decision had been taken that the program would come to an end in 30 days' time or so.

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: There had been subsequent developments namely your meeting with the acting CEO and in terms of that meeting the process was still going to go forward. You and the CEO were still going
20 to meet?

MR MWABA PHIRI: Very true Chair.

CHAIRPERSON: And I would imagine that it would be reasonable to think that until that process had been taken

MR MWABA PHIRI: I get the final answer.

CHAIRPERSON: Forward you could not take that notice to remain

valid.

MR MWABA PHIRI: Very true.

CHAIRPERSON: Hm.

MR MWABA PHIRI: Very true.

CHAIRPERSON: Because you did not know what would be the outcome of your further consult meetings with the COO?

MR MWABA PHIRI: That is true Chair.

CHAIRPERSON: It could result in you agreeing that the program should come to an end.

10 **MR MWABA PHIRI:** Should go off air.

CHAIRPERSON: Or you could persuade the COO that there is value in the program continuing.

MR MWABA PHIRI: In the program going ahead. That is true Chair.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes thank you. How was the popularity of this program?

MR MWABA PHIRI: This was one of the most popular programs on the channel. The marketing department for the SABC would probably give you the data – the evidence that they were often giving all of us. They
20 said it was the best performing program in the afternoon section of the broadcast. So on one day when this marketing professional was giving us this talk he was puzzled at the fact that it had been pulled off air.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: From what time to what time did you used to have the program?

MR MWABA PHIRI: From half past five in the afternoon to six o'clock.

CHAIRPERSON: Hm okay. So it was thirty minutes?

MR MWABA PHIRI: 30 minutes.

CHAIRPERSON: But very popular?

MR MWABA PHIRI: But very, very popular.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: And according to paragraph 5 of your statement it last for almost six years.

MR MWABA PHIRI: Yes Chair.

10 **ADV THANDI NORMAN SC:** Yes. Thank you. Then let us go back then to the question that – the matter that you were dealing with then.

CHAIRPERSON: Oh but did it end or did it not end when the thirty days was up? Let us complete that.

MR MWABA PHIRI: Yes it ended. It was – it was just pulled off air I would say.

CHAIRPERSON: Without any further discussion?

MR MWABA PHIRI: Without any further discussion. So much so that I was forced to take the issue to the Joe Tlolo Commission – editorial commission.

20 **CHAIRPERSON:** Yes.

MR MWABA PHIRI: It features in that report.

CHAIRPERSON: Yes.

MR MWABA PHIRI: But even then I am still awaiting some kind of action after that.

CHAIRPERSON: Yes. Okay.

ADV THANDI NORMAN SC: Thank you Mr Chairman. And then let us talk about then the report comes out on governance and ethics fail and you decide that you would want to invite...

MR MWABA PHIRI: Ms Madonsela.

ADV THANDI NORMAN SC: Ms Madonssela. Ms Madonsela to your show yes. Take us through that process. What did you do? And then what happened?

MR MWABA PHIRI: Ja there was a very, very stifling atmosphere at the SABC then. We had a...

10 **CHAIRPERSON:** And this was which year now?

MR MWABA PHIRI: 2014.

CHAIRPERSON: 2014?

MR MWABA PHIRI: Yes.

CHAIRPERSON: Okay.

MR MWABA PHIRI: 2014. So much so that even the bringing – sorry the inviting of Ms Madonsela was done discreetly. We did not want the top management to be aware of whom we are – we were bringing in. But even then we still knew that we could – sorry I forget one thing. At the time the program was a pre-recorded program meaning we would
20 record in the morning and then put it on air later. So when we invited Ms Madonsela we had to make sure that between the time of recording and the time of airing nobody interfered with whatever product we had. So we went about this by doing everything very, very secretly. Invited – we invite her, she comes, sorry again I forgot something. We had a strategy in which we first of all informed our colleagues in the

“colleagues” in the news media in the [indistinct] media that we were going to have Ms Madonsela on our program. We were going to record her at a certain time. This ensured that they would bring in a camera person of some kind who would record the fact that we had talks to Ms Madonsela. If she does not go on air they would still have the recording.

CHAIRPERSON: Oh there would be proof.

MR MWABA PHIRI: Yes. So that is what happened.

ADV THANDI NORMAN SC: Yes.

10 **MR MWABA PHIRI**: We recorded Ms Madonsela but we hid the tape that – the tape is called the FX tape that is the final tape that we have to – supposed to take to FCC. FCC is supposed to be the final control centre. These are the people who receive a product and then put it on air for the rest of the public to view. We hid that tape from everybody. We wanted to give – to hand it in only at about five o’clock thirty minutes before going on air. And I think that plan worked quite well because if there was anybody looking for it they could not have seen the tape anywhere.

ADV THANDI NORMAN SC: But then before you on how would you
20 hide her with coming into the studio? How did you manage that?

MR MWABA PHIRI: Okay what we did in this case is the team gave the tape to me to keep.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: So I was holding onto the tape and this is a bit embarrassing I ran away from the office. I had to run away because I

was anticipating queries.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Ja.

MR MWABA PHIRI: But where is this tape. So I had to run away until five o'clock that is when I came back.

CHAIRPERSON: Yes.

MR MWABA PHIRI: And then handed it over to FCC.

CHAIRPERSON: But I think she was – she was asking before that what you have said is important but I think she was asking how you managed
10 to hide Ms Madonsela herself when she came to the SABC?

MR MWABA PHIRI: Oh I see. No I would not actually put it in those words. We did not hide her as such. She had come – she had come earlier for a program called News At Eight.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: It is a radio program.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: Now she did not go on air. I do not know what happened there I am on the TV side.

20 **CHAIRPERSON:** Yes.

MR MWABA PHIRI: On the – but we heard rumours that her show which was supposed to have been done earlier had been cancelled so now my team was getting very tense. If her earlier radio shows were being cancelled what would happen to us? And indeed even before that again one of my team members came and told me she is supposed to

be on Morning Live but she has been cancelled again. We nevertheless decided we just had to go ahead with whatever we are doing. We knew we were going to be in big problems but we decided let us go ahead.

CHAIRPERSON: So the day when she was going to have this interview with you and which was going to be recorded happened to be the day when she was going to be at SABC anyway for other programs?

MR MWABA PHIRI: For other programs yes.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes thank you. And the date is what you
10 have in paragraph 9 being the 18th – Tuesday 18th February 2014?

MR MWABA PHIRI: 18th February yes if I recall, yes.

ADV THANDI NORMAN SC: That is the date?

MR MWABA PHIRI: That was the date.

ADV THANDI NORMAN SC: Alright and then – so maybe I should just take you to – then you will tell me if you think that the reference to this article is premature but I think it relates to some of her invitations that were now declined in the sense that they were not going on. If you could turn to page 9 of that – of your statement. You will see there is two page. Page 8 and then there is page 9.

20 **MR MWABA PHIRI:** Page 9 Thuli in duck.

ADV THANDI NORMAN SC: Yes. What does it say.

MR MWABA PHIRI: Thuli in duck over cancelled interview.

ADV THANDI NORMAN SC: Yes and when you said some of her interviews were cancelled are you relating to this?

MR MWABA PHIRI: To this interview.

ADV THANDI NORMAN SC: To this interview yes.

MR MWABA PHIRI: Ja this is the radio interview.

ADV THANDI NORMAN SC: Yes thank you.

MR MWABA PHIRI: And I am sure if you can see there is a picture of Thuli and Mpho Seduma a presenter.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: He was the presenter of this program.

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

MR MWABA PHIRI: They are coming – emerging from the SABC>

10 **ADV THANDI NORMAN SC:** Thank you. And then if you go to that page, page 9 let us just deal with that and then we know – then we move on we will not have to come back to it. If you go back to page 9 you will see the date there is the Sowetan article date 19 February 2014 and then it says:

“The last minute cancellation of a scheduled SABC radio interview with Public Protector Thuli Madonsela yesterday is shrouded in mystery.”

MR MWABA PHIRI: Yes.

ADV THANDI NORMAN SC: So this is what you were talking about.

20 **MR MWABA PHIRI:** Yes Chair that is what I am talking about.

ADV THANDI NORMAN SC: Yes. Then did you get to know why this show was cancelled? Even if it was just after you had now recorded her?

MR MWABA PHIRI: Not formally. All I knew was that because of the fact that she – she had a report that was negative about our COO

definitely she would not be welcome.

ADV THANDI NORMAN SC: Yes. And ...

MR MWABA PHIRI: But I think the SABC did issue their own reasoning behind – they claimed something of the sort that she was not invited properly. I am not on record.

ADV THANDI NORMAN SC: Yes alright. But there is some reason that is – well this is – I think this – the spokeswoman for the Public Protector

10 “We were not aware that the interview was cancelled
 until we got here. He said Mandonsela
 spokeswoman Galele Masebi outside the studios
 were not given a reason why it was cancelled.”

MR MWABA PHIRI: That is true.

ADV THANDI NORMAN SC: That is what is contained in that yes.

MR MWABA PHIRI: That is true Chair.

ADV THANDI NORMAN SC: Yes. Thank you. And then said then they just gave us an apology and that was it.

MR MWABA PHIRI: That is true Chair.

20 **ADV THANDI NORMAN SC:** Thank you. So going back then to your
 recording. So then you say you ran away and then your program is
 going to air at five o'clock so you came back at five o'clock and...

MR MWABA PHIRI: I came back at five o'clock.

ADV THANDI NORMAN SC: Yes and you played?

MR MWABA PHIRI: Ja.

ADV THANDI NORMAN SC: Then it went on air.

MR MWABA PHIRI: Ja then it went on air.

ADV THANDI NORMAN SC: Okay and then what were the consequences of you having done that? What happened?

MR MWABA PHIRI: My line manager Mr Themba Mthembo called me and – well he asked for the professional reasons behind me bringing in Ms Madonsela. I explained exactly that she is the kind of person this program had been made for. She is making news at the moment. And people want to find out more about whatever reports she has given. Mr Mthembo was to me looked quite understanding. He said it is alright
10 but unfortunately I have to go and explain this at some meeting. That is what he told me. My line manager Mr Themba Mthembo called me and – well he asked for the professional reasons behind me bringing in Ms Madonsela. I explained exactly that she is the kind of person this program had been made for. She is making news at the moment. And people want to find out more about whatever reports she has given. Mr Mthembo was to me looked quite understanding. He said it is alright but unfortunately I have to go and explain this at some meeting. That is what he told me.

ADV THANDI NORMAN SC: Yes; and - and ...

20 **CHAIRPERSON:** I am sorry.

ADV THANDI NORMAN SC: Sorry. Yes, thank you.

CHAIRPERSON: If you wanted to invite somebody to come and participate in your program or to be recorded for your program were you required to notify anybody beforehand that this is the person you are inviting for that day and they were supposed to approve or not

approve or where you free to invite whoever you thought would be good for your program?

MR MWABA PHIRI: According to SABC Editorial Policy I am not supposed to but we do have - we do have a diary meeting at which we call an "idea" is handed over and you explain to this - to the meeting who you are going - who you are going to invite.

CHAIRPERSON: And - and it is at that meeting that other people might get to know what your plans are in terms of inviting anybody?

MR MWABA PHIRI: Yes. It is at that meeting.

10 **CHAIRPERSON:** And they can express their views if they want to but normally you decide?

MR MWABA PHIRI: Normally *ja* because the manager of - of the product or the program ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: Decides.

CHAIRPERSON: Okay.

MR MWABA PHIRI: They could give you advice which - which might make you think twice ...

CHAIRPERSON: Yes.

20 **MR MWABA PHIRI:** And you may ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: Decide not to go ahead.

CHAIRPERSON: But it is nothing more than advice?

MR MWABA PHIRI: Nothing more than advice.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you. Thank you Mr Chairman. So that was the first incident that you had mentioned - you mentioned and then the second incident you deal with it in paragraph 14 and you entitle that paragraph by saying:

“Changes to Editorial Policy 2014 Elections.”

Could you then tell the Chairperson what that - what is that incident all about?

MR MWABA PHIRI: This incident involved Mr Julius Malema. The leader of the Economic Freedom Front. He had just released his ...

10 **ADV THANDI NORMAN SC:** Sorry. Economic Freedom Fighters.

MR MWABA PHIRI: Economic Freedom Fighters.

ADV THANDI NORMAN SC: Oh, okay.

MR MWABA PHIRI: The part - it is a political party.

ADV THANDI NORMAN SC: No, no I thought you said front, okay. Maybe I miss ...

MR MWABA PHIRI: Is it Economic Freedom Front or ...?

CHAIRPERSON: No. Twice you said fighters.

MR MWABA PHIRI: It is fighters?

CHAIRPERSON: *Ja.*

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

MR MWABA PHIRI: Mr Malema had just released his party election list on March, the 17th. My team again felt that he was the right person to bring to our program ...

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: But like I - like I have said the atmosphere in the

SABC - this is a month later after the - after Ms Madonsela's case.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: Bringing him in was going to be very difficult. What - indeed when he came in unfortunately by some coincidence he was coming in as our GE News was going out for a - for the workshop that my colleague Krivani was earlier talking about. So they were going to - to some hotel in East Rand to discuss election coverage.

ADV THANDI NORMAN SC: And who is the GE News? The name of the GE News?

10 **MR MWABA PHIRI:** Mr Jimi Matthews.

ADV THANDI NORMAN SC: Mr Jimi Matthews yes.

MR MWABA PHIRI: Mr Jimi Matthews.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: I hear that - I was not - I do not know what happened but I hear that immediately he saw - he saw Malema going in he looked for somebody to follow him and go and stop whatever he was doing. So this happened to be Mr Kwesi Sikosana my colleague. He was also an Executive Producer.

ADV THANDI NORMAN SC: Yes.

20 **MR MWABA PHIRI:** Mr Kwesi Sikosana went after Mr Malema to go and stop whatever interview he was doing but before that another colleague called Vincent Mphondesi came to my office and tipped me off and said your program is about to be - to be stopped. Go to the studio right now. So I ran to the studio and indeed I found Mr Sikosana busy telling my team to stop - to halt the recordings.

I told Mr Sikosana I would not - my reporting line had nothing to do with him but nevertheless he insisted that he - I should not have a quarrel with him. It is not him to blame. He was only passing on a message from Mr Matthews. I retorted that his message had been received but we were going ahead with our recording. I had asked him to leave the studio.

We - we continued with the recording and we concluded with it eventually ...

ADV THANDI NORMAN SC: Yes.

- 10 **MR MWABA PHIRI:** But given these happenings we knew we would be in big problems. So we decided rather spontaneously to - to - not it was not spontaneously this. We decided to have two tapes - two final tapes and then one we hid. I was having - I was holding onto it. The other one my team was holding because we were now anticipating either Mr Matthews or anyone to come and request for that tape.

Before we could go near - I cannot remember precisely the order of events but Mr Tebele approached my team and asked for the tape.

CHAIRPERSON: As you suspected would happen?

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

MR MWABA PHIRI: As I suspected it would happen Chair. Mr Tebele unfortunately was from a different unit all together. He was heading what we call the Special Projects Department. So I wondered why he had to ask for my tape. Nevertheless by the time I was thinking about that Mr - Mr Tebele had already been handed the tape. I would not

have handed it to if ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: If he had come to me ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: But he had gone behind me ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: And talked to my - to my juniors ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: And asked for the tape.

10 **CHAIRPERSON:** Hm.

MR MWABA PHIRI: So they gave him the tape.

CHAIRPERSON: Hm.

MR MWABA PHIRI: There was also some controversy over this. I remember Mr Malema on his part he thought that - that prerecording they had done on that particular day would go on air later in that day but it was not supposed to be that way. It was supposed to be the following day. So when they did not see their - their show on air ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: They concluded the SABC had ...

20 **CHAIRPERSON:** Had cancelled it?

MR MWABA PHIRI: Had cancelled it yes ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: But it had not been cancelled yet.

CHAIRPERSON: Hm, hm.

MR MWABA PHIRI: I was holding onto the tape like I said.

CHAIRPERSON: But the - the tape you were holding onto was the - the second one or the alternative one?

MR MWABA PHIRI: The second one yes but it was the same thing.

CHAIRPERSON: Yes. So - but ...

MR MWABA PHIRI: (Intervenes), *ja*.

CHAIRPERSON: But those who took the other one may have thought that there would be no - it would not be shown because they were having the tape. They did not know about the second tape. Did they?

MR MWABA PHIRI: No apparently what happened Chair was this.

10 **CHAIRPERSON:** They - Mr - Mr Tebele viewed the tape and came back to my team and told them he was - he was of the opinion it was alright.

CHAIRPERSON: Yes.

MR MWABA PHIRI: It could go on air ...

CHAIRPERSON: Okay.

MR MWABA PHIRI: But he never came back again to come and tell us ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: If we should go on air or not. I did not - I did not wait for him.

20 **CHAIRPERSON:** Okay, but he brought back the tape?

MR MWABA PHIRI: He brought back the tape to my team ...

CHAIRPERSON: Oh, okay. Hm.

MR MWABA PHIRI: The next day but ...

ADV THANDI NORMAN SC: Yes; and - and in any event from what you are telling us he had no business telling you whether to air or not ...

MR MWABA PHIRI: True.

ADV THANDI NORMAN SC: That program from - from what you had said.

MR MWABA PHIRI: True Chair.

ADV THANDI NORMAN SC: Now - so the ...

CHAIRPERSON: I am sorry.

ADV THANDI NORMAN SC: Sorry.

CHAIRPERSON: You were saying that Mr Malema or the EFF when they did not see the interview being shown on that - that evening. They
10 thought the program or that interview had been cancelled. I think you were about to say something about whether there is anything they did about it.

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: Hm.

MR MWABA PHIRI: They went to - to the media and spread the story that SABC had cancelled their interview.

CHAIRPERSON: Yes.

MR MWABA PHIRI: I think that was the story that was trending in - in those two days.

20 **CHAIRPERSON:** Yes.

MR MWABA PHIRI: I was sort of not very concerned about that because I knew it would go on air ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: In the evening ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: Next - on the next day.

CHAIRPERSON: Okay.

MR MWABA PHIRI: So when it went on air I think they silently ...

ADV THANDI NORMAN SC: Yes. So then these events - these two incidents they must have been the incidents that really - that is the reason why you felt that look you needed to bring these incidents to the attention of the Commission but what I want to understand is what do you conclude or what did you conclude at the time as to what was happening within the SABC and why would you regard these as
10 changes within the Editorial Policy as you have headed one of the paragraphs?

MR MWABA PHIRI: It was not very difficult to conclude although we may be accused of speculating more than necessary but our COO at the - at the time had just been I think confirmed in that position. Now if you monitored the victory over ...

CHAIRPERSON: Is that Mr Motsoeneng?

MR MWABA PHIRI: Our COO from I think producer level up to COO position it was some kind of amazing thing. How a producer would go and become the COO. Apart from that given Thuli Madonsela's report I
20 do not know if you - if you are familiar with it.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Huh-uh.

ADV THANDI NORMAN SC: Familiar with it.

MR MWABA PHIRI: Ms Madonsela had stated that our COO had no Matric and then she wondered why - what he was doing in the SABC.

Given all those kinds - kinds of happenings around at that time you were bound to believe that this gentleman had ties with very, very offices in - in the land.

How else did he make - manage to go up in such a very, very - what can I say for lack of a better word. Such a lightning manner. At the same time as ...

CHAIRPERSON: Is - is that very quickly?

MR MWABA PHIRI: Very quickly yes.

CHAIRPERSON: Ja, okay. Hm.

10 **MR MWABA PHIRI:** At the same time as he goes into that COO's office ...

CHAIRPERSON: He did it like lightning?

MR MWABA PHIRI: Like lightning ja.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: As he arrives in the office of the COO the Minister of Communication decides to change the job responsibilities or descriptions of the COO position so that he now has control over the newsroom. All - all along the COO in the SABC had nothing to do with
20 the newsroom but suddenly he is a person who goes controversially into that position and becomes head of - of the newsroom.

That left many of the - many of my colleagues to think he has very, very strong relations with someone in the - in the - high in the political leadership. So that became very stifling in the newsroom. You did not - you did not need to be on his wrong side.

CHAIRPERSON: Now you spoke about somebody moving from being producer to COO. Are you talking about Mr Motsoeneng when you talk - when you say that?

MR MWABA PHIRI: I was talking about Mr Motsoeneng.

CHAIRPERSON: Yes. He - did he producer level to COO?

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: Yes and how many levels are there from COO to C - I mean from producer to COO more or less?

MR MWABA PHIRI: There should be about six - six yes. Producer,
10 senior bulletin editor, executive producer there should be about six.

CHAIRPERSON: So - so normally to get to COO one could be expected if you got through the ranks as you were saying earlier on to go at least through most of them?

MR MWABA PHIRI: Through most of those ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: Ranks.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: Yes Chair.

20 **ADV THANDI NORMAN SC:** Thank you and could just read out what you say to the Chairperson in paragraph 15 of your affidavit please?

MR MWABA PHIRI: On - on paragraph 15?

ADV THANDI NORMAN SC: Yes, yes 1-5. That is at page 4.

MR MWABA PHIRI: "The newsroom was at the time a buzz
with Mr Motsoeneng's close ties with

President Jacob Zuma and inviting a person like Mr Malema who was going to be seen as an affront to our boss' reputed relation with President Zuma."

ADV THANDI NORMAN SC: Did - did you share these views?

MR MWABA PHIRI: Yes I did.

ADV THANDI NORMAN SC: Yes. Then those are the only incidents that you wanted to highlight in your evidence. Am I correct?

MR MWABA PHIRI: Yes. These are the only ones.

ADV THANDI NORMAN SC: Yes.

- 10 **MR MWABA PHIRI:** I think I raised some other incidents which you are aware of when the SABC eight was asking for a - for a review.

ADV THANDI NORMAN SC: Yes.

MR MWABA PHIRI: My affidavits are there.

ADV THANDI NORMAN SC: Oh you mean in the - in the - in Mr Kolosi (?)?

MR MWABA PHIRI: In the Constitutional Court. No, in the Constitutional Court.

ADV THANDI NORMAN SC: Oh no, no. Those applications, yes.

MR MWABA PHIRI: Yes.

- 20 **ADV THANDI NORMAN SC:** Alright, okay. No, *ja* - but then can we - can I just take you through to what Mr Matthews says in response to what you say about him?

MR MWABA PHIRI: Yes Chair.

ADV THANDI NORMAN SC: Mr Matthews ...

CHAIRPERSON: Maybe before that ...

ADV THANDI NORMAN SC: Thank you for doing a favour.

CHAIRPERSON: Maybe before that - I am sorry.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Mr Phiri it is - it is really strange it seems to me that the newsroom had at some stage this type of situation that you have described. Particularly the newsroom of a public broadcaster where you have to - I do not know if you used the word - maybe you did not use the word sneak in but you know bring in people that you think have something to contribute for the listeners or for the public.

10 You have to bring in - bring them in secretly and - and you have to record - when you record them you - you fear that somebody from high up is going to come and demand the tape and you will never be able to have it on air to the extent that you have to - you had to resort to absenting yourself from the building for - for I assume a number of hours and come back at 5 o' clock just to make sure that the tape would not be taken away from you and that the public would be able to - to view - to watch the interview.

 It just seems a very strange environment that in - for any journalist in South Africa in 2014 with our Constitution and the kind of
20 democracy that we have it is just - I mean as you were telling me it was like can that really be South Africa. Could that kind of thing happen?

MR MWABA PHIRI: Yes Chair. Those things - I would probably say even worse things happened.

CHAIRPERSON: Hm.

MR MWABA PHIRI: If - if I have to somehow refer to the - the other

affidavits I am submitted with the SABC eight.

CHAIRPERSON: Hm.

MR MWABA PHIRI: There was times - there were times when somebody would be on air ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: And then you get a call that halt that program - stop that program immediately.

CHAIRPERSON: Hm.

MR MWABA PHIRI: So you have to go there and ...

10 **CHAIRPERSON:** Hm.

MR MWABA PHIRI: Defend yourself.

CHAIRPERSON: Hm.

MR MWABA PHIRI: As - as the program is on air.

CHAIRPERSON: Hm. Well I am sure there will be those in - in - incidents will be told to - to me in due course as well but you did say they are covered in an affidavit that you had prepared. It is important that one gets the full picture of what is - what - what happened because one does not want a situation where you think you have got the full picture and somebody else comes and says no, no that is not the full
20 picture.

Actually what Mr Phiri was telling you was just an exception. If you - I can give you a full picture and when you have the full picture you will see that things were not as he described them ...

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: But also we do not want a situation where we might

think it is an isolated incident that you have told me about if it was not an isolated incident. If there were many more it is important that one gets the full picture.

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: Okay. Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Thank you. May I just - Chair direct your attention to EXHIBIT CC25 which is the affidavit of Mr Matthews? Mr Phiri you have it there next to you. If you could please turn to page 2 of that.

10 **MR MWABA PHIRI:** Page 2?

ADV THANDI NORMAN SC: Yes. Thank you Mr Chairman. After Mr Matthews was sent a 3.3 Notice he responded and this is his response to paragraphs 17 and 18 of your affidavit and he even quotes those - he started quoting from paragraph 16 and he deals with the incident that you testified to relating to Mr Malema and his response to that - he says - I beg your pardon:

20 "I have been requested by officials of the Commission of Inquiry into allegations of State Capture, Fraud and Corruption in the Public Sector including organs of State to respond to the statement of Mr Mwaba Phiri dated 15 August 2019 particularly paragraphs 17 and 18 thereof which I have been advised implicate or may implicate me in relation to matters that are being investigated by the Commission. In order to respond to paragraphs

17 and 18 it is necessary to quote those paragraphs as well as paragraph 16 of Mr Phiri's statement which records the following ..."

And then he goes and he quotes what you have already testified to about Mr Malema's recording - interview rather ...

MR MWABA PHIRI: Hm.

ADV THANDI NORMAN SC: And then in paragraph 6 then he says I respond to Mr Phiri's contentions as follows:

10 "It is clear from the contents of these paragraphs that Mr Phiri does not have any personal knowledge of the allegations that he makes against me and they accordingly constitute hearsay evidence and should be disregarded. In any event ..."

6.2:

"In any event I have no recollection of any involvement in this matter and accordingly deny its contents."

Do you have any remarks to that? Any response?

20 **MR MWABA PHIRI:** I would just probably say I accordingly accept the truth of this - of this contents as far as I am concerned.

ADV THANDI NORMAN SC: Yes, yes. Thank you.

CHAIRPERSON: But you say you - you were saying what somebody else told you namely that he had been asked by Mr Matthews to come to the newsroom and stop the program?

MR MWABA PHIRI: Recording studio Chair.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: *Ja*. So what you were saying is what that person said. Namely insofar as he mentioned Mr ...

MR MWABA PHIRI: Mr Matthews.

CHAIRPERSON: Jimi Matthews name?

MR MWABA PHIRI: Yes.

CHAIRPERSON: Yes.

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: Yes. It is that person who would know whether it is
10 true or not but that is what the person said?

MR MWABA PHIRI: That is what the person said. That is true ...

CHAIRPERSON: Yes, *ja*.

MR MWABA PHIRI: And he told my team ...

CHAIRPERSON: Yes, yes, yes.

MR MWABA PHIRI: To stop the recording.

CHAIRPERSON: Yes. So the part that - that is what you heard being
told to your team from that person that remains.

MR MWABA PHIRI: That remains.

CHAIRPERSON: What you do not know is whether ...

20 **MR MWABA PHIRI:** (Intervenes).

CHAIRPERSON: He was telling the truth in - in saying Mr Matthews
had sent him?

MR MWABA PHIRI: That is true.

CHAIRPERSON: That is what you do not know?

MR MWABA PHIRI: That is true, *ja*.

ADV THANDI NORMAN SC: Thank you and then lastly Mr Phiri then the current environment that you are in now the newsroom and how matters have been handled now is it different from how it was in 2014 or has it improved and could you just tell the Chair if it has to what extent?

MR MWABA PHIRI: It has definitely improved. I would - I will give a very bias answer because I am affected. My program is not on air. That is why I - I cannot say it is excellent. It has improved ...

ADV THANDI NORMAN SC: Yes.

- 10 **MR MWABA PHIRI:** But my program went off air because I suspect of the residues of the Motsoeneng area who are still trying to have their way at the SABC.

CHAIRPERSON: When you say your program is not on air. Are you referring to ...?

MR MWABA PHIRI: Question time.

CHAIRPERSON: The - to question time?

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: You - you wish it to be restored - to come back?

MR MWABA PHIRI: Yes Chair. I have been fighting for that up ...

- 20 **CHAIRPERSON:** Yes.

MR MWABA PHIRI: Up to today.

CHAIRPERSON: Yes, okay. Okay.

ADV THANDI NORMAN SC: Thank you. Thank you Mr Chairman that is all from this witness. Thank you.

CHAIRPERSON: That is all.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: You - you were there at the SABC for all the time that Mr Motsoeneng was COO or Acting COO. Is that right?

MR MWABA PHIRI: Yes Chair.

CHAIRPERSON: Did you have many dealing with him directly yourself?

MR MWABA PHIRI: Not directly. Except for times when I would probably invite him to my program.

CHAIRPERSON: Oh, okay.

MR MWABA PHIRI: *Ja.*

10 **CHAIRPERSON:** Okay.

MR MWABA PHIRI: He would come in.

CHAIRPERSON: Okay. I - I was just looking for - I was wondering whether you might be able to explain or make us - give us a picture of why it is that it looks like he was very influential within the - within SABC. Earlier on I heard evidence and Mr Jimi Matthews in his response to the statements of other witnesses has said that Mr Motsoeneng was the kind of person that - it was difficult to disagree with or have a fight with or - or express different views from his and I was thinking you might be able to give me a picture as to whether that
20 was your feeling as well.

That was your view and what the basis was for even somebody as senior as Mr Jimi Matthews not feeling that he could stand up and say no I do not agree with you to Mr Motsoeneng. That is something you - you are unable to - to do. To give a picture that might explain that.

MR MWABA PHIRI: In - influential is I - I think Chair what you are the Judge would politely want to put it.

CHAIRPERSON: Ja.

MR MWABA PHIRI: As far as the newsroom was concerned he was authoritarian. He was a dictator. Whatever he - he wanted - whatever he woke up with must be done. I gave the example not in this forum somewhere else.

CHAIRPERSON: Hm.

MR MWABA PHIRI: Of the fact that the 90 percent South African music
10 ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: And director - directorate was not in any way bad but just the way it was done.

CHAIRPERSON: Hm, hm.

MR MWABA PHIRI: Ja. It - it - there was no strategy. Somebody just wakes up one day and tells all of you 90 percent. There - there are quarters - there are local music quarters nearly everywhere around the globe. You find the French have got something like nine - I think it is 99 percent music must be in - in their language only.

20 **CHAIRPERSON:** Must be - yes.

MR MWABA PHIRI: Yes.

CHAIRPERSON: Hm.

MR MWABA PHIRI: So there was probably nothing wrong ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: With the SABC going to 90 percent ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: But the way it was done ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: Was not proper.

CHAIRPERSON: Hm.

MR MWABA PHIRI: He antagonised stakeholders within and outside.

CHAIRPERSON: Hm, hm.

MR MWABA PHIRI: Business could have been partners in that 90 percent ...

10 **CHAIRPERSON:** Hm, hm.

MR MWABA PHIRI: Felt that (indistinct) by ...

CHAIRPERSON: Hm, hm.

MR MWABA PHIRI: Withdrawing their business ...

CHAIRPERSON: Hm, hm.

MR MWABA PHIRI: And that is what made it fell ...

CHAIRPERSON: Hm, hm.

MR MWABA PHIRI: Because there is no ...

CHAIRPERSON: Consultation?

MR MWABA PHIRI: No consultation.

20 **CHAIRPERSON:** Hm, hm. Okay, okay. No thank you.

ADV THANDI NORMAN SC: Thank you Chair.

CHAIRPERSON: Thank you very much Mr Phiri. Thank you.

MR MWABA PHIRI: Sorry Chair I ...

CHAIRPERSON: Yes.

MR MWABA PHIRI: I also wanted to put this on record. I thought this

Commission needs to look out for - for the fact that state broadcasters around the continent are some - they are the norm on the continent. As a result even our political leadership he wants to replicate both. Fortunately for South Africa it has a constitution that is very, very, very - so ideal that I think it goes into the clouds instead of interrupting with the people. It is - it is too good.

CHAIRPERSON: Too good?

MR MWABA PHIRI: Yes; and I do not think it is appreciated on the - on the ground. The media - us the news media needs to play our role
10 there. I think we are very integral to the constitutional requirement or the fact that for - for your - for the judiciary, the legislature and Parliament to check each other. They must have freedom of expression. They cannot do that without freedom of expression.

CHAIRPERSON: Yes.

MR MWABA PHIRI: So if the public broadcaster is captured that kind of check would never - will not take place.

CHAIRPERSON: Hm.

MR MWABA PHIRI: We need to have a - public broad - a public broadcaster more than any other broadcaster. Let us forget about the -
20 the private media.

CHAIRPERSON: Hm.

MR MWABA PHIRI: The public broadcaster whose stakeholdership includes the whole country needs to be protected ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: From any form of capture ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: From either the state ...

CHAIRPERSON: Or private interest?

MR MWABA PHIRI: Political or even ideological ...

CHAIRPERSON: Hm.

MR MWABA PHIRI: Capture.

CHAIRPERSON: Hm, hm. No, no ...

MR MWABA PHIRI: So I would have thought, I would like to be very stern about our plea that something should happen after this
10 Commission to protect the SABC so well that whatever happened in the last five years should never, ever occur again.

CHAIRPERSON: Yes, yes. No, no I mean the media is crucial in any democracy, I mean the matters that this Commission is investigating a lot of them came to the fore because of the media, because of journalists, courageous journalists who investigated certain things and put them forward then the public began to realise that there were certain things that needed further investigation, so the role of the media is really crucial but as you may have heard when I spoke to Ms Pillay journalists all over are invited to reflect on what kind of
20 recommendations this Commission should consider making at the end of its work that would achieve what you are talking about, so I will be very interested at the right time to receive input from the media people themselves and take them into account in making recommendations that I would make, so all of you can start working.

MR MWABA PHIRI: We will definitely respond.

CHAIRPERSON: Yes, yes. No thank you very much, thank you for coming to share your evidence with the Commission, if we need to ask you to come back we may ask you but for now you are excused.

MR MWABA PHIRI: Thank you Chair.

CHAIRPERSON: Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman, Mr Chairman the next witness is the witness Ms Thandeka Gqubule-Mbeki.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Her statement is in EXHIBIT CC29.

10 **CHAIRPERSON:** Okay.

ADV THANDI NORMAN SC: Mr Chairman whilst the witness is proceeding to take a seat may I just explain to the Chair that this witness was moved, she was supposed to testify sometime next week, but because one witness that was supposed to – that was scheduled for today could not make it today due to an official engagement, we moved her to today, but all the implicated persons were notified telephonically and they had all indicated that they had no difficulty with her testifying today.

CHAIRPERSON: Okay, okay.

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

CHAIRPERSON: Okay no that's fine.

ADV THANDI NORMAN SC: Chair there is a few errors in the statement of the witness, her name is not spelt correctly, in fact I think the team that ...(intervention)

CHAIRPERSON: What is happening, I have been talking about

people's names not being spelt correctly.

ADV THANDI NORMAN SC: Yes, thank you, but what is interesting here Chair I think the mistake was made by the witness herself because if Chair had to go to page 28 where she signed her surname, the first surname is spelt incorrectly, and I think then the team that was binding went – in fact even on the first page Chair you will find that what is on page 28 and what is on the first page is also different, so the team just went with what is contained on the first page.

CHAIRPERSON: G-c instead of G-q?

- 10 **ADV THANDI NORMAN SC:** Yes, and then in 28 there's Gc and then the witness signed, I think it must have been maybe a computer glitch there, I don't know, but ...(intervention)

CHAIRPERSON: You will make arrangements for these pages to be replaced by pages that have got the correct spelling?

ADV THANDI NORMAN SC: With the correct names yes Chair, thank you. And then Chair you will find also this affidavit of the witness the witness herself had decided instead of attaching annexures to actually incorporate what's contained in the Annexures, in the affidavit itself, so the numbering is a bit different.

- 20 **CHAIRPERSON:** Yes.

ADV THANDI NORMAN SC: But she is quite comfortable, I am quite comfortable leading her on her statement, we will be able to navigate it.

CHAIRPERSON: Yes, no that's fine. That's the norm isn't it, outside of the Commission?

ADV THANDI NORMAN SC: Some people like to do that yes.

CHAIRPERSON: Annexures and just attached without these dividers that you people like.

ADV THANDI NORMAN SC: No that is true Chair thank you. Chair may she be sworn in?

CHAIRPERSON: Maybe let us admit this – the file containing the statement of Ms Thandeka Gqubule-Mbeki will be marked as EXHIBIT CC29.

ADV THANDI NORMAN SC: Thank you Mr Chairman.

10 **CHAIRPERSON:** Okay.

ADV THANDI NORMAN SC: May the witness be sworn in?

CHAIRPERSON: Yes administer the oath or affirmation

REGISTRAR: Please state your full names for the record?

MS THANDEKA GQUBULE-MBEKI: My name is Thandeka Gqubule-Mbeki.

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

MS THANDEKA GQUBULE-MBEKI: None..

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

MS THANDEKA GQUBULE-MBEKI: I consider the oath binding on my conscience.

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 THANDEKA GQUBULE-MBEKI: So help me God.

CHAIRPERSON: Thank you very much Ms Gqubule-Mbeki. Thank you, you may proceed.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Thank you, Ms Gqubule-Mbeki can you please look at the document that is in front of you, is that your statement, in fact it is an affidavit, but it is written statement at page one is that correct?

MS THANDEKA GQUBULE-MBEKI: Yes it is Chair.

ADV THANDI NORMAN SC: Thank you, and if we turn to page 28 of
10 that document.

MS THANDEKA GQUBULE-MBEKI: Yes.

ADV THANDI NORMAN SC: Yes is that your signature that appears there?

MS THANDEKA GQUBULE-MBEKI: Indeed it is.

ADV THANDI NORMAN SC: Thank you and then is it correct that your first surname is not spelt correctly there, could you correct it for the record.

MS THANDEKA GQUBULE-MBEKI: It should be Gqubule which is G-q-u-b-u-l-e.

20 **ADV THANDI NORMAN SC:** Yes thank you, and that is the same at page if you go to page one it also is misspelt there, is that correct?

MS THANDEKA GQUBULE-MBEKI: Yes, may I clarify that, on the hop I – we had worked on this document for quite a while so I really addressed myself to the contents rather than the aesthetics and the spelling which I apologise for.

ADV THANDI NORMAN SC: Yes thank you, yes, we will do, we will have to do a supplementary affidavit but after you have testified today to correct those errors.

MS THANDEKA GQUBULE-MBEKI: Thank you.

ADV THANDI NORMAN SC: Yes thank you, and did you make this statement freely and voluntarily?

MS THANDEKA GQUBULE-MBEKI: I did so.

ADV THANDI NORMAN SC: Yes, and the contents of this affidavit is true and correct?

10 **MS THANDEKA GQUBULE-MBEKI:** *Ja*.

ADV THANDI NORMAN SC: Yes thank you. Could you just tell the Chairperson ...(intervention)

CHAIRPERSON: Well I see the one is a statement, the others may be ...(intervention)

ADV THANDI NORMAN SC: There were others that are incorporated, are various court applications.

CHAIRPERSON: I see that it was done at a police station nevertheless.

ADV THANDI NORMAN SC: Yes it was.

20 **CHAIRPERSON:** One statement, *ja*.

ADV THANDI NORMAN SC: Yes thank you Chair. Thank you, where are you currently employed?

MS THANDEKA GQUBULE-MBEKI: I am employed by the South African Broadcasting Corporation, the SABC.

ADV THANDI NORMAN SC: And what is the position that you hold

there?

MS THANDEKA GQUBULE-MBEKI: Chair I am the Economics Editor for the SABC, I am responsible for all economics, finance and business reporting across our 19 radio stations, our four channels and our digital platform.

ADV THANDI NORMAN SC: Could you please place on record your qualifications please?

MS THANDEKA GQUBULE-MBEKI: I am concluding a Masters of Philosophy in International Business, I have a Masters degree in
10 Journalism from the Columbia School of Journalism in New York, I have various business qualifications from ...(intervention)

CHAIRPERSON: Too many to mention.

MS THANDEKA GQUBULE-MBEKI: Insead which is Fontainebleau in Paris, I have various qualifications from Wits Business School and ja I think I will leave it at that.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: Ja, you see the humility prevents her from saying all of them.

ADV THANDI NORMAN SC: Yes, thank you ...(intervention)

20 **MS THANDEKA GQUBULE-MBEKI:** I did matriculate however at Epworth Girls High School in Pietermaritzburg.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: And those qualifications most of them are contained in paragraph 5 of your statement?

MS THANDEKA GQUBULE-MBEKI: Indeed they are.

ADV THANDI NORMAN SC: Yes thank you. Could you then tell the Chairperson that I would imagine maybe even without going into detail into what happened with the SABC 8 because your colleagues have already spoken to it, maybe you could just highlight the areas that Mr Krige and Ms Pillay have not dealt with in their evidence, which I believe you might have had – listened to or at least have had a look at what they testified to the Commission about. Could you just highlight those areas that they have not dealt with?

MS THANDEKA GQUBULE-MBEKI: Chair they have broadly dealt with
10 the sweep of most of the happenings, they have however left to me I suppose to deal with the human trauma and the smear campaigns, the victimisations and the death of one of us, Suna.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And I know that Foeta must have have dealt with the ...(intervention)

CHAIRPERSON: That's Mr Krige?

MS THANDEKA GQUBULE-MBEKI: That's Mr Krige, sorry.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: He must have dealt with the
20 meeting in which we were dismissed, for which we were allegedly dismissed.

CHAIRPERSON: I cannot remember whether he talked about the contents, the discussion.

ADV THANDI NORMAN SC: He spoke about him largely.

CHAIRPERSON: Yes, maybe you can deal with that.

MS THANDEKA GQUBULE-MBEKI: Every morning Chair there is a meeting at the SABC. It is held by the leadership of the newsroom across radio and TV. In those days there were two meetings and we were in a radio meeting. At this radio meeting a discussion came up about whether to cover the objection by the activists, the Civil Society Activists to the protest policy. Now a few days before that the capital city was burning as the ANC ripped itself apart on the streets of the capital city. We were asked not to cover the events ...(intervention)

CHAIRPERSON: This is 2016?

10 **MS THANDEKA GQUBULE-MBEKI:** Yes sir.

CHAIRPERSON: Yes, I just want to locate it in terms of time what you are talking about.

MS THANDEKA GQUBULE-MBEKI: Chairperson we were asked not to cover it in a normal journalistic way, using all the journalistic values and prescripts, we were asked instead to conceal the intensity of the fires that burnt through the capital city. We were asked to stand under Jacaranda trees, well our journalists to stand under Jacaranda trees and not show the burning capital city. For us this is heinous, and at a previous meeting to the one for which we were fired I asked and I
20 pleaded with Ntati Tebele, Simon Tebele and I were rather close, we used to pray together, we used to eat breakfast in his office together some days.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Just remind me what his position was at the time Head of News or Acting Head of News.

MS THANDEKA GQUBULE-MBEKI: He was at the time Head of News or Acting Head of News.

CHAIRPERSON: And Head of News or Acting Head of News would be Head of News for Radio and TV?

MS THANDEKA GQUBULE-MBEKI: Indeed sir, and Digital.

CHAIRPERSON: Okay and Digital, yes.

ADV THANDI NORMAN SC: So having yourself, having been a lecturer teaching journalism I am sure it must have been shocking, something that was unheard of that you could be told what to cover and
10 what not to cover.

MS THANDEKA GQUBULE-MBEKI: It is heinous to hide from citizens, it was heinous on a number of levels, three mainly, firstly to hide from citizens what they need to know about how they are governed and the public response, to be asked to mute the public voice in a democracy was for me a treasonous request. Then the second part was that our journalists were being constrained from practicing their vocation as they have been taught. I lectured in journalism at Rhodes University and I began and started and founded the Journalism Department of Monarch University South Africa and some of the students who come
20 out of Rhodes inevitably end up in our newsroom and some of them wash up from Monarch in our newsroom, so some of my students reported to me and those people that we taught ethics to at Rhodes and we taught them writing what were they to think of me if I was to endorse this after teaching them to do the opposite.

The third part was not so much about the rights of freedom of

expression, but the fact that in a cavalier way we were being asked to bend the very mandate of public broadcasting. Now I am a die-hard for the mandate of public broadcasting, perhaps I should have said that in my CV, I cut my teeth in journalism at the Weekly Mail, which was a pro-democracy newspaper in the dark days of apartheid.

CHAIRPERSON: During the Eighties?

MS THANDEKA GQUBULE-MBEKI: During the Eighties and we were taught and it was you know really seeped into us that journalism is one of the democracy propellers, that in any democratic eco-system
10 journalists are part of those who ought to be considered the guardians of governance and so having been reared in this way and having reared and taught others this way I couldn't sleep at night, I had the most amazing cognitive dissidence, so I begged Ntati, depending on our relationship together Ntati please just let them free, let them get into Pretoria, ramp up deployment please Ntati.

CHAIRPERSON: I'm sorry is that now still back at the meeting or was it after?

MS THANDEKA GQUBULE-MBEKI: This is a meeting before the meeting for which we were fired.

20 **CHAIRPERSON:** Oh, okay, that is the meeting where he said don't – the journalists mustn't show the full extent of what was happening in Pretoria.

MS THANDEKA GQUBULE-MBEKI: Yes, this is the meeting at which he is operationalising the protest policy.

CHAIRPERSON: Oh, okay, okay.

MS THANDEKA GQUBULE-MBEKI: And it happened prior to the meeting for which he got really fed-up and participated in our evacuation from the broadcaster.

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: This is the previous meeting and I looked around to colleagues and I said please support, Ntati this has gone too far, look behind you where we sit, our editorial code sits behind us as we have this round meeting. Some of the colleagues wanted to speak, I could see, but something was constraining them, I
10 turned to one of the other editors and she said to me (African language), so I then ...(intervention)

CHAIRPERSON: Just give the English version, so ...(intervention)

MS THANDEKA GQUBULE-MBEKI: She said “I do not wish to get into any trouble”.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: So that painted me in eyes of others as somebody who is somewhat willing to get into this trouble, but in my own eyes I am somebody who is trying to expunge a guilty and a dissonance that I can ever be involved in such actions.

20 So the meeting for which we were fired it was myself, it was – it happened soon after the meeting about the – where they first operationalised the protest policy.

CHAIRPERSON: Oh, okay let’s finish that meeting first, how did it end, just give me some more discussion at that meeting where we – you were looking for support and there wasn’t support forthcoming and so

on.

MS THANDEKA GQUBULE-MBEKI: Ntati Tebele was absolutely firm, he was absolutely firm that we wouldn't entertain my fears ...(intervention)

CHAIRPERSON: You tried to raise it with him but it did not work.

MS THANDEKA GQUBULE-MBEKI: Yes.

ADV THANDI NORMAN SC: So then he would after the meeting then you would be directed to simply implement that decision that he had taken.

- 10 **MS THANDEKA GQUBULE-MBEKI:** Yes I went back into the newsroom and I went around voicing my disgruntlement and my utter displeasure at what was going on.

CHAIRPERSON: Mmm.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And ...(intervention)

ADV THANDI NORMAN SC: So then the next meeting would be the one that you moved to, the one where you were then fired?

MS THANDEKA GQUBULE-MBEKI: Before that I got a call from ...(intervention)

- 20 **CHAIRPERSON:** I'm sorry let's try if you can remember, we know it was 2016, do you remember the month or even the date ...(intervention)

MS THANDEKA GQUBULE-MBEKI: It was winter.

CHAIRPERSON: Maybe it is such an important meeting you would remember even the date *ja*.

MS THANDEKA GQUBULE-MBEKI: It was the Winter of our

Discontent.

CHAIRPERSON: (laughing) okay.

MS THANDEKA GQUBULE-MBEKI: It was mid-2016.

CHAIRPERSON: Okay, oh it would – before the elections, so the elections would have been May I think.

MS THANDEKA GQUBULE-MBEKI: Yes it was May.

CHAIRPERSON: More or less, they were not in June I think that's for sure, so they would have been in May or April, I'm not sure the elections.

10 **MS THANDEKA GQUBULE-MBEKI:** Yes.

CHAIRPERSON: Or maybe – I may be mistaken actually, I may be mistaken, I think it's the National ones that are normally held in April or May, 2016 was local government elections, I think those were in August.

MS THANDEKA GQUBULE-MBEKI: Yes, it was the morning after this capital city went up in flames.

CHAIRPERSON: Okay but now I seem to remember I think they were held after May, it might have been even August, the local government elections, if I'm not mistaken, but I wanted to have a sense of
20 roundabout when in 2016 it was, but you're saying roundabout mid-2016.

MS THANDEKA GQUBULE-MBEKI: Yes sir.

ADV THANDI NORMAN SC: I seem to recall that according to Ms Pillay's evidence it would be between June, around June/July but we're just looking for the exact dates from her statement.

CHAIRPERSON: No that's fine, but winter.

ADV THANDI NORMAN SC: Yes Chair.

MS THANDEKA GQUBULE-MBEKI: After that meeting, the initial meeting the first meeting about the capital city and the coverage of the capital city at which they operationalised or wished for us to operationalise the protest policy. I received a call from a colleague, a fellow editor called Zolisa Sigabi, and she told me that Busisiwe Ntuli is looking for me, and I was – I didn't know Busi at the time and I was aware that throughout the newsroom there were pockets of discontent
10 and rumblings about organising something to respond to the increasingly heinous things that we were being asked to do.

I went to see Busi and I called her before and I went to see her and effectively she recruited me into the efforts that later became the SABC 8, and it was prior to that, together we went to see the Freedom of Expression Institute.

CHAIRPERSON: The two of you now?

MS THANDEKA GQUBULE-MBEKI: The two of us.

CHAIRPERSON: Ja, is this the following day or same day of the meeting where they sought to operationalise the ...(intervention)

20 **MS THANDEKA GQUBULE-MBEKI:** Chair it was between the operationalising meeting and the meeting for which we were subsequently dismissed.

CHAIRPERSON: But the same day or different days?

MS THANDEKA GQUBULE-MBEKI: It was different days.

CHAIRPERSON: Oh okay, alright. You went to see the Freedom of

Expression Institute?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Mmm?

MS THANDEKA GQUBULE-MBEKI: Yes, we asked them whether there is any route legally to challenge the editorial policy of 2016, and we ...(intervention)

CHAIRPERSON: You had just heard for the first time at this meeting about this policy or you had heard about it before but they had not started operationalising it?

10 **MS THANDEKA GQUBULE-MBEKI:** Sir I was away at home in the Eastern Cape and I returned to the capital city story and to the rumblings in the newsroom and to the call that Busi is looking for me.

CHAIRPERSON: Okay, okay.

MS THANDEKA GQUBULE-MBEKI: And then I had a meeting with Busi and she invited everybody but unfortunately there were only two of us in that meeting, Busi and myself, and we decided to then go to the Freedom of Expression Institute to ask them if we could find a way as staff members of the SABC to have the 2016 policy set aside, and we also wanted to know what we could do about the protest policy legally.

20 Then we went about our business, went back to our different departments and began to work, and then I went into a meeting the normal diary meeting and this is the meeting that in Joe Coller's report he describes as the diary meeting from hell.

In the meeting ...(intervention)

CHAIRPERSON: Just to make sure one understands at the Freedom of

Expression Institute did you leave there to go back on the basis that they were going to look into the issues you have raised to see how to help you?

MS THANDEKA GQUBULE-MBEKI: Indeed they said they would investigate how to help us because they've got a *pro bono* legal clinic attached to them.

CHAIRPERSON: Okay, right. So you went back.

MS THANDEKA GQUBULE-MBEKI: So we went back and we also phoned the CPJ, the Committee for the Protection of Journalists in New
10 York and we were trying to find a way of telling them what we were going through. Then we went into our different departments, giving each other tasks, Busi and I, to recruit other people and to speak to other people and it is in this context that we spoke to Jacques and to Krivani. Then we went into this meeting and Busi wasn't there, it was chaired by Jonathan Lungu from Mpumalanga and he was somewhat assisted by Zolisa Sigabi back here at home in terms of keeping the Johannesburg crowd going. Ntati Tebele came in and asserted himself in the meeting and he primarily said that the – one of the top slugs, a slug is we name a story, we just give it a quick name, and then we give
20 a brief indication of what the story is about and then we assign journalists to cover it and then we tell what time it is to be delivered.

So Ntati said the slug called protest, I think it was called protest, which was the slug referring to the protest by the right to know campaign at different SABC facilities, I think in Durban and in Cape Town, that story was to be banned or canned or just wasn't to happen.

ADV THANDI NORMAN SC: Just as a matter of interest that right to know story did it relate to this policy?

MS THANDEKA GQUBULE-MBEKI: Yes, it was – it related to the protest policy they were protesting the public's right to know from its own public broadcaster.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Do you know whether at that stage they were acting simply because they might have seen in the media that the SABC was implementing, they adopted this policy or whether they may have been
10 contacted by the Freedom of Expression Institute or anything or you don't know?

MS THANDEKA GQUBULE-MBEKI: No, what I am aware of is a mushrooming of discontent throughout the media industry and civil society after the issuing by SABC of a media statement about the protest policy.

CHAIRPERSON: Yes, okay. Yes I think I – we interrupted you while you were telling us about the – continuing to tell us about the meeting, the diary meeting I think.

MS THANDEKA GQUBULE-MBEKI: Yes. At the meeting Deputy Chief
20 Justice I then asked Ntati Tebele to cover the story, to allow us to cover the story, and he said no, he was quite adamant and given that I had already experienced his firmness around the capital city burning I decided to also put my own foot down, and I said Ntati with regards to this it is a matter that is really concerning for the entire you know newsroom and media industry, and I suspect it's a matter that may well

end up in the courts of this country. I wish to be recorded as dissenting. So Foeta Krige also expressed similar views, and Suna Venter, the late, said that she may be the youngest among us but she believes that she shouldn't you know kick off her journalism career in this fashion and that she really she felt that she ...(intervention)

CHAIRPERSON: She needed to take a position.

MS THANDEKA GQUBULE-MBEKI: Yes and she took a firm stand in that meeting and said that she wouldn't associate herself with this. Thereafter we – it wasn't that caustic a discussion, it wasn't you know
10 and Ntati seemed to be quite composed and he – Ntati Tebele that is, seemed you know to accept your right to dissent and Jonathan then proceeded with the meeting and he closed the meeting, I have even read his affidavit about what time the meeting closed and his version tallies with mine. And then thereafter we went about our business and we thought that Ntati's decision would hold, but soon after that we were called into his office and served with suspension letters.

CHAIRPERSON: Before you got served with suspension letters both at the first meeting and at the diary meeting did he ever provide whatever it is that he regarded as justification for saying that

- 20 1. The protests in Pretoria should not be shown properly the way it should be shown by journalists and
2. For saying that the protests by the right to know organisation should not be shown.

Did he provide any reasons?

MS THANDEKA GQUBULE-MBEKI: As – several points he said that he

has his instructions.

CHAIRPERSON: And did he ever say who the instruction came from?

MS THANDEKA GQUBULE-MBEKI: No but I do not need to be two years old to have guessed.

CHAIRPERSON: You knew where it came from?

MS THANDEKA GQUBULE-MBEKI: Indeed I did.

CHAIRPERSON: Yes. Did it come from Mr Motsoeneng?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Yes. Okay.

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

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Oh sorry I beg your pardon.

CHAIRPERSON: Yes. No I am done you can continue.

ADV THANDI NORMAN SC: Are you finished? I apologise.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Sorry. Ordinarily when there is decent as there was at this meeting what usually happens because look you have recorded your disapproval of whatever it is that they wanted to do and the journalists were going to – they wanted to cover this story. So if
20 then there is that kind of dissenting voice what would ordinarily happen say if you are in a normal environment.

MS THANDEKA GQUBULE-MBEKI: In a normal environment dissent is accommodated we agree to disagree and somebody with the power to decide decides.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I guess that if it is the editor who decides that is more acceptable to the journalists in the newsroom than if it is somebody outside of the newsroom, is that right?

MS THANDEKA GQUBULE-MBEKI: Indeed.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: But generally newsrooms are not peaceful places they are...

CHAIRPERSON: There are debates and disagreements.

MS THANDEKA GQUBULE-MBEKI: There are [indistinct] of ideas, they
10 are market places.

CHAIRPERSON: And robust debates.

MS THANDEKA GQUBULE-MBEKI: Of the trade of ideas.

CHAIRPERSON: Yes, yes. But there everybody is used to that and everybody knows in the end the editor has a job to do and sometimes you will agree with him or her, sometimes you will not agree but what is most unacceptable is somebody from outside deciding?

MS THANDEKA GQUBULE-MBEKI: Not really. Chair I should have told you that this tenure of mine at the SABC was my third.

CHAIRPERSON: Yes.

20 **MS THANDEKA GQUBULE-MBEKI**: I had had previous tenures in different environments.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And in the environment led under Zwelakhe Sisulu a debate was one of the most welcome things.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Because it would lead us to better policies and the more vigorous the better.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And it enlivens the newsroom.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And it created for a certain passion, a certain air of freedom, a certain Prague spring that the SABC experienced when we were there in the dying years of the apartheid regime.

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

MS THANDEKA GQUBULE-MBEKI: So I was accustomed to that culture.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And I was failing to adapt to the new culture where silence and compliance and robotic decisions were the order of the day.

CHAIRPERSON: Now when there were instructions such as these that you were very opposed to and that came from the COO or acting COO did you consider that you could go to the CEO or acting CEO and say
20 but this is what the COO is saying and it is unacceptable to us and that maybe there could be an intervention or was there – was the position that no intervention from the CEO was expected to happen once the COO had spoken?

MS THANDEKA GQUBULE-MBEKI: Formerly there is a referral upwards which formerly rested with the CEO prior to Hlaudi

Motsoeneng inaugurating editorial policy of 2016. And Chair he – when he inaugurated it at that Bos Parade in Magalies he basically said he is the Alpha and the Omega. Now after that every CEO was a laying duck frankly.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: Every CEO was dead in the water.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So was – after that was he like the [indistinct] CEO?

MS THANDEKA GQUBULE-MBEKI: He was the Alpha and the Omega.

10 **CHAIRPERSON:** And the Omega.

ADV THANDI NORMAN SC: Thank you. So then this is all – then those meetings happened and then let us get to the meeting then where you were finally dismissed.

MS THANDEKA GQUBULE-MBEKI: So Chair we get called up one by one the three of us.

CHAIRPERSON: That is yourself, Mr Krige and Ms Pillay?

MS THANDEKA GQUBULE-MBEKI: And Suna, the late Suna Venter.

CHAIRPERSON: Oh Ms Venter.

MS THANDEKA GQUBULE-MBEKI: Yes.

20 **CHAIRPERSON:** So does that make four?

MS THANDEKA GQUBULE-MBEKI: The three of us. The others were party to a different disciplinary but those disciplinaries happened on the same day.

CHAIRPERSON: Okay so it was yourself, Ms Venter and Mr Krige?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: But we were called in one by one.

CHAIRPERSON: One by one.

MS THANDEKA GQUBULE-MBEKI: And separately.

CHAIRPERSON: Okay. [

MS THANDEKA GQUBULE-MBEKI: In fact we did not know that we had been called in.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Until we called each other when
10 the rumours began to percolate.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Later in the evening and it was a question of oh so you also and you also and we then concluded that the three of us had spoken out in that meeting. This must be the premise on which they are going to move against us.

CHAIRPERSON: So when you were called you were just given the letter of suspension without any discussion of any consequence really or there was some discussion?

MS THANDEKA GQUBULE-MBEKI: When I was called and Dade
20 Ndebele was seated to my left and Sebolele Ditlhakanyane was seated to my right. Opposite me was the head of HR Mani Aloo head of HR in the news division. And I said to Dade Ndebele, Dade Ndebele this is unlawful and I hate to say this to you but we are going to relate through the courts now. And I turned to Sebolele and I said that she is a very sweet human being and it is a pity that we stand at odds. And I was

then accompanied to my office to clear my desk and then ...

CHAIRPERSON: The suspension was with immediate effect?

MS THANDEKA GQUBULE-MBEKI: It was immediate. Dade Ndebele was very firm that the corporation has decided to part ways with me. I – when from that...

CHAIRPERSON: So – but this – I am sorry – was – this was a suspension and not a dismissal as yet.

MS THANDEKA GQUBULE-MBEKI: No it is a suspension now.

CHAIRPERSON: Okay alright.

10 **MS THANDEKA GQUBULE-MBEKI**: But Dade Ndebele at that meeting was very firm that and the corporation has decided to part ways.

CHAIRPERSON: And that is – is that the term he used part ways?

MS THANDEKA GQUBULE-MBEKI: Yes to part ways and they have made this decision and he insisted that I sign the letter and receipt of the letter which I did do and then Mani accompanied me to my office and took my clocking devices and by then my colleagues could see what is going on. It looks like a frog march out of the building and people are trying to hold onto me. And to say goodbye and people are baffled and I could not even say goodbye to my teams. And so he
20 marched me out of the building but oddly as – the SABC is a very paradoxical place. It is a very loving humane place but it is a – also can be a very vicious place. So as he is marching me towards the turnstiles where you know the gates of no return he asks me if I can hug him to say goodbye because we basically had a good relationship. So the whole thing about capture is that it ruptures relationships it

victimises people, it devastates, it creates trauma.

ADV THANDI NORMAN SC: Yes. Alright. So then that is how you – then after that then there was a dismissal that – because you...

MS THANDEKA GQUBULE-MBEKI: Then after that ...

ADV THANDI NORMAN SC: That is the suspension that you dealing with yes.

MS THANDEKA GQUBULE-MBEKI: Then after that I went to the Freedom of Expression Institute.

ADV THANDI NORMAN SC: Yes.

10 **CHAIRPERSON:** Maybe before – I am sorry

MS THANDEKA GQUBULE-MBEKI: To arrange a result.

CHAIRPERSON: I am sorry. The letter said you were suspended until what would happen? Until a hearing or what? Usually you would be suspended pending a disciplinary hearing.

MS THANDEKA GQUBULE-MBEKI: Deputy Chief Justice I think it is identical to Krivani's – no Krivani did not – it is identical to Krige's suspension letter.

CHAIRPERSON: Hm I...

ADV THANDI NORMAN SC: I think I saw it was [mumbling]

20 **CHAIRPERSON:** Okay maybe – maybe she can have a look at it.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: But is – do you have any recollection whether it said something along those lines that you were suspended to and you must appear at a disciplinary hearing on a certain date and that these were the charges that you would face?

MS THANDEKA GQUBULE-MBEKI: I think it mentioned something about a refusal to carry out an instruction.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Something about insubordination.

CHAIRPERSON: Insubordination yes.

MS THANDEKA GQUBULE-MBEKI: And – but it did not name a date on which we would be afforded an opportunity.

CHAIRPERSON: A hearing.

MS THANDEKA GQUBULE-MBEKI: To defend ourselves.

10 **CHAIRPERSON:** Oh.

MS THANDEKA GQUBULE-MBEKI: But I may be mistaken. I cannot recall there have been so many letters and so much litigation.

CHAIRPERSON: Yes okay, okay. They will check if you think it is the same. But if later on there is a chance of getting the one that was addressed to you that would be helpful.

MS THANDEKA GQUBULE-MBEKI: I can make it available.

CHAIRPERSON: Yes, yes okay.

ADV THANDI NORMAN SC: Thank you. Thank you did you ultimately appear then before disciplinary hearing?

20 **MS THANDEKA GQUBULE-MBEKI:** Well on that day after I was suspended I drove out and I went back to the FXI and I phoned around and obviously I got in touch with Busi and too really to organise a revolt to bring it on because we felt that we owed it to the country to be heard and to be heard on this issue. So we organised a meeting with Civil Society. We sat at De La Crème in Melville ironically where we

used to sit to debate how we would have a public broadcaster in the Zwelaka days instead of a state broadcaster. And we decided to march to the constitutional court and that Krige, myself and Suna would lead the march. And it is for our statements as we marched and as we drew attention of the public to the happenings at the SABC that Mr Motsoeneng and his cohorts referred to as your wilful speaking out of turn, speaking out to the press and so on.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: But you might not recall the exact wording that was
10 used to describe the charges or what the letter said you had done wrong but you would – do you remember that whatever the wording was it related to the stand you had taken against this policy and against the instructions that have been given that you have told me about.

MS THANDEKA GQUBULE-MBEKI: Indeed.

CHAIRPERSON: That much you know.

MS THANDEKA GQUBULE-MBEKI: That much I know indeed it is true.

CHAIRPERSON: Ja okay. Thank you.

ADV THANDI NORMAN SC: Thank you. Thank you Mr Chairman. And then – and then when – were you then brought before someone who
20 was going to discipline you?

MS THANDEKA GQUBULE-MBEKI: Yes.

ADV THANDI NORMAN SC: And who was that person?

MS THANDEKA GQUBULE-MBEKI: We were given 24 hours' notice.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: To appear before a disciplinary

hearing.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: There were two, three people in the disciplinary hearing on the other side. And there were three of us. There was myself, Suna Venter and Foete Krige.

ADV THANDI NORMAN SC: Yes. And the disciplinary proceeded?

MS THANDEKA GQUBULE-MBEKI: No. It was not meant to be they were not serious, they were joking, they were just kicking time and they just allowed the lawyer to argue about legal representation and they
10 postponed the hearing.

ADV THANDI NORMAN SC: Yes. And then after that postponement is that the matter that ended up in the labour court?

MS THANDEKA GQUBULE-MBEKI: After the postponement we were just fired.

ADV THANDI NORMAN SC: Yes. And then – but...

CHAIRPERSON: I am sorry. There was – was it Mr Krige or Ms Pillay oh it was Ms Pillay who was asked to submit representations by four o'clock on a certain date I think.

MS THANDEKA GQUBULE-MBEKI: Yes we all did that.

20 **CHAIRPERSON:** So that did not happen – oh it happened with you as well?

MS THANDEKA GQUBULE-MBEKI: We all did that. Yes.

CHAIRPERSON: But was the date the same?

MS THANDEKA GQUBULE-MBEKI: It was all the same.

CHAIRPERSON: Oh okay, okay.

MS THANDEKA GQUBULE-MBEKI: And then after that they rejected our representations and they dismissed us.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And this is when we lodged the matter in the labour court.

ADV THANDI NORMAN SC: Labour court.

CHAIRPERSON: Labour court. Yes okay.

MS THANDEKA GQUBULE-MBEKI: And this is when we took our constitutional court matter up.

10 **CHAIRPERSON:** Yes, ys.

ADV THANDI NORMAN SC: Yes. Thank you. Thank you. I would like to – us then to deal with specific matters because now that you have confirmed what Mr Krige and Ms Pillay had testified to about your having been dismissed from the SABC I think you deal with quite important topics.

MS THANDEKA GQUBULE-MBEKI: Right.

ADV THANDI NORMAN SC: In your statement at page 3. Instances of political interference in the news agenda and mandate of the SABC and you deal there with about two instances and I would like you to just
20 take the Chair through those. The one refers to what is – was popularly known as the Nanagate and the circumstances around what was supposed to happen in the news about that matter quickly.

MS THANDEKA GQUBULE-MBEKI: May I remind you so that I am economics editor.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: So the issue around Nanagate affected me and my department. It was our responsibility to tell the South African public about the value of the money in their pockets, the plunge of the rand, the inflationary implications of that as well as the rise in the price of the bond yields and everything that happened around the slump in the currency.

CHAIRPERSON: Basically the economic implications of what happened as a result of the dismissal of Mr Nene?

MS THANDEKA GQUBULE-MBEKI: Yes.

10 **CHAIRPERSON:** Yes.

MS THANDEKA GQUBULE-MBEKI: The most – you will recall Sir that it was the 9th December.

CHAIRPERSON: 9th December 2015.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: Yes indeed and that the following day was the 10th. So the following day we run across the SABC platforms updates on the currency, the currencies of other countries as well as the emerging markets and the Brix currencies. So we report on these as is our duty and our mandate every single day. The – what
20 moves currencies is our bread and butter. We need to analyse that. We need to bring in analysts who explain what is happening so that people can make good commercial decisions. People can trade meaningfully and in a well-informed manner and people can make long term economic decisions affecting their debt levels, their interests, what interest rates they would get from the banks and so on and so forth.

So when Nothando Maseko attempted first very gingerly to engage me asking me to veer away from mentioning the conduct of the President and the political factors moving the rand on those days.

CHAIRPERSON: This is now in relation to the 9th December 2015 where about are we when that happened when...

MS THANDEKA GQUBULE-MBEKI: We are on the 10th.

CHAIRPERSON: On the 10th.

MS THANDEKA GQUBULE-MBEKI: Or the 11th.

CHAIRPERSON: Okay

- 10 **MS THANDEKA GQUBULE-MBEKI**: And it is already a storm and the team is very busy at the moment. So initially I am baffled by this assertion and I do not respond immediately. Instead I go and check the emerging market index. Now the emerging market index is – there are two. There is the JP Morgan one and then there is the general MSCI right. So it will tell us how the rand is doing in relation to its peers. Because the emerging market currencies normally track a certain – they respond to external or [indistinct] factors in a similar fashion. For example that December had been a very busy December for the markets. The United States was tidying up and mopping up when it had
- 20 cheapened its rand so they were mopping up excess liquidity in their financial system. They were tapering off the quantitative easing program. So that would have had an effect of strengthening their currency and weakening the emerging market ones and so on and so forth. I also checked what was happening in November with the rand. The rand was doing well compared to its peers something variance of

7% and I am not one who believes that necessarily a strong currency is a good thing or a weak one is a good thing it is all relative. But on this – on these days the rand was doing something unique and what I found strange about the request not to look at the political economy and the events – political events that may have had effects on the rands, the equities markets, the bond markets and the huge sell-off that happened as a result. Was that Brazil was going through something similar that December and I never got a request not to mention the impeachment of Del Maruso and the resignation of the finance minister in Brazil and

10 Mexico had its own wobbles at the same time so and their currencies responded you know to those happenings. So the issue of whether the rand is trading a fair value – what is determining the value – the current value of the rand is our bread and butter at the economics department. So to be asked not to tell the public about what is driving the value of the rand in their pocket for me is another treasonous request.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And Ja so I – I basically decided not tell the members of my team and just to proceed with covering the

20 rand as everybody else was doing.

ADV THANDI NORMAN SC: Is it even possible not to take into account the political climate when you looking at the performance of the rand or is it something that you can actually just ignore and focus on the fine [indistinct] markets without even looking at the political climate?

MS THANDEKA GQUBULE-MBEKI: But that is not possible to extricate

political uncertainty to market movements.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: And when you were asked to – not to deal with this in your coverage was that something you expected by then that could happen and it could come from the person that came from or it was strange that she came to you – that she came with that instruction or request.

MS THANDEKA GQUBULE-MBEKI: It was not so much strange as it was alarming and annoying and the – the request and the things that
10 she said in trying to prevail on me like the rand has been trading badly for a while. It is not the President's behaviour that has done this as well as...

CHAIRPERSON: But why was she coming to you? Why did she like think you were going to say it is because of the President necessarily?

MS THANDEKA GQUBULE-MBEKI: No she is coming to me to prevail on me not to follow the general narrative around.

CHAIRPERSON: Oh outside.

MS THANDEKA GQUBULE-MBEKI: Outside.

CHAIRPERSON: Okay.

20 **MS THANDEKA GQUBULE-MBEKI:** And to dim the spotlight on the conduct of the President and its economic impact.

ADV THANDI NORMAN SC: Yes thank you. And you refer to that conduct of hers as being illogical and un-journalistic in paragraph 9, is that correct?

MS THANDEKA GQUBULE-MBEKI: Indeed I still maintain it was

illogical and un-journalistic.

ADV THANDI NORMAN SC: Thank you. And then in paragraph ...

CHAIRPERSON: Sorry, sorry Ms Norman. That instruction is it one of those in respect of which he would say it was not just coming from her it was coming from the COO even though she might not have said so herself or you do not know?

MS THANDEKA GQUBULE-MBEKI: I do not know however a bizarre set of events happened. The – a Sunday soon after that we carried the views of the President on what had happened and basically President
10 Zuma said that it was an overreaction really and that the markets had over-reacted and he also said that the rand had been trading badly for a while and he also said something to the effect that he does not believe that the currency should be something that you can trade in. It is – he seemed to say that it should be just a store value and a form of exchange but not something that you can trade in which was beside the point to what was actually going on and the actual value lost in the economy and the obligation we have as the public broadcaster to basically tell the public what their currency is doing.

ADV THANDI NORMAN SC: Yes.

20 **CHAIRPERSON:** Yes.

ADV THANDI NORMAN SC: Thank you Mr Chairman. And then can you also highlight another incident when you deal with the mandate of the SABC at page – at paragraph 10 page 4 where somebody handed you a file for you to investigate. Could you talk to that?

MS THANDEKA GQUBULE-MBEKI: Yes. Nyana I was in his office and

we – Nyana and I..I

CHAIRPERSON: That is Ms Nyana.

MS THANDEKA GQUBULE-MBEKI: Mr Nyana Molete.

CHAIRPERSON: Molete.

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: Mr.

CHAIRPERSON: Is it Molete or

MS THANDEKA GQUBULE-MBEKI: Molete yes.

10 **CHAIRPERSON**: Yes okay.

MS THANDEKA GQUBULE-MBEKI: He handed me this file I think rather reluctantly and he said that it contained allegations about certain machinations or misdemeanours committed by Pravin Gordhan at SARS. So I took the file and I said I would have a look at it. I read the file. There was absolutely – it was a whole lot of people recorded speaking about Mr Pravin Gordhan. And I could see no wrongdoing that they are alleging. I mean yes it is certainly it appeared they did not like him but that is not a story. And I – I just ignored it for a while trying to think what to do about it. And then I was called by a relative

20 who said Jimi Manye says that I am sitting on a file and I am supposed to be investigating this file and I am supposed to do something about this investigation. Then I then told Nyana and the others that I would do something about the file only if the people making these allegations which are very frivolous as far as I could see would go and depose themselves in an affidavit at a police station or wherever and once

charges had been officially proffered to Mr Pravin Gordhan I would then fetch the docket and the file and then I would do something about it because I felt that I would be opening the corporation and myself to a defamation suit which I could not honourable acquit myself of like how would I get out of that? And besides it would be fruitless and wasteful expenditure I have determined this and using my journalistic and editorial judgment that this file is – there is no story here until it is official. And if I were to just run with this file what would I be doing to besmirch somebody's good name which he has a right to on just furious grounds. So I decided to tell Nyana I think I actually wrote an email to this effect that let the people making the allegations depose themselves under oath in an affidavit and go to the police and then once the police have charged this gentleman I will go and fetch the docket and the file.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: Did Ms Molete tell you where she got the file from that she was giving you?

MS THANDEKA GQUBULE-MBEKI: I am sorry to correct you Sir it is a gentleman.

CHAIRPERSON: On the first line of.

20 **MS THANDEKA GQUBULE-MBEKI:** Yes I see the error.

CHAIRPERSON: Paragraph 10 in brackets it is written Ms can you see that in your statement.

MS THANDEKA GQUBULE-MBEKI: Yes Sir.

CHAIRPERSON: That is an error.

MS THANDEKA GQUBULE-MBEKI: Yes it is an error.

CHAIRPERSON: Oh it is a man okay.

MS THANDEKA GQUBULE-MBEKI: I apologise Chair. It is a man.

CHAIRPERSON: Okay. Thank you.

MS THANDEKA GQUBULE-MBEKI: Thank you.

CHAIRPERSON: Yes did he tell you where he got the file from when he gave it to you?

MS THANDEKA GQUBULE-MBEKI: I think casually he mentioned that Jimi Manye

CHAIRPERSON: Gave it to him?

10 **MS THANDEKA GQUBULE-MBEKI**: Ja

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: Was a bit anxious about

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: No movement on this file.

CHAIRPERSON: Okay, okay.

ADV THANDI NORMAN SC: Thank you. Thank you Mr Chairman the time now is four o'clock. This witness still has some ground to cover.

CHAIRPERSON: Yes. I know there is a lot of ground to cover.

ADV THANDI NORMAN SC: Yes, yes, yes.

20 **CHAIRPERSON**: Well there are two possibilities.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Depending on what the situation is tomorrow in terms of witnesses and in terms of Ms Gqubule-Mbeki's own situation.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: We could stop and continue tomorrow or we could

continue. I am available we could continue until five.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: If you are available and Ms Gqubile-Mbeki is available.

ADV THANDI NORMAN SC: Yes Chair I would prefer that we continue because I have a request to make to you Chair about tomorrow.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes thank you.

CHAIRPERSON: Would that be convenient to you?

10 **MS THANDEKA GQUBULE-MBEKI:** Indeed Sir.

CHAIRPERSON: Okay alright let us continue then.

ADV THANDI NORMAN SC: Thank you Mr Chairman thank you. So then in paragraph 11 in

CHAIRPERSON: Or maybe we should take a...

ADV THANDI NORMAN SC: Just a five minute adjournment.

CHAIRPERSON: Some comfort break of ten minutes.

ADV THANDI NORMAN SC: Yes thank you Mr Chairman.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you.

20 **CHAIRPERSON:** Okay let us resume at ten past four.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: We adjourn.

REGISTRAR: All rise.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes. Let us proceed.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Ms Gqubule-Mbeki you speak then from paragraph 11 right up to - all the sub paragraphs in paragraph 12 of the threats then that they directed at you and other journalists - the SABC eight.

MS THANDEKA GQUBULE-MBEKI: Indeed.

ADV THANDI NORMAN SC: Yes. Could you just summarise because the Chairperson has read your statement? Just summarise briefly those threats that you believe that they are - I am not suggesting that
10 there is any threats are not important but just to summarise the ones that you wish to place on record.

CHAIRPERSON: And ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Maybe to also emphasise that that is not to pressurise you not to tell your story.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: You know. You - you would know what you would like to put forward as part of telling the Commission what you experienced and - and so in the end we want to do justice to - to that while - while
20 you are here.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: Thank you Deputy Chief Justice. On - on the phone I received the following threats on my phone. Two of them were mainly directed at Suna Venter who for some reason our assailants had decided to focus on and to - to terrorise her and some of

them just enveloped us in this attempt to terrorise Suna. One of the death threats that she received said:

“Enough girl, you are first to bleed to death.”

So this is the one that was - we believe directed at the late Suna Venter.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And it was received on Tuesday 13 December 2016 at 17:05 pm by SMS. I have given my phone over to the Commission ...

10 **CHAIRPERSON:** Yes.

MS THANDEKA GQUBULE-MBEKI: To the Forensics Department ...

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: To scrub through these.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes. Yes and then the ...

MS THANDEKA GQUBULE-MBEKI: Another one.

ADV THANDI NORMAN SC: The second one, yes.

MS THANDEKA GQUBULE-MBEKI: Another SMS also from the same number 0849234036 said to us, the Black members of the SABC eight:

20 “Traitors protecting your White friends in Parliament who started this. Telling lies about your comrades. You were warned. We do not kill Blacks but sit and watch the blood flow.”

CHAIRPERSON: Phew.

MS THANDEKA GQUBULE-MBEKI: This text message was received by

other members of the other members of the SABC eight and it came from that same number 0849234036 as an SMS.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: The - the first one. You said it was directed at Ms Venter?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: But you did not get it from her. You got it from another number. In other words she is not the one who forwarded it to you to see what she had received?

10 **MS THANDEKA GQUBULE-MBEKI:** We had a WhatsApp group and everything that we received

CHAIRPERSON: Oh, was shared?

MS THANDEKA GQUBULE-MBEKI: We just dumped on - on that WhatsApp group.

CHAIRPERSON: Oh.

MS THANDEKA GQUBULE-MBEKI: (Clearing of throat), excuse me.

CHAIRPERSON: Oh. So - so I was wondering whether - I was wondering it came to you if it was not sent - if it was directed at her and it was not sent to you by her and I was wondering whether the idea
20 was to intermediate, threaten you as well and others by letting you know what was being directed at her but you say that it was ...

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: It was sent to the common WhatsApp group?

MS THANDEKA GQUBULE-MBEKI: It was sent to - it was sent to Suna ...

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And Suna then shared it.

CHAIRPERSON: Oh. It was sent to her and then she sent it - she - she shared it on the - on the group ...

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: WhatsApp group?

MS THANDEKA GQUBULE-MBEKI: Yes sir.

CHAIRPERSON: Okay, alright.

MS THANDEKA GQUBULE-MBEKI: And then the second one ...

10 **CHAIRPERSON:** Hm.

MS THANDEKA GQUBULE-MBEKI: Was sent to all of us.

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: The eight.

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: Including Calata.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And Vuyo Mvoko.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And then on Monday ...

20 **CHAIRPERSON:** And how - how far was this in terms of time now and date from the date when you were dismissed? Where are we in terms of time when this was happening?

MS THANDEKA GQUBULE-MBEKI: The - the bulk of the threats came post our reinstatement.

CHAIRPERSON: After you had been reinstated?

MS THANDEKA GQUBULE-MBEKI: After we had been reinstated.

CHAIRPERSON: Oh. So this is likely to have happened after you had been reinstated?

MS THANDEKA GQUBULE-MBEKI: Yes sir.

CHAIRPERSON: These two threats?

MS THANDEKA GQUBULE-MBEKI: Chairperson, most of the threats happened post our reinstatement.

CHAIRPERSON: Yes. Oh that is - does that mean that there may have been quite a very tense opposition to your reinstatement and those
10 people might not have wanted you to be reinstated?

MS THANDEKA GQUBULE-MBEKI: Indeed when we first - upon our reinstatement we were told by our lawyers to report to work and on the first day that we reported work we were turned back. They came to the turnstiles to - to meet us there and they said you better go back. We are appealing and then by the end of that day I remember I was at a civil society meeting on the SABC eight. We were called and told that the SABC is now ready to reinstate us.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes, okay.

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

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you and then you speak about something that happened on Monday, 18 December 2017.

MS THANDEKA GQUBULE-MBEKI: Yes. A picture of a child is on a fake Twitter account which - I do not know - it is - it has got my name

on it. This Twitter account and it has got my name Thandeka Gqubule on it and I do not have - I do not own a Twitter account or a Twitter handle or a Twitter address. I am not on Twitter and these people are tweeting all sorts of things about other people.

It almost looks like it is in my name and I had to make an announcement at work that this is not my Twitter handle. This is just creating heat for me. I - I have no intention of going onto Twitter and then the following SMS (intervenes).

ADV THANDI NORMAN SC: Sorry. Before you - you move on from that
10 one. You mentioned something about a picture of your daughter that was linked to the account.

MS THANDEKA GQUBULE-MBEKI: Yes. It is a picture of Khani - Khani Gqubule on this account which I hope has since been demobilised.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: So the roping in of family and people's children in attempts to involve them in trouble is - is most cruel.

ADV THANDI NORMAN SC: Yes.

20 **MS THANDEKA GQUBULE-MBEKI:** Deputy Chairperson.

CHAIRPERSON: I guess that this was to say we know your - your child. We know your daughter or something like that as part of intimidation or threats maybe.

MS THANDEKA GQUBULE-MBEKI: I do not know.

CHAIRPERSON: Hm. Okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Obviously you would be concerned if people who are threatening you know your child.

MS THANDEKA GQUBULE-MBEKI: Indeed.

CHAIRPERSON: Therefore can identify or recognise her ...

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Somewhere?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: *Ja*, okay.

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

MS THANDEKA GQUBULE-MBEKI: So the following SMS which appears to have been directed at not only Ms Venter but sending this message I think to all SABC eight it said:

“To scared to go to Parliament forcing your
comrades to betray themselves for your agenda.
We have been patient. Warned you.”

It came from the number 0784923436.

ADV THANDI NORMAN SC: Yes. Yes and I would imagine with all these threats that you receiving on your phones you would have then
20 had to approach the police?

MS THANDEKA GQUBULE-MBEKI: We approached the police.

ADV THANDI NORMAN SC: Yes. What happened?

MS THANDEKA GQUBULE-MBEKI: Several times we met with the police and we were interviewed. We offered them our phones and the police never came to our help at all.

CHAIRPERSON: They took statements, they took your phones. Did they come back to say our investigation has challenges because of A, B, C, D or we - there is no way we can establish who was behind this thing? Did they come back to make that report back or anything like that?

MS THANDEKA GQUBULE-MBEKI: They - they did say that the threats were being made by - through those disposable phones.

CHAIRPERSON: Huh-uh.

MS THANDEKA GQUBULE-MBEKI: Burn phones apparently ...

10 **CHAIRPERSON:** Hm, hm.

MS THANDEKA GQUBULE-MBEKI: And that there is no way to discern who actually was sending these ...

CHAIRPERSON: Was behind them?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Hm, okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: Hm.

ADV THANDI NORMAN SC: Yes and then you make - in paragraph 14 you deal with you approaching a General of Intelligence.

20 **MS THANDEKA GQUBULE-MBEKI:** Yes. We approached the Inspector-General of Intelligence. We first wrote to him - Dr Dintwe. We wrote several letters and he gave us an audience. We met with him. That meeting with him was attended by myself, Suna Venter, Busisiwe Ntuli and Foeta Krige. We were promised a report but never received one.

Busisiwe wrote to him severally after the meeting to - to inquire as to how far the Office of the Inspector-General for Intelligence is on all the matters including the threats and the request and the news that certain people from National Intelligence had been requested to be deployed at the SABC. So we received correspondence from his office saying that the matter is still receiving attention but we have never received a report.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Up to today?

10 **MS THANDEKA GQUBULE-MBEKI:** Till today sir.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: So it was just the acknowledgment of receipt of correspondence and saying the investigation was going on but nothing further?

MS THANDEKA GQUBULE-MBEKI: Indeed.

ADV THANDI NORMAN SC:

CHAIRPERSON: And that was 2016?

MS THANDEKA GQUBULE-MBEKI: That was ...

ADV THANDI NORMAN SC: 17.

20 **CHAIRPERSON:** And now it is 2019.

MS THANDEKA GQUBULE-MBEKI:

ADV THANDI NORMAN SC: 2017.

MS THANDEKA GQUBULE-MBEKI: 2017.

CHAIRPERSON: 2017?

ADV THANDI NORMAN SC: Yes Chair.

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Okay. Now it is 2019.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Thank you. Thank you Chair and then you move onto deal with two incidents of break ins in properties in some of your colleagues which were like two days apart. The 6th of - the 6th and 8 October 2017.

MS THANDEKA GQUBULE-MBEKI: Yes. On 6 October Suna's home
10 was broken into and her house was trashed. The pictures on my phone indicates the scale of the destruction at her home.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: On 8 October Busisiwe Ntuli, her house was broken into and on the same day 8 October Mr Foeta Krige's one property - the caretaker there was held up at gunpoint.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: On 3 November our lawyer at the time Mr Aslam Moosajee who acted for us while he worked at Norton Rose Fulbright and he - we believe he headed up the *Pro Bono*
20 Department and he acted vigorously for us and he received a text message to drop the Constitutional Court case that we had lodged.

ADV THANDI NORMAN SC: And then going forward you deal with what was now happening with you at work in paragraph 18.

MS THANDEKA GQUBULE-MBEKI: Yes.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: I am - I am sorry. Before that did you get to know where the text message came from that went to Mr Moosajee.

MS THANDEKA GQUBULE-MBEKI: Moosajee. No, not to my knowledge.

CHAIRPERSON: You not - okay, alright.

ADV THANDI NORMAN SC: Yes, thank you. You may proceed. Paragraph 18. Thank you.

MS THANDEKA GQUBULE-MBEKI: So this point deals with the almost half day where I could not work because my computer had been
10 remotely taken over and it just moved on its own for ages and I called the IT Department. I said please guys I need to work. I cannot work and they said no, we are working with this computer. We have remotely taken it over.

I said maybe it has got a virus. Can you work with it quickly and the computer just - for hours just carried on just doing its own thing. Showing files and - so I just filmed it and I left it at that but I found it horrific.

ADV THANDI NORMAN SC: Yes. Thank you and paragraph 19. You deal with what ...

20 **MS THANDEKA GQUBULE-MBEKI:** Yes.

ADV THANDI NORMAN SC: And audit query? Was it an audit query?

MS THANDEKA GQUBULE-MBEKI: Yes.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: An audit query came to me saying that I had failed to disclose an - a business interest and it said that this

company now had business with the SABC and it is called Indisa (?)Media. At first I could not recall what this could be referring to because as far as I know I had no interest in this company and I have never received anything from a company called Indisa Media and I looked at this letter which purported to come from the Auditor-General's Office.

I phoned the Auditor-General's Office to find out, trying to follow through. Nobody knew anything about this letter but then there was a little box at the end and it - next to my own Pers numbers which
10 is my SABC employee number. They had the name of businesswoman Danisa Baloy.

ADV THANDI NORMAN SC: Hm.

MS THANDEKA GQUBULE-MBEKI: Now the background to this is that many years ago I was invited to serve on the Board of Indisa Media. I was then told that this company is insolvent. It is going into liquidation and there is no such company anymore. I never received any money or anything from the company. So ...

ADV THANDI NORMAN SC:

CHAIRPERSON: But you had been invited to serve on it?

20 **MS THANDEKA GQUBULE-MBEKI:** On the board yes.

ADV THANDI NORMAN SC:

CHAIRPERSON: On the board. Invited by whom?

MS THANDEKA GQUBULE-MBEKI: By the then CEO Jabulani Mabaso, ja.

CHAIRPERSON: Oh of - of the - of a company called ...?

MS THANDEKA GQUBULE-MBEKI: A company called Indisa.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: But when you discovered after he had invited you that the company was going through liquidation or he is the one who told you?

MS THANDEKA GQUBULE-MBEKI: I think I attended about two meetings there ...

CHAIRPERSON: Hm.

10 **MS THANDEKA GQUBULE-MBEKI:** And I was told that the company is going to be shut down and that this ...

CHAIRPERSON: Oh after you had started ...

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Attending meetings there?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Oh.

MS THANDEKA GQUBULE-MBEKI: And that this is going into liquidation and ...

CHAIRPERSON: Yes.

20 **MS THANDEKA GQUBULE-MBEKI:** Yes.

CHAIRPERSON: So you had become a board member ...

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Before it went into liquidation?

MS THANDEKA GQUBULE-MBEKI: Yes, yes.

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: And I had disclosed that at my previous job.

CHAIRPERSON: Yes, yes.

MS THANDEKA GQUBULE-MBEKI: As required ...

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: But that it now pops up at the SABC ...

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: With my Pers number.

10 **CHAIRPERSON:** Hm.

MS THANDEKA GQUBULE-MBEKI: Next to Danisa Baloy's name.

CHAIRPERSON: Hm, hm.

MS THANDEKA GQUBULE-MBEKI: Was most baffling ...

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And I had to vigorously refuse this.

CHAIRPERSON: Was - was she in anyway involved with that company (intervenes)/

MS THANDEKA GQUBULE-MBEKI: Yes she was.

CHAIRPERSON: She was?

20 **MS THANDEKA GQUBULE-MBEKI:** Yes.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Yes. Thank you and in paragraph 20 you deal with a day when you were accosted by the police and the SABC security. Could you just quickly tell the Chair about that incident?

MS THANDEKA GQUBULE-MBEKI: I was on my way to meet people

who were - who can be described as whistle-blowers from within PRASA. I was due to meet them somewhere in the Cresta area. So I was in a hurry and I was leaving the TV building of the SABC. When I had passed through the turnstiles I was approached by the SABC security.

They were in the company of the Brixton Police. Now the SABC and the Brixton Police Station have got a long relationship and the - the gentleman asked me to come into the little security room and wanted me to make a statement about the death threats (intervenes).

10 **CHAIRPERSON:** This was now a SABC security or ...?

MS THANDEKA GQUBULE-MBEKI: SABC security together with a gentleman from Brixton Police.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: I then ...

CHAIRPERSON: Without any appointment you knew nothing about this?

MS THANDEKA GQUBULE-MBEKI: No appointment...

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: No indication that they were
20 coming. It is embarrassing. It looks like an arrest.

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: The - the reception is full.

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: It is just downright humiliating ...

CHAIRPERSON: Huh-uh.

MS THANDEKA GQUBULE-MBEKI: And my colleagues were so worried that they phoned the union when they saw me being whisked into this little office as though I am being arrested or - or something like that. It is very defamatory.

Just the whole scene and they - while I was inside the union and the union leader called and I told the police that I have got a trust problem because they have not resolved the issue of what happened to Suna and Suna is dead now and how - how can I trust them and they then said that they received instructions from across the road.

10 Across the road is Radio Park where the authorities - the big authorities in the SABC sit ...

CHAIRPERSON: Huh-uh.

MS THANDEKA GQUBULE-MBEKI: And they also said that they had received an email that this was to happen to me and that the cops were to be called for me and I must handover my phone to the cops. Then ...

CHAIRPERSON: This is in November 2017 according to ...?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Paragraph 20.

MS THANDEKA GQUBULE-MBEKI: Yes and ...

20 **CHAIRPERSON:** Would this have been now out of the blue in the sense that it was not closed to the events of your dismissal and your reinstatement?

MS THANDEKA GQUBULE-MBEKI: It was closed to me writing a letter of concern to - to the authorities at the SABC about a - a scary gentleman sending me a message on telegram.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: He since deleted his telegram message so I cannot find it on my phone ...

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: But the gentleman worked in the Presidency and this message - maybe I am paranoid ...

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: But I did ask Busisiwe what should I feel and think about this message.

10 **CHAIRPERSON:** Hm.

MS THANDEKA GQUBULE-MBEKI: Should I - should I be fearful ...

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: And Busisiwe said you must not take anything lying down.

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: At face value. It is - it is of concern ...

CHAIRPERSON: Hm.

20 **MS THANDEKA GQUBULE-MBEKI:** And I - I then - the unions called around and a colleague called Zonke Smith came to wait outside to see if I am okay and we then went to sit in the carpark together because I completely refused to cooperate with the - the police. They wanted me to come to Brixton the following day to - to chat to the Brixton guys and just to fob him off because I noticed that he was wearing a green, yellow and black T-shirt underneath his tracksuit which made we

wonder if he is in a condition to take a statement.

So I went to sit in my car with - in the carpark with Zonke Smith. I must say Chairperson by now I was falling apart.

ADV THANDI NORMAN SC: Hm.

MS THANDEKA GQUBULE-MBEKI: Crying uncontrollably and I then called Brixton and gave the gentleman's name and his service number to the Brixton Police and they told me he is off duty. Now how can an off duty cop take a statement from me. I was so baffled. So here is a cop on a frolic of his own doing favours for people across the road.

10 What - what is to be thought of the South African Police in this context? Are they in hocked to a toxic network inside the SABC that is hell bent on terrorising us. So that was what was in my mind Deputy Chief Justice.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: The - the names of these people the security guy.

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: You - I guess you would know because he was SABC based. Is that right?

MS THANDEKA GQUBULE-MBEKI: Yes.

20 **CHAIRPERSON:** And then this off duty police - policeman obviously you got to know the name?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Was anything done particularly in regard to his

conduct to - from your side to take it further? As soon as they left you alone you decided you did not want to do anything about it? Just want - it just sounds very strange that when he is off duty he is engaged in something like that and it is not clear exactly what - why he would be involved in - in that when he is off duty.

MS THANDEKA GQUBULE-MBEKI: He was asked to do so by the people in Radio Park.

CHAIRPERSON: Yes. That is - that is why I want to find out whether anything was done later to report his conduct because how can he
10 being a police officer and then being off duty carry out instructions from anywhere other than from the police. (Intervenes).

MS THANDEKA GQUBULE-MBEKI: This was his conduct truthfully Chief Justice and I have no idea ...

CHAIRPERSON: Hm.

MS THANDEKA GQUBULE-MBEKI: Of what possessed him ...

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: To behave in this manner.

CHAIRPERSON: But - but as far as you know nothing further happened or nothing happened to him after that about his conduct?

20 **MS THANDEKA GQUBULE-MBEKI:** No nothing happened to him as far as I know.

CHAIRPERSON: Yes. I do not see his name here. Have you given the name to - to the Commission by any chance?

MS THANDEKA GQUBULE-MBEKI: Yes, I will give the name ...

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: To the Commission.

CHAIRPERSON: Yes. I - I think - I think that is very concerning and ...

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Something needs to - that kind of conduct needs to be reported.

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

CHAIRPERSON: Ja. It - it may well be that if what you have in this statement because maybe it might not be focusing enough on his conduct. It may be that it is not enough. It may be that it might be
10 necessary to do another statement that focuses on what his role was in that whole thing. Alright.

MS THANDEKA GQUBULE-MBEKI: I understand Deputy Chair Justice.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Thank you.

CHAIRPERSON: But - but you will - you will - you will indicate if it is something you would rather not raise again or - or what? I am just saying that because sometimes when people have gone through certain situations sometimes they - they do not want to have those things - those stories revisited but it is something that concerns me quite a lot
20 and it is not something that one would wish to just go away like that.

MS THANDEKA GQUBULE-MBEKI: Yes sir I will indicate.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you Mr Chairman and then in paragraph 21 you deal with an incident when you - you and your colleagues were chased by a car until you reached a certain Shell

Garage where then later you were able to view the footage and you got to get to the name of the person who was chasing you and there is currently litigation.

CHAIRPERSON: That was a very scary thing. Please tell me about it.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: Yes ma'am. I am a big admirer of the late economist Sampie Terreblanche. So when his colleagues the other economists under the coordination of Patrick Bond and his colleagues organised at one of the facilities of the University of
10 Johannesburg a retrospective look at his main economic contributions and his theoretical work over the span of his lifetime.

The reason for this was that he was dying of cancer. I had worked with his daughter, Christelle in my early journalist career and really read his work a lot. Especially his book A History of Inequality. So I was so excited that his colleagues are doing this for him and that would afford us an opportunity to speak to him and his colleague - to speak about his work specially on the idea of a wealth tax for South Africa.

I pitched it at the morning diary meeting and I said I would
20 cover it myself. I took the live view which is like a mobile satellite and the camera. I was with a - an intern by the name of Hilda and a camerawoman by the name of Vanessa. We went to this facility in Westdene and we arrived late but we covered the story and we crossed using the satellite into the 1 o'clock news and interviewed people.

Then we were packing up late on after we had accomplished

our task and we were getting ready to go and package up a mini story like it is a tiny little documentary. It is a news item for the evening news on Sampie Terreblanche's work.

When we were driving out of this facility, this facility is on a sort of incline, and we went towards a stop sign and it is important that it is a stop sign and not a red robot or a robot, we then after crossing over onto the other side heard this screeching of a car and we thought the guy is in trouble, should we just linger a bit to see what is happening and we even wondered if we had done something to cause
 10 this, but then it became clear, because we stopped there for a while to see if we can attend to the car, for a few minutes we just sat in the car, then this car gave chase, and it was a furious chase. We phoned the office and we screamed into the handset we are under attack, we are under attack, and Lemeez Gilbert at the office was wondering what is going on, where are you what is your GPS location, and obviously we couldn't tell where we were anymore because we were no longer stopping at robots, we were no longer stopping at stop signs anymore because ...(intervention)

CHAIRPERSON: And that in itself was dangerous?

20 **MS THANDEKA GQUBULE-MBEKI:** We were endangering everyone, and we had tried at different points to think oh maybe we are being hijacked, we must surrender the equipment, we must surrender ourselves, we then found ourselves, it had begun to drizzle, we found ourselves on roundabout, coming through First Street in Melville and dipping towards the Shell Garage, because of the speed at which we

were approaching I saw the petrol attendants put their heads, their hands on their heads as we were approaching the garage, and I was begging Vanessa, Vanessa please let's surrender now, the cameras must be here, let us just do something, let us get out of the car, maybe we are safe now.

And then he charged right there in the garage, and Vanessa said no ways I am driving like crazy. So we were driving this car – she drove this car like a madwoman. She saved our lives on that day, and exhausted we climbed up, she went and put the car there, and I said
10 Vanessa you are never going to drive this SABC car again and the intern was trembling in the backseat and there was a lot of obviously trying, wondering what's happened, because we had lost the car in the slipstream of traffic on Empire Road, so we parked the car and entered the building and I went through to Nyana Motlete's office and I found him there with Kenneth Mackateurs, one of our seniors, and they told us to go to the Brixton Police.

Vanessa went to the Brixton Police Station and she wrote me a letter saying that a certain Sergeant Villigazi at the Brixton Police Station refused to take the case, refused to open a case, not even a
20 case of intimidation.

So I travelled and then I went back to the garage and a gentleman who is the management of ownership of the garage, long-bearded gentleman, he is no longer there now, gave me on Patrick Bond's USB the incident as recorded by the cameras and he helped me to isolate the number plate and Foeta Krige then traced the number

plates to a car leasing entity in the East Rand. I then phoned the car leasing entity in the East Rand and they told me that the car was not leased to an individual but to a company, this company is Schindler Lifts.

Schindler Lifts has a multimillion Rand contract with the SABC to fix about 16 lifts and four walkways, escalators. It occurred to me to go to Mr Mathebula, the Head of SABC Security, just to ask about Schindler and I went to the car department of the SABC to ask about the car registration number, which was strangely similar to the cars that
10 we lease, but I couldn't draw any help, so I decided to litigate and I went to the South Gauteng High Court ...(intervention)

CHAIRPERSON: Roundabout when did this incident happen? 2017, 2018?

MS THANDEKA GQUBULE-MBEKI: It was ...(intervention)

ADV THANDI NORMAN SC: If I may direct the witness Chair page 8, 29 January 2018.

CHAIRPERSON: Okay.

MS THANDEKA GQUBULE-MBEKI: Yes thank you. It was a Monday.

CHAIRPERSON: You decided to litigate?

20 **MS THANDEKA GQUBULE-MBEKI:** Yes I decided to litigate to ascertain the identity of the gentleman who gave chase. I stood alone in court even though I was on duty with the SABC Satellite Live View, I was with SABC personnel, and I was (indistinct) harm in the line of duty, and the Court issued an order compelling the company, Schindler, to reveal the identity of the driver.

We were being chased by one white gentleman whose name is Jan Ungerer, the man who often fixes the lift next to my office on the second floor at the SABC TV Block.

CHAIRPERSON: Somebody you knew?

MS THANDEKA GQUBULE-MBEKI: I don't know him sir, I didn't know him but he fixes the lifts at the SABC.

CHAIRPERSON: Oh you didn't know him before. Yes, okay.

MS THANDEKA GQUBULE-MBEKI: So I went back to Ntati Mathebula who runs the security department of the SABC, and I gave him the
10 name Jan Ungerer and he printed out several pages of the number of times Jan Ungerer had entered the SABC building to fix the lifts and a PERS number, which is an SABC employee number.

CHAIRPERSON: But he is also employed by the lift company?

MS THANDEKA GQUBULE-MBEKI: By Schindler, the supplier of the SABC.

CHAIRPERSON: Yes. So ...(intervention)

MS THANDEKA GQUBULE-MBEKI: To my mind it is a discussion between the SABC and Schindler.

CHAIRPERSON: Yes.

20 **MS THANDEKA GQUBULE-MBEKI:** The SABC has the power in the relationship because it is a service provider to a corporation.

CHAIRPERSON: Yes, yes.

MS THANDEKA GQUBULE-MBEKI: It's a CEO to CEO discussion.

CHAIRPERSON: Mmm.

ADV THANDI NORMAN SC: You ask why the employee is chasing

journalists and you – well I wrote to the Board members, including my sister in-law Phoebe (indistinct) Gqubule and I asked for a full report. I never received a report on this incident, but ...(intervention)

CHAIRPERSON: But this is 2018 isn't it, this is 2018, it is no longer 2014, 2016, it is – or was it an old board?

MS THANDEKA GQUBULE-MBEKI: This is the interim board.

CHAIRPERSON: This is the interim board, *ja*.

MS THANDEKA GQUBULE-MBEKI: Yes, the interim board was attempting to clean up but the issues were unresolved, they pitched
10 battles between enforcers, ourselves and the scrapes over editorial direction was unabated and we realised what Mr Nyana Motlete told us on the first meeting back in Tebele's office after our reinstatement he said nothing has changed here.

CHAIRPERSON: By the way you were reinstated within weeks after you were dismissed isn't it?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: Within weeks, so you didn't stay out of SABC for a long time?

MS THANDEKA GQUBULE-MBEKI: I think it was a little less than a
20 month.

CHAIRPERSON: Little less than a month. But once you got the name of the person who had been chasing you, endangering your lives like that, apart from going to the Board did you go to the CEO, the COO or people like that, apart from Mathebula?

MS THANDEKA GQUBULE-MBEKI: Yes, the Acting CEO, GCEO at the

time was Nomsa Pelliso, she said that she would engage a law firm, Madonise, to look into this. This matter was so incompetently handled by Madonise and whoever was responsible that I discovered by befriending the other black Schindler guys that Jan Ungerer had been invited back into the building a month after this.

CHAIRPERSON: But before a law firm could be asked to do anything I would have thought that the first thing that would happen would be to – for the CEO or Acting CEO to say well if this guy has – is supposed to be employed by the SABC who is in charge of that person, how did that
10 happen, I want that person to come here, I want to find out and do an internal investigation to establish exactly what is happening before you even go outside. That didn't happen or you don't know?

MS THANDEKA GQUBULE-MBEKI: Not much of that happened Deputy Chief Justice, I only saw a letter from Nomsa Pelliso to Bruce Phipson saying that the gentleman's entry to the building should be halted and clearly ...(intervention)

CHAIRPERSON: Should be halted?

MS THANDEKA GQUBULE-MBEKI: Yes temporarily clearly, because he later found himself back merrily in the building.

20 **CHAIRPERSON:** And was any issue taken up with Schindler, with the life company?

MS THANDEKA GQUBULE-MBEKI: I saw a letter from Nomsa Pelliso indicating that the CEO of Schindler was out of town and Schindler believes that it was a case of road rage because we had skipped a red robot but there was no red robot where we were.

CHAIRPERSON: But did the SABC ever call upon this guy to answer to say you know this is what we – what has been found out, what was going on, what do you have to say, as far as you know there's nothing like that?

MS THANDEKA GQUBULE-MBEKI: I would have expected that they would have put the – our assailant and us in the same room ... (intervention)

CHAIRPERSON: Yes at some stage.

MS THANDEKA GQUBULE-MBEKI: ...and said talk it out, what
10 happened.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: But none of that happened, and the odd thing was her – well them, SABC inviting him back to report on duty. The other thing that was very odd was that Foeta Krige investigated this man, found that he has a criminal record and he is entering a criminal record, I mean he is entering a national key point with a criminal record, and the second part is that the criminal record was for similar behaviour, and on his personal websites we found scary swastikas, armed people, bullets, that kind of visual and image which I
20 then gave to the Commission of Inquiry into State Capture.

ADV THANDI NORMAN SC: Yes, thank you.

CHAIRPERSON: So as far as you know is this person still, is this person back at SABC even as we speak, or the last time you knew he was back?

MS THANDEKA GQUBULE-MBEKI: He was back and in a meeting with

our new CEO, Madoda Mxakwe, Weber Wentzel, Daniel (indistinct) he was working at Weber Wentzel at the time, and he – we confronted Nomsa Pelliso about this gentleman and the incident and she said two things that alarmed me, she said that the cop who was off duty was asked by her to go and take a look at – look into me across the road at the TV block, she also said that – she also said that she was unaware that this gentleman is back in the building and then the CEO asked her to make sure that this doesn't occur again, that's the CEO Madoda Mxakwe.

10 **CHAIRPERSON:** Said she must make sure what?

MS THANDEKA GQUBULE-MBEKI: That this matter is resolved, that this man must not come back here.

CHAIRPERSON: Yes. What position is she in now, she was acting CEO at the time of the incident?

MS THANDEKA GQUBULE-MBEKI: She has since left the corporation.

CHAIRPERSON: She has since left the corporation?

MS THANDEKA GQUBULE-MBEKI: Yes sir.

CHAIRPERSON: And she left before there was finality on the matter?

MS THANDEKA GQUBULE-MBEKI: She left before there was finality

20 on a whole slew of matters.

CHAIRPERSON: Mmm. This is quite concerning because it happened in the context of what appears to have been continued acts of threat and intimidation that may have been connected with the stance you took, you and others took against the protest policy and against instructions that were being given to the newsroom that were

objectionable.

MS THANDEKA GQUBULE-MBEKI: Chief Justice may I say that the SABC 8 became the most unlucky people, the most coincidence-prone, coincident prone people on earth, and the most traumatised.

CHAIRPERSON: I mean I – when I read your statement and all the things that you have talked about here and also what some of the other witnesses from the SABC 8 who have given evidence talked about, it just seemed a very strange phenomenon that was happening around the SABC 8. I mean the manner in which I mean, Ms Venter's house was
10 broken into in circumstances which appear to have been intimidation, threats and then Mr Chris (indistinct) or somebody was held at gunpoint roundabout the time, that time and then you were receiving as the SABC 8 threatening messages all of which seemed to be connected with this stance you were taking simply about you know certain directives and the protest policy and then you were chased like this, I mean when you read how you describe in your statement and affidavit how you were chased you are lucky that no car accident, no accident occurred as a result of trying to run away from the person who was chasing you and then there is this incident which you were talking
20 about where the off-duty policeman, where they just wanted you to go to the police station and all of that and all of these things all seemed to be left hanging.

MS THANDEKA GQUBULE-MBEKI: All of them are left hanging Deputy Chief Justice.

CHAIRPERSON: I mean we certainly don't see ourselves as the

Commission as people who can solve everything but we certainly should do what we can in regard to particularly matters that seem quite connected with what we are investigating, because it may well be that certain people were prepared to go to very great lengths to try and make sure that people who stood against certain things at SABC were dealt with and if one is going to look at what ultimately might need to be recommended to try and prevent similar things happening in the future, one needs to understand the full extent of what was happening, so I think that the investigators who must follow these things up and
10 the legal team can guide them.

ADV THANDI NORMAN SC: Yes Chair.

CHAIRPERSON: But I think they must be followed up and I would like to be updated in a few weeks time as to how far they have gone to try and establish, get full clarity about some of these things and some of these characters that were involved, the police officer who was involved in this thing and the handling of the matter relating to somebody that is known by the SABC who chased SABC staffers and almost got them killed because anything could have happened with them driving you know through red robots and whatever, but it just
20 seems like the matter was not being given the seriousness and urgency that it deserved, so I would like if you can take that further and get the investigators to look into all of those things, I would like to be updated before the end of September as to how far everything is.

ADV THANDI NORMAN SC: Thank you Chair, we will do that, thank you.

CHAIRPERSON: Mmm.

ADV THANDI NORMAN SC: Then Chair as I have indicated because of the pacing of the annexures then the paragraphs, now we are at paragraph 175, it may appear as if we have jumped but it is actually the sequence.

CHAIRPERSON: Yes, okay no that's fine.

ADV THANDI NORMAN SC: Yes thank you, then you make mention of your colleague Ms Sophie Mokwena and just tell the Chair what happened between you and her.

10 **MS THANDEKA GQUBULE-MBEKI:** We were coming back from Krivani's office, we had a dispute about a story involving SAP, one of the IT companies from Germany and how it handled the issue of contracts with Eskom and the Guptas. So I felt that in this case, and I was you know I was in two minds even as I was arguing but I felt that journalistically we did not have credible sources on the story, but that is a separate matter, because when we came back I followed her to her office where we were still talking about SAP and then she told me that I am defending SAP because I was an apartheid spy and I said you must be crazy, you must take some meds, I have never been an apartheid
20 spy, I was an activist from the age of 12, and that was a discussion that just went south.

A few weeks later Mandela passed away, I was aware that Sophie was close to Mandela and the family and on the sideline, and that she, Mahlatse (indistinct) the head of SANEF, told me after the spy allegations now were blowing hot and furious and I was being insulted

all over social media that Sophie had taken her to see Mandela and Mandela I think prompted by Sophie, this is what I read into Mahlatse (indistinct) told me, then told her that I am supposed to be a spy and a journalist called Deshne recorded Mandela doing this on the sidelines of the launch of a documentary.

Then in a 2015 meeting Sophie then says that we must then prepare for a story about journalist who were at Stratcom and I am still naively unaware that the issue is me here. Then I went to Village Walk to a gathering about ethics and when I opened my phone I discovered
 10 that the whole town was talking about me being a spy, and I got a call from Sam Mkokeli, the Chairperson of the Media Freedom Committee of SANEF, and a colleague, and he said Thandeka what are we at SANEF to do about this, these spy allegations. What can you say? I have never been a spy.

I then went home and I called the church My father was one of the leaders of the South African Council of Churches, and President of the Methodist Church, so I reached out to the Archbishop, Thabo Magoba, who was at university with me, at Wits and he was travelling, he was in Rome, I said to him Thabo I am hurting in places I didn't
 20 even know exist, I just need some kind of spiritual counsel, what is this, and then he said I will attend to you once I return from Rome. The next call I made was to (indistinct) and I said to (indistinct) Advocate (indistinct) that what they are doing to me, the EFF is really unwarranted and I take strong exception to it. I phoned Dahli Mpofo who was also a classmate of mine, a comrade of mine, we were

arrested together at Wits University. We spent the better part of our final year in solitary confinement, we arrived at John Vorster together. I phoned him and I said Dhali you are Chairman of this thing, you need to do something and he said – I said Dhali since when am I a spy, he said oh man Gqubs I know you are not a spy, and I couldn't understand why this thing is a runaway fire, why is it not being doused by reason and sanity. Needless to say, it was five days of this. My brother, the economist Duma Gqubule didn't go to work. He was so enraged and so aggrieved that he decided to go online and fight every single troll. I

10 decided to apply to every single intelligence agency in the country to have my apartheid records declassified. Once they were declassified, I discovered that I wasn't a spy wish I knew and that I was spied on heavily especially in my first job as a reporter at the Weekly Mail, calls to Lusaka, to Tom Sebina and even operations of Stratcom that we didn't know about. Like operation Aristotle and all of those were used to spy on me and my comrades in those days before I was a journalist. So, it's only through this that we were able to put it to bed. I also had a meeting with Nomavenda Mthiyane who was also unfortunately fingered. And she reminded me that on the last day of the seven days

20 of the testimony of Mam Mandela at the truth Commission Advocate Dumisa Nsebeza put it to her that he had been given by Stratcom the list of journalists who were spies and that the three names Thandeka Gqubule, Anthon Harbour and Nomavenda Mthiyane were not spies or were not on the list. So, even as Mahlatsi's being invited to listen to my spying everybody knew that there was no such in terms of what was led

as evidence before the truth Commission. The matter is still before the Court. It will be heard. It's a defamation matter. Advocate... (indistinct) is set to argue this matter before the Court in October. But we see it as part of a slew of smears that were meant to devastate us and destroy us someday Chief Justice. I'm just happy when I wake up that I've woken up alive.

ADV THANDI NORMAN SC: Thank you. Sorry, Mr Chairman we've gone past 5 o'clock. I'm sorry I lost track of time.

CHAIRPERSON: Yes, I think it's better that we finish.

10 **ADV THANDI NORMAN SC:** That we finish? Thank you.

CHAIRPERSON: Ja.

ADV THANDI NORMAN SC: Thank you very much. Shall we then deal with the issue where the Sunday World according to paragraph 177 were they publish an article about you and the SIU. Could you talk to that?

MS THANDEKA GQUBULE-MBEKI: Yes, I got a call from a journalist by the name of Aubrey Mthombeni. He's from the Sunday World. He... (intervention).

CHAIRPERSON: I'm sorry, let me interrupt you. Mr Pretorius, I know
20 we need to meet but I know we need to meet but it may be that if your other commitments dictate that maybe we should rather meet tomorrow morning that would be fine.

MR PRETORIUS: I don't have a microphone.

CHAIRPERSON: But I can hear you.

MR PRETORIUS: I'm in your hands.

CHAIRPERSON: Okay.

MR PRETORIUS: So, it depends how long the evidence will go.

CHAIRPERSON: Yes so, we'll continue but if while we are continuing you think let's rather me tomorrow feel free to leave and then you can talk to me later in the evening.

MR PRETORIUS: I will do.

CHAIRPERSON: Okay, alright. Thank you.

ADV THANDI NORMAN SC: Thank you Mr Chairman. Yes?

MS THANDEKA GQUBULE-MBEKI: Yes, I interrupted you. I think you
10 might have to repeat the question.

ADV THANDI NORMAN SC: I beg your pardon, sorry.

MS THANDEKA GQUBULE-MBEKI: I received a call, ma'am from Aubrey Mthombeni. He's a journalist with the Sunday World. He was in possession of my entire employment file at the SABC. He was also in possession of the scores, interview scores of the panel that met to look at the performance in the interview of various candidates for the post.

CHAIRPERSON: Candidates for a position that you had applied for?

MS THANDEKA GQUBULE-MBEKI: Yes, Deputy Chief Justice.

CHAIRPERSON: The current position?

20 **MS THANDEKA GQUBULE-MBEKI**: The current position.

ADV THANDI NORMAN SC: Yes.

CHAIRPERSON: Okay, hm.

MS THANDEKA GQUBULE-MBEKI: And the headline of the story that he subsequently wrote was SIU guns for Gqubule. Now I was mystified. The SIU had not even interviewed me and the SIU at the SABC had

been quite brisk in interviewing people, looking for documents and so on so forth. They had not even sat down with me because to my knowledge there were no allegations of impropriety. I don't steal public money. I frown on people who do and it's just not in my makeup. So, I was just worried and mystified. So, the SABC 8 responded in a letter after this publication to say that for about a year and a half I had refused to return to the SABC after repeated approaches to come back to fill the position of economics editor. Because they said that they had had seven economics editors in a short space of time; I think four years
 10 I'm not sure and that all of them hadn't lasted. And they said that they had trouble filling the post. The trouble was to get the right combination of a tripod of skills which is journalism, business and economics as well as broadcasting. So, candidates tended to have.

CHAIRPERSON: One or the other or two or ja?

MS THANDEKA GQUBULE-MBEKI: One or the other but the combination of the three was not proving a challenge to fill and they were reluctant to fill it just anyhow. That is what I was told. So, eventually I wrote to Jimmy and I said, I'll come. So, I was concerned that they implied that the SIU could possibly be gunning for me. As it
 20 turns out the SIU wasn't gunning for me at all and this was just part of the smearing that stepped up on me after Sooner died.

CHAIRPERSON: And this was when now in terms? This was 2018?

MS THANDEKA GQUBULE-MBEKI: This is all 2018. In 2018 Deputy Chief Justice, I became a spy. I was chased by a car; the SIU and we were accused of taking Bosasa money which was also untrue.

ADV THANDI NORMAN SC: Okay, yes. Thank you. Thank you, Chair. Maybe now that you've dealt with the issue of your appointment and the interview, I should just bring to your attention that Mr Hlaodi Motsoeneng has submitted an affidavit to the Commission. At page, paragraph 128 of his affidavit he says, the Commission amongst other things that he deals with about various employees. He says,

The Commission should also check the new appointees and check what kind of processes was followed especially Thandeka Gqubule whom I have been advised never attended any interviews.

10

I know you do deal with the interview issue in your affidavit in particular at page 26. That you could not attend when other people were interviewed but you were subsequently interviewed.

MS THANDEKA GQUBULE-MBEKI: Yes, I was subsequently interviewed by Sefako Nyaka, the head of current affairs and by Nyana Molete and then I had an interview with Jimmy Matthews and I, ja.

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

MS THANDEKA GQUBULE-MBEKI: But this was my third return to the SABC.

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

MS THANDEKA GQUBULE-MBEKI: So, I was a known entity.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: So, they knew what they were getting and what they were not getting.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And headhunting is a legitimate process and I guess Hlaodi would know that.

ADV THANDI NORMAN SC: Yes, thank you. And then paragraph 180 you deal with the death of Ms Suna Venter and you are relating her death to the threats that you were all receiving or are you just mentioning the matter?

MS THANDEKA GQUBULE-MBEKI: Suna was unwell.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: Suna had a heart condition but
10 Suna was really, really going through the most. She was traumatized. At certain times I would ask her because some of the stuff seem just so bizarre, so unbelievable and it's only after her death that we realized that yoh, Suna had suffered a lot. And she was shot in the face in Westdene. This is not far from where I was chased. She was, her house was burgled, she was constantly scared.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: But Deputy Chief Justice the place is replete with mysterious deaths.

CHAIRPERSON: It's very mysterious. So many things really are
20 mysterious.

MS THANDEKA GQUBULE-MBEKI: The death of the former head of legal is very bizarre, I mean being shot at a time when the investigations are going on.

CHAIRPERSON: When you look at all of these things that were happening to the SABC 8 and some of them happening to individuals

who were in the SABC 8 like yourself and Ms Venter maybe more particularly ones which stretched into 2018 and so on. Are you able to say there may be other things other than the stand you took against so-called protest policy and directives that were issued in 2016 that you are able to link this with? To say, it maybe it's this and that and that and maybe it's not part of it. It's not connected with that stance you took or are you only able to say, if it's connected with anything it looks like it can only be connected with the stand you took then?

MS THANDEKA GQUBULE-MBEKI: I don't know, Deputy Chief Justice.

10 **CHAIRPERSON**: You don't know? Yes.

MS THANDEKA GQUBULE-MBEKI: I don't know what's connected to it and what's not connected.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: What I know is that in quick succession, devastating events occurred to us and what is most concerning is the institutional response to the events. I'll give an example. I asked Nomsa Philiswa for the whistle-blower policy of the SABC because if you've got a whistle-blower line you must have a whistle-blower policy. And we had hoped that we could deal with this,
20 these things are happening to us through the protected disclosures Act which companies are obliged to follow and implement protections for internal whistle-blowers. She responded by saying, there is no such entity SABC and therefore, you cannot rely on what doesn't exist. I remember I was driving with her in a car. And I said, but this is a no-brainer. It's the law. You have to have it. You can't say to me there is

no such and therefore your reliance on it is nil or it's just something banal. So, I myself and Busi and the others sought to engage Webber Wentzel again to construct a potential or a draft or a skeletal whistle-blower policy to protect not just us but anyone who in future hopes to stand up in workplaces especially at the SABC. And Webber Wentzel did this and about a few weeks after Webber Wentzel had drafted this skeletal whistle-blower policy for us at our behest. Well, the new gentleman, the new head of HR Jonathan Thekiso simply produced the whistle-blower policy from the annals of the IT system within the SABC
 10 and it was dated 2013 and he gave it to us. He said, the SABC has complied. Here is the whistle-blower policy. What was that all about? So, even as we were being told by authority that there is no such, there was a whistle-blower policy. So, we were being led up the garden path because the argument that we cannot rely on this was to be made.

CHAIRPERSON: And comparing the 2013 policy and the one that had been prepared by Webber Wentzel, you would have no issues with the 2013 one? It was fine as well?

MS THANDEKA GQUBULE-MBEKI: The 2013 one is fine.

CHAIRPERSON: Hm but it had almost been forgotten. Not many people
 20 knew about it.

MS THANDEKA GQUBULE-MBEKI: Not many people knew about it and not many people trusted the internal whistle-blower mechanism. The perception was that if you made use of the internal whistle-blower mechanism you would be toast. And indeed, the history of whistle-blowers in the SABC is that they get whipped out of the system. So,

like Krivani and the rest of the SABC 8 would that particularly for SOEs. This country can develop measures to insulate and protect whistle-blowers from harm and from experiencing the kinds of harm that we have experienced. And because they are the ones who would stand between us in future capture.

ADV THANDI NORMAN SC: Thank you, Chair. Can I just ask before I take you to the last paragraph? As you would, I'm sure you would appreciate that you've reached the end of your statement?

MS THANDEKA GQUBULE-MBEKI: Yes.

- 10 **ADV THANDI NORMAN SC:** Could you just tell the Chairperson because this is a matter that Ms Pillay had raised regarding the report that Mr Joe Tlolo had prepared after having been commissioned to do so by the SABC. And you indicated in consultation that you had raised certain concerns about that report and I would like you to raise those so that when Mr Tlolo comes before the Commission tomorrow, he is aware of the matters that you are complaining about.

- MS THANDEKA GQUBULE-MBEKI:** Yes, I did so in correspondence with the chief executive Madoda Mqakwe and Phatiso Magopeni, our boss as well as Ntate Joe Tlolo. I raised the issue that there are certain
20 meetings in his report where Jimmy and Sibulelo are placed in those meetings where they really were not there.

CHAIRPERSON: That is Jimmy Matthews?

MS THANDEKA GQUBULE-MBEKI: Yes.

CHAIRPERSON: And who?

MS THANDEKA GQUBULE-MBEKI: Sibulelo, Ms Sibulelo Ditlakanyana.

She wasn't in some of those meetings.

CHAIRPERSON: Yes, okay

MS THANDEKA GQUBULE-MBEKI: Where she is placed.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: And Ntate Tlolo pointed out that in his view these are minor issues and they don't affect the substance of his findings. He said, in fact that these are typographical errors but in our view these errors have bearing because they imply either Jimmy's complicity or Sibulelo's complicity in matters which they really were not
10 involved. So, we would want that part of the report corrected but our board and our CEO is aware.

ADV THANDI NORMAN SC: Yes.

MS THANDEKA GQUBULE-MBEKI: And there are just some details about who was chairing what meeting that need to be corrected. The other concern that we have beyond Krivani's concern is that journalists must also be accountable in some way to the profession and to society. Precisely because they play a key role in the democratic dispensation and public service broadcast journalists in particular because of the power that they wield. To speak every day to 28 million people is a
20 huge privilege that must go with inordinate responsibility. And the impunity that is condoned in the Joe Tlolo report is for me inadequate as a response to the type of moral ethical crisis that journalism faced at the public broadcaster. Thank you.

ADV THANDI NORMAN SC: Thank you. We will raise those. They will be raised with him tomorrow morning. Thank you. Chair...

(intervention).

CHAIRPERSON: Well, I'm sorry before.

ADV THANDI NORMAN SC: Sorry.

CHAIRPERSON: Now that you raised the issue of journalists being accountable that they've got accountability, you may or may not know that I have on a few occasions complained that journalists and media houses are very much in the habit of giving people about whom they have stories to write very inadequate time to respond, very short notice. We here in the Commission have been subjected to the same
10 thing and it looks like whatever appeal I make to the media to say, not just us everybody please just give people adequate time to put their side of the story. It looks like they say, ah we don't care about that. You get the impression that if journalists or editors think that they've got a scope or whatever they don't care about somebody else's rights. Even the kind of notice that they sometimes give it's like they think everyone must be sitting and doing nothing and just waiting for them to write and say please comment my deadline is tomorrow. And they must drop everything and respond because they give you that short notice so that in the article, they'll be able to say he did not come back to us. We
20 invited him or her to comment, he didn't but actually they give you an extremely short notice to do anything and I don't understand why so many journalists appear to think it's right to do that. I suspect that it's their own concerns, maybe selfish concerns about being the one who comes out with the story first and so on. But if the same things were to be done to them, they wouldn't. They would find this unacceptable. So,

you wonder where are these principles of fairness that we are all told are so entrenched in journalism. So, I just mentioned that for what it's worth because I have mentioned it on a few occasions in regard to other people but in regard to the Commission as well you know. I think sometime early this year or last year the Commission was approached on Saturday afternoon by a Sunday newspaper to say, we must comment. They want to run a story the following day. I mean, what is that? Are we supposed to be sitting and doing nothing and just waiting in case one or other newspaper rights and says, comment? So, we must

10 be available to comment within 24 hours. It's just unacceptable but it's happening and something must be found to correct it because nobody would like that kind of thing to be done to them when they are on the other side of this thing. So, I mention it for what it's worth. You are quite senior in the field and you may or may not be able to say, well this is the justification why people do this in the industry or you might be able to raise it where and whatever fora. To say you know, there is really concern about this kind of thing. I mean whatever the person has done you know, process is different from the merits. Just make sure that the process is fair you know. So, okay alright. That was just my

20 thought.

MS THANDEKA GQUBULE-MBEKI: I do take it seriously Deputy Chief Justice. I sit on the National Council of the... (indistinct). I attend the meetings.

CHAIRPERSON: Yes, no thank you.

MS THANDEKA GQUBULE-MBEKI: I do feel that there is a

conversation about ethics more broadly that we have to have as an industry especially at the time where revenues are seriously squeezed and so scoop culture.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Is encouraged.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: We need to draw some rules of some sort to introduce the principles of fairness but is a conversation that I do believe the industry has the intellectual faculty to engage
10 with.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: As well as the will to look inwards and find resolution.

CHAIRPERSON: Yes, yes. It's quite important because even for the professional journalists if I'm the subject of the story that a particular journalist writes. I must be able whatever the story says about me, I must be able to say, this journalist was just doing her job; was just doing his job and it's nothing personal. And I must be able to say, even though I disagree with this and that and that but he or she is just doing
20 her job and she has followed a fair process. But when I'm not given adequate time, I'm likely to think this journalist doesn't care about my rights as an individual. He or she just cared about being the first want to come up with a story and I don't think that's a good perception that the profession she'd want to have. I would have thought that all self-respecting journalists would want a situation where you might write

about somebody but that person would be able to say, there's nothing personal. You are just doing your job and you are not being sent by certain people to write certain things about me. You have not been captured. You are just doing your job. But when some of these things happen, I think it taints the image of the profession because too many people think journalists are not fair. They are driving certain agendas against certain people and it's not good that the public should have that kind of perception about such an important profession. Okay alright, thank you.

- 10 **ADV THANDI NORMAN SC:** Thank you, Mr Chairman. Thank you. Just lastly, what you've told the Commission for the two and a half hours that you've been sitting there, you summarize it at page 27. And I think it's only fair that I allow you to just read that paragraph into the record because it summarizes everything that you've told the Chairperson. Yes, thank you.

- MS THANDEKA GQUBULE-MBEKI:** During the past 10 years, a determined and corrupt group of people laid siege to the public broadcaster to loot it of his resources and to lead it astray from its mandate. It was a systematic and rigorous project. It involved people
- 20 inside the SABC and those outside of it. They wished to bend the narrative to suit their misappropriation agenda. They were in different to the human rights of citizens and employees of the SABC. They violated the public's right to know how they are governed. They violated the right of freedom of expression of their journalists. They violated labour rights and the rights to privacy the citizens and journalists have.

The corporation buckled under the looting and the plunder. 4.1 billion was unaccounted for. The newsroom was a place of fear and pitched battles. They were vicious in their execution of their project and in their wake many people suffered; employees, families, children. Those considered to be opponents of their agenda were dealt with ruthlessly. This is the story of our recent history as a corporation. It is also the story of our country of how a cutlass of people laid siege to our lives and our livelihoods and helped themselves to our future.

ADV THANDI NORMAN SC: Thank you. Thank you, Mr Chairman. That
10 is the evidence from this witness.

MS THANDEKA GQUBULE-MBEKI: May I say one last thing?

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: Yes, thank you.

MS THANDEKA GQUBULE-MBEKI: Deputy Chief Justice, we want to thank you for hearing us. We have been yearning to have some moment of cathexis where we finally tell it all. We are worried about the SABC. The SABC as you may have heard or sensed is a place that inflames a lot of passions and it's a much-loved corporation by its workers. And its future is in danger if we carry on with the current funding module which
20 is already disrupted by three factors. It was disrupted by the plunder and the stealing and that's why some of us didn't want the retrenchment's because the staff have suffered so much and they didn't, they are not responsible for the plunder. And so, others must plunder and they must suffer. Then the second part is that digital disruption has happened. People no longer watch TV through the

- normal device that you pay for and TV license, the future of the TV license is a mechanism for extracting sufficient revenue even though it's 15% is in danger because of this digital disruption and the multiple use of devices; the use of multiple devices; excuse me. The third factor is that of broadcasters in the world and the SABC 8 took the time to travel throughout Germany and to do research on other public broadcasters throughout the world. The 3% contribution of the public to the broadcaster is an anomaly globally. The public deserves a healthy sound public broadcaster that is not subject to capture. Financial
- 10 vulnerability therefore enables capture. It enables politicians to play games with the future of the SABC by withholding funds and it makes the SABC a dictate to bailouts because the mandate, the noble mandate is unfunded. So, this unfunded mandate is in need now of another bailout and it's not forthcoming and misery is about to begin. And misery in our country especially when it comes to so powerful mechanism of political, social and economic communication it is going to result in another opportunity for a looting spree. And at the SABC the staff fear the day that our honourable current leaders walk out the door and leave us to the ravages of enemies that we've seen before.
- 20 **CHAIRPERSON**: The Chairperson of the board of SABC, the current group CEO Mr Mxakwe and now yourself. All of you have spoken about the situation in which the SABC finds itself with no funding coming. And the sense I've got each time each one of you I mean whenever each one of you spoke is that the SABC is or may well be on the brink of a calamity which could happen anytime. Is my understanding correct?

MS THANDEKA GQUBULE-MBEKI: It is. It is very correct.

CHAIRPERSON: Yes.

MS THANDEKA GQUBULE-MBEKI: Deputy Chief Justice.

CHAIRPERSON: Are you able to put your finger on whether there are any legitimate reasons that people within the SABC think may be behind this situation or what you may be thinking why the SABC is allowed to be in, to stand on the brink of this calamity when that could be avoided? And from what I've heard could have been avoided by funding being provided months ago?

10 **MS THANDEKA GQUBULE-MBEKI:** All I can say is that, the story of this corporation is one for the ages because it is so powerful that the powerful seek to tame it. A weakened SABC is a controllable SABC.

CHAIRPERSON: And that is where everything revolves. And well, Mr Mxakwe told me that the situation is so bad that he finds himself, he finds that every week he has to speak to his executive colleagues to ask them not to resign. Which seemed to suggest to me his pleas could anytime become ineffective and his colleagues might say, that's it. And I think both, I think the Chairperson also if I'm not mistaken indicated the challenge that could happen if that were to happen. And of course,
20 that we don't know where that could put the SABC other than what we know happens when a calamity happens. I said to Mr Mxakwe if I recall correctly, I'm not sure what if anything I can do at this stage before I finished the work of the Commission. But I'm very concerned about what the situation of the SABC that has been described to me by successive witnesses here. And it's a situation where one wouldn't like

a calamity to happen and to say, maybe I could have done something. But sometimes it's difficult to see what one can do. So, but it's something that is very concerning. I'm reflecting on it, ja. Thank you. Thank you very much Ms Gqubule Mbeki.

MS THANDEKA GQUBULE-MBEKI: Thank you, Chief Justice.

CHAIRPERSON: For having come forward to share your experiences at the SABC over the period that you have dealt with and to tell me about what happened to this SABC 8 during the period that you have described. I'm happy that you did come forward to give evidence. I'm
 10 happy that other people from the SABC came forward including the other members of the SABC 8. You may have to come back at some stage if we have reason to ask you to come back and I'll still hear other evidence and so on. But I believe that the judgment of the Labour Court vindicated your position in regard to what you stood for. Of course, you have described to me a lot of other things that would have happened after that happened to you. The issue of being chased by a car over a certain period. I think your statements may be saying it was 15 minutes or whatever of being chased. It must have been a difficult time when you didn't know whether you would crash against a car. But as I have
 20 indicated, I would like the investigators of the Commission to look into some of the issues that you have raised. It is very important that we have people who will stand, stand up when things happen which they believe are wrong and because if nobody stands up then wrong things don't get stopped. I'm really happy that you and the other witnesses came and gave evidence. Thank you very much and the other issues

that I said should be investigated will be investigated and I will ask the investigators and the legal team to keep you informed. I have no doubt that you will give whatever cooperation to them. And then you would have heard what I said earlier to the other witnesses that I'm very keen for people in the media to reflect on what input, contribution they can make to the Commission with regard to what recommendations I should consider making in regard to what happened at the SABC, what happens with political interference with editorial policies, editorial independence. So, people like you should work on that so that at the
10 right time the Commission can be enriched by the submissions that the media can make. So, thank you very much for coming once again and you are excused. Thank you.

ADV THANDI NORMAN SC: Thank you, Mr Chairman. That is all for today.

CHAIRPERSON: That is all for today.

ADV THANDI NORMAN SC: Yes, thank you.

CHAIRPERSON: And how many have we got tomorrow?

ADV THANDI NORMAN SC: Tomorrow we've lined up only two witnesses Mr Chairman and that's one of the things I like to talk to you
20 about.

CHAIRPERSON: Yes.

ADV THANDI NORMAN SC: They are not going to be long witnesses at all.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: And that might mean that we might have to

finish early.

CHAIRPERSON: Oh, what's your estimate when we might finish?

ADV THANDI NORMAN SC: I think by lunchtime. We should even.

CHAIRPERSON: By lunchtime?

ADV THANDI NORMAN SC: Or even slightly before lunchtime.

CHAIRPERSON: Ja.

ADV THANDI NORMAN SC: Yes, yes Chair.

CHAIRPERSON: Okay, okay. No, that's fine but we'll start at 10 o'clock then.

10 **ADV THANDI NORMAN SC**: Yes, thank you Mr Chairman.

CHAIRPERSON: Okay.

ADV THANDI NORMAN SC: Thank you.

CHAIRPERSON: We will adjourn at the stage and then tomorrow we will start at 10 o'clock. We adjourn.

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

REGISTRAR: All rise.

INQUIRY ADJOURNS TO 06 SEPTEMBER 2019