

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

10

**11 SEPTEMBER 2019**

**DAY 161**

20

**PROCEEDINGS COMMENCE ON 11 SEPTEMBER 2019**

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

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

**CHAIRPERSON:** Are you ready?

**ADV THANDI NORMAN SC:** Thank you yes we are – Chair – ready  
Chair. Chair I am not sure whether Chair would like to entertain the  
submissions on the videos now before we start this morning because Mr  
Hlaudi still wants to persist with that request. Unfortunately he could  
not resolve it.

10 **CHAIRPERSON:** Oh.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Yes maybe we should deal with them now before we  
continue.

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

**CHAIRPERSON:** With his evidence.

**ADV THANDI NORMAN SC:** Thank you Chairman I let him then come.

**CHAIRPERSON:** Ja okay.

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

**MR HLAUDI GEORGE MOTSOENENG:** Good morning Chair.

20 **CHAIRPERSON:** Good morning.

**ADV MACGREGOR KUFA:** Chair we believe it is important that like we  
intimated yesterday before you that these videos ought to be played to  
assist in the evidence gathering before this commission. As you are  
rightly aware is that Mr Hlaudi Motsoeneng is here as an invited  
witness to this commission and secondly also there had been other

witnesses who have implicated him their testimonies. So in order to ensure that his testimony does not become assailed by mistruths and mis-conjectures and evidence that is not aligned with the objects and purpose of this commission I believe it is imperative that video evidence be admitted and this is also in line with the Commissions Act which is Section 3 of the Act. I do not want to go and – the avenue of having to adduce case law before you Chair suffice to say that I think it is important that the videos be played and they are not very long, they are short videos and remember one of the ...

10 **ADV THANDI NORMAN SC:** There is one that Ms Norman said is about an hour in duration if I am not mistaken.

**ADV MACGREGOR KUFA:** No the one that is an hour duration we – I spoke to Ms Norman yesterday and we agree that that one we are not going to play but there are the shorter ones which...

**CHAIRPERSON:** Oh okay.

**ADV MACGREGOR KUFA:** Which will not take much of the time of the commission if those are played. Because I believe it is important that they be played and...

**CHAIRPERSON:** How many – how many of them are there?

20 **ADV MACGREGOR KUFA:** It is about three of them I think. Three.

**CHAIRPERSON:** And altogether would take about how much time?

**ADV MACGREGOR KUFA:** Altogether I think they will take give and take 25 minutes.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Chair.

**CHAIRPERSON:** Talk to me about what each one of them is about?

**ADV MACGREGOR KUFA:** Okay primarily remember yesterday there was an issue about the letter of Marie Swanepoel about the issues of what she adduced in that letter pertaining to the matric certificate of Mr Hlaudi Motsoeneng. And in order to corroborate his issues that indeed he has always been truthful and always been mindful of the fact that he does not have a matric certificate. They are video recordings of meetings, gatherings at the SABC where people are addressed by even one of the former Group Executives of the HR Stakeholder that is Mr  
10 Keobukile Mosweu acknowledging in public that Mr Motsoeneng does not have matric and that corroborates these issues so that that is all what we are trying to do is that we are trying to nail the sail to the mast.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** In ensuring that enough evidence is before this commission because if we do not do that Chair we will not be doing this commission enough justice.

**CHAIRPERSON:** Okay alright. That is one of the evidence.

**ADV MACGREGOR KUFA:** That is one of the – yes.

20 **CHAIRPERSON:** Let us deal with that one. As I – as I understand the picture that has emerged as far as the issue of matric certificate – matric is concerned it is common cause that Mr Motsoeneng did not at any time pass matric. So that is one.

2. From what he has said and from the correspondence from some of the correspondence that we have seen including the letter signed by Ms

Swanepoel but I think there is another one that I saw last night which I think was not mentioned here. Ms Swanepoel's letter and the letter that I am talking about which I do not think was referred to yesterday make it clear that according to the authors of those letters Mr Motsoeneng had made it clear that he did not have matric. Then there is the – there is another letter that was referred to yesterday that was written by somebody I forget the name which also – which also seemed to be consistent with that story. Now that is not in dispute. As I understand the allegation that he lied about his matric as I understand

10 it the only basis that has been advanced for that or at least from what I have heard so far. I do not know if anything else will emerge later is what he wrote in the application for employment form namely where it says highest standard passed then he wrote Standard Ten. And as I understand it that is the basis also on which the Public Protector's findings seems to be based. I may be mistaken. It maybe it is not everything. But that seems to be the position. Now if the reason the basis for saying he lied is what he said in that form any video of what was said in a subsequent meeting does not appear to me would help much because what we have is he has conceded that writing that he

20 had passed Standard Ten there was not true. But he says he did it on the advice of Ms Swanepoel and he says looking back he should not have accepted that advice. And we heard all his evidence around that. So to the extent that the video will show me what people may have discussed many years in some meeting many years after the date of that form I do not think would help much. Because he accepts and

certainly I accept that it was not true to say he had passed Standard Ten. But he simply says when you look at the fact that I wrote Standard Ten, I passed Standard Ten do not look at that in isolation. He says look at the circumstances and I am saying I was following Ms Swanepoel's advice. So that is my inclination about the – that video. I do not know if you want to say anything?

**ADV MACGREGOR KUFA:** Chair have a bit of difficulty in taking to grasp whilst I respect your views on these issues but remember at the end of the day Mr Motsoeneng his character and reputation and dignity  
10 and integrity has been assailed not only before this commission it has been assailed in the Public Protector's Report. It has been assailed in the Parliamentary Ad-hoc Committee Reports. It has been assailed by media peddling lies about this matric issue Chair and I believe...

**CHAIRPERSON:** But remember ...

**ADV MACGREGOR KUFA:** Whilst this ...

**CHAIRPERSON:** I am sorry, I am sorry.

**ADV MACGREGOR KUFA:** Yes okay.

**CHAIRPERSON:** I am interrupting you. I am sorry. But remember that even Mr Motsoeneng at least before me he is not saying that writing in  
20 that form that he had passed Standard Ten was the truth. Even he is not saying that. So all he is saying is I followed certain advice and that happened under certain circumstances and people should not just look at that only. Now he is saying – he has said that yesterday here in public, everybody is listening including the media. They are watching, they have heard it and documents have been referred to which reflect

that a number of people from within the SABC say no, no, no Mr Motsoeneng never concealed the fact that he did not have matric. So that has been ventilated. Some of the letters have been read out here. So – so make – you can make your submissions but I am making these remarks so that as you make your submissions you can know what is going on in my mind and address it pertinently.

**ADV MACGREGOR KUFA:** Okay. Chair just lastly still pertaining to the issue of the matric. I believe like I said the – because the videos they are not long or unless if – I am of the view that if you feel that  
10 they are going to take up the time of the commission which I understand but if they can be received as evidence and then even when you as the Chair retire to make your findings you are able to relook at those videos and be able to come up with your own conclusion. If that then can be part of also our way of assisting the commission pertaining to the evidence, the video evidence in that regard.

**CHAIRPERSON:** Maybe what we should do – maybe we should not make any decision about what should happen to them about them now. Maybe I should hear the evidence maybe when I have had even all the evidence from everybody if then I can assess the situation. And if I  
20 think that they would add value then maybe I could then say let us – let them be shown. So maybe if it is fine with you maybe let us not deal with that matter now. Let us wait until all the evidence has been led and then we take it from there. Because as I speak to you it does not appear to me and of course I have not had other witnesses who will still come but it does not appear to me that anything is emerging that

suggests that Mr Motsoeneng was going around saying he has got matric. You know. Certainly he says I never went around saying I have matric and there are certain people who – who have written letters which seems to corroborate that already. And maybe nobody is going to dispute that evidence which he has given you know. I never went around saying I have matric. On the contrary I was open from the start when I was approached by SABC and I said I do not have matric and the only thing is whether writing in that form that he had passed Standard Ten when one has regard to all of the circumstances is  
10 whether it changes the picture or not. So maybe – maybe we should not decide – maybe you should consider holding the application back in regard to that video and assess the situation later. What do you think?

**ADV MACGREGOR KUFA:** I agree with your approach it is consonant with what I have also – I have been in discussion with witness. But I just wanted to just an additional issue Chair is on the issue of purging of staff. Because remember one of the allegations is that Mr Hlaudi Motsoeneng was purging the staff. In other words there was some derisory acts upon him that ended up in the SABC losing money as a result of the so called purging of staff. And one of the videos also  
20 would be able to lay to rest that aspersion. So – but like I said I am...

**CHAIRPERSON:** Yes

**ADV MACGREGOR KUFA:** I am mindful of your view and ...

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** We can park the application.

**CHAIRPERSON:** We can park – ja.



**ADV MACGREGOR KUFA:** For the videos to be examined or viewed for now until...

**CHAIRPERSON:** Later.

**ADV MACGREGOR KUFA:** At a later stage.

**CHAIRPERSON:** Yes you have seen the videos you are in a better position than I am but certainly in regard to the first one those are my preliminary thoughts and – but it may be that when you look at those thoughts maybe they apply to all three but because I have not seen them I cannot say until you tell me this one is – the second one is  
10 about this, the third one is about that. So – so – so did you think those views might apply to all three? The preliminary remarks that I have made.

**ADV MACGREGOR KUFA:** Yes it does, it does.

**CHAIRPERSON:** They do yes.

**ADV MACGREGOR KUFA:** It does definitely will assist in the interest of Justice Ja Chair.

**CHAIRPERSON:** Yes. Okay no that is alright. So I think then we – we I think we agreed that let us park them and then you can review – you can renew the application at a later stage when we have maybe a full  
20 picture.

**ADV MACGREGOR KUFA:** Okay thank you Chair.

**CHAIRPERSON:** Thank you very much.

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

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you. Mr Motsoeneng yesterday we

dealt with three policies at least that got changed during your time which we can – we covered. But what I would like to know from you. Are you aware of The Policy And Regulatory Affairs Department within the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** I am aware?

**ADV THANDI NORMAN SC:** Of that – of the – of a department called Policy and Regulatory Affairs Department?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I am aware.

**ADV THANDI NORMAN SC:** Yes. What does that department do?

10 **MR HLAUDI GEORGE MOTSOENENG:** Maybe through you Chair I just want to clarify one or two issues Chair very short.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** If you allow me Chair.

**CHAIRPERSON:** Okay.

**MR HLAUDI GEORGE MOTSOENENG:** Chair I think I am here not to defend myself. I am here to tell you the truth. Whether wrong or right.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** I am not here to come and defend.

20 **CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Because the media the way they are reporting issues it seems as I am here to defend myself.

**CHAIRPERSON:** Hm

**MR HLAUDI GEORGE MOTSOENENG:** You are here Chairperson to hear the truth.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Your findings will come whether I was wrong or right that is you who will do that.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** So I just want to deal with this issues Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** That I am concerned.

**CHAIRPERSON:** Yes.

10 **MR HLAUDI GEORGE MOTSOENENG:** When media report that I am here to defend myself. I am not defending myself.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I am just telling the truth the way I understand it [indistinct] Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** And I am not blaming anyone Chairperson.

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** And other point Chair is the one of the issue that I want to deal with especially about media Chairperson. I think the...

**CHAIRPERSON:** About?

**MR HLAUDI GEORGE MOTSOENENG:** Media Chairperson.

**CHAIRPERSON:** yes.

**MR HLAUDI GEORGE MOTSOENENG:** I think their role is to discredit

me even now. Because yesterday I spoke about me lecturing at WITS business school. It is true Chairperson. I have the documents. I will produce that documents. I was invited and it does not mean that when I am saying I was lecturing I was employed by WITS. Even in my affidavit I am able to say society – I mean it is normal Chairperson but they twist what I said in this commission Chairperson. I just want to verify those issues because of the tweet Chairperson that came from someone from WITS Business School. That tweet it is wrong Chairperson. I have been invited more than three times I think at WITS  
10 Business School to lecture. There is a video that demonstrates that. Yesterday Chairperson after that tweet someone answered that tweet and play a video where the SABC itself play that video where I was lecturing at WITS. They covered that story. It is there for everybody to see Chairperson.

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** So that is why I am saying Chairperson the media the way they do things it is wrong.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Because for them it seems as  
20 they are angels, we are very bad.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** You know that is where I have problem Chairperson because we are human beings.

**CHAIRPERSON:** No it is very important that the media should give a balanced – give balanced news and – and I – but I am – I am confident

that even the clarification that you are giving or the elaboration where you say what was said that came from WITS Business School was not correct and that you actually have material and you say you were not invited just once you say it was three times and you say actually SABC even have or somebody has even a video. So they hopefully they will – you know report on that as well.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. Lastly Chairperson just to close the issue of visuals. In my view Chairperson the journalists they argue about public interest that what they are doing  
10 is in the public interest. I have a different view but by guided by the act itself it cannot be burning school, burning clinics it is in the public interest. My view is different it cannot be in the public interest.

**CHAIRPERSON:** No. No Mr Motseoneng obviously nobody would say burning school is in the public interest. But I think what you mean is what you are talking about is whether reporting on the burning of schools or showing the visuals of the burning of the school.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair I – no Chairperson I agree with you.

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** But ...

**CHAIRPERSON:** The distinguish ja.

**MR HLAUDI GEORGE MOTSOENENG:** But they – for me.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** In their own minds – in their own view by showing these visuals is in the public interest. That is

what they argue here Chairperson.

**CHAIRPERSON:** Yes the showing of the visuals ja.

**MR HLAUDI GEORGE MOTSOENENG:** Yes they are saying it is in the public interest. I am saying it is not in the public interest because it is also being identified by the act. It is not.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** In the public interest.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** I just want to clarify that issue  
10 Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Especially you look – the role of SABC one of mandate is to educate. How do you educate people encouraging them to burn schools or clinics Chairperson? That is that in short Chairperson.

**CHAIRPERSON:** Yes. No I am – I have a strong suspicion that Ms Norman will be going there.

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

**CHAIRPERSON:** To ask you some questions on your views in that  
20 regard.

**ADV THANDI NORMAN SC:** Thank you. Thank you. Thank you Chair. Thank you Mr Motsoeneng I asked the question of the – what does the – what is the role of that Policy and Regulatory Affairs Department within the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Their role Chairperson is to

deal with regulations within SABC including working together with ICASA. Even our proposal on the policies and so on during the consultation they will be part of that team and they will take the SABC views or opinions on the matter and contribute. So they monitor the regulations within the SABC.

**ADV THANDI NORMAN SC:** Yes. So in other words any policy that anyone within the SABC proposes must go through that department which department will then take it through to ICASA?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair. Normally what we  
10 do Chairperson as I said yesterday we have summits at the SABC where we will come with maybe policy or some of the issues. So where we discuss all these issues and their role is after we have taken decision they will be able to inform ICASA on such matters. Example when we are dealing with the policy when it comes to news, when it comes to content their role is to relate those decisions within the SABC to ICASA.

**ADV THANDI NORMAN SC:** Yes and then ICASA is to see whether constitutionally the policy that was being muted or is muted by whoever with the SABC is in line with the constitution and all the regulatory  
20 framework of the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Correct Chair.

**ADV THANDI NORMAN SC:** Yes. Now let us talk about the 90/10 policy. Did that policy – I call it a policy but the 90/10 directive or instruction did that in fact become a policy of the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair. It is a policy and

that policy arise from the Broadcasting Act. Because when you read Broadcasting Act it says that the role of SABC is to develop local content. Is to develop production houses but also it is to cater 11 languages. So when I was arguing about this local content is here Chairperson we are guided by a broadcasting act but also as human beings we want to make sure that people who benefit are South Africans first.

**ADV THANDI NORMAN SC:** Yes. No let us – I appreciate that but let us talk about this. When you felt that the 90/10 policy must be developed did it go through the Department – the Policy and Regulatory Department of the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Yes. Reason being Chair as I said we have all these summit, we have ESCO meetings where the teams sit together. We brief the team but also remember the police is the board issue. It goes through the steps within the organisation it goes to the board for approval.

**ADV THANDI NORMAN SC:** Did it – are you aware whether it went to ICASA because remember when you outlined the role of that department you mentioned ICASA. Did that go through to ICASA?

**MR HLAUDI GEORGE MOTSOENENG:** That is the role of the – that unit within the SABC to inform ICASA about all the decision that we are taking in the SABC. I will take that they have taken to ICASA.

**ADV THANDI NORMAN SC:** Okay.

**MR HLAUDI GEORGE MOTSOENENG:** Because that is their role.

**ADV THANDI NORMAN SC:** Now that is one policy. Let us talk about



then the Violent Protest Policy coverage. Did you regard that as a policy?

**MR HLAUDI GEORGE MOTSOENENG**: The Violence Policy is the act, is the law. Is here Chairperson I think in my affidavit I also quote the act that you cannot glamourize such a visual it is unlawful to do that. We are guided by the act Chairperson. We may be wrong Chairperson where I am saying that is why I was saying I am not here to defend I am just here to explain my understanding and what I did Chairperson. And Chairperson you know people are shocked because they were thinking  
10 that I am coming here to defend. To say I am not here to defend Chairperson and I want to emphasise that. You will decide. I may be wrong I may be right that is not me to decide on the matters. That is how SABC were operating and that is how we feel that we are supposed to do things the way we did.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: Maybe – maybe I can just.

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

**CHAIRPERSON**: I can just explain the difference between the act and regulations and the policy. Now because she asked you whether the  
20 instruction or directive relating to not showing the visuals relating to burning of property. Whether that should not be shown. Now the – you would find that there is the constitution of the country which deals with a lot of things. Placing obligations on institutions and people and conferring rights on people. Then you have got legislation, an act. All of those are binding in regard to certain issues. When they place an

obligation you are – it is binding. And where they give a right that right is a right that should be respected and people can go to court about it. And you might have regulations which are promulgated in terms of an act of parliament. They deal with more details that an Act might not deal with and then you have got a policy. A policy usually is - is a guide. It is not rigid usually. That is the main difference I think between an Act, a regulation and a policy but the policy must not be in conflict with legislation or with the Constitution.

10 So a policy is supposed to say this is how we will normally deal with this kind of situation but it does not necessarily mean that there can never be a deviation if circumstances require a deviation. So - so that - that is - that is the understanding. That is the distinction that I thought I might just mention.

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

**CHAIRPERSON:** Maybe then you can go back to the question.

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

**CHAIRPERSON:** So - so in other words the - there would be a difference between the policy and an Act but the two might be saying the same thing or - and so on.

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

**CHAIRPERSON:** Okay, alright. You want to say something?

**ADV THANDI NORMAN SC:** Yes.

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

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Chair I agree with you 100

percent because my view is the policy should - which aligned any policy with the Act.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson I agree with you 100 percent. That is why Chairperson I am having this book ...

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** And when we took these decisions I was reading this book Chairperson.

**CHAIRPERSON:** Okay, okay.

10 **MR HLAUDI GEORGE MOTSOENENG:** Very well. I may be wrong in my reading ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But I was guided by this book.

**CHAIRPERSON:** Yes, thank you.

**ADV THANDI NORMAN SC:** Thank you Chair. Having then - when the Chair has explained to you Mr Motsoeneng how these two differ the instruction to people not to cover or to the journalists not to cover violent protests. Now what I would like to understand did that instruction go through the Policy and Regulatory Framework Department so that they could assess the type of instruction that was  
20 being given and how would it affect the existing policies and how would it relate to ICASA's mandate?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson it is not the policy. It was a decision that we have taken at the SABC. Myself and Dr Chizumba who was in charge for PBS and PCS your commercial and

your public platforms. So we discussed these issues before we released that press statement but we did not say they should not cover Chairperson because I want to clear this issue. We did not say they should not cover.

**CHAIRPERSON:** Well I was going to come back to that later on to say let us hear exactly what it - it - whether it is a policy or decision what it said should or should not be done.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. We - we - when we release a statement the statement is released by the  
10 spokesperson of the organisation. I - I saw that statement saying - talking about we are not going to show the - the people burning - what - building or whatever. Burning - let me use this word burning but the intention of that it was people should be responsible when they report these issues Chairperson.

You know because people they were having really different views especially media general. I was called by a press club myself and Joe Thloloe. I explained there to say look what we are saying here is we are saying do not show the physicality which means the physicality Chairperson it will be if someone just comes and burns this  
20 and we are - we are inside this room.

Do not show those visuals where people now are seen being burnt. That was the intention Chairperson. Even after that SABC has been covering such visuals. It is just the responsibility part. We are not burning anything Chairperson. We are just saying let us be responsible and show that we are responsible when we deal with these

issues. It is not really burning.

**CHAIRPERSON:** So - so are you therefore saying that if - are you therefore saying that that decision was not to the effect that if an SABC journalist is covering a protest and protesters set a building alight or a clinic or a school they should not show that *per se*. You were simply saying if there is something else other than just the burning of the property like maybe somebody who was trying to come out of the building being caught in fire.

Do not show that part. Is - is that what - what you are saying  
10 the decision was about?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. The decision was just be responsible ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** When you - you deal with these issues and that is not where you are instructing people do not cover the story.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** That was not the issue  
Chairperson ...

20 **CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** And I will allude to this  
Chairperson. Sophie Mokoena and Nothando Maseko they were concerned about that statement.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Immediately after releasing that

statement.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Early in the morning they arrived in my office ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** To ask COO but what is this issues that you - you are talking about now. We do not understand. Can you explain?

**CHAIRPERSON:** Hm.

10 **MR HLAUDI GEORGE MOTSOENENG:** I explained to them.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** They did understand where I come from Chairperson.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** That is why all the Pretoria riots they were covered ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** During my time.

**CHAIRPERSON:** Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** The issue is that let us be responsible ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** When we deal with these issues and Chair yesterday I said I have been a journalist.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** You know when people mobilise even calling us as journalists as to say you know tomorrow we are going to do one, two, three.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** I was saying it is wrong ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** So we as SABC including the journalists of SABC ...

**CHAIRPERSON:** Hm.

10 **MR HLAUDI GEORGE MOTSOENENG:** They should not know that because immediately when we become part of that ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** You are not doing what you are supposed to do Chairperson.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** It has nothing to do with the burning as people are - are putting it Chairperson ...

**CHAIRPERSON:** Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** And I am on record. I have explained several times ...

**CHAIRPERSON:** Hm, hm.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson on those issues.

**CHAIRPERSON:** Hm.

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

**CHAIRPERSON:** I think what becomes important is to understand

exactly what the ambit of the directive or decision was and to understand how the journalists who were supposed to comply with it whether it told them this is what you should not do and therefore they would know if I do this I will be in breach of this decision or whether it was difficult to say exactly what it - what it means.

You say the - the idea was be responsible. Now of course when you say be responsible the question would be what does that actually mean. Now we - we have used one example which I seem to think you - you said you - it would fall within the decision - the ambit of  
10 the decision. Namely if a building is burning and somebody was trying to come out now is caught in the fire.

Please do not show that part. Did - did you say that would fall within what you say do not - if you are responsible you are not going to show that part where the person is burning?

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

**CHAIRPERSON:** *Ja.* So - so the - the question then would be how far - how far would this go. When are you being responsible? When are you not being responsible if the idea is not to say do not show the burning of property at all because of course just from observing  
20 publically there would be very few instances where people - properties being burnt during a protest and - well maybe I should not say there will be very few but I hope there would not be too many instances where people are inside the - the building but what - what other examples could you give to say well it would have been in breach of that decision or in defiance of that decision if a journalist did A, B, C,



D?

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

**CHAIRPERSON:** Or did you not go that far in - in - (coughing) excuse me - clarifying it in your own mind?

**MR HLAUDI GEORGE MOTSOENENG:** No Chairperson. The issue here Chairperson is where - in my affidavit I refer where the Act says you cannot glamorise violence. You cannot show explicit visuals. So I have clarified these issues. What informs is the Act Chairperson because if we operate outside this Act it will be unlawful Chairperson.

10 I do not want to say that because I am not Chairperson.

I am not in your position. You are - you have the right to say that but I am just saying it is - it is my understanding because I do not want to ...

**CHAIRPERSON:** Your - your understanding?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. It will be unlawful because we are guided by the Act Chairperson because if we are going to do and operate outside this Act I have a serious problem Chairperson because this Act is not covering private media. It is covering a public broadcaster Chairperson in my understanding. So  
20 people they want to compete in the space equally with the private media.

That is where I think we have different views Chairperson and understanding of how we shall do - deal with these issues Chairperson. May - maybe Chairperson to come to - to your example that you did about someone going out and then someone now - the visuals show the

person ...

**CHAIRPERSON:** Burning?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. So to be honest Chairperson that is not allowed.

**CHAIRPERSON:** Yes. Now - now that - that - I wanted confirmation that that situation would fall within what your decision was saying should not be shown and then my question was to see whether you are able to point out other - maybe two or three other examples of the kind of thing that should not be shown when you say be responsible.

10 **MR HLAUDI GEORGE MOTSOENENG:** Chairperson, this other is a difficult one because publically you know there is language that you cannot - you - you ...

**CHAIRPERSON:** Oh okay, okay.

**MR HLAUDI GEORGE MOTSOENENG:** You cannot use. *Ja*.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** There - there are several ...

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** But because I am at the public ...

20 **CHAIRPERSON:** *Ja*. No, no.

**MR HLAUDI GEORGE MOTSOENENG:** Platform ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But I can ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Write another affidavit

Chairperson what I may do because some of the issues to be honest ....

**CHAIRPERSON**: Okay.

**MR HLAUDI GEORGE MOTSOENENG**: Publically even myself ...

**CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: I - I do not want to deal with them but ...

**CHAIRPERSON**: Okay.

**MR HLAUDI GEORGE MOTSOENENG**: There are a few.

**CHAIRPERSON**: Okay.

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

**CHAIRPERSON**: No, no that is fine. Ms Norma.

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

**CHAIRPERSON**: Hm.

**ADV THANDI NORMAN SC**: May I just refer to the - the - it is referred to as the Editorial Edit. If I may just refer Chair to a bundle.

**CHAIRPERSON**: Just one second.

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

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Thank you Chair. It is EXHIBIT CC05 to  
20 EXHIBIT CC16. CC05 to CC16. Chair I would not have asked that it be placed before you. I decided that maybe it is better if they are laid here and then every time ...

**CHAIRPERSON**: Oh.

**ADV THANDI NORMAN SC**: Because they just ...

**CHAIRPERSON**: Oh, okay.

**ADV THANDI NORMAN SC:** Five to 16. That is why you have got a list of names on it. You do not have it?

**CHAIRPERSON:** Did you get the name of the

**ADV THANDI NORMAN SC:** Chair.

**CHAIRPERSON:** Of the - the - what exhibit it is ...

**ADV THANDI NORMAN SC:** CC

**CHAIRPERSON:** Correctly?

**MR HLAUDI GEORGE MOTSOENENG:** (Indistinct).

**ADV THANDI NORMAN SC:** You have got about 16 names on it where  
10 you have Mr Phiri and them. Is it on there?

**CHAIRPERSON:** Remember I have got some here. If you say - if you tell me ...

**ADV THANDI NORMAN SC:** The page - I could - I could ...

**CHAIRPERSON:** There is one which has got what the policies are ...

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

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Chair this is the one that has got the instruction ...

**CHAIRPERSON:** Oh.

20 **ADV THANDI NORMAN SC:** On - on the protest.

**CHAIRPERSON:** Okay, alright.

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

**CHAIRPERSON:** Well ...

**ADV THANDI NORMAN SC:** Mr - Mr Motsoeneng could you please just have a look whether you had sight ...

**CHAIRPERSON**: Remember he said he does not have to have a look.

**ADV THANDI NORMAN SC**: Oh, he does not have to ...

**CHAIRPERSON**: He - he remembers these things.

**ADV THANDI NORMAN SC**: He can read.

**CHAIRPERSON**: But I said that if he does need ...

**ADV THANDI NORMAN SC**: If he does need then he can (intervenes).

**CHAIRPERSON**: He must just say so, *ja*.

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

**CHAIRPERSON**: I think read to him what you have ...

10 **ADV THANDI NORMAN SC**: Yes. See what - what is contained.

**CHAIRPERSON**: And, *ja*.

**ADV THANDI NORMAN SC**: Yes. Thank you Chair. I would like you to turn to CC12 which is the statement of Mr Jakob Daniel Krige. To his statement he attached the Labour Court judgment.

**CHAIRPERSON**: I have got the Labour Court judgment in front of me.

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

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: That is where the edit is quoted.

**CHAIRPERSON**: It quotes ...

20 **ADV THANDI NORMAN SC**: It quotes it, yes.

**CHAIRPERSON**: It quotes it yes.

**ADV THANDI NORMAN SC**: Yes. Thank you Chair. At page 84.

**CHAIRPERSON**: Okay.

**ADV THANDI NORMAN SC**: Thank you. If I may just read Mr Motsoeneng what the Labour Court recorded.

**CHAIRPERSON:** So - but you are reading the statement issued by the SABC on ...

**ADV THANDI NORMAN SC:** On - on ...

**CHAIRPERSON:** On protest ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** As quoted by the Labour Court in the judgment, *ja*.

**ADV THANDI NORMAN SC:** By the - as quoted by the Labour Court. Yes.

**CHAIRPERSON:** Okay.

10 **ADV THANDI NORMAN SC:** Yes, thank you Chair and then the Labour Court in paragraph 8 just on page 83. It says:

“It is now well known that on 26 May 2016 the SABC issued the following news Editorial Edit known as the Protest Policy which stated: SABC will no longer broadcast footage of destruction of public property during protests. Johannesburg Thursday 26 May 2016. The South African Broadcasting Corporation (“SABC”) has noted with concern the recent turmoil arising from violent service delivery protests in various parts of the country. The SABC as a public broadcaster would like to condemn the burning of public institutions and has made a decision that it will not show footage of people burning public institutions like schools in any of its news bulletins with immediate effect. We are not

20

going to provide publicity to such actions that are destructive and regressive. The SABC is cognisant of the fact that citizens have constitutional rights to protest and voice their concerns on various issues that they are not happy with but we also do not believe that destruction of property is the best way to voice those grievances. These actions are regrettable and viewed as regressive on the developments made after 22 years of South Africa's

10 democracy. Continuing to promote them might encourage other communities to do the same. The SABC would like to stress that we will continue to cover news without fear or favour. We will not cover people who are destroying public property. The SABC Chief Operations Officer Mr Hlaudi Motsoeneng stated that it is regrettable that these actions are disrupting many lives and as a responsible public institution we will not assist these individuals to push their agenda that seeks

20 media attention. As a public service broadcaster we have a mandate to educate the citizens and we therefore have taken this bold decision to show that violent protests are not necessary. We would like to encourage citizens to protest peacefully without destroying the very same institutions that are

needed to restore their dignity. The SABC would like to make an appeal to other South African broadcasters and the print media to stand in solidarity with the public broadcaster not to cover the violent protests that are on the rise and in turn destroying public institutions.”

Is this the statement that you issued Mr Motsoeneng?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson it is correct.

**ADV THANDI NORMAN SC:** Yes.

10 **MR HLAUDI GEORGE MOTSOENENG:** You know we even tried to lobby our - our partners but they came for us but Chairperson I am still saying that statement demonstrates people who are responsible, people who are accountable on all issues that we - we - decisions that we were taking. The issue there Chairperson we did not say well when you release statement I am just saying Chairperson because you know I cannot say to people go and burn.

We are going to cover. I was just running away from - because I knew that people they want - they were even calling us. Now they are going to march and do - we just discouraging them but we are  
20 still covering those visuals when they - they go and cause the havoc that they were - because we were still covering it Chairperson. It is a responsible statement.

I do not see any wrong about that statement Chairperson because we were still covering but when you do it - you know Chairperson even your children you - you know they can do this but



there is a way that they must do it. There is a way that you will talk to them and I am not saying people of South Africa are children Chairperson because media can say I said people are children.

So I am not implying that. I am just saying there is a way of - of talking but knowing when you do your - your work you do it professionally even informed by the Broadcasting Act Chairperson. So I do not think that statement Chairperson really - I think it supports what I said earlier Chairperson.

**CHAIRPERSON:** I am sure Ms Norman has further questions for you ...

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

**CHAIRPERSON:** On that issue.

**ADV THANDI NORMAN SC:** Yes thank you very much Chair. So I just want to understand that two of - of you within the SABC decided one day that thing has to stop. It must not be covered and you issued a statement.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I have already answered that question.

**ADV THANDI NORMAN SC:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** I said Chairperson that is communication that went through to media people of South Africa but the reality we were still covering those visuals but we - we said to our - our people be responsible Chairperson because ...

**CHAIRPERSON:** Yes, but ...

**MR HLAUDI GEORGE MOTSOENENG:** They think that we then ...

**CHAIRPERSON:** I am sorry Mr Motsoeneng ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** But the question is in effect who the people are who made this decision and I think Ms Norman was saying did you say it was two people?

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Who are the people who made this decision if it was more than one?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson as the COO of the organisation it is my role to take such decisions. I took that decision  
10 Chairperson and I stand by that decision wrong or right you will - you will have your finding Chairperson ...

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** Because I think I did the right thing ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** For SABC.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I still stand by that decision.

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** I take ownership ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson on what I did.

**CHAIRPERSON:** So it was your decision?

**MR HLAUDI GEORGE MOTSOENENG:** It was my decision.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I consulted Janine Matthews.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I consulted Dr Chizumba ...

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** But we agree ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** On that.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Okay.

- 10 **ADV THANDI NORMAN SC:** Thank you. So now this decision is taken and you have taken full responsibility of this decision and anyone who differed with that decision had to be disciplined?

**MR HLAUDI GEORGE MOTSOENENG:** Not at all.

**ADV THANDI NORMAN SC:** Then can you explain to the Chairperson how come that you have the SABC eight that people that got fired that got suspended got charged as a result of failing to comply with that decision?

**CHAIRPERSON:** Before that ...

**ADV THANDI NORMAN SC:** Sorry.

- 20 **CHAIRPERSON:** Ms Norman I thought you - I thought you might have questions prior to reaching that point.

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

**CHAIRPERSON:** I - I certainly do.

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

**CHAIRPERSON:** Mr Motsoeneng Ms Norman will not forget her

question.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Later on she will - she will ask it again. I do not read this statement that Ms Norman has just read out aloud to mean what you have said. You have said the decision was not that the journalists should not show visuals of protesters burning property for example. You have said that - you said they must be responsible and we made that example that I raised with you to say okay.

10           Were you talking about for example a building is being burnt during a violent protest and somebody is coming out of the building and gets caught out in the fire and you say that part they must be sensitive they must not show that part and you said that would be one of the examples and you said there are other examples which you did not feel comfortable mentioning because this is a public forum.

20           So my understanding of what your evidence is, is the decision that you took and conveyed did not say if people are showing - if people are burning property during protests do not show that. Yours was to go beyond that if there is something else that is happening or that is connected with this burning or property. My understanding of your evidence was correct?

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

**CHAIRPERSON:** It is correct, *ja*. Let us go back - let us go to the statement. You must just say if you prefer to have it at hand now that we are going to it but if you are still comfortable if I just read the relevant portion that is fine. Okay.

**MR HLAUDI GEORGE MOTSOENENG**: No Chair. I am comfortable ...

**CHAIRPERSON**: You are comfortable?

**MR HLAUDI GEORGE MOTSOENENG**: Because I was involved also. I know.

**CHAIRPERSON**: Okay, okay alright.

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

**CHAIRPERSON**: Let me - let me just read some relevant parts of - some parts of the statement.

10                   “The South African Broadcasting Corporation has noted with concern the recent turmoil arising from violent service delivery protests in various parts of the country.”

So the concern is turmoil arising from violent service delivery protests in various parts of the country. Then it says:

20                   “The SABC as a public service broadcaster would like to condemn the burning of public institutions and has made a decision that it will not show footage of people burning public institutions like schools in any of its news bulletins with immediate effect. We are not going to provide publicity to such actions that are destructive and regressive.”

Let us just take that. That seems to me and you must tell me whether my reading of it is in your view incorrect. That says we are not going to show visuals of the building of property during protests. That is my understanding of it. Is that your understanding as well? Just

that part. If you say well if you read that part alone I agree but if you read it with the rest of something else that is said in the statement it - it changes the picture.

Then we - we can go there but I just want to say if you - anybody who read that part would they be mistaken to say the SABC was saying to the public you are no longer going to see visuals of the burning of properties by protesters?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson my understanding on these matters are we release a statement Chairperson. I agree with  
10 you Chair, firstly. We - we release a statement but when you release as an accountable and responsible person I cannot say we are going to - I cannot incite people. Let me use this word. I cannot incite people because if I say no we will show these visuals I will be inciting a community to do that same stuff that I know it is unlawful through the Act but also Chairperson why we release that statement people were calling us.

Now they were marching to SABC because then they see Free State is burning Gauteng starts. So they were saying no you have covered Gauteng. You have covered that one. You did not cover us.  
20 So we were just explaining to say no but this we cannot. We were just discouraging people but we - we knew that that is why I explained after Chairperson when people were asking these issues.

I clarify I think at that point what we meant by this statement. It was not a malicious statement Chairperson. We did that in good faith ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** To - to deal with such issues.

**CHAIRPERSON:** Yes, but do you - do you - do you accept - sitting there now as we talk and me reading this part - do you accept that it says what I am saying? Namely the SABC is no longer going to show you - the public - it is no longer going to show you the burning of property by protesters?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I agree with you ...

**CHAIRPERSON:** Yes.

10 **MR HLAUDI GEORGE MOTSOENENG:** And I am also saying when you go to other paragraphs where you ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** You spoke about people who march ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Peacefully.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Which means we will show ...

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** What people are doing.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** We were just - I mean Chairperson to be honest ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I have - I think it is - it is good

accountability. I may be wrong. I may be right. I leave that to you Chairperson but that is how we - we view issues especially when people were starting to march to the SAB - to demand ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Us to show them - especially Viani Chairperson. You know what happened. You know what happened library unrest and other places. I am just giving you ...

**CHAIRPERSON:** (Intervenes).

**MR HLAUDI GEORGE MOTSOENENG:** Example Chairperson.

10 **CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:**

**MR HLAUDI GEORGE MOTSOENENG:** And I can allude today Chairperson ...

**CHAIRPERSON:** Hm, hm.

**MR HLAUDI GEORGE MOTSOENENG:** The Facebook International if I am correct I think someone told me this, this morning. They also banned explicit visuals on the - on their platform. I mean I am just saying there is background Chairperson on ...

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** These issues, yes.

**CHAIRPERSON:** No, no that's fine, I think at this stage, what I'm trying to establish is what anybody reading the statement would understand, so what the statement means. It maybe that when you explained subsequently after it had been issued to certain people or to the media the explanation was something else, but I just want to say,



this is what it seems to mean but I think we have agreed that, at least as far as this part is concerned, that is what it said. It said SABC will no longer show visuals of protestors burning property and that we can go forward and look at others.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair, we agree Chair.

**CHAIRPERSON:** We agreed on that ja.

**MR HLAUDI GEORGE MOTSOENENG:** And I want to say Chairperson if you take what the Labour Court says, with due respect Chairperson, I think by calling it a policy it was wrong because it was a decision it was  
10 not a policy.

**CHAIRPERSON:** Yes okay, then that was the one paragraph and it is at page 84 of this bundle, in the next paragraph this is what the statement said,

“The SABC is cognisance of the fact that citizens have constitutional rights to protest and voice their concerns on various issues that they are not happy with but we also do not believe that destruction of property is the best way to voice those grievances. These actions are regrettable and viewed as regressive of the developments made after 22 years of  
20 South Africa’s democracy, that might be fine, then the next sentence, the next two sentences of that paragraph, continuing to promote them might encourage other communities to do the same. The SABC would like to stress that we will continue to cover news without fear or favour. We will no cover people who are destroying public property”,

Again we will look at other parts, just this part seems to make it quite clear that the SABC is not going to show the public the burning of property by protesters, are we agreed?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I'm one person, if I've taken decision wrong or right I will just say my views, I don't want to say I disagree or I agree with you Chairperson, we'll come to that conclusion. The statement is correct the way you are putting it Chairperson, yes it's correct Chairperson I just want to elaborate, Chairperson, I still believe where I'm sitting now Chairperson in this  
10 seat that I did the correct – I was correct when I took that decision. I mean Chairperson when you destroy schools where our children going to – they are not going to be able to be in the school especially when we know there is unemployment, there is also shortage of resources for the same issues that we are dealing with educational issues Chairperson, so I think for me, I follow this Chairperson, I may be wrong but I follow what the Act says an I still believe I was correct Chair.

**CHAIRPERSON:** No, no I think – I don't know of anybody who would not agree with you that the destruction of property, whether it's public  
20 property or private property during protests is completely unacceptable. I certainly agree with that part of what you are saying, it's unacceptable but remember that this statement, while condemning the destruction of property and the burning of property during protests it says – I think we agreed, it says,

“SABC will no longer show visuals of the burning of property”,

So there is that part but I want to look to two or other parts and after that you can indicate whether there is something else that would make you say although those paragraphs that you have read Chair, seem to say we are not going to show the burning of property, actually when you read the other parts, these other parts they change the picture to say the message was different okay, alright. Now the third paragraph on page 84 reads,

10           “The SABC’s Chief Operations Officer Mr Hlaudi Motsoeneng stated that and it quotes, it is regrettable that these actions are disrupting many lives and as a responsible public institution we will not assist these individuals to push their agenda that seeks media attention. As a public service broadcaster we have a mandate to educate the citizens and we therefore have taken this bold decision to show that violent protests are not necessary. We would like to encourage citizens to protest peacefully without destroying the very same institutions that are needed to restore their dignity”.

20           Now as I read this paragraph that I’ve just read it seems to simply no longer now talk about showing of visuals it simply seems to criticise and condemn the destruction of property, the burning of property that this is unacceptable and as I said as far as that is concerned, I don’t know of anybody who would not agree with saying the destruction of property and burning of property is unacceptable but I don’t know whether you have picked up anything from this paragraph that I’ve read now, which changes the message from saying we are not

going, as SABC, going to show visuals of the burning of properties?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson it changes because what we are saying we are just condemning this burning of figures because people also should think that we are also part of South Africa, I am a citizen here so I will also have my own views that will think that these views really, what is happening, think even Chief Justice Mogoeng Mogoeng, deputy Chief Justice he condemned this during the farewell of deputy Chief Justice Dikgang Moseneke, he was even vocal than me so I don't want to say now...[intervenes].

10 **CHAIRPERSON:** Well if it means anything, I can tell you that I condemn the destruction of property and all violence that we see in our country at different times when there are protests, it's unacceptable and it doesn't define us, that is not who we are as South Africans so – and I believe that most people will agree with that, so that part is not controversial, I think. So to the extent that this paragraph that I've just read, condemns the destruction of property, I think is non-contentious but I don't think, and I'm giving you a chance to say something if you don't agree, I don't think it cancels what I've read before in the previous paragraphs which says as SABC we are not going to show  
20 visuals of the burning of properties, do you want to say anything on that understanding on my part?

**MR HLAUDI GEORGE MOTSOENENG:** I'm with you.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** My understanding Chairperson is the same.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But as I said what informed that paragraph is because people now they were marching to the SABC, we were trying to find a way of discouraging them because now for them to burn, it was now a norm that they will rush to SABC and even demand that we will show the visuals. I think we did it in goof faith but your understanding, Chairperson will still be my understanding but I will also want to justify Chairperson after Sophie and Nontando came to me I verified these issues Chairperson and I think Advocate Norman asked  
10 me about whether – if I'm correct, whether we did communicate with staff about such decisions. As the COO I communicate with people who reports to me so I'm expecting them to go and communicate with people to them Chairperson. I believe that they did communicate from that angle Chairperson, that is my view Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** The last one Chairperson, and forgive me on this one because it just come into my mind.

**CHAIRPERSON:** Yes, is it still on the statement because I'm about to finish with the statement then we move on to something else.

20 **MR HLAUDI GEORGE MOTSOENENG:** Chairperson if I leave this one Chairperson...[intervenes].

**CHAIRPERSON:** Say it ja.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson when my counsel was dealing with the issue of the – that form. What I want to clarify Chairperson, there is no dispute about that for that I wrote standard 10,

the dispute between me and Public Protector, what I'm - what I disagree with her is when she says I was employed at the SABC because I misled the SABC, that is where the dispute is. I said she was wrong because I was not employed because of that form that I...[intervenes].

**CHAIRPERSON:** Because of that form.

**MR HLAUDI GEORGE MOTSOENENG:** I think - yes Chairperson.

**CHAIRPERSON:** Because you had already been employed by the time you filled the form?

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

**CHAIRPERSON:** That's your point?

**MR HLAUDI GEORGE MOTSOENENG:** Yes that is my point Chairperson and I said I did not lie when I was employed, that is the issue, but the form Chairperson, I think we are in agreement Chairperson.

**CHAIRPERSON:** Yes we are in agreement with that ja.

**MR HLAUDI GEORGE MOTSOENENG:** Sometimes I differ with my counsel Chairperson and he's here to guide me and advise me Chairperson, and I told him Chairperson I'm not here to defend or to do  
20 whatever, I'm here just to tell the truth, right or wrong and he knows Chairperson [indistinct] because he's here Chairperson because I am in Court on other matters so that he can protect me on those issues.

**CHAIRPERSON:** Yes Okay no that's fine. Just to complete the statement, the last part that – of the statement says,

“The SABC would like to make an appeal to other South

African broadcasters and the print media to stand in solidarity with the public broadcaster, not to cover the violent protests that are on the rise and intend destroying public institutions”,

So I think I've now read almost the whole statement, I think the whole statement and I think you and I are bound to agree that the understanding which I've been talking about is correct but it may be that you explained – when you explained afterwards, you might have explained in a different way, is that correct?

**MR HLAUDI GEORGE MOTSOENENG:** That is correct Chair.

10 **CHAIRPERSON:** Yes, Miss Norman do you want to take it from there?

**ADV THANDI NORMAN SC:** Yes thank you Chair, it's quarter past eleven Chair.

**CHAIRPERSON:** Oh yes, maybe before we take the tea break – or maybe let's take the tea break and then will come back. We will take the tea break and resume at half past...[intervenes].

**ADV THANDI NORMAN SC:** Eleven.

**CHAIRPERSON:** No I think I have reason to increase our tea break let's say twenty five to twelve, we'll resume at twenty five to twelve, we adjourn.

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

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** I am sorry I have taken longer because of other commission demands. So I should have been back seven minutes ago.

I am sorry about that. Maybe before we proceed let us finalise this part Mr Motsoeneng.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Because I think it is an important part of – of matters relating to the SABC. Relating to the decision or the statement what they – what I think the SABC 8 ended up calling the policy I think.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** From – from what you have said I gained the impression and you must tell me if I am right – I gained the impression  
10 that you do not believe as you sit there that SABC should have made any decision to ban the showing of visuals of the burning of properties during protests perse. What you were opposed to was the SABC or SAB – the SABC complying with requests or demands from some people when they say we are going to be burning property come and show us burning property. Am I correct, is my understanding correct?

**MR HLAUDI GEORGE MOTSOENENG:** You are correct Chair. But also going back a little bit. As I said earlier the Broadcasting Act I mean talks about glamourizing violence so this – all this information inform my decision to come to that conclusion Chair.

20 **CHAIRPERSON:** Hm;

**MR HLAUDI GEORGE MOTSOENENG:** But we did not really ban.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson we did not really ban Chairperson.

**CHAIRPERSON:** Yes. Am I right to think that it would have been



wrong to ban the showing of visuals of anything of the burning of property to the protests? Am I correct in taking that – the view that it would have been wrong and is that a view that you share? The burning perse, the showing of visuals, burning the property.

**MR HLAUDI GEORGE MOTSOENENG:** You know Chairperson sometimes when you respect someone like maybe your father for example.

**CHAIRPERSON:** Ja.

**MR HLAUDI GEORGE MOTSOENENG:** Even if you disagree. It is  
10 difficult. But Chair – it is a difficult one.

**CHAIRPERSON:** It is a difficult one.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair but let me try to explain Chairperson. In my

**CHAIRPERSON:** Yes. In your own words.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. In my view Chairperson it is unlawful.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** I mean I follow what the law says. I am still saying today burning property whether private or public  
20 it is unlawful Chairperson I will submit that.

**CHAIRPERSON:** Hm. And we agreed on that. Ja but remember my question now is on the showing of the visuals of the burning of property during violent protests whether...

**MR HLAUDI GEORGE MOTSOENENG:** Maybe to explain to that Chairperson.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** For me it is the same thing Chair. You show the visuals. What are you showing? You show the burning which is unlawful. Yes Chair I will submit that Chair.

**CHAIRPERSON:** But is the showing of the visuals so that the public can see what is wrong in our country is showing those visuals unlawful on your understanding?

**MR HLAUDI GEORGE MOTSOENENG:** The how Chair.

**CHAIRPERSON:** Sorry?

10 **MR HLAUDI GEORGE MOTSOENENG:** It depends the how.

**CHAIRPERSON:** Okay. Elaborate.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. The how is Chair like I said you – you – let us say television this is life. If people burn this building we are inside and then they show this visuals it will be unlawful but if someone maybe come in and you know that there are no people inside it is not unlawful.

**CHAIRPERSON:** Okay, Okay.

**MR HLAUDI GEORGE MOTSOENENG:** I was [indistinct] Chairperson.

20 **CHAIRPERSON:** Based on that I take you to mean that simply showing visuals of burning of property during protests on its own it is not unlawful?

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

**CHAIRPERSON:** Yes okay. And you say you – in your own mind you say you were not intending through the decision that you took you were not intending to ban the mere showing of visuals of the burning of

property as such. Is that right?

**MR HLAUDI GEORGE MOTSOENENG:** I agree with you Chair.

**CHAIRPERSON:** Yes, yes, yes. It was certain – when the – when the visuals show the burning of property in certain circumstances that is where the problem was as far as you are concerned when certain people start saying SABC come and show us we are going to burn property. Or when maybe there are people inside the building that is being burned that is the kind of situation you had a problem with.

**MR HLAUDI GEORGE MOTSOENENG:** This is exactly what I explained

10 **CHAIRPERSON:** Chairperson to Nothando Maseko and Sophie.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** When they were coming to verify this issue.

**CHAIRPERSON:** Yes.

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

**CHAIRPERSON:** Ms Norman.

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

**CHAIRPERSON:** I do not know whether you – do you want to...

**ADV THANDI NORMAN SC:** Just to proceed on that Chair.

20 **CHAIRPERSON:** Ja.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Yes, yes okay.

**ADV THANDI NORMAN SC:** Thank you very much Chair. Thank you. Mr Motsoeneng if somebody comes to the SABC and say please cover this I am going to burn a building. That is unlawful, the act says you

cannot participate in an unlawful act, am I right?

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**ADV THANDI NORMAN SC:** So you do not need a directive for that. A simple no we will not come we will not cover it would suffice?

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**ADV THANDI NORMAN SC:** Good. Now these – were you aware that these were service delivery protests?

**MR HLAUDI GEORGE MOTSOENENG:** I was aware.

**ADV THANDI NORMAN SC:** Yes. And these protests according to you  
10 and the note that you sent does not distinguish which protests must be covered or which protests must not be covered as you have indicated to the Chairperson. That you had the house how this is going to be done is what you were dealing with but this you would agree does not make that distinction?

**MR HLAUDI GEORGE MOTSOENENG:** I will disagree.

**ADV THANDI NORMAN SC:** But where does it make it? Where does it – where does it define the ban of violent protests that you wanted to actually ban?

**MR HLAUDI GEORGE MOTSOENENG:** I think Chair earlier I did allude  
20 to the issue that people were calling us. And sometimes Chairperson I am a citizen. I know in the area the same so called comrades because they are unhappy within themselves they mobilise these people to go and do this issues. Even when you ask them they will tell you. I mean if you know the reality I mean that will inform you all this issues. We can say protest but also we must be honest. What – what is the cause

of this protest? So some of us who deal with community daily sometimes we know what informs this decision Chairperson.

**ADV THANDI NORMAN SC:** Thank you. But then in your statement not only do you say you want to – not to cover violent protests but you go beyond that. You identify that there are certain people who have agendas. So it is not simply a statement of you saying I want to caution my journalists not to cover these instances but it goes beyond that because now you are in a situation – you actually say that we will not assist these individuals to push their agendas that seek media  
10 attention.

**MR HLAUDI GEORGE MOTSOENENG:** Because I know their agenda. Because they talk to me these people. When they come Chairperson demanding this coverage they talk about no you have covered that one, that province, that province, that area. Chairperson I want to repeat in South Africa there are issues that we shall condemn from the onset. This is one of the issues that we should condemn because we cannot build monsters in our society. We need Chairperson role model. So I will die with this statement Chairperson and I am doing this with due respect Chairperson.

20 **ADV THANDI NORMAN SC:** Then in your belief that you have to condemn this I think you – you were not government. These protests were not against the SABC. These were service protests – service delivery protests that were directed at government and you are not government. The SABC was not government at that point.

**MR HLAUDI GEORGE MOTSOENENG:** Chair my submission is we all

citizens. Government is us, we are government as citizens.

**ADV THANDI NORMAN SC:** No but then Mr Motsoeneng I just want to understand. How do you then use your powers as the COO of the SABC a broadcaster – how do you use those powers to deal with matters that affect government? If somebody – if these people who are protesting because they needed water, electricity you knew that the SABC does not provide that. Now there is not a single sentence in this statement that says there are these violent protests we urge government to please handle this matter or help people so that this can  
10 be avoided. All you doing really is to condemn the protests and then you say in the last sentence that the Chairperson has read to you. The SABC would like to make an appeal to other broadcasters and print media to stand in solidarity with the Public Broadcaster not to cover the violent protests that are on the rise and intend destroying public institutions. So you had moved away from being a broadcaster and you decided we are going to deal with this matter and nowhere in your statement do you call upon government to actually handle this matter.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I will submit I follow the law. This is what I will submit Chairperson and in the issue of  
20 – I mean it is a public broadcaster. I do not need to ask government. I do not need to do that. I mean I am public broadcaster there is mandating to cover government, to cover whatever that we must cover. So I do not need to go and tell government. Let them take responsibility to deal with the issues. That is not my issue to deal with.

**ADV THANDI NORMAN SC:** Yes. No the issue is not you telling the

people. The issue is you changing the mandate of the SABC to say to the SABC journalists do not cover violent protests. That is the issue.

**MR HLAUDI GEORGE MOTSOENENG:** I will submit Chair that sentence is wrong. Because I have already explained I have never said they should not cover this protest. So I will submit that I still stick on the issues that I referred to earlier.

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

**CHAIRPERSON:** Maybe let me come in at this stage. Are you able to say as you sit there that to the extent that this statement that was  
10 issued by the SABC may be read to mean you were saying violent protests must not be covered or may be read to mean the burning of property – the visuals relating to the burning of property during protests should not be shown it was wrong. In other words to the extent that it can be read to mean that would you be able to say no, no, no, to that extent that it must be said to have been wrong.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson burning of property.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** It is wrong.

20 **CHAIRPERSON:** Hm

**MR HLAUDI GEORGE MOTSOENENG:** It is unlawful.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** According to the act.

**CHAIRPERSON:** Hm. Hm. We long agreed on that you remember.

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

**CHAIRPERSON:** Yes. It is – what I am saying is – you – remember you issued a statement to the public.

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**CHAIRPERSON:** The public is entitled to read that statement and understand it what it means. The SABC journalists themselves should be able to read that statement say this is what it means. It says I must not do this, I must not do that, I must not do that. Now that may or may not reflect what you may have intended but when they read it they would understand it a certain way. Maybe subsequently there might be  
10 clarification which gives them a different picture I am not sure. But let us talk about somebody who picks it up and reads it. So I am saying are you able to say insofar as this statement can be said to have said to the journalists do not cover the burning of property during protests then that part was wrong.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I will submit that in my understanding of that statement. My understanding is we will cover.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Where the people are going to burn but we will not show.

20 **CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Like I have already alluded.

**CHAIRPERSON:** Ja.

**MR HLAUDI GEORGE MOTSOENENG:** The physicality of the – the burning because of some reasons that I will – I was talking about. Chairperson let me give you example.



**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** In the past you can cover it.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** In the past because television was not live.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Currently television is live.

**CHAIRPERSON:** Hm

**MR HLAUDI GEORGE MOTSOENENG:** Which means if you cover –  
10 because when you cover it is just the visuals. Maybe even the police  
can come and look for those materials. What I am saying Chairperson  
when the journalists go there they can cover it, have the records but  
not show those pictures because the act says do not glamourize  
violence. You will show but responsibly so Chairperson.

**CHAIRPERSON:** Well that seems to be a little different from what I  
thought we had achieved in terms of understanding and maybe  
understand – my understanding so far has been that what you are  
saying is you never intended that visuals of the – the mere visuals or  
the mere showing of visuals of the burning of property during protests  
20 should not be shown on television. My understanding is that you were  
saying you never intended to say that, number 1.

2. Your understanding of this statement is that well certain parts we  
reached as the same understanding but my understanding is that you  
were saying you never intended to say visuals of the burning of  
property should not be shown perse. Your difficulty was other issues

connected with that.

1. If people are inside the building or if people are trying to get out they got caught out in the fire.

Or if people say in advance to SABC come and show us we are going to burn property. That is my understanding that you were saying you were not intending to say visuals of the burning of property perse should not be shown.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson 100% I am with you.

10 **CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** The only issue I think here is English.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** You know Advocate want to catch me with something that I have already alluded to but I do – I understand that he is just doing her work so I do not have a problem with it Chairperson.

**CHAIRPERSON:** Yes okay.

20 **MR HLAUDI GEORGE MOTSOENENG:** Almost I must stick to but I think it is English.

**CHAIRPERSON:** Yes. Okay.

**MR HLAUDI GEORGE MOTSOENENG:** Especially not from her side maybe from my side Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But I agree with you what you

are saying.

**CHAIRPERSON:** Okay alright.

**ADV THANDI NORMAN SC:** Thank you Chair. So when you agree then with the Chairperson then it means you will agree that that sentence, second sentence in the second paragraph that says we will not cover people who are destroying public property. If you agree then with what the Chairperson has put to you then it means that you are agree that this part of the instruction to – should not have been made. It was – it was contrary to the policy of the SABC. Because you are not talking  
10 about visuals you simply saying do not cover public protests where there is destruction of property.

**MR HLAUDI GEORGE MOTSOENENG:** But Chairman I will submit that we shall not be selective. We shall read the whole statement. So by reading the whole statement you will come to conclusion to understand what I – what we meant and even after I explained it to the SABC staff what I meant I explain it to the public during those debates on the matter Chairperson.

**CHAIRPERSON:** Of course earlier on we went through the whole of it.

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

20 **CHAIRPERSON:** So you remember that.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** The two of us at least.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Okay alright.

**ADV THANDI NORMAN SC:** Thank you Chair. Chair maybe – let me

move forward. We have...

**CHAIRPERSON:** Yes no. that...

**ADV THANDI NORMAN SC:** Now could you just tell the Chairperson then if then a journalist goes out, covers the violent protests and those footages are shown what were the consequences?

**MR HLAUDI GEORGE MOTSOENENG:** The consequence of that I cannot say the consequence because there was no consequences. What we are saying Chairperson we just said people shall be responsible but if you have been given directives.

10 **CHAIRPERSON:** I am sorry. I am sorry Mr Motsoeneng. I know I am interrupting you in the middle of a sentence.

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

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

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

**CHAIRPERSON:** I just want to say something to Mr Motsoeneng before we move to that part.

**ADV THANDI NORMAN SC:** To this – yes.

20 **CHAIRPERSON:** I just want to say to the extent that you say that in making this decision you did not intend to ban so to speak the showing of visuals of the burning of property or covering the burning of property to the extent that you say that is what your intention was. It just seems to me now that you and I have gone through the statement it does not – it seems to me that the statement seems to say something else namely do not cover the burning of or property. We must not show visuals of the burning of property. That is the impression I get from it. And you

know earlier on you and I went step by step to say here is my understanding and I think we ended up having the same understanding on what this says. But you did say where you explained it afterwards to journalists and to other people. So I just want make that point and then allow you to comment that it does seem that the statement might not be reflecting what you might – what you say you intended.

**MR HLAUDI GEORGE MOTSOENENG**: Chairperson I think earlier we agree. So I will submit that that agreement between me and you Chair still stands Chairperson.

10 **CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: Yes still stands Chairperson.

**CHAIRPERSON**: It stands ja.

**MR HLAUDI GEORGE MOTSOENENG**: Yes I cannot move from...

**CHAIRPERSON**: Yes from that agreement ja.

**MR HLAUDI GEORGE MOTSOENENG**: What we have agreed upon.

**CHAIRPERSON**: Okay. Okay.

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

**CHAIRPERSON**: Thank you.

20 **ADV THANDI NORMAN SC**: Thank you Chair. So you were going to explain what consequences were there if people failed to comply with that directive.

**MR HLAUDI GEORGE MOTSOENENG**: No if people differ with you there cannot be consequence. I mean it is normal Chairperson that people must differ with you. I mean you should allow that people to differ with you but you have a responsibility as the accountable person

but it does not mean that when people differ with you you can chase them away. You cannot do that.

**ADV THANDI NORMAN SC:** Yes. Chair may I just take the witness to page 85? This is the notice of suspension quoted in the Labour court judgment.

**CHAIRPERSON:** Well I think you can take me to page 85.

**ADV THANDI NORMAN SC:** Oh.

**CHAIRPERSON:** Mr Motsoeneng.

**ADV THANDI NORMAN SC:** Oh yes by the way – by the way.

10 **CHAIRPERSON:** He – just tell him, read to him what you...

**ADV THANDI NORMAN SC:** What is there?

**CHAIRPERSON:** Ja he will deal with it and if he needs to look at anything he will say.

**ADV THANDI NORMAN SC:** Thank you Chair. Chair at page 85 of the Labour Court judgment paragraph 17 the court recorded the following:

20 “Three days later on 23 June 2016 Krige, Venter and Gqubule were called into a meeting with management and informed that they had been suspended. Disciplinary proceedings were instituted against all three employees and remained pending. The suspension notices of 23 June 2016 are identical in their terms and state: Re Notice of Suspension. It has come to management’s attention that you have allegedly refused to comply with an instruction pertaining to the Provisions of the SABC Editorial

Policy as well as the Directive not to broadcast visuals/audio of the destruction of property during protest action and that you distance yourself from the instruction. The above alleged offence constitutes a refusal and or failure to comply with a reasonable and lawful instruction and same impacting negatively on the day to day broadcasting operations. Please be advised that management regards the alleged offence as being of a serious nature and is furthermore resolved that the potential of your presence at the workplace may interfere with the investigation into the matter therefore a decision was taken to suspend your services with the SABC with immediate effect pending institution of disciplinary action. Your suspension is with full remuneration. Please hand in your SABC access cards, laptops.”

10

And then it goes on to tell them when the disciplinary – the further steps and then.

20 “Yours faithfully Simon Thebele Acting Group Executive News and Current Affairs.”

The first question did Mr Simon Thebele report to you?

**MR HLAUDI GEORGE MOTSOENENG**: Maybe Chair I should explain.

Mr Thebele was the Group Executive of news. The direct line it is me.

**CHAIRPERSON**: He reported to you?

**ADV THANDI NORMAN SC:** He reported to you?

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Yes. Thank you. And were you aware that these journalists were – in whatever capacity they were holding at the time were suspended for having failed to comply with the directive that the Chair has taken you through paragraph for paragraph?

**MR HLAUDI GEORGE MOTSOENENG:** The information Chair that I got from SABC the information was leaking of the information of the SABC  
10 not the dispute between management and them. And Chairperson I will refer you to...

**CHAIRPERSON:** Oh I am sorry just repeat that. I want to make sure I understand it.

**MR HLAUDI GEORGE MOTSOENENG:** The information that I have got Chairperson the disciplinary hearing it was because of the dispute that – no not the dispute Chair sorry not the dispute. It was because the journalists they leak information. They spoke to media when the policy of the SABC you are allowed to talk to media. It was not about their differences when it comes to the visuals. The issue was leaking  
20 information or communicating publicly so with the media. The same with me I communicated with media, I was chased away. I was disciplined and the SABC get rid of me. The same SABC did that but the court rule in their favour. So – but it was not the visuals. It has nothing to do with the visuals. But also Chairperson I can elaborate that really I will refer the Advocate to my affidavit and I will stand by



that – my affidavit because even in that affidavit I explained I was not involved. Even the finding of the court Chairperson says what I was supposed to do is to – is to overrule in my understanding I may use the wrong English but it is to overrule management on their decisions. So I was not involved on the matter. I cannot take the matter further than what I am saying Chairperson.

**ADV THANDI NORMAN SC:** So what do you want the Chairperson to make of this suspension notice that it must simply be disregarded, it is not what you would have done or are you saying Mr Thebele did his  
10 own thing?

**MR HLAUDI GEORGE MOTSOENENG:** I was not involved.

**ADV THANDI NORMAN SC:** Yes. Thank you. Can we then move to the second – sorry.

**CHAIRPERSON:** Before you move Mr – I am sorry. Ms Norman.

**ADV THANDI NORMAN SC:** Yes Chair. No.

**CHAIRPERSON:** I want to say something in regard to this but before I do that going back Mr Motsoeneng to the statement that was issued by the SABC relating to the decision that you made about violent protest and so on. At some stage in the future somebody might stand in front  
20 of me there, a lawyer and say to me Chairperson do not accept what Mr Motsoeneng said before you when he said his decision – when he said he did not intend to ban the showing of visuals of buildings during protests. That was not the truth. Do not take what he was saying because when you read the statement that he issued that is now a lawyer arguing before me before I write my report.

The lawyer might say this statement that was issued by the SABC is clear as to what was not supposed to be done. It does not talk about journalists of SABC do not be party to criminality and agree when people say we are going to burn property. Come and agree and come and show us. It does not say anything along those lines if you read the statement.

That is now a lawyer arguing to me. He says there are clear statements in this you know - sentences in the statement which show that what was said was do not cover these protests. Do not show the  
10 visuals of these protests and when you look also at the letters of suspension of the relevant journalists it is quite clear - I just read a part that ...

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

**CHAIRPERSON:** Ms Norman read.

“It has come to management’s attention that you have allegedly refused to comply with an instruction pertaining to the provisions of the SABC Editorial Policy as well as the directive not to broadcast  
20 visuals/audio of the destruction of property during protest actions and that you distance yourself from the instruction. The above alleged offence constitutes a refusal and/or failure to comply with a reasonable and lawful instruction and same impacting negatively on the day to day broadcasting operations.”

So this lawyer now argues before me in some months to come and says make a finding that Mr Motsoeneng knows enough English to have understood what this statement means. This thing that he did not intend to burn the showing of visuals has no basis when you look at the statement. What would you say when somebody - if somebody says that?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson let me submit to you - submit to you - to say to you when you read the Act it is unlawful except if that lawyer will be coming with - with his own law but when  
10 you read this Chairperson actually showing violence - glamorising violence it is unlawful if we stick to - to the Act Chairperson. The second point Chairperson I will submit that that statement it cautioned people about burning - what do you call it - whether building or - or clinics Chairperson.

It just - it cautioned people. I will submit that when you read the statement really I think Chairperson if my respected Advocate Norman ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Submits that I will ...

20 **CHAIRPERSON:** Well it might not be her but I am just saying somebody.

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

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I am just saying because she is in front of me Chairperson.

**CHAIRPERSON:** Yes.

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

**CHAIRPERSON:** Okay.

**MR HLAUDI GEORGE MOTSOENENG:** So I will submit that Chairperson I mean reading that statement not looking for what you are looking for.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Just applying your mind ...

**CHAIRPERSON:** Hm.

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

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** You will realise the importance of that statement but also Chairperson even after that - let us say people did not understand what we meant - even after that I have already alluded that I explained publically so and also SABC has been covering such protests and burning of those properties ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** But responsibly so.

**CHAIRPERSON:** Hm.

20 **MR HLAUDI GEORGE MOTSOENENG:** That is what I will submit Chair.

**CHAIRPERSON:** Thank you. I interrupted you.

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

**CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:** Yes thank you Mr Chairman. Then I am sure then Mr Motsoeneng you would agree that you had these

journalists that were suspended and according to this judgment the SABC had stated that they were suspended because they did not agree with that policy or whatever whether you call it a policy or a directive and that they had - were also critical of management.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson, maybe I shall also say that we shall not leave the issue about the Constitutional Court which you are part of Chairperson. The journalists came to you and you dismiss especially on the so called policy of SABC about violence. Maybe starting from that point Chairperson. The Constitutional Court  
10 which all of us will respect dismissed those views but the Labour Court Chairperson if I - I may put my side of the story.

I think they went out of their way to deal with issues that they were not supposed to deal with because there the charges it was about putting SABC into disrepute by talking to media. It has nothing to do with the decisions and that is why I am saying maybe when they went to court - Constitutional Court because when they went there they were trying to say the Constitutional Court shall rule that the policy of SABC it is unconstitutional which the Constitutional Court rejected  
Chairperson.

20 **CHAIRPERSON:** Well the - you are right to say I was part of the panel of the Constitutional Court that dealt with that matter but the - there - there is no recent judgment - if I recall correctly - judgment. There was just an order. I am not going to speak for the court while I am sitting here because I am not the court but it is - it is worth just mentioning what the scenario was at the time if I recall correctly.

The - the Labour Court had - when the Constitutional Court made its decision to dismiss the application to the court relating to the policy I think one, the - the Labour Court had pronounced on the issues that were dealt with in that judgment, one. Two, I think the SABC had reinstated the - the SABC eight but three if I am not mistaken the SABC had withdrawn whether you call it the policy or the decision or the directive all - that is - that had happened and sometimes when - sometimes when the Constitutional Court dismisses an application without giving a full judgment sometimes it is on the basis that the  
10 whole thing has become academic.

I am not saying that in that case that was the reason. I am saying sometimes that is what happens. So - but I leave it at that. Yes.

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

**CHAIRPERSON:** You may - you may continue.

**ADV THANDI NORMAN SC:** Thank you Chair. Did you Mr Motsoeneng on 31 May 2016 summon Mr Krige and Ms Pillay to a meeting to discuss matters that they were unhappy about?

**MR HLAUDI GEORGE MOTSOENENG:** I met them Chairperson but  
20 there is protocol within the organisation. I informed the Head of News the Head Radio that I - I want to meet them but just giving you background Chairperson. The issue was - issue when they were dealing with the same issues that we - we are dealing with today because I said - they said no. Now I am talking about the policy Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** When I called them it was because of the policy. They invited me for interview. It was myself and Anton Heunis. During that time after interview they said but we are not aware of this policy. I remember very well. Anton said to them no that policy is - even in the - you can Google it internet you will find it. In the SABC you will find that the policy is there.

That was the main reason to - to have that meeting and clarify the issues because it seems as management they were not communicating with them because when we take decisions - when at  
10 board level or at Exco we are expecting the head of those units to communicate such decisions. So that was the main purpose.

**ADV THANDI NORMAN SC:** Yes. Both of them had testified before the Chairperson that at that meeting this is where you told them that:

“If people do not adhere get rid of them. We cannot have people who question management. This is the last time we have a meeting of this kind.”

And Mr Matthews added:

“It is cold outside. If you do not like it you can go.

20 You have got two choices the door or the window.”

**CHAIRPERSON:** Maybe before Mr Motsoeneng responds. You must just say where you are reading that from.

**ADV THANDI NORMAN SC:** Oh sorry. It is also ...

**CHAIRPERSON:** Is it minutes or is it something like (intervenes)?

**ADV THANDI NORMAN SC:** It is also quoted in the judgment Chair but

both witnesses testified to it ...

**CHAIRPERSON**: Yes, okay.

**ADV THANDI NORMAN SC**: In evidence, yes.

**CHAIRPERSON**: But were there minutes, was there something that they said was recorded?

**ADV THANDI NORMAN SC**: They had recorded ...

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: That conversation ...

**CHAIRPERSON**: Hm.

10 **ADV THANDI NORMAN SC**: And I can just direct in their bundle where their statements are.

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: You - I just wanted to make ...

**ADV THANDI NORMAN SC**: Just for the record Chair, yes.

**CHAIRPERSON**: No that is fine. I just wanted Mr Motsoeneng to appreciate the whole context of what ...

**ADV THANDI NORMAN SC**: Of that.

**CHAIRPERSON**: What you are saying before ...

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

**CHAIRPERSON**: He responds, *ja*.

**ADV THANDI NORMAN SC**: Thank you Ms Krige. Sorry. If I may just read paragraph 3 of Mr Krige's affidavit. I beg your pardon Chair.

Page 3 paragraphs 9/10 and 11. He says:

“In attendance were Mr Motsoeneng,



Mr Jimi Matthews, Mr Simon Tebele,  
Mr Anton Heunis and Ms Sebolelo Dithakanyane  
and the spokesperson Kaizer - Mr Kaizer Kganyago.  
These meetings were formally recorded and should  
be archived in the office of the GE News. Everyone  
was aware that the sessions were recorded. I  
transcribed one session and my colleague  
Sandra De Lange also transcribed a session. At the  
meeting Mr Motsoeneng stated we are cleaning up  
10 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 to find a job elsewhere. Editor's  
forum must go. It is advertising for rival  
newspapers. He added if people do not adhere get  
rid of them. We cannot have people who question  
management. This is the last time we have a  
20 meeting of this kind."

Which is the portion that I read. It is Krivani Pillay. I beg  
your pardon Chair. KP - KP3 - page 3.

**CHAIRPERSON:** So I guess the first question must be whether  
Mr Motsoeneng ...

**ADV THANDI NORMAN SC:** Confirms that meeting.

**CHAIRPERSON:** Accepts that what is stated there as something that he stated is correct ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** And then we can take it from there.

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

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I did allude earlier I am not here to defend or mislead the Commission. Some of the issues that they are raising there it is true.

**CHAIRPERSON:** Yes.

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

**MR HLAUDI GEORGE MOTSOENENG:** The only issue that - that everybody was aware that they were recording I was not aware that ...

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** They - they were recording. Maybe they were recording but I - I was - I was not aware. I saw them taking notes.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** There is difference between taking notes and recording.

20 **ADV THANDI NORMAN SC:** Yes. Thank you. So - so whatever they have recorded is correct?

**MR HLAUDI GEORGE MOTSOENENG:** I - I cannot say it is ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** It is - it is correct Chair.

**CHAIRPERSON:** Yes. I think ...

**MR HLAUDI GEORGE MOTSOENENG:** I can only talk about the issues that I know what I said in those ...

**CHAIRPERSON:** Yes. I think what you ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** You - you should do to the extent that there may be something important out of what you read because he says ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Some of those things are correct.

**ADV THANDI NORMAN SC:** Yes.

10 **CHAIRPERSON:** He does not say everything.

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

**CHAIRPERSON:** Those that you are interested in put to him to say can I take - can we take it that you did say this. So that if he says ...

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

**CHAIRPERSON:** That is one of the correct ones then we can take it ...

**ADV THANDI NORMAN SC:** Then we know it is recorded.

**CHAIRPERSON:** From there.

**ADV THANDI NORMAN SC:** Thank you Chair. Okay. Did you tell them Mr Motsoeneng that you will clean up the organisation?

20 **MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Okay. Did you also say that people were doing their own stuff?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Did you say to them that there were many journalists outside that wanted - that wanted work - to work for the

SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Did you tell them that the environment outside was bad?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Did you tell them that no person within the SABC is independent?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Did you tell them that the SABC is  
10 independent?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Did you tell them that this is the new SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Yes I did.

**ADV THANDI NORMAN SC:** Did you also tell them that you must adapt or find a job elsewhere?

**MR HLAUDI GEORGE MOTSOENENG:** I - I do not know that English Chairperson - adapt - but what I remember very well I said everyone shall adhere to the policy of the SABC.

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

**MR HLAUDI GEORGE MOTSOENENG:** Not that the adapt one. I ...

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Yes. That - that word ...

**ADV THANDI NORMAN SC:** Okay.

**MR HLAUDI GEORGE MOTSOENENG:** I do not remember saying that.

**ADV THANDI NORMAN SC:** Thank you. Did you say that the Editor's Forum must go?

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**ADV THANDI NORMAN SC:** And did you also say that it was - the Editor's Forum is advertising for rival newspapers?

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**ADV THANDI NORMAN SC:** Okay. Did you say if people did not - do not adhere - which is what you have just said - get rid of them?

**MR HLAUDI GEORGE MOTSOENENG:** I - I just want to remember  
10 exactly what I said Chairperson.

**CHAIRPERSON:** Yes. No that is fine.

**MR HLAUDI GEORGE MOTSOENENG:** May I ...?

**CHAIRPERSON:** That is ...

**MR HLAUDI GEORGE MOTSOENENG:** Let me ...

**CHAIRPERSON:** It is important, *ja*.

**MR HLAUDI GEORGE MOTSOENENG:** I will come back to - to it. I just want to try to find the word.

**CHAIRPERSON:** To try and remember.

**ADV THANDI NORMAN SC:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** Exactly what I said earlier.

**CHAIRPERSON:** *Ja*.

**MR HLAUDI GEORGE MOTSOENENG:** But I remember Chairperson ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** It was not a secret.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** I said SABC we are going to transform come what - when it comes to the transformation issue. I said to the SABC we are going to put the content that is in the public interest which is local content in South Africa and those issues I do not really need permission because this is what the Act says. This is what the SABC will stand for.

So I said you cannot question the obvious or question that you cannot do the policy. It is like saying I cannot adhere to the law. It is - those issues I said. It is public knowledge. It is not secret. I  
10 have been even publically talking about these issues Chairperson.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** I think the one that - I think you said you do not know this English of adapt. You said you do not know about that part. Let me put it this way. Did you say anything which was too the effect that anyone who was not prepared to adhere to this decision will have to find a job elsewhere or to that effect? Do - did you say anything along those lines?

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

**CHAIRPERSON:** As far as you remember.

20 **MR HLAUDI GEORGE MOTSOENENG:** I think I shall give you background because you cannot just say this without ...

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** A background.

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** I said this because some of the

people within the SABC their mentality it was still old mentality and when you want to transform you must transform Chairperson and you cannot work with people that work against the issues that the corporation should achieve. So I am not going to run away from what I said in those issues.

There was background that I consider before coming to that conclusion. Even myself Chairperson if I believe that these people I do not agree with them why should I - I stay. I cannot work against people if I believe that really. I said to them no. If you believe that the SABC  
10 this direction that we are taking you are not support and you do not agree with us what do you do.

What is wrong if I said they must go and look other opportunities outside? Yes, I said.

**CHAIRPERSON:** So you - you - the answer is yes you said it but this is the context or background ...

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

**CHAIRPERSON:** To it? Okay.

**ADV THANDI NORMAN SC:** Yes, thank you. Mr Motsoeneng you are aware that ICASA did find that that Protest Policy was unlawful and - on  
20 12 July 2016? You are aware of that?

**MR HLAUDI GEORGE MOTSOENENG:** I am aware Chair ...

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** And I think - and in my affidavit Chairperson ...

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** As I said I know my affidavit and all these documents here. I alluded to this issue Chair to say I do not know why they - you know media Chairperson. Media is very dangerous when you just follow what they are saying because I think because everybody was fighting the SABC and so on. They get in read their own Act in this Broadcasting Act.

That is what says Chairperson you should not glamorise such visuals. We stick to this. They - ICASA - according to my personal view Chairperson as I said I am just giving my views here Chairperson.

10 Actually I think Chairperson I will submit that they were wrong. They did not follow their own Act when it comes to that issue Chairperson. In any case Chairperson it was not a policy. It was a decision.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you Chair. Chair just - we have compiled a bundle of all the policies but the one that deals with the aspect that Mr Motsoeneng has just dealt with will be contained in CC35.10. I will - we have just - that copy is a loose copy. It is not in the actual bundle for -for purposes of today. It will ...

20 **CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** We - we will just use these. Mr Motsoeneng you are aware of the policy. You have quoted it in your affidavit but do you want to have (intervenes)?

**CHAIRPERSON:** Well if it is quoted in the affidavit.

**ADV THANDI NORMAN SC:** He has quoted it, yes.



**CHAIRPERSON:** He is likely to know ...

**ADV THANDI NORMAN SC:** (Intervenes).

**CHAIRPERSON:** To say he - he knows it.

**ADV THANDI NORMAN SC:** Yes. Thank you Chair. May I just refer Chair to page 5? He is referring to Regulation 3 because these are 10 Regulations regarding the Code of Conduct for Broadcasting Service Licensees issued in terms of Section 54 of the Electronic Communications Act No. 36 of 2005 and the section that he refers to is - is Regulation 3 Violence and Hate Speech. It says:

10           “Broadcasting Service Licensees must not broadcast material which, judged within context a, contains violence which does not play an integral role in developing the plot, character or theme of the material as a whole or sanctions, promotes or glamorises violence or unlawful conduct.”

So it is not just a blanket prohibition because you have to look at a situation within a particular context.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson and I am not arguing about the law here because I am not a lawyer. I am just saying  
20 my understanding as I said earlier the way I - I analyse and interpret it for me it is unlawful to glamorise violence and when I - when I read this paragraph that the advocate is - is talking about I still stand with those views Chairperson that I was within the - the Act and I want to submit that the - that decision of ICASA they went against their - the Act itself Chairperson.

That is my understanding. I am not arguing about the - the law Chairperson. I am just saying my understanding.

**CHAIRPERSON:** I - I have not had a chance to look at the Act as such but I did ask one of my researchers last evening to have a look at the Act and the report I got was that the Act itself does not seem to refer to glamorising and so on but that that comes from ICASA ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** And this - you said Ms Norman this - these are regulations?

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

**CHAIRPERSON:** These are regulations ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Promulgated by ICASA to the extent that they are regulations. For the point that you maybe wishing to make Mr Motsoeneng it might not make a difference whether it is the Act - it is in the Act or regulations as long as it is in the law because I think that was - that was your point.

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

20 **CHAIRPERSON:** Now I - I thought that the question whether or not your decision had anything to do with glamorising.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Is that the word used?

**ADV THANDI NORMAN SC:** Glamorising.

**CHAIRPERSON:** Glamorising?

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Glamorising - glamorising violence. I - I thought that that would not arise because your - I thought it would arise if your evidence was I said the SABC must no longer show visuals of the burning of property because I understood that that would be glamorising violence which the regulations say should not be done but your evidence is that you did not say visuals must not be shown.

So it therefore seems to me that the issue of glamorising should not arise. Do I misunderstand anything?

**MR HLAUDI GEORGE MOTSOENENG:** Chairman you - you are correct  
10 Chair.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** I think the Chairperson - well in my reading I agree with you about what we have already agreed ...

**CHAIRPERSON:** Hm, hm.

**MR HLAUDI GEORGE MOTSOENENG:** But if you through Chair a ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** “Contains violence  
20 which does not play an integral role in developing the plot, character or theme of the material as a whole or sanctions, promotes or glamorises violence or unlawful conduct.”

So Chairperson in my view all these paragraphs - in - in my understanding it is warning the SABC what you can do and what you cannot do Chairperson. That is my understanding.

**CHAIRPERSON:** Yes, yes. Do not promote violence. Do not glamorise

it. Do not sanction it. That is at least the - the paragraph b.

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

**CHAIRPERSON**: Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG**: And the part that I think also integral which means ...

**CHAIRPERSON**: *Ja*.

**MR HLAUDI GEORGE MOTSOENENG**: In - in my understanding issues that they do not really assist the - the country. The way I - I interpret it Chair. I may be wrong but that is my - my understanding but you are  
10 right Chairperson. I think we have closed - closed the issue of glamorising whatever.

**CHAIRPERSON**: Yes.

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

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

**ADV THANDI NORMAN SC**: Thank you Chair. Chair I would like to refer now to the Editorial Policies of the SABC. That - this deals with the changing of reporting lines in the newsroom because according to the policy at page 22 Chair that policy is contained - if Chair would like to have reference to it.

20 **CHAIRPERSON**: I have got it at ...

**ADV THANDI NORMAN SC**: Yes.

**CHAIRPERSON**: Page 17 ...

**ADV THANDI NORMAN SC**: Yes Chair. That is correct.

**CHAIRPERSON**: Of EXHIBIT ...

**ADV THANDI NORMAN SC**: EXHIBIT 18.

**CHAIRPERSON:** CC ...

**ADV THANDI NORMAN SC:** 17 and 18.

**CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:** That is correct. Thank you Chair.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** If I may ask Chair to turn to page 22.

**CHAIRPERSON:** Huh-uh.

**ADV THANDI NORMAN SC:** Firstly Mr Motsoeneng why was it necessary to have the policy changed to the effect that now news reported to the COO and not to the Group Chief Executive Officer?

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

**CHAIRPERSON:** Is that who the (indistinct) Editor in Chief ...

**ADV THANDI NORMAN SC:** Editor in Chief.

**CHAIRPERSON:** Or not really?

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

**CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:** The - the Group Chief Executive Officer in terms of the policy is - is the Editor in Chief. So that changed and they all reported to the Chief Operations Officer.

20 **MR HLAUDI GEORGE MOTSOENENG:** Chairperson if I remember correctly that policy changed in 2016 but even the previous they were still reporting to me. In the past the Group Executive of News they were reporting directly to the GCO. There has been changes not in 2016 but because it is - it is a broadcasting Chairperson and the strategy was put the broadcasters together.

So that there is no (indistinct) when it comes to making sure that we - we generate revenue. It is - it is that basket in - in one division Chairperson. We put that together. All the broadcasters they were reporting to me Chairperson and it is a strategy of the organisation and that strategy did work very well for SABC. All the broadcasters they were reporting to me.

Chairperson it can't be submitted if the strategy change it was wrong because it's just a policy it's just how people see things, you may see that, no this one must report to the GCO I may say no, this  
 10 must report to the COO, I mean to be honest you can't hammer on such issues because it's just a policy it's not even an Act, it's how do you see - I mean how do you align, how do you think SABC will do well if we do A, B, C, I may say to you Chairperson, in my view, and I'm not representing the Board on this matters, my understanding, previously when they were changing, I think it was during Dr Ngubane, when they were changing it's because I'm a journalist, as the COO I know this environment of journalism. When you put someone who doesn't understand the environment of journalism it is a problem because if you are preferral to the person what he's going to do, what the person know  
 20 - I'm just saying Chairperson if - because we must go and check the background what informs this decision Chairperson, so that I will submit it to you Chairperson, I don't see anything wrong but I accept it Chairperson, I mean, someone can come and say this was wrong, I think it should happen and I come even myself to say, no this is what - I don't see any problem. A person when in charge at that time we have

our own view and strategy so and we will put what we believe it will work for the organisation.

**CHAIRPERSON:** Well Mr Thloloe, when he was giving evidence here about his commission and his report said that the idea that the Group Chief Executive Officer should be the Editor in Chief, was an idea that was or may have been taken from the British system because there the Director General would be a journalist and would have come through the ranks so it would make sense that the Director General should be the Editor in Chief and he says in their report, they recommended that, that  
10 should not be continued with, with SABC, in other words the Group Chief Executive Officer should not be Editor in Chief and he gave the reason which seems to be similar to what you are saying. He said because there's no requirement that the Group Chief Executive Officer of the SABC should be a journalist, it can be somebody that is not a journalist and it is better that the person who has the final say on these matters should be somebody who – I don't know if he said falls within the newsroom but I understood him to say it would be somebody who is – I don't know whether it is head of news or whatever, but the point you are making which might be similar to what he was saying or similar to  
20 the motivation is that you were COO, you were a journalist so you understood certain things about journalism and in your view it made better sense that you should be the Editor in Chief.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair but not – that is my view but I was just alluding because when a structure is changing and you are affected they don't – you are not part of such a discussion, I'm

just saying maybe that is the reason why I was put there because they understand from the environment Chairperson.

**CHAIRPERSON:** Yes so – but you seem to be implying that it was the Board that said the COO should be the Editor in Chief, is that correct, who's decision was it?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson all the decisions, especially when you deal with policy, it's a Board resolution it will be a Board resolution Chairperson. What I don't agree with the issue of Britain, Chairperson...[intervenes].

10 **CHAIRPERSON:** I may have misrepresented what was said here, so I don't want you to blame anybody

**ADV THANDI NORMAN SC:** You are correct Chair.

**CHAIRPERSON:** Am I correct?

**MR HLAUDI GEORGE MOTSOENENG:** Okay Chairperson, my point Chairperson, you know I have a serious problem with people copying Britain and other countries and I have been very vocal to say, why these other countries can't copy us, you see it's this issue of quoting other people in [indistinct] and so on but no-one is quoting you. Chairperson this is what I'm saying, we need thinkers in South Africa  
20 because now Britain and us, Chairperson, we are very different so we shall come through our own but also other countries they should follow us, we shall be people who are thinkers Chairperson.

**CHAIRPERSON:** Of course to be a thinker also requires that you expose your thinking to other thinkers and you also get exposure to what other thinkers think but in the end you must make up your own



mind, we agree on that?

**MR HLAUDI GEORGE MOTSOENENG:** Hundred percent Chairperson.

**CHAIRPERSON:** Yes so not that you mustn't have regard to what other people – what experiences other people have, you must have regard to that but you must also have regard to your own experiences as a people as a country and then decide what is best for you in the situation which you are in.

**MR HLAUDI GEORGE MOTSOENENG:** I think Chairperson the environment itself, it means that you are not [indistinct] what is  
10 happening but you apply what is going to work for you because there are interactions between other countries and us so that one is normal Chairperson but we should be thinkers ourselves.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Also, so that other countries they can follow us, because let's take the issue Chairperson, benchmarking, you know I have serious discussion with SABC to say but, why do you want to go outside, abroad every time for benchmarking, why these people they can't use South Africa as a benchmark but here I'm just encouraging that, we shall be thinkers, I'm  
20 not saying we can't go and engage other countries.

**CHAIRPERSON:** Yes thank you.

**ADV THANDI NORMAN SC:** Thank you Chair, maybe just for reference purposes in his Executive summary. Mr Thloloe at page 74 of Exhibit CC17.2 to 18 paragraph six, this is what he says,

“Lastly the designation of the GCEO or COO as Editor in Chief

is not appropriate for the SABC because the circumstances of the corporation are different from those of the BBC the model for the current structure”,

Yes thank you Chair.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** I think we should deal with the responses you've dealt with the responses of Mr Krieger and Miss Pillay and I'm not sure if you listened to their evidence when they testified?

**MR HLAUDI GEORGE MOTSOENENG:** Partly Chair, partly I did.

10 **ADV THANDI NORMAN SC:** Yes thank you. Can I just take you to the evidence of Miss Kabule and Mr Phiry...[intervenes]?

**CHAIRPERSON:** Maybe before you go there Miss Norman, just also to round off something that we have dealt with already. You have said, Mr Motsoeneng that as far as you know and as far as you are concerned, the SABC journalists who were suspended and dismissed, their suspension and dismissal was – or was supposed to be about them speaking to the media about certain matters. It was or was not supposed to be for their unpreparedness if that is what the case was to comply with a directive that they understood to mean, don't show  
20 visuals of the burning of public – of property, that is what you have said, am I right?

**MR HLAUDI GEORGE MOTSOENENG:** Correct Chair.

**CHAIRPERSON:** Yes now if, when one reads the notice of suspension and if one looks at the documentation and the evidence that has become before the Commission and what may still come, if one

concludes that actually the letter of suspension and maybe whoever it is who made the decision to dismiss, I understand you to say you were not involved with that, if one finds that they actually dismissed them, not really for speaking to the media or communicating with the media but for their opposition to a directive or a decision that they believed said that they mustn't show visuals of the burning of buildings during protests, is your stand that then they should not have been dismissed for that?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson news is a robust  
 10 debate within news, I have been a journalist, I have been participating [indistinct] even my bosses and myself about certain directions that I think it was wrong for the SABC to – like India, I'm not saying I'm right or wrong but that is the robust that is allowed in newsroom Chairperson, and I'll tell you Chairperson because people use my name on certain issues and I'm saying this because if you go through the – my affidavit and the SABC affidavits, they confirm that I was not part but when Simon Tebele went to – no, no even in his affidavit but from the [indistinct] in Court his Advocate stand up and say, no his ration was from Claudi because I think they have been lobbying each other  
 20 but that is what people have been using and my name Chairperson. I will never allow a situation where people are dismissed because of the difference amongst themselves, it's normal in the newsroom, it's normal in any environment. In any case Chairperson I'm the most person who has been engaging staff of the SABC, the records will show you even the SABC employees, they will tell you. When they differ, which is

normal, the way I do things but if you talk about consultation, trying to explain to them why I am taking this decisions and so on but I'm aware Chairperson that people use my name. Example Chairperson, when Vuyo Mvoko was supposed to be dismissed Sophie Mokoena and Nontando rushed to me to say, hey Chief we hear that you are saying that this person must be dismissed, I said, no I don't know this issues I'm just giving one of the example. I'm very firm Chairperson and if I have taken a decision I stand with my decisions and I said, no I'm not aware I didn't say those issue maybe people were supposed to be  
 10 dismissed when management they wanted to dismiss them and they go there and use my name Chairperson and some people can allude to that, what I'm saying Chairperson, I will never allow such stuff to happen at the SABC because I know that is what journalists should do, debate robustly amongst themselves. Where [indistinct] is when it comes to transformation Chairperson where I think we must transform we can't talk forever, there Chairperson, I act.

**CHAIRPERSON:** Well there may be instances where at a certain stage there is discussion and consultation and debates and there's disagreements and there's different views and then – but somebody  
 20 needs to make a decision and says, I've heard all of you, I've heard all views but now this is the decision I make. Some of you might not like it but have had a discussion I've heard you, I don't agree, this is the decision I make. Now I assume that what you have just said does not detract from that, you accept that you may have that situation in any organisation.

**MR HLAUDI GEORGE MOTSOENENG:** I agree with you a hundred percent, that's why I said earlier Chairperson where I took a decision whether wrong or right, I won't mislead you on saying I didn't take these decisions, I took these decisions I might be right or wrong you'll decide that Chairperson, so someone must take decision and in my view I have taken popular decisions and unpopular decisions Chairperson.

**CHAIRPERSON:** Yes and with regard to the suspension and/or dismissals of the journalists you say you were not part of any decision  
10 to suspend or dismiss any of them, is that correct, or maybe some of them yes but others not?

**MR HLAUDI GEORGE MOTSOENENG:** Maybe Chairperson on the light note, because sometimes I'm a human being I want to just, you know refresh myself.

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** On the light note Chairperson Simon Tebele who was the head of news before this issues happened, he came to my office, it was me, Anton, office manager, Pasha...[intervenes].

20 **CHAIRPERSON:** Anton is who?

**MR HLAUDI GEORGE MOTSOENENG:** Anton Heunis Chair, I think it was Mr Maguma, I was sitting we were drinking tea in the morning before we can start work. He came to me and said, hey Chief, blood on the floor, I said hey blood on the floor, he said blood on the floor, I said what's happening about blood, he said no, these people defy

me...[intervenes].

**CHAIRPERSON:** No Chairperson he can't say me because they report to him.

**MR HLAUDI GEORGE MOTSOENENG:** He said no these people they defy me, I said about what, he said no Chief he discussed all the differences amongst themselves and then I said to him, you know how I operate, if you know people are not following the policy or they are doing stuff that they're not supposed to do, you, you can't come to me and report this issues, you must take action yourself, so you don't  
10 report to me. So you are appointed thee and you have delegation of authority, operate within your delegation of authority because if you are going to cry to me I will act on you, Chairperson, that is what I said ...[intervenes].

**CHAIRPERSON:** That is what you said to him?

**MR HLAUDI GEORGE MOTSOENENG:** Yes that is what I said to him, to say if you know, I mean you can't come and report to me, those people they report to you. So if you do wrong stuff that I believe you do wrong stuff I'm going to act on you. So my disciplinary action Chairperson, if I was supposed to take any disciplinary action I will  
20 take against Simon Tebele, not those people because...[intervenes].

**CHAIRPERSON:** They did not report to you.

**MR HLAUDI GEORGE MOTSOENENG:** They did not report to me and I don't see sit in those debates where they debate stories Chairperson.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Thank you Chair, so if...[intervenes].

**CHAIRPERSON:** Well maybe – I’m sorry again Miss Norman, when I was reading the Labour Court judgment and it said who had filed affidavits on behalf of the SABC it seemed strange that it didn’t refer to any affidavit by you, that’s simply because of what one was reading in the judgment but is the reason why there was no affidavit by you to explain the SABC’s decisions about the SABC aid, is the reason why there was no affidavit from you simply because you were not part of the decision to suspend or dismiss them?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson you are correct  
10 but what is painful in that process, remember the Court says I must pay the cost and I still believe Chairperson it was unfair because I was not given a time to tell my own story like I’m telling you today Chairperson and put my side of the story and when I checked that judgement it said, no but we’re supposed to stop it but even stopping that process of disciplinary hearing then I must explain myself but to come to conclusion Chairperson to say, no Hlaudi you were supposed to stop this you must pay the cost it is unfair and it affects my constitutional rights Chairperson because – that’s why I’m saying, and with due respect Chairperson, that is why I was saying it seems as also some of  
20 Judges are captured by what media says and maybe other people, they come to conclusion, hey is that Hlaudi, I am in trouble, that is my view Chairperson.

**CHAIRPERSON:** Yes Thank you, Miss Norman, oh I see it’s 1 o’clock.

**ADV THANDI NORMAN SC:** Yes it’s 1 o’clock yes thank you Chair,

may we take the lunch adjournment?

**CHAIRPERSON:** Well Mr Motsoeneng has been on that chair now for quite some time since yesterday but I think it's important, I think the issues we are dealing with are important issues.

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

**CHAIRPERSON:** And it's important that they be dealt with properly. So I think from your estimation yesterday it might have been that we might have been done with him.

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

10 **CHAIRPERSON:** And I have intervened also to ask him quite a lot of questions but that's because I wanted to satisfy myself on certain things and to give him a chance to also clarify his position on a number of things. So I think it's nevertheless important because it relates to an important institution in the country as well. So we are going to take the lunch adjournment, so Mr Motsoeneng I'm sorry that we haven't – we're not done yet so we'll continue after lunch but I think that it's in your interest too that these issues be dealt with properly.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson, actually  
20 Chairperson I'm very glad because no-one has ever listened to my story. People have taken a conclusion without me being part of their conclusion Chairperson, I'm very happy Chairperson.

**CHAIRPERSON:** Okay thank you. We'll take the lunch adjournment it's one o'clock well resume at two o'clock, we adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**



**INQUIRY RESUMES**

**CHAIRPERSON:** Okay let us proceed.

**ADV THANDI NORMAN SC:** Thank you Chair. Before we proceed counsel for Mr Motsoeneng has something that he wishes to raise with you.

**CHAIRPERSON:** Yes okay.

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

**CHAIRPERSON:** Alright thank you.

**ADV MACGREGOR KUFA:** Good afternoon Chair. Thank you for the  
10 opportunity.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** There is just some aspects which I have taken note of which I think we need to delve in to ensure that Mr Hlaudi Motsoeneng's interests and rights are protected.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Remember earlier on in the morning I addressed you on the issue that he is here firstly as an invited witness and also secondly as an implicated person and therefore the threshold of his testimony is mostly persuaded by those two factors. Given the  
20 fact that he is implicated the issues that need to be addressed particularly pertaining to the solidarity judgment that the SABC 8 judgment.

**CHAIRPERSON:** Hm.

**ADV MACGREGOR KUFA:** The issues about the suspension.

**CHAIRPERSON:** Hm.

**ADV MACGREGOR KUFA:** And the letters firstly the notices of disciplinary enquiries. They are separate – there were eight different notices of disciplinary enquiry. They were not all identical.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** I think those are the issues that need to be put across to him other than just the issue of the suspension letter.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** To assist the process.

**CHAIRPERSON:** Yes.

10 **ADV MACGREGOR KUFA:** That is my address Chair.

**CHAIRPERSON:** No, no that is fine but you will remember that at some stage when I asked him whether he played any part in the decision to suspend or to dismiss the journalist referred as SABC 8 I said some of them or – were you involved in the decision to dismiss some of them, suspend some of them or all of them. It was precisely because I appreciated that we might well have a situation where he may have been involved in some and not others and I did not want you to put it as a blanket thing and then my understanding of his evidence is that he was saying he was not involved. He did not take part in any decision to  
20 suspend or dismiss any of them. That is my understanding of his evidence. You remember that part when I was asking him? Yes.

**ADV MACGREGOR KUFA:** Yes, yes I do recollect part Chair.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** It is just that it is that they were – there kept on being to and froes surrounding the ...

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Letter of suspension.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Hence that is why I became a bit perturbed.

**CHAIRPERSON:** Concerned ja.

**ADV MACGREGOR KUFA:** And anxious that ...

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** That issue needs to be ventilated before you.

10 **CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Before we proceed this afternoon.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Why I am saying so because I have always seen a suspension as akin to an arrest. Because when you arrest a person you do not normally – you might arrest them on suspicion of a certain offence but when you charge that person you might charge them with different offences.

**CHAIRPERSON:** Yes

20 **ADV MACGREGOR KUFA:** Other than the one that you might have arrested him for.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** So I think those are the issues that need to be portrayed before this [indistinct].

**CHAIRPERSON:** No, no that is fine. If there are any letters of suspension or dismissals that you –you suggest the evidence leader

also bring to his attention you may do so. But it may be if he did not take part in the decision to suspend or dismiss it might be irrelevant. So – but you can just exercise, reflect on it. If you think there is some importance share the information with the evidence leader. She might then put that to him. If that is fine Ja.

**ADV MACGREGOR KUFA:** Ja I say so Chair because there have been Rule 3.3 Notices pertaining to the testimony of most of those SABC 8 with Ms Thandeka Gqubule-Mbeki.

**CHAIRPERSON:** Yes.

10 **ADV MACGREGOR KUFA:** And then there is also Ms Pillay and...

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** The [indistinct] I do not know if there are any who are still to testify before this forum.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** But suffice to say that it is the issue of that they have implicated him in their affidavits.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Hence that is why I think it is important also.

20 **CHAIRPERSON:** Yes no insofar as they implicated him I am sure the evidence leader will put that to him and give him a chance to deal with it. Of course to the extent that they may have said if that is what they said that he may – he was involved in the decision to suspend them or dismiss them he has said he was not. Whether or not in the end that is what is accepted is another issue. But I think the evidence leader will

probably put that to him. But when we – when the evidence leader is done you can make notes – when she is done and there are certain areas which you feel maybe were not touched that are important you can raise the issue again.

**ADV MACGREGOR KUFA:** Okay. Thank you Chair.

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Thank you Chair. Just before lunch I was going to deal with those allegations by the various members of the SABC 3 but also Chair maybe we should with your leave I should just  
10 deal with the notices as they are captured in the judgment.

**CHAIRPERSON:** That is fine.

**ADV THANDI NORMAN SC:** Briefly so that then we can satisfy that complaint.

**CHAIRPERSON:** Ja

**ADV THANDI NORMAN SC:** Thank you. Chair if I may go back to Exhibit CC5 to 16.

**CHAIRPERSON:** Which exhibit?

**ADV THANDI NORMAN SC:** The judge – Exhibit CC5 to 16 Chair where there is that labour court judgment.

20 **CHAIRPERSON:** Oh okay.

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

**CHAIRPERSON:** I think I am still in the same place.

**ADV THANDI NORMAN SC:** You still have it in front of youl.

**CHAIRPERSON:** Ja.

**ADV THANDI NORMAN SC:** Thank you. We have – we read out the

one that appears at page 86 which is the Notice of Suspension and I do not think we should repeat it but then there is another one that where there is charges at page 87. And this paragraph relates to

“On 29 June all three employees received letters notifying them of the institution of disciplinary proceedings in the following terms:

10 You are hereby notified to attend a disciplinary hearing to be held on Friday 1 July 2016. Charge 1. Noncompliance with the duties of your contract of employment. Alternatively contravention of SABC rules and regulations in that you in your capacity as a reporter for radio news in Johannesburg allegedly liaised with the media that is the Star on 28 June 2016 The Times 28 June 2016, ENCA letter drafted and signed by you and provided to ENCA and News24. Letter drafted and signed by you and provided to ENCA without having had permission to do so. In doing so it is alleged that you contravened Regulation 2D of the SABC’s Personnel Regulations

20 that is an employee shall not without prior consent of the Group Chief Executive make any comments in the media or ... should these facts be proven it will constitute an act of noncompliance with the duties of your contract of employment on your part alternatively contravening SABC’s Rules and

Regulations. You will be entitled to the following:

To be represented by a co-employee of the corporation or union representative who is an employee of the corporation should you be a member of a recognised trade union to call witnesses to testify in support of your case to cross-examine the employers' witnesses. To have access to documentation that will be used by the initiator and to request the services of an interpreter should it be necessary. The disciplinary panel will consist of should you have any objection against any of the panel members or any other queries in this regard you are requested to contact the initiator.”

10

And then there is a letter which was addressed to Mr Krige in paragraph 20 of the judgment. The judge records the contents of the letter addressed to Mr Krige on 30 June which contained a slightly different charge. It read:

“You are herewith notified to attend a disciplinary hearing to be held on Friday 1 July 2016 at 9:00 at the SABC offices in Johannesburg in order to investigate the following alleged offences brought against you.

20

Charge 1: Noncompliance with the duties of your contract of employment alternatively insubordination, alternatively insolence in that you in your capacity as

the Executive Producer RSG News and Current Affairs during a radio news line talk meeting held on Monday 20 June 2016 you allegedly categorically distanced yourself from the instruction issued by the SABC Management not to cover the right to no movement marches in Cape Town, Durban and Auckland Park that is campaigning against the SABC's decision not to broadcast violent protest. Should these facts be proven it will constitute an act of noncompliance with the duties of your contract of employment on your part alternatively insubordination, alternatively insolence. Should these facts be proven it will constitute an act of noncompliance with the duties of your contract of employment on your part alternatively insubordination, alternatively insolence. The panel will consist of ... you will entitled of the following to be represented by a ..."

**CHAIRPERSON:** I do not think you need to...

20 **ADV THANDI NORMAN SC:** Yes. Thank you. You do not have to read that part.

**CHAIRPERSON:** Read that ja.

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

**CHAIRPERSON:** But also with regard to what you have read I am not sure in relation to Mr Motsoeneng why it would be relevant.



**ADV THANDI NORMAN SC:** Because response yes.

**CHAIRPERSON:** Ja.

**ADV THANDI NORMAN SC:** I think Chair so as not to be seen as if I was selective in the manner in which I put those. Maybe just to deal with them.

**CHAIRPERSON:** I think maybe what Mr Motsoeneng's counsel might do is just make notes.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Of which ones he would have liked you to raise with  
10 him and then later on when you are done.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** He will give you the note to look at.

**ADV THANDI NORMAN SC:** Then we can visit those areas.

**CHAIRPERSON:** If you have difficulty he can address me or I could allow him to re-examine Mr Motsoeneng.

**ADV THANDI NORMAN SC:** Thank you Chair. Mr Motsoeneng those – your responses to the Chairperson before lunch that you were not involved in any of those disciplinaries or notices or charges those that I read this afternoon does your answer apply to those as well?

20 **MR HLAUDI GEORGE MOTSOENENG:** Yes Chair. Because SABC is guided by its own policy. There is a process before you can charge a person that you need to follow. So I can only charge or discipline people who report directly to me.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** So line managers according to

the policy they will know whatever that they need to do to deal with that issue.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you Chair. May I just put before we deal with other matters the – the allegations against you as contained in the Rule 3.3 Notices that you received from some of the SABC 8 witnesses who testified. Chair is still at CC5 to 16. It will be CC16. This is the evidence that Mr Mwaba Phiri had given before you.

**CHAIRPERSON:** Yes.

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

**CHAIRPERSON:** Maybe before you do that I meant to ask this earlier Mr Motsoeneng but I do not know if I have a – I had a particular reason not to ask it You know quite a few times both yesterday and today you referred to the fact that I think you said the Act but I think we – it is the regulations – ICASA Regulations prohibit encouraging or glamourizing as it – that is the term it uses violence, is that right?

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

**CHAIRPERSON:** Yes. Just in case it might be relevant what is your understanding of what this regulation prohibits when it says you may  
20 not glamourize violence in effect because that is what it says? What would you regard as glamourizing violence in the context of a television station?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I think I did allude to the issue that South Africa including Africa Chairperson it is very important to have role models. When it talks about glamourizing these

visuals what the act deal with is the issue that those issues are not in the public interest. That is my understanding. They are not in the public interest. Remember Chair we quoted that paragraph when it comes to – to that regulations but these regulations Chairperson you will find some of the issues that I am referring to in Broadcasting Act what you call in the SABC. Some of them in the ICASA Regulations but in one act. This booklet that I was having Chairperson. So it talks to each other what I am saying Chairperson. And I want to put it again Chairperson as we agreed Chairperson my understanding still stick the  
10 same. Yes Chairperson it does not change it what we have already been dealing with Chairperson.

**CHAIRPERSON:** You see in terms of what we agreed I think we both would say if a television station simply shows visuals of pro – the burning of a building, property by protestors that does not or should not on its own constitute glamourizing violence. It must mean something much more than that. What it is I do not know but it could not be that this was meant to say a television station should not do that. Obviously they do it all the time and if ICASA thought that was a breach of the regulations action would have been taken all along. So that  
20 would be my understanding of where you and I would be on this issue.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I want to submit – I want to say to you Chair.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** You see Chairperson let us just talk maybe generally before I can come to the point Chairperson. We

shall ask ourselves why media? General not even SABC generally what you see on media is all negative stories. No positive. And earlier Chairperson you alluded to a very important issue about balancing all these stories. Media is not even attempting to do that. Their agenda is to make sure that they portray South Africa and certain individuals that they do not agree with them portrayed them in a certain way. Also portray Chairperson and I am talking from my heart now. Also portray us as a black people as if we are useless. Everything that we do is not really what we are supposed to do. We do not know the how. That is

10 how I see media Chairperson. Everything that they do even if you watch television you can ask your own kids what are learning from what you have been watching television. You – it is crime – it is all about these issues. I am not saying people should not report about these issues Chairperson. What kind of a society do we want to see ourselves? So those are the issues Chairperson and I am against it Chairperson to push for the issue of glamourizing this violence or inciting those visuals it is correct. I want to submit Chairperson to you it is wrong.

**CHAIRPERSON:** Yes but I think what I was looking at is whether you

20 are able to make any contribution to maybe a better understanding of what the regulations have in mind as with your experience in journalism and in the media. What they have in mind when they say thou shalt not glamourize violence because it cannot be or that is how I see it. It cannot be that the mere showing – probably there must be something much more than the mere showing of what happened.

**MR HLAUDI GEORGE MOTSOENENG:** My understanding Chairperson is you may show but it should not be a norm that every time when you watch television you watch just this burning of building or clinics or whatever. I mean we shall try to balance the act Chairperson but not forgetting it. You should not show explicit visuals Chairperson that is my understanding.

**CHAIRPERSON:** Okay thank you. I am sorry I interrupted you Ms Norman.

**ADV THANDI NORMAN SC:** Yes thank you Chair. Mr Motsoeneng Mr  
10 Mwaba Phiri testified and he also submitted a statement to the  
commission but I will just read the – summarise what he said in  
paragraph 1 – paragraph 6 at page MP – at page 2 of his statement. He  
has a sub heading that says:

“Changes to Editorial Policy.”

I will read on paragraph and I would like you to just comment so that  
we save time.

20 “When Public Protector Thuli Madonsela released the  
report when governance and ethics fail on February  
17, 2014 the SABC newsroom was heavily shrouded  
by a fear that the main news maker Thuli would not  
be allowed into the studios for any interviews. Her  
report was negative about the SABC COO Mr Hlaudi  
Motsoeneng recommending corrective action to be  
done on him.”

What is your response to that?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson Mr Phiri I think I know him when he was attending interviews applying for Group Executive. That is the relationship that I can I have seen him. I have engaged him in that because I was one of the panels Mr Chairperson.

**CHAIRPERSON:** You were part of the panel that interviewed him?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. Talking about the issues that he is raising – he is talking about I know nothing about those issues. I know – I do not know those issues. Even Chair I mean people have been talking about Hlaudi, criticizing Hlaudi. I have never  
10 said people should not put such a stories. Even not the SABC that I am in charge for. I have never fight to say I want to be on the platform to respond on these issues. So it is a non-issue from me Chairperson. I do not know what informs him to say that but I deny such allegations Chairperson.

**ADV THANDI NORMAN SC:** Thank you. And then paragraph 7.

“Given the fact that Mr Motsoeneng had been unilaterally handed reign over the SABC Editorial by the then Minister of Communications Ms Faith Muthambi and his autocratic attitude. No SABC  
20 Editorial staff wanted to be in conflict with him.”

**MR HLAUDI GEORGE MOTSOENENG:** Ai Chairperson. How do I answer that? Because I do not know. What I know from SABC that is why Chairperson when my counsel was saying we should play those visuals I was looking to take you into the SABC exactly what is happening when I have been there at the SABC and what is the vibe

within the SABC because these people they portray lies Chairperson. And I want to repeat they portray lies in this commission and outside because that is what – I mean in the SABC Chairperson they will tell you the most person who involves staff, who discuss with staff it is me. They were even calling me a Doctor Chairperson. In the staff of careers of the SABC if you are sick they would say go to that doctor. So it cannot be correct Chairperson when people come and mislead the commission but to be honest Chairperson I think they are just creating  
10   vibe in my own view and I do not want to dwell with these issues because I do not know what he is talking about.

**CHAIRPERSON:** Well I do not know which one of the witnesses but I recall that at least I think one it may be more than one.

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

**CHAIRPERSON:** Said that you were feared at the SABC and you were very influential as I understood it. So maybe you might say influential yes, feared I do not know or yes I was feared?

**MR HLAUDI GEORGE MOTSOENENG:** Chair I will submit to you that my view and their view the only test to test that is for you to view the visuals within SABC. That will be the test Chairperson because I can  
20   say this and there they said this but what will be the test? The test is to go inside the SABC. But I think even Doctor Ngubane partly he did respond about the relationship between me and labour including workers itself Chairperson. Even today Chairperson I am not their boss there. They still call me their boss. Even today. I mean the relationship – it is true Chair – no Chairperson I am very tough on the

decision that I have taken but it does not mean that people fear me. They were robust decision in the SABC where we discuss issues and interaction with staff itself Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** So it is not true.

**CHAIRPERSON:** Thank you. Yes.

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

**MR HLAUDI GEORGE MOTSOENENG:** But if Chairperson someone fear you what you going – what I am going to say?

10 **CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** You may just hear me by walking here you fear me.

**CHAIRPERSON:** Well I was going to say well you might not even know if somebody feared – fears you. You might not know the question is whether you have done anything wrong that makes them fear you? Sometimes people can have a certain attitude towards you not because you have done anything wrong but because of the way you are and so on. And sometimes you have no control over or you might not have control over that.

20 **MR HLAUDI GEORGE MOTSOENENG:** Yes Chair I agree. You know as Africans Chair I think you will know that even some people just walk in there [indistinct] hey Nomondo [African language]. It is just perception of people Chairperson to be honest as you are saying you cannot really say this – I mean if people fear you I do not know how because I was not feared at the SABC I was engaging the staff of the SABC.



**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Yes thank you Chair. And then in paragraph 15 he says:

“The newsroom was at time abuzz with Mr  
Motsoeneng’s close ties with President Jacob Zuma”

**CHAIRPERSON:** I am sorry you might wish to raise your voice I think.

**ADV THANDI NORMAN SC:** Oh I am sorry Chair because I am looking down.

**CHAIRPERSON:** Ja. Yes

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

**CHAIRPERSON:** Because you are looking down.

**ADV THANDI NORMAN SC:** Thank you. Paragraph 15 sorry Chair.

“The newsroom was at time abuzz with Mr  
Motsoeneng’s close ties with President Jacob Zuma  
and inviting a person like Mr Malema was going to be  
seen as an affront to our boss’ reputed relation with  
President Zuma.”

Do you have any response to that?

20 **MR HLAUDI GEORGE MOTSOENENG:** Is the same Chairperson person  
who is saying this.

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson it is very difficult  
to respond on these issues because I have never talked to this guy on  
the Editorial issues of the SABC. So to be honest I can just deny  
Chairperson.

**ADV THANDI NORMAN SC:** Thank you. And then if you may then move to the statement of Ms Thandeke Gqubule-Mbeki. She says at paragraph 6.2 of her statement: She had headed 6.1 is Political Interference in the news agenda and mandate of the SABC:

“My dismissal and that of the group known as the SABC 8 for their objection to the protest policy introduced by Mr Hlaudi Motsoeneng former COO of the SABC in 2016 and his cohorts. The Editorial Policy of 2016.”

10 What is your answer to that?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson the policy of the SABC goes through all the processes that I have alluded to. Your sub-committee of the board including the approval of the board. If you check the minutes of the SABC which are there in those documents you will realise that it went through all the processes. It was presented in the board meeting by – because my job is to present at the sub-committee. But when it goes to the board the Chairperson of that sub-committee or a member presents the policy. So it has nothing to do it is not a Hlaudi issue it is a SABC issue.

20 **ADV THANDI NORMAN SC:** Yes. And then in paragraph 14 she says: “We visited the Inspector General of Intelligence and wrote to him Doctor Dintwe severally. We were promised a report but never received one. It has been over two years of correspondence with his office to no avail. He however did tell us that five intelligence agents were sent and deployed at the SABC at the request of Mr Motsoeneng.”

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson with due respect that paragraph is misleading. I know about the matter and I have alluded it into my affidavit that it is true that they were called because SABC it is a national key point but the person wrote a letter it was the Chairperson of the Board Professor Maguvhe because when it comes to security agents there is a process.

They do not just do - staff cannot go there to say hey this is what I want you to do. There are protocols that they must follow but they came. Reason being as a national key point but the person who  
10 wrote it was Professor Maguvhe. It is true that they interacted with me and other senior managers within SABC to get more information about the vetting issue example.

How do - how do we deal with vetting issue? The private companies that are working at the SABC whether they are vetted and by who. Chairperson those were - were issues. Nothing wrong about such issues Chairperson. They were there but I cannot talk on - I cannot talk. They should talk themselves. Even their findings about all those issues. I am just clarifying this point Chairperson.

**ADV THANDI NORMAN SC:** Yes. Thank you Chair and then I move  
20 onto Mr Jakob Krige. His statement is CC12. He in paragraph 14.4 he recorded that at a meeting that you held with him when you introduced this decision he - he queried it and wanted to know whether any research had been done before you took the decision and your response was I do not believe in research.

You must defend the organisation. No journalist is

independent. The COO has the final responsibility for news.

**MR HLAUDI GEORGE MOTSOENENG:** That question was not about the - it was not a policy issue Chairperson. The issue of that program which happened even before democracy and you shall ask yourself why do you have a program that has been running since - before 1995. It is still even running currently. In the - in the SABC we always change the programs but this one it has never changed.

So we must change that program because Chairperson and the person who is talking there if - if I remember well he was in charge  
10 for RSG and I have been vocal publically so about that radio station to say it seems as this station it is an island operating outside SABC and Chairperson I can tell you I do not know Afrikaans but I was informed by Jimi Matthews and other people who listened to that program to say but there is a problem here.

If you do not listen to this RSG we are going to have serious problems because it seems as they are not part of South Africa. They - they push certain agendas. Remember there is those guys in the Northern Cape where they are saying they have their own land. So RSG I said we must stick and monitor them and get involved. So my -  
20 my issue when it comes to that issue it has been informed by information that I have got from senior management just - not just people outside including senior management to say watch the space there about that program Chairperson because I do not know Afrikaans.

I use the information that I have got from people but Chairperson the issue here is people are fighting for editor's forum. I

think they call it - if I am correct.

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** They call the - the program Editor's ...

**ADV THANDI NORMAN SC:** Forum.

**MR HLAUDI GEORGE MOTSOENENG:** Forum. My view was this program you cannot advertise newspapers and also Chairperson it is informed by what I have been saying to journalists of the SABC. I said to them I want to see journalists of the SABC being on the street, being  
10 with news - newsmakers. You shall not follow the newspapers. Though newspapers they shall follow the SABC.

Even the analysts Chairperson I said why do you prefer mostly analysts from outside and I am not saying they shall not talk to analysts from outside but I am saying you also have people inside SABC who are capable to deal with these issues and when it comes to this issue of analysts Chairperson I said you cannot use one voice.

I said no I - I disagree and I am not going to allow you to use one voice. You wake up in the morning. Every day is one person who is analysing and I said I want a woman in those programs and it did  
20 happen Chairperson. Women were appointed as analysts in those programs but this program Chairperson I still believe we could not allow a program.

Why is this program untouchable when other programs have been changing Chairperson? Sometimes Chairperson in broadcasting you may have even change the program that is doing well believing that

what you are going to put is going to take even higher audience rather than that program. So it has other history that program Chairperson.

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I know maybe just to deal with the issue of newspapers because they referred to SAFM. There Chairperson I said my problem with these newspapers you promote them every day in our platform but they do not promote us in their own platform. So we cannot advertise for them. That is where row-row Chairperson - I can hear people Chairperson. I say row-row.

10 **CHAIRPERSON:** Oh. Is it not his name?

**MR HLAUDI GEORGE MOTSOENENG:** No Chairperson.

**CHAIRPERSON:** Now what is - what is row-row?

**MR HLAUDI GEORGE MOTSOENENG:** Row-row is like chaos.

**CHAIRPERSON:** Hm?

**MR HLAUDI GEORGE MOTSOENENG:** It is like chaos Chairperson.

**CHAIRPERSON:** Oh.

**MR HLAUDI GEORGE MOTSOENENG:** Yes row-row is like ...

**CHAIRPERSON:** You can see how bad I am with - with certain ...

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

20 **CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** It is like chaos because this - these journalist - these people they were fighting for these newspapers to be promoted. They even went and had - and Chairperson I am not a racist - to mobilise other White people to oppose this decision but I could not allow the situation where you have a program that has been

there before 1995. I mean all the programs has changed.

Everything has changed at the SABC why you have this RSG operating as if it is an island. You can see Chairperson even yourself people when they were talking - when they were here. We must also check the background of the people. What they stand for? What agenda they are pushing within the organisation. We are a public broadcaster.

Everyone shall align to what we are saying Chairperson and that is not like dictating ...

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

**MR HLAUDI GEORGE MOTSOENENG:** To people but I am accountable. I must account.

**ADV THANDI NORMAN SC:** Yes and the he says at paragraph 16.1 that at a pre-election workshop that you all attended this is what you said.

20 “The SABC is independent. No individual is independent. There is an agenda for the corporation driven by three directors, the CEO, COO and CFO. Do not focus on negative stories. Important that you balance stories. Tell human stories. Is politicians not human beings? Reporters at SABC do not want the world. When they report they mislead listeners. Go to America there is poverty. They do not show it. They do not show when the soldiers die. I will take you to the

BRICS countries. We can go to a hotel. You will see South Africa is better. 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. 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 and you can question everyone Mantashe *et al* except our President. We need to respect him especially you SABC. I expected you to align you with my instruction.”

Did you say that or do you recall saying that?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson what advocate is reading - Advocate Norman - is correct. When it comes - I think what is key there Chairperson if you - you listen it is - I said balance which all of us I think we are - we are in agreement and I want to clarify

20 Chairperson that I know President Zuma but he is not my friend. So I am not close to him like people saying I am close to President Zuma.

I - I know him Chairperson and I have been in struggle Chairperson. Some people they will never - they do not know this because I do not brag about it but mine behind the scene Chairperson. That is why people they do not know about these issues. So



Chairperson when it comes to President Zuma I follow this Act not him any individual.

There were times where media and SABC generally they were calling him names on live programs. I said to them whether you like President Zuma or you do not like him he is the President of the country but even if you do not like him mind your language. It is very important. Respect him as the President. I will say the same to you Deputy Chief Justice if the people use wrong language.

I will say do not use this language. It is not acceptable and I  
10 am on record even on the public platforms Chairperson dealing with the issue of the language and dealing with the issue Chair I know advocate did not put this question to me about - during the - the workshop - elections workshop. I said to them you see you must make sure that there is difference between the President of the country and the President of the ANC.

There is a difference Chairperson. When you - you deal with your own ANC issues in Lithuli House now that head is ANC but when you deal with the country you are the President of the country. This is what I - I was saying to - at workshop but the issue there Chairperson I  
20 said to them the President of the country he must account to the public because people are raising issues because we are going for elections.

They are not asking ANC. They raising the issues about Government. The same service delivery. I said he must be given more time on those issues to explain and not because it is Zuma. Even when I was Executive Producer during President Thabo Mbeki I did the same

thing Chairperson. Even when I was journalist during President Mandela.

I did the same thing. Let them explain. So I am the President of the African Content Movement today Chairperson. I still accept that. I cannot get time equally so with President Ramaphosa even now. I still accept that. So that was the issue Chairperson to say separate ANC issues and Government issues and I even made an example with the same people of the ANC the former Secretary General Minister Gwede Mantashe including President Zuma and said but  
10 equally remember this one is representing the country.

You cannot give them equal time Chairperson. Nothing wrong about it.

**ADV THANDI NORMAN SC:** Yes and then Ms Krivani Pillay from paragraphs 15 to 18. I will just summarise what she said because you have touched upon the Editor's Forum. That you removed a program that had been there since 1994 and she - she allege - alleged that you did that unilaterally and by doing so she says you silenced the diversity of views.

You have already touched on this slightly but could you just  
20 directly respond to it?

**MR HLAUDI GEORGE MOTSOENENG:** Now by cancelling the program that I believe it has been pushing apartheid views on the SABC. It cannot be compared by me silencing views. In any case Chairperson just to demonstrate I said to the SABC people and I make an example. I said if the Minister is going to unveil the houses - building of the

houses that project.

There are stories within people. You go and interview them. The voices of the people. This is what the Broadcasting Act says. I said (indistinct) but go and make sure that you do and you talk to people. It can be - I was making sure that I silenced the views of people. I am the most person Chairperson. When you talk about content that is what I stand for.

The voice of ordinary citizens of South Africa. That is misleading.

10 **ADV THANDI NORMAN SC:** Yes thank you. Maybe if you could just go back to your statement now. Sorry we have not being there ...

**MR HLAUDI GEORGE MOTSOENENG:** Hm.

**ADV THANDI NORMAN SC:** Earlier today but it is CC30.

**MR HLAUDI GEORGE MOTSOENENG:** I am comfortable ...

**ADV THANDI NORMAN SC:** You are comfortable, alright.

**MR HLAUDI GEORGE MOTSOENENG:** Advocate.

**ADV THANDI NORMAN SC:** Because I would not want you to say I had skipped - I have marked most of your evidence that you have given goes right up to - I will tell you now. Sorry Chair. If I may just take  
20 him ...

**CHAIRPERSON:** Yes. Are - are you done with putting to him what some of the witnesses said?

**ADV THANDI NORMAN SC:** The versions, yes.

**CHAIRPERSON:** Oh, okay. While you are looking for where you will continue from ...

**ADV THANDI NORMAN SC:** Where we left off from yesterday.

**CHAIRPERSON:** I just want to ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** To mention this Mr Motsoeneng which I have - which I have just seen in - in the booklet that is titled SABC Editorial Policies.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** At page 13 of that document and it is at page 30 in the bundle.

**ADV THANDI NORMAN SC:** Yes.

10 **CHAIRPERSON:** EXHIBIT CC17 to ...

**ADV THANDI NORMAN SC:** 17 and 18.

**CHAIRPERSON:** To CC18 in relation to - we go back to the issue of visuals for violence and so on. It says here:

“In addition to the requirements of the Code the SABC’s policy on violence is as follows.”

And then it has got bullet points. I will not read all of them but I will read two. The first one from the top and the second one from the bottom. The first one from the top says - in other words it says:

“The SABC’s policy on violence is ...”

20 Bullet point one:

“To broadcast programs or scenes containing images of violence if they are needed in order to portray legitimate information or context.”

I thought I would just mention that this is something that ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** We did not touch on it but it seems that it would be - we did not quote it before but it seems that it is something that should be taken into account together with whatever we dealt with earlier about ...

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

**CHAIRPERSON:** The policy.

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Can I - with due ...

**CHAIRPERSON:** Do you want to say something?

10 **MR HLAUDI GEORGE MOTSOENENG:** Respect Chair. Can I ask you ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Again to repeat what is there?

**CHAIRPERSON:** Yes. It says - this is like in - in bold.

“In addition to the requirements of the Code the SABC’s policy on violence is as follows.”

Bullet point one:

“To broadcast programs or scenes containing images of violence if they are needed in order to portray legitimate information or context.”

20

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

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** You are reading from the policy Chair ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Of the SABC.

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** I think Chair the policy cannot override ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** The Act.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I would that submit  
Chairperson.

10 **CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** That is why my decision ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Sometimes I will not follow the -  
the policy because ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** That policy is not aligned ...

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** With the Act Chairperson and  
before I forget Chairperson although it is not relevant to the issues that  
you ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** But I just need to deal with the  
policy generally.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** We - within the SABC

Chairperson. The problem within the SABC Chairperson why we have been having all these other problems is our policy is not even aligned with the business of the SABC because even when you are talking about advertising post Chairperson and so you alluded to the issue that there must be a policy guided whether the advert ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** And the appointments ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** But most of the SABC policies  
10 Chairperson ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** But which we dealt with when i  
was there.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** It was to align the policy to talk  
to business. One example Chairperson the policy will say you need  
three quotations to - to acquire the rights from FIFA. How many FIFA's  
did we have? There is only one. So you cannot have three quotations.  
I am just giving example and demonstrating that the policy of SABC it  
20 must be aligned with its own business and I know that is informed by  
Treasury Regulations Chairperson and I was saying to the SABC in this  
- matters like this we need exemption from Treasury because you  
cannot get three quotations and if you do not get three quotations it is  
irregular because that is what your policy says. So those are - are just  
issues Chairperson that I was ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Saying the - the policy of SAB it should be aligned ...

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** With the Act.

**CHAIRPERSON:** But you see I think you seem to assume that what the policy says here which I have read is necessarily in conflict with what we read earlier on. Saying do not (intervenes).

**MR HLAUDI GEORGE MOTSOENENG:** Glamorise.

10 **CHAIRPERSON:** *Ja.* Do not glamorise ...

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**CHAIRPERSON:** Violence. It does not seem to me that it is necessarily in conflict because this one does not say you may broadcast scenes containing images of violence as you like. It does not say you can do that willy-nilly.

**MR HLAUDI GEORGE MOTSOENENG:** Hm.

**CHAIRPERSON:** It says:

20                    “It should be broadcast if or they should be  
                         broadcast those scenes of violence if they are  
                         needed in order to portray legitimate information  
                         and context.”

                         So it might not say exactly the same thing but it is not  
necessarily I think in conflict because what ...

**MR HLAUDI GEORGE MOTSOENENG:** Hm.

**CHAIRPERSON:** What this says it seems to emphasise that there must



be some legitimacy in the information you want to put up out there or the context.

**MR HLAUDI GEORGE MOTSOENENG**: Yes Chair I agree with - I agree with you Chair but not the unlawful one. As the Act says Chairperson.

**CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: Like you were saying earlier Chairperson ...

**CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: Where you were saying - I was  
10 talking about the physicality ...

**CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: Of those visuals.

**CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: I think it will talk to such issue  
...

**CHAIRPERSON**: Yes.

**MR HLAUDI GEORGE MOTSOENENG**: Chairperson.

**CHAIRPERSON**: Yes but remember we made the distinction between  
the fact that all of us - many people will say there should be no  
20 destruction of property. There should be no burning of property  
because that is unlawful.

There should be no debate about that and then the only thing we are looking at is, is there a time when it is unlawful or contrary to the policy of the SABC or the regulations to show visuals of the burning of property and destruction of property and what we looked at earlier on

in - in terms of the Regulations of ICASA was saying it is not allowed to glamorise violence and you remember earlier on we talked about what your understanding is of - of that and this says now the policy of the SABC is that scenes of violence maybe broadcast but there is a condition to it that is if they are needed in order to portray legitimate information and context.

So - so I am simply saying maybe as you listen to it you might take the view that it is in conflict with the - the prohibition that we talked about earlier which says do not glamorise but it does not  
10 appear to me that it is necessarily in conflict. They might all be going the same direction but maybe one goes further than the other.

**MR HLAUDI GEORGE MOTSOENENG:** I think Chair I will submit that it also talks to my issue about what kind of visuals because everything that you do it shall be in the public interest Chairperson.

**CHAIRPERSON:** Yes. Thank you.

**ADV THANDI NORMAN SC:** Thank you. Thank you Chair. There is just a few paragraphs in some of the pages and I will mention those paragraphs which we did - we have not just upon. For instance there is your evidence at page 9 of your statement ...

20 **CHAIRPERSON:** Sorry. You are back to his statement.

**ADV THANDI NORMAN SC:** Back to the statement Chair. CC30 - 3-0 Chair.

**CHAIRPERSON:** Sorry. I think I need to get this out of the way ...

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

**CHAIRPERSON:** And yes.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** What page of his ...?

**ADV THANDI NORMAN SC:** CC30 Chair page 9.

**CHAIRPERSON:** Page 9?

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Okay, thank you.

**ADV THANDI NORMAN SC:** You deal in those paragraphs Mr Motsoeneng with your own disciplinary hearing before Advocate Etling as you say and then you mention a few employees that  
10 when you deal with the allegation that you had purged some staff members within the SABC and then the first person that you deal with is Mr Diphoko. What - what do you say about that in reference - sorry - to the Public Protector's Report?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I want to repeat again I - I do not understand the findings of the Public Protector because Montlonyane Diphoko Chairperson when I was in discipline and the Public Protector directing SABC to discipline me which they did it was only turned by the court. Montlonyane Diphoko came to the disciplinary hearing under oath publically so and said I am shocked.

20 I have never been in that Office of the Public Protector. I have never been interviewed by the Public Protector. I am not the one who said Hlaudi purged me because he has never purged me. I think I do not want to take it long Chairperson because the testimony is there.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Okay.

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

**CHAIRPERSON:** Okay.

**MR HLAUDI GEORGE MOTSOENENG:** And Montlennyane Chairperson is just one of them.

**CHAIRPERSON:** Hm.

**ADV THANDI NORMAN SC:**

**MR HLAUDI GEORGE MOTSOENENG:** Most of them they said no they have never been there.

**CHAIRPERSON:** Hm.

10 **ADV THANDI NORMAN SC:** Yes and - and you also dealt with Mr - is it Mr Bernard Koma?

**CHAIRPERSON:** I just want to mention something.

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

**CHAIRPERSON:** I think there are at least two areas where Mr Motsoeneng in sentences used two negatives with the result that I think what was said is not what he intended to say but ...

**ADV THANDI NORMAN SC:** He said.

**CHAIRPERSON:** This - this happens and it is not about English. I hear a lot of people speaking isiZulu and they put two negatives. They - and  
20 it does not work.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** I see that in paragraph 32 he says:

“In the said inquiry Montlennyane Diphoko attributed his departure from the SABC to Mr Phil Molefe and he - he vehemently denied that I never - I was

never involved in his purging.”

So it is two negatives ...

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

**CHAIRPERSON:** But I think what you mean is he said ...

**ADV THANDI NORMAN SC:** But it is not.

**CHAIRPERSON:** You were never involved but when you say ...

**ADV THANDI NORMAN SC:** The way it reads.

**CHAIRPERSON:** He denied ...

**ADV THANDI NORMAN SC:** Yes.

10 **CHAIRPERSON:** That I was never involved. It means you say he denied that you were not involved. Meaning he said you were involved but as I say ...

**MR HLAUDI GEORGE MOTSOENENG:** I - I ...

**CHAIRPERSON:** It happens in - even in isiZulu. I hear a lot of people and they - it goes where they do not understand. They - they think have said the right thing but it is two negatives.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Even in news in isiZulu. You listen you say okay or eve when people are just speaking they combine two negatives.

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

**CHAIRPERSON:** You know what they are trying to say but they are not saying the right thing ...

**ADV THANDI NORMAN SC:** Okay.

**CHAIRPERSON:** But I think you meant he said that you were not involved.

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

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

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

**CHAIRPERSON:** And I think the other one is in - on paragraph 36 where you said:

“Bernard Koma also disputed that I never purged him.”

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** I think you meant he disputed that you purged him  
10 because he said ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** You were not involved in purging him.

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

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** *Ja, okay.*

**ADV THANDI NORMAN SC:** Thank you Chair. Chair I have skipped just a few pages before that. Pages 5, six, seven, eight because they deal with MultiChoice. So I would rather deal with that last - with your leave. Thank you and then ...

20 **CHAIRPERSON:** That is fine.

**ADV THANDI NORMAN SC:** At paragraph 39 - 39 and 40 there you - oh sorry. (Intervenues).

**MR HLAUDI GEORGE MOTSOENENG:** Yes, yes Chair. So- sorry Chair.

**CHAIRPERSON:** Hm.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chair, sorry Chair, Chairperson I think this is the opportunity to me to clarify issues, I want to elaborate on this issue of purging.

**CHAIRPERSON:** Of purging?

**MR HLAUDI GEORGE MOTSOENENG:** Yes, staff of the SABC.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Because it's the creation of the public protector.

**CHAIRPERSON:** Yes.

10 **MR HLAUDI GEORGE MOTSOENENG:** But the truth Chairperson I have submitted even the resolutions of the Board and all – and I was not even involved Chairperson, I have given those matters in my affidavit and I attach such resolutions, and those people Chairperson they did not complain about me, their affidavits will explain that, so that's why Chairperson I am saying I think this Commission is very important, for all of us in South Africa, because some of us who had been punished I think they can even kill us but for no reasons Chairperson, when it is not true, because Public Protector Officer Chairperson is a very critical and important for all of us, but when a  
20 Public Protector come with such decisions and we are punished before she is a Public Protector her view stands. Chairperson it should not be allowed, because it pains us, because reality is Chairperson the affidavits are there, people are saying we have never been asked, but you should ask yourself Chairperson why the Public Protector came with such a remedial action to destroy our lives and destroy our

children's lives. I think it is unfair Chairperson.

I just want to comment on this issue Chairperson because even the SIU Chairperson, I am in court today with them, and I am saying Chairperson they have tarnished my name, tainted my name, not even doing investigation, using the Public Protector's report, which is wrong Chairperson because the money that they are claiming they are not going to win that Chairperson because there we know what happened. The resolutions of the Board even people who were not there but they are abusing their power and abusing the taxpayer's money.

10 Chairperson we must deal with these issues Chairperson, the reason why Chairperson I don't even want to defend, even if my issues were they wrong or right, it is just that we must tell the truth.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** And the truth must prevail Chairperson.

**CHAIRPERSON:** Yes, yes. And again you qualify that the Public Protector you refer to is the previous Public Protector?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson thank you very much, yes, I don't want to be in trouble here, it is the previous one

20 Chairperson.

**CHAIRPERSON:** (laughing) you mean you are in trouble enough with the previous one, you don't want to be in trouble with this one.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I am very careful these days.

**CHAIRPERSON:** (laughing) okay.



**ADV THANDI NORMAN SC:** Thank you Chair. Then in paragraph 39 and 40 you emphasize the point that the SABC 8 they were charged for misconduct mostly for bringing the SABC into disrepute by your superior and not you, and even the Court could not find your involvement, that's what you say in paragraph 39.

**MR HLAUDI GEORGE MOTSOENENG:** Correct Chair.

**ADV THANDI NORMAN SC:** Okay, and then in paragraph 40 you say the so-called SABC 8 was charged for talking to the media without permission. What is amazing is that the Court had ordered SABC to  
10 take them back but in my case I was dismissed for the same reason.

**MR HLAUDI GEORGE MOTSOENENG:** Correct Chair.

**ADV THANDI NORMAN SC:** Yes, then in paragraph 42 this is where now you deal with the violent protests policy, from paragraph 42 we have dealt with this extensively with the Chairperson and I am not sure whether you want to add anything more but those three pages they deal with that issue, except for paragraph 49 where your complaint seems to be different because now it is directed at the SCA judges, I don't know whether you want to deal with that but Chair we did alert Justice Navsa to this paragraph telephonically.

20 **CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson with due respect to Chairperson I believe that Judge Navsa went beyond the facts in front of him, but there were other judges, I am just saying, because he is the one who has written judgment, by tarnishing me about the issue of matric, in my view he was influencing the decision that the Court has

already taken that I must go for disciplinary hearing, because if you are a judge, especially from the Supreme Court of Appeal, you make such a comment the Chairperson of that hearing can unfairly dismiss me, not because of the facts that I am presenting in front of him, because he has been influenced by the command of the Judge and with due respect Chairperson I respect the Courts, but I believe the judges are human beings, they also make errors like all of us in their work, but I am saying Chairperson it is unfair, the proof today is what I have presented in this forum Chairperson and I respect the judges Chairperson, even I  
10 have been dismissed Chairperson, during my disciplinary hearing because one of the charges was I said the judge that was dealing with the SABC8 in my view he was conflicted, which is true I said that, but that information I was given by the lawyer of the SABC to say the Judge was conflicted and at that time Chairperson I was voluntarily taking leave because of the Court decisions, I was called by the SABC and the legal team to come and give affidavit, because now I was – I don't know legally they were joining for the cost when I was not part of that. I hear that message and then in the press conference I said this is what I heard from the SABC that the Judge was conflicted but I did not  
20 mention the Judge by name, I did not even know this Judge by name, I just said if it is true that the Judge was conflicted because the wife was working for a firm and that – the Judge was supposed to declare that my wife is working for this firm.

It is the same issue where during the interviews of Chief Justice Moegeng Moegeng people who were doing interviews, some of

them they attack him why he did not declare about his wife when the wife was appearing in front of him, so it is painful Chairperson, I have been killed, and I want to use this word Chairperson, by some of the judges because of their comments and other people portray me as a (indistinct) Chairperson.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you. Then in paragraphs 52 to 56 I think you've summarised that by saying that some of these things against you are not true, and then you mentioned in paragraph 57 and I  
10 must mention to you Mr Motsoeneng I put this paragraph, I read it out to Dr Ngubani and what you said in paragraph 57:

“All SABC Board chairpersons, Dr Ngubani, Prof Maguvhe, and Ms Ellen Tshabalala were given a mandate to get rid of me as I was a stumbling block for the Board members who wanted to eat.”

But what I did not put and I see now when I read this last night that paragraph 58:

“They refused to take political instructions for my removal and they were a target as well Chairpersons, the minutes of the  
20 SABC will confirm what I am saying.”

Now who gave this mandate and could you explain to the Chairperson what was this mandate all about?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson maybe Chairperson Ngubani, the former (indistinct) I mean is normal, sometimes you forget these issues, maybe he is protecting the African

National Congress because he is a member of the ANC, now I have moved away, so sometimes it is understandable, but after what the Chair said in this Commission I did call him Chairperson to remind him about the pressure that I was supposed to be removed.

Actually he is the one who has been defending me publicly so I mean it will attest to the issue that I was correct but I think it is just that he forget about that issue, but also Chairperson in the minutes of the Board meetings if we receive those Board meetings, the former Chairperson, Ellen Tshabalala came into a board meeting, he was  
10 called by politicians, the mandate, the first mandate was to get rid of Hlaudi, he spoke about that issue in a board meeting, so all of them including Professor Maguvhe Chairperson they didn't budge to that political pressure or any influence from outside.

**CHAIRPERSON:** Now I have seen some minutes of some SABC board meetings here, but the ones that you are talking about are they here, I see Ms Norman shakes her head that they are not here.

**ADV THANDI NORMAN SC:** No I have not seen them Chair, because I deal with it.

**CHAIRPERSON:** Would you be able to give the legal team of the  
20 Commission such information as would enable them to go to the – to SABC and say we want minutes of the Board meetings of the following dates, because you think those would be the dates where those would be reflected?

**MR HLAUDI GEORGE MOTSOENENG:** I think there are two ways Chairperson.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Because on record, on the minutes of the SABC the person who spoke about the issue in the board meeting it was the former Chairperson, Ellen Tshabalala.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** It is recorded, the second point will be the minutes are there or former Chairperson Ellen Tshabalala she can be called to come and deal with such issues.

**CHAIRPERSON:** Yes, no it's one thing to call her but I am more  
10 interested for present purposes whether there might be minutes that reflect that discussion or if it is not minutes, I don't know if it was meetings would have been mechanically recorded, as far as you know would that be minutes that might reflect that?

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

**CHAIRPERSON:** Or is it possible that that part might not have been minuted?

**MR HLAUDI GEORGE MOTSOENENG:** No, if my memory serves me well Chairperson there are minutes on record dealing with that issue.

**CHAIRPERSON:** Yes.

20 **MR HLAUDI GEORGE MOTSOENENG:** And – but you know minutes Chairperson it does not give you everything, because minutes you just summarise the discussion.

**CHAIRPERSON:** Of course, yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** I think I can say minutes, if they are not there in the minutes the – we shall get transcripts, yes it

will be there.

**CHAIRPERSON:** Yes, yes, oh the meetings of the Board would, there would be transcripts available?

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

**CHAIRPERSON:** Okay so maybe if you can then later on either directly to the Commission or through your legal representatives just indicate to the legal team of the Commission that it would be minutes of meetings that were held between whatever date and whatever date, if you don't remember the exact dates of those meetings, so that when the SABC is  
10 approached they will be able to say look for minutes that fall between this date and that date.

**MR HLAUDI GEORGE MOTSOENENG:** Maybe just to elaborate Chairperson the reason why Mr (indistinct) said I warn the ANC is testimony to what I am saying.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Yes because that is where even Ellen Tshabalala said no but when we are here we are all members of the ANC but me I am here to do what I am supposed to do which is the right thing and I must protect, not Hlaudi, all the  
20 employees of the SABC.

**CHAIRPERSON:** Mmm, mmm, okay, alright, so if that can be followed up.

**ADV THANDI NORMAN SC:** Yes thank you Chair. Just for record purposes in paragraph 7 and 62 of Mr Motsoeneng's affidavit he mentions certain information that he has requested from the

investigators of the Commission, but it is not stated what information he did not get, or did not receive.

**CHAIRPERSON:** Yes, okay, okay.

**ADV THANDI NORMAN SC:** I think we also were given thousands of documentation by the SABC.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** It is difficult without narrowing it down ...(intervention)

**CHAIRPERSON:** Some indication *ja*.

10 **ADV THANDI NORMAN SC:** Some indication as to exactly what – that he is looking for.

**CHAIRPERSON:** Yes, I think even provide where he can some narrowing of information so that it would be easier to look for it. Mr Motsoeneng?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I want to say that I have worked well with the team, your team, the investigators, I don't want to lie, I may raise those issues that I did not get one, two, three, but they have been trying their best to assist me.

**CHAIRPERSON:** Okay.

20 **MR HLAUDI GEORGE MOTSOENENG:** But one portion that I am aware of which also they are aware of, I asked Chairperson the re-diffusion meeting I think I was also referring to those issues where I was part and SABC were dealing with those issues and then they said no they do not have such. They give them their minutes, when they knew that they have got those (indistinct) because SABC what they give

you Chairperson they are hiding information, they give what suits them, they do not give you the truth.

**ADV THANDI NORMAN SC:** Thank you Chair ...(intervention)

**CHAIRPERSON:** No that is fine, just make sure that whatever it is, whatever information you think is really relevant to the Commission that you know of that should be obtainable from the SABC just make sure the legal team gets the – gets exactly what they must ask for and then they will ask for it and I am sure that we should get it.

**ADV THANDI NORMAN SC:** Yes, thank you Chair. And in paragraphs  
10 59, 60 and 61 you're quoting from minutes of a special meeting of the 1<sup>st</sup> of July 2011, but what I could not find Mr Motsoeneng is the transcription certificate and who transcribed these minutes of the Board and whether somebody had recorded using a particular device and then transcribed because it, because even the format is different. Chair that would appear from pages 131 to 163.

**CHAIRPERSON:** Page?

**ADV THANDI NORMAN SC:** Page 131.

**CHAIRPERSON:** 131.

**ADV THANDI NORMAN SC:** To 163, that would be under divider  
20 number 6. Maybe – do you want to page through Mr Motsoeneng, or are you happy, you know what I am talking about.

**MR HLAUDI GEORGE MOTSOENENG:** I know.

**CHAIRPERSON:** 131 to?

**ADV THANDI NORMAN SC:** To 136 Chair.

**CHAIRPERSON:** 136.



**ADV THANDI NORMAN SC:** I beg your pardon, to 163.

**CHAIRPERSON:** 163.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** *Ja*, what is that?

**MR HLAUDI GEORGE MOTSOENENG:** This appears to be a transcript, it purports to be a transcript of a special meeting of the Board of 1 July 2011, it is completely different from all the minutes that we had received and I wanted to find out from Mr Motsoeneng as to whether he is the one who transcribed this and whether he obtained it  
10 from the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I have this transcripts long ago, when I was still at the SABC, it – I received the transcripts from the secretary of the SABC Board, Theresa Geldenhuys, that is the transcript ...(intervention)

**CHAIRPERSON:** That is where you got it from?

**MR HLAUDI GEORGE MOTSOENENG:** Yes.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Yes. That is now the Special Meeting of the Board of 1 July 2011, I think that is what they allude to in page 131.

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

**CHAIRPERSON:** Okay, alright.

**ADV THANDI NORMAN SC:** So did she give you a recording only just or just this transcript?

**MR HLAUDI GEORGE MOTSOENENG:** I think she gave me a recording Chair but I could not play it, I could not, she gave me a

recording and transcripts.

**CHAIRPERSON:** Oh she gave you both.

**MR HLAUDI GEORGE MOTSOENENG:** Yes, but for me I could not  
...(intervention)

**CHAIRPERSON:** The recording you could not listen to it, you could not  
play it.

**MR HLAUDI GEORGE MOTSOENENG:** Yes, I could not listen to it,  
but I think SABC they have the recording.

**CHAIRPERSON:** Yes okay.

10 **ADV THANDI NORMAN SC:** Yes, what is the gist of this transcript  
that you, what is the issue that you want to convey to the Chairperson  
by putting up the transcript?

**MR HLAUDI GEORGE MOTSOENENG:** I want to say to you  
Chairperson ...(intervention)

**CHAIRPERSON:** I think that was about the resolution for your  
appointment if I am not mistaken.

**ADV THANDI NORMAN SC:** No Chair, this is about, it goes with the –  
in those paragraphs it deals with the fact that there were moves to  
remove him or to answer to him at least.

20 **CHAIRPERSON:** Oh, okay, alright. Yes, let him tell us.

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson I think some  
people when they were appointing me they were thinking that this  
matricless will just do what we want, that is ...(intervention)

**CHAIRPERSON:** That is now you talk about some of the people in the  
Board, on the Board?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson because we were having discussion and sometimes they will tease hey Hlaudi you know you don't even have matric, you know it seems as if it is a favour from where I was analysing it and interpreting it, and Chairperson I am very firm, and I – you can't influence me if I do not agree with you easily. What people would sometimes they influence me I agree with them because they are correct Chairperson, but I think if people were thinking that it is a favour and for me I believe I deserve it and I was capable Chairperson because in all these issues Chairperson, and that

10 is where the Public Protector also miss a point. When I went to her I said no after joining the SABC as the Acting COO I realised that the executive sometimes they could not challenge the Board, or give the Board correct information because sometimes people are afraid of dismissal Chairperson to challenge and then you are afraid, I said to her that is what I realised that some of the Board resolution they were impossible.

Example Chairperson when they were presenting in Parliament most of the time they were saying no digital migration will have 18 channels but where this information will come from, which means it is

20 management. Maybe they wish, they want 18 channels but reality if you cannot sustain three channels how can you say you are going to have 18 channels and then I said to the Public Protector I think I accept that when people were presenting in Board they also misled the Board, not me, because I am the one who if I disagree I disagree, the Board knows that Chairperson. That is why sometimes I was fighting

with the Board, they chase me away, I come back.

So that is the reason Chairperson. One day Chairperson I was called in a meeting by a Board member but in any case the Board member he was thinking that the GCEO is there, which is correct, I mean according to the protocol of the SABC a Board member will call the GCEO. Unfortunately when the GCEO is not there it was me. I was calling a meeting. In that meeting is where a board member call business people outside SABC to come and discuss the business of the SABC, it is these issues of tenders and so on, to come and discuss  
10 these issues, so they called me, and when I came people didn't know that it is me, so I went and then they introduced people, and I am not going to mention their names Chairperson, I don't want to do that, because I am not here to – because I did not accept, I did not agree with them and we agree including the Board member.

So I was called in that meeting, we were discussing this issue. The first point that I raised in front of a Board member, I said you as business people, and these are big companies Chairperson, I said even if we talk here but you shall not take it as a given, because a Board member is – he is in this meeting, we as management we take  
20 decisions, so they oversee, so don't think that you are going to get whatever.

I put it clear Chairperson even in Boards I reported the matter to say I was concerned that a Board member called a meeting, but I can say Chairperson I did not have difficulties with the Board member, we understand each other, but I am just demonstrating that I stand for

what I believe in, what is correct, no one can bulldoze me, because wrong is wrong Chairperson, you cannot give me wrong instruction, because if it is a wrong instruction I will say no I cannot do it, so this issue of the transcript Chairperson it seems, because it is quoted there you know what do you like Hlaudi, then there were discussions, and then the person said ja I like Hlaudi a lot but I think he should not sit in our meeting because he and Robin Nicholson hey very close, they are tight these people we cannot serve our interest.

What is serving our interest? You cannot serve your own  
10 interest, you must serve the interest of the Corporation.

It goes further Chairperson, to say that we must pay (indistinct) these people are stumbling block, Hlaudi is a stumbling block. At least the Chairperson they succeed to remove Nicholson, they did not succeed to remove me, until they left the SABC, but what I am demonstrating Chairperson if you read that transcript, and I do not want to mention their names, if you read that transcript it talks to the issue of people going to the SABC as board members because they are the blockade by a political party or political parties and they want to pay their own comrades and also serve their own interests. It is wrong  
20 Chairperson that is what I have been fighting within the SABC Chairperson. These people that are tarnishing my name I have been fighting for a good cause, for a public broadcaster.

**CHAIRPERSON:** Now you said something about – excuse me about you and Mr Nicholson when you said whatever you said, I thought you meant that the two of you maybe would fight at board meetings and that

is why whoever was speaking was suggesting that maybe you should not come to the board meetings maybe because they cannot make progress because the two of you would be arguing or fighting over certain issues, but maybe you meant that the two of you stood together against certain things, yourself and Mr Nicholson, which is it, or is it something completely different?

**MR HLAUDI GEORGE MOTSOENENG:** I think Chairperson after people realised that they cannot bulldoze me they realised that hey we have have appointed the wrong person here, actually we were not  
10 supposed to appoint this one, and Mr Robin Nicholson Chairperson I want to use his word because he was sometimes teasing to say he is a bully but not in a bad way, I mean you stand your ground, so Nicholson will stand his own grounds about issues that he does not believe in Chairperson. I think they were just trying to remove people like us so that they can serve their own interest and pay their own comrades and I believe that people have been doing that, making sure that I am out at the SABC and also Chairperson if you check the statement of Krish Naidoo it attests to that history of the SABC Chairperson, but also  
20 Chairperson I must say that other board members they had been supporting me.

They have been agreeing with us that no the board should not get into the operation of the SABC Chairperson.

**CHAIRPERSON:** Okay, thank you.

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

**MR HLAUDI GEORGE MOTSOENENG:** And also Chair the tarnishing

of my name when it comes to media is also there, they are saying no we can control media, yes Chairperson, it is there in that transcript, they can control ...(intervention)

**CHAIRPERSON:** It is also in the minutes mmm.

**MR HLAUDI GEORGE MOTSOENENG:** I am not putting as a fact here, maybe this tarnish they have been controlling media.

**CHAIRPERSON:** Mmm.

**ADV THANDI NORMAN SC:** Thank you Chair. And then from paragraph 66 to 72 you deal with the Gupta family. You already dealt  
10 with this yesterday when you mentioned that you had visited the family's, the Gupta family's home several times and you had dinners and lunches there, that is what you said, but what you say in paragraph 72 is this:

"I have met other influential business people but strangely I have never been queried about them."

Is this – are you directing this to the Commission that it has asked you to deal with this aspect or are you just saying that generally nobody asked you about other influential people?

**MR HLAUDI GEORGE MOTSOENENG:** I think it will be unfair for me to  
20 direct this to commission.

**ADV THANDI NORMAN SC:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Commission has nothing to do with this Chairperson. What I was just alluding it is not the commission who is saying Hlaudi but these people who did this. The commission has never said that. I was just saying people generally they will say

these people met the Gupta's bla, bla but we meet – we are always having many meetings with other business people Chairperson this it has nothing to do with the commission.

**ADV THANDI NORMAN SC:** Yes thank you. And in paragraph 70 you stated that you never received any gifts or money or forms of gratification from the Gupta family.

**MR HLAUDI GEORGE MOTSOENENG:** Correct.

**ADV THANDI NORMAN SC:** Yes. Maybe just one question I have. You stated yesterday how you then took Ms Mokhobo to the Gupta family to  
10 meet them and for her to be congratulated. Did you do the same with other people that you were doing business with the SABC?

**MR HLAUDI GEORGE MOTSOENENG:** No Chair. I took her because as I said yesterday it was part of handover, introduce her to other business people not the Gupta's only. I think I met – I introduce her to other people. She did the same thing to me Chairperson.

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

**MR HLAUDI GEORGE MOTSOENENG:** The issue about the Gupta's Chairperson because I must tell you the truth. I said I was looking to capture them. And this capturing Chairperson it will also address the  
20 negativity of media generally to say but as media we need to find a way of portraying also good stories about South Africa because not everything is bad about South Africa. And also Chairperson we are having that partnership you know that with New Age. I saw an opportunity to say these people they have this nice jets, helicopters why we as SABC we must pay. So those were the issues Chairperson



that I was trying to make sure that at least SABC also benefit from this partnership.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** You refer to the jet did you want SABC people to benefit from the jet? You use it as well or what?

**MR HLAUDI GEORGE MOTSOENENG:** Sorry Chair.

**CHAIRPERSON:** I am saying you referred to the fact that they had a jet or private jet and I am asking whether why that one is important whether you had in mind that since you had a partnership with them  
10 about the New Age you SABC should be able to use the jet as well or what?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson because normally we pay. I mean you know it is expensive to fly to Cape Town and everywhere and everywhere.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But I was thinking that because we have this partnership we can say but we are partnering in this project I mean if we have trips why can you not – we use your – your – what you call it? – your jet because for us maybe they can say no but  
20 you will put fuel it is fine we do not have a problem. So it minimize the cost of the SABC. The same issue Chairperson that I did with Multichoice partnership because in my view I was saying well although Must-Carry says that you must carry SABC but partly I think you are also benefitting why can you not invest and assist the SABC which they did Chairperson.

**ADV THANDI NORMAN SC:** Thank you. Now that you on Multichoice we move from paragraphs 22 to 25 you deal with Multichoice matters and ETV and could you just link that to the broader Multichoice issue that you deal with from paragraph 73 onwards. Could you tell the Chairperson why and on what basis was Multichoice approached and up to the conclusion of the agreement with Multichoice briefly?

**MR HLAUDI GEORGE MOTSOENENG:** Chair maybe through your permission Chairperson.

**CHAIRPERSON:** Yes.

10 **MR HLAUDI GEORGE MOTSOENENG:** I also received notice from the commission Mr Kruger put – implicating me in some of these aspects. So – but Chairperson you will decide. In my view because I am implicated on that matter I am – I think the impicator, the one who is implicating me he must give evidence first so that I can respond on his evidence. Because he is implicating me, he is the one who is talking about other issues there in this Multichoice issue Chairperson. I think it will be fair for me to come to respond because already he is implicating me. Rather than me to go and then he implicates me he is going to come after me.

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

**CHAIRPERSON:** Well what you can do is you can tell the commission what you know about the transaction and – and if after he has given evidence there is a need for you to come back and deal with what he said about you then you can be given a chance, how is that?

**MR HLAUDI GEORGE MOTSOENENG:** Chair.

**CHAIRPERSON:** Ja so in other words if you are asked questions and it is something you know you answer that as far as I know this is the position. But when he has given evidence and to the extent that he implicates you and it is something you have not dealt with you can come back and be given a chance to deal with it.

**MR HLAUDI GEORGE MOTSOENENG:** I think it will be unfair Chairperson.

**CHAIRPERSON:** Aha. Tell me why?

**MR HLAUDI GEORGE MOTSOENENG:** Reason being the man is  
10 implicating me on certain aspects.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Because...

**CHAIRPERSON:** And you do not know what he has to say about it?

**MR HLAUDI GEORGE MOTSOENENG:** Sorry Chair?

**CHAIRPERSON:** You do not know what he says?

**MR HLAUDI GEORGE MOTSOENENG:** I have seen a portion  
Chairperson of what he is saying.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But because he is implicating  
20 me he must tell the story so that I am able to respond because I do not want to respond piecemeal.

**CHAIRPERSON:** Ja.

**MR HLAUDI GEORGE MOTSOENENG:** As stuff Chairperson. He is the one who has implicated me.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I want him to come and give evidence.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** So that I can come and reply Chairperson because there are some issues that he is raising there but I do not want to – because I cannot give commission Chairperson without dealing with these issues. But because he has – if he did not implicate me, come after, no problem Chairperson.

**CHAIRPERSON:** Ms Norman I am not sure what you may have to say  
10 about that.

**ADV THANDI NORMAN SC:** Chair indeed there is – there is – there are allegations and especially in particular in paragraph 47 of Mr Kruger’s statement where he says:

“However a change of Ministers again put the STB control system further in dispute when Minister Faith Muthambi with full support from Mr Motsoeneng decided to go against the government and ANC recommendations that a STB control system be implemented in the DTT network.”

20 So that is the extent as far as I can recall. Chair it – what is means then is that Mr Motsoeneng’s evidence on this aspect would have to be heard again after tomorrow after Mr Kruger testifies tomorrow and then possibly continue with him then he addressed what Mr Kruger says. But it just disrupts the entire plan really.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Not to finish evidence.

**CHAIRPERSON:** I will tell you Mr Motsoeneng what my thinking is without having really looked at what he has to say. I look at the fact that you say I am here to just tell the commission what I know and to explain my decisions the way I understood them and the commission will decide you know if I was right or wrong but I will tell the commission what I know and it is the truth. I look at it from that angle and from the angle that it is not really like in a court case you know where you are facing each other you know. It is an inquiry. But I am  
10 not wanting to make a ruling. I am not wanting to make a ruling at this stage. I am just sharing with you what my thinking is because based on that it may be that we can make progress. What I was thinking was you might be able to say, look I am able to – I will answer what I can but in regard to certain things maybe that somebody else might say about me I might have to come back and deal with them but in terms of that which I can deal with I am happy to deal with. That – that was my thinking that you might be able to say what I know I can tell you but if I – do not ask me about certain things because I do not understand exactly what he is saying about me. Maybe he should come and explain what he  
20 says about me then I can come back. I am just thinking aloud what I am thinking.

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

**CHAIRPERSON:** To see whether that might help us to make progress.

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

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Counsel for Mr Motsoeneng would like to address you.

**CHAIRPERSON:** Oh okay, okay.

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

**CHAIRPERSON:** Let us – let us hear.

**ADV MACGREGOR KUFA:** Ja thank you Chair.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** For the opportunity. Chair remember one of the issues which is quite pertinent in terms of Section 34 of the  
10 Constitution is the right to access a forum and this is the only time that Mr Motsoeneng can be able to address this forum, this inquiry and I am aware that we are using an inquisitorial approach here and I will suggest to the commission and through to you Chair that he can address the Multichoice issues as contained in his affidavit excluding the testimony of Mr Kruger and then when Mr Kruger has given his evidence only then can he take a stand. Because we are not sure whether Mr Kruger is going to implicate him or he is going to retract or amend his statement.

**CHAIRPERSON:** Yes.

20 **ADV MACGREGOR KUFA:** We do not know what can happen on the witness stand.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** So I will suggest that we proceed with what is contained in his affidavit.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** And then put in hiatus the issues of...

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Mr Kruger's testimony.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Those would be my submission Chair.  
Thank you Chair.

**CHAIRPERSON:** Okay. No thank you.

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

**CHAIRPERSON:** Ms Norman what do you think about that?

10 **ADV THANDI NORMAN SC:** Chair I think that would – that would be the best way of dealing with it but again Chair the 3.3 invites the implicated person to give a version.

**CHAIRPERSON:** Ja.

**ADV THANDI NORMAN SC:** To a particular issue.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Which is what we have done as the commission which is the implication that is contained in those few paragraphs.

**CHAIRPERSON:** Yes.

20 **ADV THANDI NORMAN SC:** I do not think it would hurt Mr Motsoeneng to just deal roughly with that allegation.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Because if it is untrue he can easily say whatever it is that Mr Kruger says there it is untrue and then he can elaborate if he wishes.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** But really the implication does not – because it defeats the whole purpose of a version to a Rule 3.3 because it would mean now that before a person can respond to a Rule 3.3 Notice that person must allow the impicator to actually give evidence first. I mean it...

**CHAIRPERSON:** But has he not responded to the statement?

**ADV THANDI NORMAN SC:** No. Unfortunately Chair he has filed a supplementary – Mr Motsoeneng has filed a supplementary statement  
10 on Monday this week but that supplementary statement does not deal with the versions like as I have been putting the.....

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** The implications. He does not say insofar as Kruger says this is what I say. Mr Kruger say this is what I say. Insofar as Ms Pillay says this is what I say.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** So that does not – it is still a very general statement and I believe that ...

**CHAIRPERSON:** Yes.

20 **ADV THANDI NORMAN SC:** The work of the commission would be best served if he deals with the Multichoice issue now and as you have suggested earlier Chair to the extent that he feels that he might want to elaborate after Mr Kruger has testified then he may just do that by way of an affidavit and check and decide whether he should come back to testify to that.



**CHAIRPERSON:** Well the – another approach which may be in line with what his counsel has indicated might be to say if he did not deal with those allegations in his supplementary statement or affidavit is to say is that he be asked to do so.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Because part of having the benefit of a written response is to see what will be admitted and what will not be admitted.

**ADV THANDI NORMAN SC:** Be denied. Yes.

**CHAIRPERSON:** So – so I am thinking that if there is not such a  
10 written response that maybe we – he be asked to provide such a written response but in the meantime maybe in line with the suggestion from his counsel you – we cover what we can on the understanding that he will file a supplementary statement that will deal with what he did not ...

**ADV THANDI NORMAN SC:** Deal with.

**CHAIRPERSON:** Answer.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** And – and then depending on what the other person will say he might have to come back.

**ADV THANDI NORMAN SC:** Yes.

20 **CHAIRPERSON:** And deal with it. If obviously if the other persons comes and says no I think I was mistaken or something like that.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** That falls away

**ADV THANDI NORMAN SC:** No true Chair. Yes, yes.

**CHAIRPERSON:** So if it is fine let us deal with it on that basis that he

will be – you will ask him about the parts that do not relate to what he must still file in a supplementary affidavit about.

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

**CHAIRPERSON:** Ja.

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

**CHAIRPERSON:** Okay. Yes.

**ADV MACGREGOR KUFA:** Sorry just briefly Chair.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** There is one issue. When Mr Motsoeneng  
10 was served with a number of Rule 3.3 Notices pertaining to a number of  
witnesses they were coming in a cascading fashion.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** And we were not sure now whether to  
respond immediately or not.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** And we wrote a letter through the  
instructing attorney.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** To the commission to say that we cannot  
20 have this Rule 3.3 Notices in a piecemeal fashion.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Because it sort of restricts him.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Because when he is about to answer one  
another then another one is in the inbox.

**CHAIRPERSON:** Another one comes in yes.

**ADV MACGREGOR KUFA:** Rather give us all the statements that implicate him.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Then we will in one swift action.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Reply to them also.

**CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** That we will deal with all the issues.

10 **CHAIRPERSON:** Yes.

**ADV MACGREGOR KUFA:** Hence that way has always been our approach.

**CHAIRPERSON:** Ja.

**ADV MACGREGOR KUFA:** That is what we intimated and indicated to the secretariat of the commission.

**CHAIRPERSON:** Okay, okay.

**ADV MACGREGOR KUFA:** Thank you Chair.

**CHAIRPERSON:** No, no that is fine. I think

20 **ADV THANDI NORMAN SC:** Chair maybe just on that. It is impossible to wait for all the 3.3's because the commission does not know who is going to implicate who.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** So as the statements come.

**CHAIRPERSON:** Ja.

**ADV THANDI NORMAN SC:** Notices get issued.

**CHAIRPERSON:** The sooner they arrive.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Yes. Ja.

**ADV THANDI NORMAN SC:** True otherwise...

**CHAIRPERSON:** You never know whether you have got all of them now.

**ADV THANDI NORMAN SC:** Precisely.

**CHAIRPERSON:** Because other implicated persons do not respond.

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

10 **CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** That is the reality of the situation.

**CHAIRPERSON:** No that is fine but I think what can be done is that an arrangement can be made in terms of which by a certain date he will file a supplementary affidavit or statement.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Dealing with everything that he has not dealt with.

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

**CHAIRPERSON:** Ja

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

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

**ADV THANDI NORMAN SC:** Shall we then proceed Chair?

**CHAIRPERSON:** Yes, yes.

**ADV THANDI NORMAN SC:** Okay thank you. Yes Mr Motsoeneng you heard the Chairperson's directive. Those matters that you do not wish to deal with then we could deal with them separately in writing as your

counsel has suggested to Chair.

**MR HLAUDI GEORGE MOTSOENENG:** Chair I am in your hands.

**CHAIRPERSON:** Yes. No, no that is – I think you are in – you will not be unhappy with this arrangement I think.

**MR HLAUDI GEORGE MOTSOENENG:** Not at all Chairperson.

**CHAIRPERSON:** Yes okay thank you.

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

**CHAIRPERSON:** So what will remain is just that a deadline be agreed.

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

10 **CHAIRPERSON:** Between the two legal teams as to when that will happen.

**ADV THANDI NORMAN SC:** When that will happen.

**CHAIRPERSON:** Ja.

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

**CHAIRPERSON:** Okay.

**ADV THANDI NORMAN SC:** Thank you. Yes Mr Motsoeneng I had asked how did – we know of the Multichoice and the SABC agreement could you just tell the Chairperson what brought that about? What was – the initial stages of the 24 hour channel planning and could you just  
20 take the Chair through that?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson thank you very much. I think it is very important to give background about the Multichoice issues. Multichoice and SABC we have been working together when it comes to sports rights. When it comes to other issues relating to broadcasting issues. But the issue that was a concern not

for me, not for SABC but for all people of South Africa. It was why SABC is not having a 24 hour news channel. Why E-TV is having a 24 hour news channel. Those were the issues and the background what informs and is not here Chairperson it is not a partnership here. Yes it is not a partnership. Firstly after pressure from the public including the Portfolio Committee to say why you do not have such channels. I think the former GCO Lulama Mokhobo and Doctor Nguban approach the Multichoice to say but we have many channels there why can you not cater for SABC also so that we also compete with other broadcasters

10 because we are competing Chairperson we are broadcasters. They went and engage Multichoice. I think I did allude that Chairperson yesterday and the board they were not happy about that process but they rectify that process. And after that the board approve that a channel. The only issue that was outstanding it was the financials of the SABC because the agreement between the former GCO Lulama Makhobo and the Multichoice they were allocating – they were funding SABC 50 million for 5 years. But that 50 million they were saying the first year it is 50. It goes down by 10, 10 until it is zero. Because in their view they were thinking SABC will sustain itself through

20 advertisers, sponsorship and all those adverts because that is how we broadcasters generate revenue Chairperson. So...

**CHAIRPERSON:** Before – I am sorry before you proceed Mr Motsoeneng I just want to understand and you must appreciate that one is not in the sector. If E-TV could have a 24 hour channel or if somebody else could have 24 hours news channel why would SABC not

have its own news channel without going to somebody else to find a partner or find some assistance of some kind. Was that because it would have been too expensive or what?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson as a public broadcaster SABC it is SABC mandate to have more channels and serve the public interest. News channel is one of the public interests that people of South Africa are looking at so that that information can be spread in the country even outside the country as it is happening now because the channel is not just in South Africa it is across the  
10 borders of other countries. So Chairperson I said we are competing. We are a broadcaster – we are a public broadcaster so a partnership Chairperson that was not the view when especially it comes to this issue because I think people who approach they approach to say we want our own 24 hour news channel Chairperson. And if you are happy about that Chairperson can I move on?

**CHAIRPERSON:** No I am not sure that I understand it. Here is SABC.

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

**CHAIRPERSON:** Public broadcaster, big institution has the support of government. It wants a 24 hour news channel why must it go to  
20 Multichoice?

**MR HLAUDI GEORGE MOTSOENENG:** Oh okay Chair I see.

**CHAIRPERSON:** In order to – to achieve what it wants namely to have a 24 hour news channel?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson we do not have a bouquet like Multichoice they have many that is why you have many

channels.

**CHAIRPERSON:** Which are already existing?

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson the only issue that we have is only 3 channels.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** During the migration that is where the question that you are talking about it will arise.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** To say but you have this  
10 transmitters now why do you want Multichoice?

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** But currently only Multichoice can spread news for SABC Chairperson.

**CHAIRPERSON:** Okay so now in order to have a channel do you need to be licenced by ICASA or somebody and because they may have licenced somebody else like Multichoice and given them permission to have many channels it would be difficult to get – to go to ICASA and say we want a channel of our own. That is where I am trying to understand why – why if I want a car why must I go to Mr Motsoeneng  
20 and say Hey I want to buy a car why do I not just buy a car – the car myself without talking to him?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson maybe to put in a language that I think all of us will understand. Let us take three channels – SABC. We only have those three transmitters which means you cannot go beyond those three channels in that platform of the



SABC.

**CHAIRPERSON:** Yes, yes.

**MR HLAUDI GEORGE MOTSOENENG:** You can only do that during a migration because now you will be allowed ...

**CHAIRPERSON:** Oh technologically you could not do it? You could not – SABC could not have another channel of its own during the period of what analogue is that what it is called?

**MR HLAUDI GEORGE MOTSOENENG:** Yes, yes.

**CHAIRPERSON:** That was the position?

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

**CHAIRPERSON:** But Multichoice was – already had a number of transmitters or channels.

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

**CHAIRPERSON:** And SABC could acquire another channel by having an agreement with Multichoice?

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

**CHAIRPERSON:** Okay. Now I understand.

20 **MR HLAUDI GEORGE MOTSOENENG:** And also Chairperson I think the important background is this channel it is a pilot project for digital migration.

**CHAIRPERSON:** Oh okay.

**MR HLAUDI GEORGE MOTSOENENG:** Which means when we migrate those channels are not going to sit in the bouquet of Multichoice.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** They will move to SABC.

**CHAIRPERSON:** Yes okay, okay, alright. So that is why they had to go to Multichoice?

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

**CHAIRPERSON:** Or the Chairperson and the GCEO?

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

**CHAIRPERSON:** Yes okay. Continue.

**MR HLAUDI GEORGE MOTSOENENG:** So Chairperson...

**CHAIRPERSON:** That – was the problem of R50 million which was going to go down every year until it came to zero? Ja I think when I interrupted you you were talking about that.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Yes Chairperson. So the board said no they cannot have this channel because it is not sustainable. I think we even make a request from Treasury to fund the channel. The former Minister Pravin Gordhan reject that proposal and the former Minister Dyna Phule [?] said because there is no money now you can do whatever that you need to do if you could do it so that you have channel but she was not saying go and do 1,2,3. She was saying broadly so Chairperson. I decided Chairperson to approach Multichoice after we failed – after [indistinct] Doctor Ngubane failed to acquire the amount that can sustain the channel.

**CHAIRPERSON:** The R50 million.

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

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I think also Chairperson to

clarify I think it was 50 SABC. He said no it is not sustainable I think they top up with another R20 million.

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Which was R70 million but it was not sustainable Chairperson. That chapter was closed Chairperson. He said no there is no channel. After the chapter has been closed as I was saying Chairperson you need thinkers and you need to have people with certain skills to deal with innovation of channels. I went back to Multichoice to say to them look we still need 24 hour news channel but  
10 I consulted Doctor Ngubane before I can do that Chairperson. And Doctor Ngubane said hey Hlaudi you are crazy man, young man you are crazy. Do you think when Multichoice could not give us money they will give you money? I said Chairperson give me an opportunity I will do that. I think I can achieve this funding.

Chair - I was just talking Chairperson and then Dr Ngubane said no it is fine. You can go and engage them. I went and engaged them Chairperson. It was not easy Chairperson. We were fighting because when I approached the COO of MultiChoice he said to me Hlaudi sometimes it seems as if you are mad and I said this is a good  
20 madness because it is in the interest of the SABC.

Reason being Chairperson when I motivated these issues of us I said you as a private sector now you are also benefitting directly so or indirectly so because our three channels they are sitting in your bouquet and people are watching our channels and they are most watched channels. He said no, but there is Must-Carry Regulations. I

said no I am aware about regulations but I think you can assist the SABC for digital migration.

You can fund a 24 hour news channel so that when we migrate at least SABC you - we have these channels and also partly because you have benefitted because of Must-Carry Regulations and to deal with Must-Carry Regulations Chairperson because when there was that process of talking to people the Government view was SABC all people of South Africa shall be able to watch SABC because they do not want SABC to - to - people on satellite not to see what Government  
10 is doing or the - the events in the country generally.

They want to make sure that it is broadened. SABC is available everywhere. That is why you have that Must-Carry Regulations Chairperson. So after that Chairperson after that discussion we discussed - we did not conclude immediately because Chairperson I remember the man walked out. Just walked out and then I was laughing alone.

I said no he does not know me. I am going to fight this battle Chairperson that they must assist the SABC and then I think you know tempers sometimes it goes up but at a certain point you will find  
20 yourself and then I asked my PA to call him to say we must talk not about just 404 including sports rights. All those issues Chairperson and then he came and then in that meeting we find each other - found each other because I explained to him why we should have this channel and I was also aware that MultiChoice is paying for E.TV Channel that is sitting in that bouquet and other channels.

They are also sitting there - news channels. So I said no you must assist a public broadcaster. I do not think it is a bad thing to assist a public broadcaster Chairperson which Chairperson at the end of the road they agreed with us. So the negotiations we started the negotiations within SABC looking for funding Chairperson. So that they can - because even if we are having the - the many channels in that SABC Chairperson you will never succeed if you do not have funds.

You must secure funds and you have channels. That is the background Chairperson.

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

**CHAIRPERSON**: No thank you ...

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

**CHAIRPERSON**: Very much for the background.

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

**CHAIRPERSON**: I see we are at two minutes past four or so.

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

**CHAIRPERSON**: Hm.

**ADV THANDI NORMAN SC**: I was going to suggest that we adjourn Chair ...

20 **CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: And then possibly tomorrow we could start at 9 o' clock ...

**CHAIRPERSON**: Yes.

**ADV THANDI NORMAN SC**: To try and cover all the other aspects with Mr Motsoeneng.

**CHAIRPERSON:** Yes, yes.

**ADV THANDI NORMAN SC:** Before we call the next witness whose flight has to - departs at half past two.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** So what is means I - we really have to try and finish that witness quite early ...

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** But with your leave Chair but I still think that even if we were to start at 10 o' clock we should be able to cover  
10 because it is just now a few ...

**CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:** Matters that are left to - to deal with Mr Motsoeneng.

**CHAIRPERSON:** *Ja.* We - we could start a little early. I do have two or so Commission Meetings.

**ADV THANDI NORMAN SC:** Okay.

**CHAIRPERSON:** I think the next - which starts in the next few minutes ...

**ADV THANDI NORMAN SC:** Yes.

20 **CHAIRPERSON:** Or quarter past or half past.

**ADV THANDI NORMAN SC:** Maybe - but we can still do 10 o' clock.

**CHAIRPERSON:** Maybe Mr Motsoeneng we thought we - you would be able to finish today but we had too many questions for you and we are not done. So would you be able to come back tomorrow?

**MR HLAUDI GEORGE MOTSOENENG:** Chairperson through

Chairperson I was thinking Chairperson if we finalise the MultiChoice ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** When I come tomorrow I deal with other matters Chair ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** Because I think it is - it is easier to ...

**CHAIRPERSON:** Yes.

**MR HLAUDI GEORGE MOTSOENENG:** I do not know what the  
10 advocate is going to ask me but I think (intervenes).

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** The only challenge Chair ...

**CHAIRPERSON:** *Ja.*

**ADV THANDI NORMAN SC:** Chair because of the continuous hearings.

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** The only time we are able to see witnesses and ...

**CHAIRPERSON:** To consult other witnesses is after ...

**ADV THANDI NORMAN SC:** Yes, is only after four.

20 **CHAIRPERSON:** Yes, yes.

**ADV THANDI NORMAN SC:** Yes Chair. That is the only challenge we have.

**CHAIRPERSON:** Yes. You know sometimes we - quite often we go beyond four and go to five.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Sometimes we have gone ...

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** To even six. I think one or two occasions we have gone even up to seven.

**ADV THANDI NORMAN SC:** Seven, yes.

**CHAIRPERSON:** One week - one week we went - we sat on a Saturday and sometime before the end of September we will sit on another Saturday as well.

**ADV THANDI NORMAN SC:** Yes.

10 **CHAIRPERSON:** So we - we do go beyond 4 o' clock sometimes but I think Ms Norman has that challenge but also I have some other Commission Meetings that are - are urgent. I would have liked that we - we - we do as much as possible.

**ADV THANDI NORMAN SC:** Yes.

**CHAIRPERSON:** Otherwise I could even have gone up to six if everybody was fine. So maybe because of that let us - let us start early tomorrow if that is fine.

**ADV THANDI NORMAN SC:** Might just ...

**CHAIRPERSON:** Yes.

20 **ADV THANDI NORMAN SC:** Enquire if they are available Chair?

**CHAIRPERSON:** Yes.

**ADV THANDI NORMAN SC:** Thank you Chair. They - they will make themselves available for tomorrow.

**CHAIRPERSON:** *Ja*, fine. They will make themselves available?

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



**CHAIRPERSON:** Okay. No, thank you. Let us start therefore at 9 o' clock tomorrow. So that we can cover as much as possible ...

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

**CHAIRPERSON:** And finish as early as possible with regard to his evidence.

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

**CHAIRPERSON:** Yes.

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

**CHAIRPERSON:** Thank you. We are going to adjourn. Then tomorrow  
10 we will start at 9 o' clock.

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

**CHAIRPERSON:** We adjourn.

**INQUIRY ADJOURNS TO 12 SEPTEMBER 2019**