

Report of the Auditor-General on an investigation at the South African Broadcasting Corporation

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REPORT OF THE AUDITOR-GENERAL ON AN INVESTIGATION AT THE SOUTH AFRICAN BROADCASTING CORPORATION

1. EXECUTIVE SUMMARY

1.1 Background

1.1.1 On 1 July 2009, Parliament's Portfolio Committee on Communications requested the Auditor-General of South Africa (AGSA) to conduct an investigation at the South African Broadcasting Corporation (SABC) on certain allegations made by some former SABC board members as well as by labour unions. The allegations were categorised as supply chain management issues; matters of potential fruitless and wasteful expenditure; or human resource-related matters. The portfolio committee also requested that the investigation be completed in time for consideration at its hearing on 22 September 2009.

1.1.2 A letter of engagement in respect of this request was signed on 21 July 2009 by the AGSA and the acting director-general of the Department of Communications. The portfolio committee was informed of the contents thereof on 21 July 2009. The portfolio committee agreed that due to the tight time frames and the nature of the investigation, the AGSA's report should highlight those allegations that could not be investigated, or concluded on.

1.1.3 This report accordingly provides the AGSA's conclusions on the allegations investigated as well as indicates those allegations that have not been investigated at this time.

1.1.4 In line with the Auditor-General's *Policy, Standards and Guidelines: Investigations* due care was taken to confirm the factual accuracy of the findings in this report. This includes discussions with former non-executive members of the SABC board, the former Group Chief Executive Officer, the current interim board members and the current group executives of the SABC.

1.1.5 In order to conduct the investigation as efficiently as possible, every reasonable attempt was made to avoid a duplication of work and costs by way of reflecting on other investigations, reviews or audits previously conducted where they were relevant to the allegations made.

1.2 Findings

1.2.1 The findings in this report should be addressed decisively by the interim SABC board with the support of the executive management of the SABC and the Department of Communications. However, corrective action limited to the specific individual findings alone would likely address symptoms but not the underlying causes. This approach carries the risk of deficiencies recurring in future. It is therefore imperative that the underlying causes contributing to the deficiencies be properly understood and addressed as part of the corrective actions to be taken in response to this report.

1.2.2 The underlying causes that affect sound financial management can be summarised under three interrelated key areas, namely:

1.2.2.1 **Quality of reporting:** This area includes the entity's ability to retain records appropriately and to use these as a basis to provide relevant, accurate and complete management information to the leadership, to those charged with governance and to the oversight authorities. Quality information management enables quality monitoring, proper decision-making and oversight.

1.2.2.2 **Effective governance arrangements:** This focus area covers the effectiveness of functions and tools such as audit committees, internal audit, enterprise risk management (including fraud risk management), internal control frameworks and policy frameworks.

1.2.2.3 **Adequate leadership oversight:** This category underscores the importance of leadership creating the correct environment in the organisation. It includes the manner in which leadership monitors performance and compliance and the way in which they promote ethical behaviour. Leadership oversight is also about preventing an organisational culture of impunity and acting decisively to correct deficiencies.

1.2.3 The findings of the investigation cover the period 1 September 2007 to 30 June 2009 unless indicated otherwise. These findings are summarised below in accordance with the aforementioned underlying focus areas which are most prevalent for each category of allegations, namely supply chain management issues, potential fruitless, wasteful and irregular expenditure; and human-resource related matters.

1.2.4 **Supply chain management**

1.2.4.1 The findings related to Supply Chain Management deficiencies are predominantly due to non-adherence to policies, directives and delegated authority by senior management of the SABC. These findings therefore point to inadequate monitoring and oversight by the leadership of the SABC and the creation of the environment at the SABC where the "tone at the top" is not appropriate, which in turn seems to have created a culture where management is not focused on public accountability or acting in the best interest of the SABC. The deficiency is further amplified by a number of instances where the internal audit function and/or the audit committee have brought to the attention of leadership serious concerns, which were not acted on timeously and decisively. The following significant findings are indicative of inadequate monitoring and oversight by the leadership in the area of supply chain management:

- (a) Evidence could not be found that a total of 7 tenders awarded for an aggregate amount of R174,069 million were approved according to the appropriate levels stipulated in the Delegation of Authority Framework. [Refer paragraph 10.1.2.3 (a)]
- (b) Deviations from complying with the tender processes in respect of contracts to the value of R24,8 million were not approved at the appropriate levels in terms of the approved Delegation of Authority Framework. [Refer paragraph 10.1.2.3 (b)]

- (c) There was also a further deviation in respect of two contract awards amounting to R8,4 million and R8,2 million, respectively, which were not approved in accordance with the Delegation of Authority Framework. [Refer paragraph 10.1.2.3 (c)]
 - (d) A material agreement for R326 million was entered into by the former Group Chief Executive Officer and former Head: Legal and Business Advisory Services with a consultant on 28 September 2006, although they did not have the authority to do so. [Refer paragraph 10.1.3.2 (a)]
 - (e) A further eight appointments of consultants were investigated and a synopsis of the deficiencies can be listed as:
 - The procurement process required by the Group Supply Chain Management Policy was not followed (competitive processes were not followed, contracts were signed after services had already commenced, contract periods were extended without being formalised in addendums to the contracts and payments were made for services not provided for in contracts);
 - There was no segregation of duties as the initiation of the need for services, contract approval and certification of services rendered was done by one individual or his own office staff;
 - Deliverables were not specified in the contracts; and
 - Payments exceeded contract amounts. [Refer paragraph 10.1.3.2 (b) – (i)].
 - (f) Contrary to the provisions of section 51 of the PFMA, there was no approved procurement policy, which governed procurement for the period prior to October 2007. [Refer paragraph 10.1.2.1 (b)]
 - (g) The bid adjudication committee has a delegated authority to procure up to an amount of R7,5 million. However, while the bid adjudication committee made recommendations and took decisions, the bid adjudication committee members were not formally appointed in writing by the former Group Chief Executive Officer and current acting Group Chief Executive Officer contrary to the requirements of the Group Supply Chain Management Policy. [Refer paragraph 10.1.2.3 (d)]
- 1.2.4.2 The SABC's ability to manage and provide quality information and reporting relating to supply chain management has also been impeded. For example, the SAP system implemented at the SABC makes provision for a contract management module, which, inter alia, assists with controlling payments to prevent these from exceeding contract values. However, this facility on the SAP system has not been activated and the ability to properly monitor Supply Chain Management issues is therefore hampered. A thorough review of the SAP system is required to ensure the necessary controls are implemented, activated and operating effectively.
- 1.2.4.3 The SABC operates in an industry which is characterised by strong people, networks and interactions. Many employees no doubt have experiences outside of the SABC and logically bring this expertise into the organisation. However, the various allegations raised regarding

possible or perceived conflicts of interest is indicative of a lack of confidence that the procurement and provisioning system of the SABC is fair, equitable, transparent and competitive. This perception may be strengthened by the number and level of employees who do have other commercial interest and the nature of the businesses of the entities in which they have an interest. In this regard, the following was noted:

- (a) One thousand four hundred and sixty-five (1 465) employees were identified who had interests in companies or close corporations. There was no central register of approval granted to the employees, which is an example of inadequate management of information, and due to time constraints, the impact of such interests on the SABC could not be evaluated.
- (b) Of the above employees, 20 employees were directors or members of 20 companies or close corporations who have received payments from the SABC to the amount of approximately R3,4 million. The latter finding is a specific contravention of the Group Supply Chain Management Policy. [Refer paragraph 10.1.1.2 (b) and (c)]

1.2.4.4 Non compliance with procurement policies and the lack of decisive and effective action by those responsible for oversight compounds seemingly prevalent risks facing the organisation which have not been identified in the SABC's strategic risk assessment. These risks are that

- (a) Some employees may be devoting much attention to their other commercial interest at the expense of the SABC; and
- (b) Decisions may be influenced in favour of individual interests rather than on the basis of sound business practices.

1.2.5 **Fruitless, wasteful and irregular expenditure**

1.2.5.1 The lack of leadership oversight is also evident in this category of findings related to alleged fruitless, wasteful and irregular expenditure, as there are contraventions of policy and/or alleged mismanagement of funds by executive management.

- (a) The Group Internal Audit Unit reported deficiencies to the audit committee in March 2007 with regard to the acquisition of international program content. A legal firm appointed in August 2007 to conduct a forensic investigation concluded in its August 2009 report that there were irregularities of approximately R111,746 million relating to double payments, overpayments, material paid for but not received, agreements that had to be renegotiated and program titles acquired more than once from the same supplier during the same licence period. [Refer paragraph 10.2.1.2 (a)(b) and (l)]
- (b) Although concerns and detailed findings were brought to the attention of the acting Group Chief Executive Officer and group Chief Financial Officer as well as former SABC board in September 2008, no evidence could be provided that corrective actions were implemented by the SABC board or executive management to address

deficiencies and possible transgressions in the acquisition of international program content. [Refer paragraph 10.2.1.3 (d)]

- (c) The Delegation of Authority Framework requires sponsorships to be managed by means of a business plan. However, no business plan could be provided in respect of the Presidential Golf Day for sponsorships to a value of R342 780. [Refer paragraph 10.2.5.2 (c) to (e)]
- (d) A total amount of R11,3 million was paid during the period September 2007 to June 2009 to a private travel company for travel arrangements in contravention of the SABC Travel Policy, which requires all such travel arrangements to be made via the SABC's own travel office which was established for this very purpose. Furthermore, the private travel company was not managed in terms of the agreement signed with the SABC. The aforementioned amount of R11,3 million includes approximately R7,8 million relating to the cost of travel arrangements for the Beijing Olympics and Beijing Paralympics based on business plans approved by a group executive. The business plans should have been approved by the chair of the SABC board. [Refer paragraph 10.2.3.2 (d), (h), and (i) to (m) and (q)]
- (e) The (former) SABC board members and executive managers who travelled with their partners to the Olympic Games are liable for tax on the arising fringe benefits in terms of the Income Tax Act. However, the Human Resource Division was not notified of the benefits and did not levy the tax to the employees and former board members. [Refer paragraph 10.2.3.2 (r)]

1.2.5.2 Excessive petrol cards expenditure was incurred by some employees at top and senior management levels. While the validity of the costs still requires further verification, the SABC is exposed to potential abuse due to deficiencies in the policy governing the usage of petrol cards. For instance, the policy did not place a limit on the usage of the petrol cards and the benefits of participating in the scheme are not linked to the nature and extent of travelling duties of the position. [Refer paragraph 10.2.2.2 (a)]

1.2.5.3 The oversight by the leadership of petrol card expenditure is also deficient partly due to the non-availability of quality management information. Monitoring by the Finance Department takes place on an *ad hoc* basis and structured management information on individual actual costs is not generated routinely. [Refer paragraph 10.2.2.2 (c)]

1.2.6 **Human resource-related issues**

- 1.2.6.1 Although the suspension of SABC employees were not investigated in detail, it was noted that on average, employees were on suspension for longer than 10 months and in two instances employees were on suspension for 39 months. This creates an environment where management and those responsible for oversight are perceived as being indecisive and contributes to an organisational culture of impunity. [Refer paragraph 10.3.2.2 (b) and (c)]

1.2.7 **Recommendations**

- 1.2.7.1 Overall, the interim SABC board and executive management of the SABC should compile and implement a proper corrective plan to:
- Improve the quality of management information and reporting that facilitates proper continuous monitoring by the leadership. This includes optimising system functionality as well as enhancing records management.
 - Strengthen the effectiveness of governance arrangements. This includes managing an audit committee in line with good governance principles and making internal audit more effective by addressing their findings and recommendations timeously. This recommendation also includes tightening internal controls and risk management as well as updating policies.
 - Enhance the adequacy of leadership oversight. This includes setting the correct “tone at the top” and organisational culture through, inter alia, leading by example, focusing on promoting ethical conduct, addressing issues of non-compliance decisively, directing and closely monitoring the operations and activities of the SABC.
- 1.2.7.2 The SABC’s strategic risk assessment require a thorough examination to address the risks that may impact negatively on the integrity of the supply chain management system and to avoid exploitation by other roleplayers. Specifically, measures should be instituted to ensure that the SABC obtains the best value for money through its employees who should not be conflicted.
- 1.2.7.3 Specific recommendations are also made in the report to consider disciplinary actions against individuals still in the employ of the SABC, consider legal proceedings against individuals who have exited the SABC, reform certain policies, practices and schemes, and further review of specific potential irregular expenditure and to take action accordingly.

2. INTRODUCTION

- 2.1 The functions of the AGSA in supporting constitutional democracy in South Africa are described in section 188 of the Constitution of the Republic of South Africa, 1996. Section 5(1)(d) of the Public Audit Act, 2004 (Act No. 25 of 2004) gives the AGSA the authority to carry out an appropriate investigation if the AGSA considers it to be in the public interest or upon the receipt of a complaint or request.
- 2.2 The AGSA was requested by the portfolio committee on 1 July 2009 to conduct an investigation into the specific allegations at the SABC made by some former SABC board members of the SABC as well as by labour unions.

3. RESPONSIBILITIES OF MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE

- 3.1 The primary responsibility for the prevention and detection of fraud and error rests with both those charged with the governance and the management of an entity. Management, with the oversight of those charged with governance, needs to set the proper tone, create and maintain a culture of honesty and high ethics and establish appropriate controls to prevent and detect fraud and error within the entity.
- 3.2 It is the responsibility of those charged with the governance of an entity to ensure, through the oversight of management, the integrity of an entity's accounting and financial reporting systems and that appropriate controls are in place, including those for monitoring risk, financial control and compliance with the law.
- 3.3 It is the responsibility of the management of an entity to establish a control environment and maintain policies and procedures to assist in achieving the objective of ensuring, as far as possible, the orderly and efficient conduct of the entity's business. This responsibility includes implementing and ensuring the continued operation of accounting and internal control systems that are designed to prevent and detect fraud and error. Such systems reduce but do not eliminate the risk of misstatements. Accordingly, management assumes responsibility for any remaining risk.

4. LIMITATIONS OF THE REPORT

- 4.1 Although the work performed incorporates our understanding of the law as it stands, we do not express an opinion on the legal effect of the facts or the guilt or innocence of any person(s) or party, but merely state the facts as they have come to our attention. In the case of disciplinary hearings or civil and criminal litigation, this report may only be used as a reference document.
- 4.2 The report is based on the facts established from documentation provided and/or information obtained during the course of the investigation. Should any further information be obtained, it may influence the conclusion.

5. BACKGROUND

- 5.1 An engagement letter was signed on 21 July 2009 between the acting DG of the Department of Communications (shareholder department of the SABC) and the AGSA, setting out the terms of the investigation. The portfolio committee was informed of the contents thereof on 21 July 2009. The portfolio committee also requested that the report be tabled in Parliament in time for its hearing on 22 September 2009. To enable the AGSA to meet the deadline for tabling and to ensure the factual correctness of the report the following interactions took place between the interim SABC board, the SABC management and the AGSA:
- 5.2.1 The SABC was supplied with a list of information needed on 21 July 2009. It was agreed that all information requested should be channelled through the company secretary.
- 5.2.2 A meeting was held on 23 July 2009 between the SABC management and the AGSA to explain the *modus operandi* to be followed during the investigation.
- 5.2.3 A meeting was held between the interim SABC board and the AGSA on 29 July 2009 to discuss, amongst others, the lack of information provided for investigation purposes.
- 5.2.4 Due to the slow progress in submitting the information by the SABC, a meeting was held on 11 August 2009 with the acting GCEO and it was agreed that the investigating team would request information directly from any employee of the SABC.
- 5.2.5 In order to obtain a better understanding and/or clarity on some of the allegations and to explain the *modus operandi* to be followed, meetings were held with representatives of the labour unions as well as the former SABC board members between 27 July and 5 August 2009.
- 5.2.6 Discussions were held with the external auditors of the SABC to share information on the allegations reviewed and possible deficiencies in internal controls.
- 5.2.7 Meetings were also held with group executives of the SABC between 31 August 2009 and 1 September 2009 to discuss the findings in the report and to afford them the opportunity to give timely inputs.
- 5.2.8 The execution of the investigation on site at the SABC ended on 2 September 2009 in order to review conclusions and to finalise the report. Conclusions are therefore based on documentation provided and information obtained and work performed during the course of the investigation up to 2 September 2009.
- 5.2.9 Meetings were held with the majority of the former non-executive SABC board members who availed themselves between 8 September to 11 September 2009 to inform them about the

preliminary findings and to afford them an opportunity to comment. A meeting was also held with the former GCEO on 11 September 2009 for the same purpose.

- 5.2.10 The preliminary findings were discussed with the acting DG of the Department of Communication and the members of the interim SABC board before the report was officially issued to the DG, the chairperson of the interim SABC board and the acting GCEO on 8 September 2009, for their formal comments.
- 5.2.11 Responses were received from the DG (15 September 2009), the chairperson of the interim SABC board (15 September 2009) and the acting GCEO (12 September 2009) and incorporated in the report.

6. PURPOSE, OBJECTIVES AND APPROACH OF THE INVESTIGATION

- 6.1 The purpose of the report is to facilitate public accountability by reporting the findings emanating from the investigation conducted at the request of the portfolio committee on 1 July 2009 to Parliament.
- 6.2 The investigation was performed in terms of the Auditor-General's *Policy, standards and guidelines: Investigations*.

7. SCOPE OF THE ASSIGNMENT

- 7.1 The scope of the investigation is defined in the letter of engagement with the Department of Communications. Since the portfolio committee requires the AGSA report to be tabled before Parliament go on recess in September 2009, it was agreed that the AGSA's report would indicate residual and outstanding issues to give an indication of those areas not concluded upon in order to engage on further actions that may be required. Annexure A includes the allegations that were not investigated and concluded on due to time constraints in finalising the report. The scope of the engagement, as set out in the engagement letter was as follows:

7.1.1 Supply chain management

- The role of a senior manager with business interests in the music industry and in the various music awards organised by the SABC. [Refer paragraph 10.1.1.2 (d)]
- A manager in the Sport Division is accused of owning a production company that does work for the SABC. [Refer paragraph 10.1.1.2 (e)]
- Interference relating to tender processes at the SABC. [Refer paragraph 10.1.2.3]
- Non-declaration of other business interests by staff members of the SABC. [Refer paragraph 10.1.1.2 (b) and (c)]

7.1.2 Fruitless and wasteful expenditure

- Expenditure incurred on:

- legal costs relating to the suspension of the former GCEO of the SABC [Refer paragraph 10.3.1.2]
 - security costs, including car hire, for the former chairperson of the SABC board [Refer paragraph 10.2.6.2]
 - legal costs relating to a high court case [Not investigated]
 - the use of external companies to conduct investigations on members of the SABC board [Refer paragraph 10.1.3.2 (i)]
 - use of petrol cards by senior management of the SABC [Refer paragraph 10.2.2.2]
 - presidential golf day [Refer paragraph 10.2.5.2]
 - conferences, entertainment and catering [Not investigated]
 - gifts [Not investigated]
 - consultants [Refer paragraph 10.1.3.2 (a) – (i)]
 - bursaries. [Refer paragraph 10.2.4.2]
- The use of resources of the public broadcaster by management to instigate action against the SABC board. [Not investigated]
 - The acquiring of programme content without consultation or needs analysis, including sports and content rights acquired and then not utilised. [Refer paragraph 10.2.1.2]
 - The acquisition of certain sports rights, which resulted in losses suffered by the SABC. [Not investigated]
 - Possible wasteful expenditure for the acquisition of international programme content. [Refer paragraph 10.2.1.2]

7.1.3 Human resource related issues

- Payment of a severance package to the former GCEO of the SABC. [Refer paragraph 10.3.1.2]
- Granting of leave to a group executive by the former chairperson of the SABC board. [Not investigated]
- The suspension of an executive member of management by the former GCEO without consulting the SABC board. [Not investigated]

7.2 The investigation covered the period 1 September 2007 to 30 June 2009, unless indicated otherwise. During the period under investigation, the former GCEO was actively involved in the affairs of the SABC for 7 months from 1 September 2007 to March 2008 when he was suspended. A new board was in place for the period 1 January 2008 to 30 June 2009. This board was subsequently replaced by an interim board on 1 July 2009.

8. SOURCES OF INFORMATION AND PROCEDURES PERFORMED

8.1 The AGSA relied on documentation and other information provided by the SABC during the investigation. Conclusions were based on facts that were supported by documents and information made available to, and obtained by the investigating team up to 2 September 2009. If additional information is made available, it may influence the findings and

conclusions.

- 8.2 The validity or authenticity of the relevant records and information subjected to analysis was not verified. This information was accepted at face value unless stated otherwise.
- 8.3 The procedures applied were designed to enable the identification of irregular and unlawful acts, but the AGSA cannot provide assurance that the procedures applied have detected all such acts, if any.

9. REGULATORY FRAMEWORK

9.1 The following prescripts were utilised as references in performing the investigation:

- The Constitution of the Republic of South Africa, (Act. No 108 of 1996, as amended)
- The Public Finance Management Act, (Act No. 29 of 1999) (PFMA)
- Treasury Regulations for departments, trading entities, constitutional institutions and public entities issued in terms of the PFMA
- Preferential Procurement Policy Framework (Act No. 5 of 2000) (PPPFA) and its associated Regulations
- Supply Chain Management (SCM): A guide for Accounting Officers/Authorities, February 2004, and its associated Regulations in terms of the PFMA: Framework for SCM, issued by the National Treasury
- Broadcasting Act (Act No. 4 of 1999)
- The Independent Communications Authority of South Africa Act (Act No. 3 of 2006)
- The Promotion of Administrative Justice Act. (Act No.3 of 2000)('PAJA')
- The SABC Group Supply Chain Management and Preferential Procurement Policy (Group SCM Policy) implemented 1 October 2007
- SABC Group Supply Chain Management Procedure Manual
- Prevention and Combating of Corrupts Activities (Act No. 12 of 2004)
- SABC Personnel Regulations
- SABC Bursary Policy
- Supply chain management and business flow process
- SABC's car allowance scheme
- SABC Travel Policy
- Income Tax Act (Act No. 58 of 1962) (Income Tax Act)
- SABC Home Security Equipment Policy

9.2 Control over the affairs of the SABC is vested in the members of the SABC board appointed on the recommendation of Parliament, in terms of the Broadcasting Act. The SABC board is ultimately accountable and responsible for the performance and affairs of the SABC. The SABC board derives its authority primarily from the Memorandum and Articles of Association and the Broadcasting Act.

- 9.3 The SABC board has created a series of SABC board committees (for example, Audit Committee and Procurement Committee), in terms of the Board Charter, to assist it in the execution of its role. These committees may be permanent or may be constituted on an *ad hoc* basis to deal with specific issues. SABC board committees derive their authority from the SABC board. As a general principle, all matters, which fall within the ambit of authority of the SABC board in respect of which the SABC board has not delegated authority, must first be considered by the relevant SABC board committee to make a recommendation to the SABC board on the appropriate resolution.
- 9.4 SABC board committees are generally constituted with powers of recommendation only, subject to certain statutory limitations. However, the SABC board may, at its discretion, delegate decision-making authority in any area to one or more of the SABC board committees.
- 9.5 Operational authority for the day-to-day running of the business is delegated by the SABC board to the Group Chief Executive Officer (GCEO) and to the Group Executive Committee. The constitution of the Group Executive Committee is determined by the Broadcasting Act and SABC's Articles of Association. The Group Executive Committee is collectively accountable to the SABC board.

10. DETAILED FINDINGS, CONCLUSIONS, RECOMMENDATIONS AND RESPONSES FROM THE SABC

10.1 Supply chain management

10.1.1 Conflict of interest

10.1.1.1 Allegation

Various allegations were investigated regarding employees with business interest in companies and close corporations that are conducting business with the SABC including the Head of Strategy & Risk Management and a senior manager in the Sport Division.

10.1.1.2 Findings

- (a) By making use of computer assisted audit techniques (CAATS), the database of Companies and Intellectual Property Registration Office (CIPRO) (dated 31 March 2009) was compared with the SAP system personnel data for the period 1 September 2007 to July 2009 to identify employees who were indicated as “Active” employees on the SAP system who were directors and/or members of companies and/or close corporations (CCs) as at 31 March 2009.
- (b) One thousand four hundred and sixty-five (1 465) employees were identified which had interests in companies and/or CCs as at March 2009. Persons who work less than 24 hours a month for the SABC and independent contractors (persons who do not qualify as an “employee” in terms of the SABC Personnel Regulations) were excluded from the exception report by using CAATS. Only personnel codes reflected on SAP that qualify according to the definition of an employee according to the Personnel Regulations were included. According to paragraph 2(b): Duties of Employees of the SABC Personnel Regulations, dated January 2000, “*an employee may neither directly nor indirectly have an interest in another business or profession, nor do any other work part time or otherwise, nor hold a public office, without the prior written permission of the Group Chief Executive*”. It was not investigated whether the employees adhered to applicable prescripts, noting that a centralised register of employees’ interest was not maintained at the SABC.
- (c) The names of the companies and CCs as identified were compared with payments made on the SAP system during the period under review. Twenty employees have been identified who are directors and/or members of 20 companies and/or CCs that received payments according to the SAP system to the amount of R3,378 million. Payments made to suppliers under a different name to that registered with CIPRO would therefore not have been identified. Paragraph 11.9.1 of the Group SCM Policy states “*It shall be the SABC’s policy not to purchase any goods or services from any*

employee or employee owned business, to ensure that suppliers competing for the SABC's business have confidence in the integrity of SABC's selection process."

- (d) With regard to the allegation that the Head of Strategy & Risk Management with a business interest in the music industry influences the appointment of artists by the SABC, the following was found:
- (i) According to the minutes of meetings held on 15 September 2008 and 6 October 2008, the SABC board raised their concerns regarding the allegations that most artists who are linked to the Head of Strategy and Risk Management are used in SABC-organised concerts. During the SABC board meeting held on 6 October 2008 the SABC board raised their concern that the apparent conflict of interest had not been dealt with. No evidence could be provided, that the issue of conflict of interest minuted during the SABC board meetings was addressed.
 - (ii) According to the CIPRO database, the Head of Strategy and Risk Management is a member of a CC. This CC is conducting business with the SABC. The CC received payment totalling R32 750 during the period 1 September 2007 to June 2009 in contravention of the Group SCM Policy. On 1 September 2009, the Head of Strategy and Risk Management provided the AGSA with an internal memorandum he had sent to the SABC board members on 16 September 2008. In the memorandum he confirms his interest in a production CC and requests that the matter be addressed. According to him, he has not received feedback on this matter. However, during the meetings with the former non-executive SABC board members, they all denied that they had received such an internal memorandum.
 - (iii) The Head of Strategy and Risk Management was previously a director in a company. However, he resigned as a director on 30 September 2005. The company and a subsidiary of the company received payments according to the SAP system, from the SABC for the period 1 September 2007 to June 2009 amounting to R11 264 and R2,510 million, respectively. It was not evident if the Head of Strategy and Risk Management still holds any interest in this company as the CIPRO database does not record shareholding.
- (e) It was also alleged that the Head of SABC Sport owns a production company that does work for the SABC. When the Head of SABC Sport's personal details were compared to the CIPRO database he was identified as an active director in a company. However, according to the SAP system this company did not receive any payments from the SABC during the period 1 September 2007 to June 2009. Shareholding in private companies by this employee was not verified.

- (f) Due to time constraints the other employees who are directors and/or members of companies and/or CCs who were doing business with the SABC were not investigated. Their involvement in the procurement process was also not evaluated.
- (g) With regard to the executive and non-executive directors (former SABC board members), 14 former SABC board members were identified who were directors and/or members of various companies and/or CCs.
- (h) The companies and CCs identified in the exception report were compared with payments made on the SAP system. Two SABC board members have been identified who were directors and/or members of two companies and/or CCs that received payments on the SAP system during the period under review to the amount of R17,137 million. Of this, a former non-executive SABC board member, identified as having interest in a company conducting business with the SABC to an amount of R3,124 million, did declare his interest in the company as described in section 50 paragraph 3 of the PFMA. *“A member of an accounting authority must – (a) disclose to the accounting authority any direct or indirect personal or private business interest that that member or any spouse, partner or close family member may have in any matter before the accounting authority; and withdraw from the proceedings of the accounting authority when that matter is considered, unless that accounting authority decides that the member's, direct or indirect interest in the matter is trivial or irrelevant”*. However, the contract was awarded prior to the individual becoming a board member. The other board member is the CFO who, in his official capacity, is a director of a SABC-owned company.

Response from the SABC

The Head of Strategy and Risk Management indicated that the matter of conflict of interest was known and declared upon joining the SABC. He also contends that he was not aware of these transactions, and that the SABC, out of its own volition gave unsolicited business to the CC in which he is one of the members and therefore he can not be held responsible for the transactions.

10.1.1.3 Conclusion

- (a) Various employees were identified as directors or members of companies and/or CCs, but it was not investigated if they had had approval to perform outside work and if such approval was based on a proper evaluation confirming that the employees' outside interest would not affect their SABC work performance.
- (b) Several employees were identified who had an interest in entities doing business with the SABC although this is prohibited by the SABC procurement policy which states “ It shall be the SABC's policy not to purchase any goods or services from any employee ...”. A total of R3,378 million was paid to the identified employee related entities.

10.1.1.4 Recommendations

- (a) The interim SABC board, as the accounting authority, should determine if the employees identified performed other work outside the SABC. If so, the following should be established:
 - (i) If they had approval from the GCEO to perform other work and the basis on which such approval was granted.
 - (ii) Appropriateness of disciplinary actions against employees performing other work outside the SABC without the required approval.
- (b) A central control register containing all approvals to conduct outside work should be established.
- (c) With regard to the employees who had an interest in companies and CCs doing business with the SABC, the interim SABC board should determine:
 - (i) Whether such employees had declared their interest.
 - (ii) Whether such employees had in any way influenced or were in a position to influence directly or indirectly the procurement process to award a quotation or tender to their entity.
 - (iii) Whether any employee had given preferential treatment to the employee-related entity in awarding a quotation and/or tender to the entity.
 - (iv) The appropriate disciplinary action to be taken against employees who are directors and/or members in companies and/or CCs doing business with the SABC, as well as those, if any, who influenced the procurement process.
- (d) The interim SABC board should remind all employees of the SABC of the policies regarding performing other work and doing business with the SABC.

10.1.2 Procurement of goods and services

10.1.2.1 Background

- (a) Paragraph 14.17.1 of the Group SCM Policy which was effective from 1 October 2007, read with paragraph 9.7 of the Delegation of Authority framework (DAF), requires procurement in excess of R2 million to follow a competitive bidding process. Section F4 and F5 of the DAF prescribes the following in terms of the delegated authority to award tenders and to deviate from tender processes:

Section no.	Area	Authority	Approval Levels
F4	Award of tenders	Award of tenders in accordance with Group SMC Policy	SABC board – above R15 million Group Executive Committee – up to R15 million Bid adjudication committee (BAC) – up to R7,5 million
F5	Tenders deviations	Approval for deviation from tender procedures	SABC board – above R15 million Group Executive Committee – up to R15 million BAC – up to R7,5 million

- (b) In terms of section 51 of the PFMA “An accounting authority for a public entity must ensure that that public entity has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective”. No procurement policy, approved by the SABC board, which governs the period prior to October 2007, could be submitted to the AGSA.

10.1.2.2 Allegations

Various allegations were received regarding deviations from the approved procurement process in the awarding of tenders and quotations.

10.1.2.3 Findings

- (a) The Head of Procurement supplied the AGSA with a listing of 51 tenders awarded during the period 2007 to 2009. The list was compared to the minutes and/or resolutions of the various award committees and evidence could not be found that the following tenders were approved according to the approval levels stipulated in the DAF:

No.	Date of tender award per Head of Procurement	Description/ reasons for procurement	Level of approval required according to the DAF	Level of approval obtained	Tender award amount per Head of Procurement (R)
1.	1 March 2008	Digital printing system	BAC	No approval was submitted	5,384 million
2.	1 April 2009	Debt collection	Group Executive Committee	Head of Audience Services	7,879 million
3.	1 April 2009	Debt collection	Group Executive Committee	Head of Audience Services	9,436 million
4.	1 April 2009	Debt collection	SABC board	Head of Audience Services	45,556 million
5.	1 April 2009	Debt collection	SABC board	Head of Audience Services	48,976 million
6.	3 September 2008	Security services	SABC board	BAC	25,878 million
7.	2 February	Main controls	SABC board	Group	30,96 million

No.	Date of tender award per Head of Procurement	Description/ reasons for procurement	Level of approval required according to the DAF	Level of approval obtained	Tender award amount per Head of Procurement (R)
	2007	turnkeys		Executive Committee	
Total					174,069 million

Response from the SABC

The Head of Audience Services indicated that the SABC concluded one year agreements with its debt collection agencies on a non-exclusive basis with a 60-day option to renew or terminate the contract. Annual collection targets and commission rates are included as annexures to these contracts. Payments to debt collectors are made on a commission fee structure and the actual amounts paid are therefore dependent on the volume of accounts and amounts successfully collected from defaulters. Financial performance of debt collectors is monitored on a monthly basis through operational meetings and on a quarterly basis through financial review sessions.

The collection targets and commission rates are re-negotiated on an annual basis and subject to agreement with the debt collection agency, an addendum to the contract is formalised which also extends the term of the contract for another year.

According to the Head of Audience Services two of the debt collection agencies were appointed in 1996 and 1997 respectively. However, the contracts were only formalised during the 2004/05 financial year. Two other debt collection agencies were appointed during 2004, and 2005 respectively. The appointments were made after a due diligence exercise which included consultation with the SABC Legal Division, verification of the debt collection agencies' legal standing with the Law Society and the Debt Collection Council, IT infrastructure, human resource capacity and financial stability.

At the time of conclusion of the latter two contracts, the estimated contract value(s) was within the delegated authority of the Head of Audience Services. One of the debt collection agencies was paid a commission of R980 461 in the 2004/05 financial year and the second debt collection agency was paid a commission of R1 383 126 in the 2005/06 financial year. A third debt collection agency was paid R1 290 352 in the 2008/09 financial year.

Response from the AGSA

The Head of Audience Services requested the former GCEO in an internal memorandum dated 31 March 2008 to delegate the authority to institute legal action via the Audience Services Division's debt collection agencies. The former GCEO approved delegated authority to the Audience Services Division on 31 March 2008 specifically for the purpose to appoint legal firms on its panel of debt collection agencies to institute legal action against defaulting television licence holders as part of its debt collection process.

The Head of Audience Services extended contracts with four debt collection agencies for twelve months starting from 1 April 2009 to 31 March 2010.

Section F4 of the DAF sets out the approval thresholds of the various award committees at the SABC. Total payments to four debt collection agencies for the period 01 April 2008 to 31 March 2009 were as follows:

Debt collection agency	Payments for the period 01 April 2008 to 31 March 2009 from available SAP data	Award committee required to approve extension of contract according to the DAF
Debt collection agency 1	R6 871 965	BAC
Debt collection agency 2	R8 274 533	Group Executive Committee
Debt collection agency 3	R42 848 882	Board of Directors
Debt collection agency 4	R43 791 019	Board of Directors

Therefore, the Head of Audience Services did not have the authority to approve the awarding of the contracts. Approval should have been obtained from the various award committees mentioned above to extend the contracts with debt collection agencies for the period 1 April 2009 to 31 March 2010.

- (b) Paragraph F5 of the DAF, read with paragraph 14.18 of the Group SCM Policy, makes provision for deviations from the tender procedures, provided that appropriate approval is obtained from the relevant award committee. A list of nine emergency procurement/ deviations from tender procedures was received for the period 1 April 2007 to 30 June 2009 from the Head of Procurement. The completeness of the list was not verified and only the instances as listed were tested to determine if these deviations were approved in accordance with the DAF and Group SCM Policy. The available minutes of the BAC, Group Executive Committee, and the SABC board for the period 1 April 2007 – 30 June 2009 were scrutinised and no approval to deviate from tender procedures was reflected in the minutes of the required approval authorities for the following:

Date of procurement	Amount according to the Head of Procurement (R)	Reasons provided for deviating from normal tender procedures	Level of approval required per DAF and Group SCM Policy	Authority that approved the deviation according to minutes
27 May 2008	15,899 million (Payments to supplier according to SAP for the period 1 September 2007 to June 2009)	Contract extended by 30 months due to satisfactory performance	SABC board	BAC
1 March 2009	8,912 million	Sole supplier	Group Executive Committee	CFO and Head of Procurement

Response from the SABC

The Head of Procurement indicated that he is in substantive agreement with the findings in the report. The Head of Procurement agrees with all other findings as statement of facts and will not contradict them. However, he wishes to denote that in his view the SABC Group SCM Policy is not very clear on approval procedures in respect of deviations from normal tender procedures.

- (c) The BAC awarded two tenders to a service provider and the following shortcomings in this regard were identified:
- (i) The SABC board resolved during a meeting held on 30 August 2007 to approve the budget for the acquisition of a long-form server to the value of R17,5 million subject to compliance with the Group SCM Policy. The BAC recommended that the tender be awarded to the service provider for the upgrade of the “*Final Control Centre – Short form to long form server*”, for a value of R8,153 million on 7 March 2008. However, during the meeting on 4 July 2008 the Group Executive Committee resolved not to approve the upgrade of the “*Final Control Centre – Short form to long form server*” and referred the business case back to the technology cluster to revisit and then resubmit the business case to the Group Executive Committee for final approval.
 - (ii) According to available minutes of the Group Executive Committee meetings, the Group Executive Committee did not approve the awarding of the tender to the service provider.

- (iii) The BAC approved the motivation to deviate on 27 May 2008 from the tender procedures and awarded the “*upgrading of the final control automation system*” to a service provider for an amount of R8,4 million as the service provider has an agreement with the sole supplier of the system within South Africa to distribute the equipment.
- (iv) However, according to the DAF, the deviation should have been approved by the Group Executive Committee. From the available minutes and resolutions of the Group Executive Committee inspected, no approval, as required by section F5 of the DAF, was obtained from the Group Executive Committee to deviate from the tender procedures for the “*upgrading of the final control automation system*”.
- (v) The Group Executive Committee did not approve the awarding of the tender for the “*Final control centre-Short form to long form server*” (R8,153 million) as well as the deviation from the tender procedures for the awarding of the tender for the “*upgrading of the final automation system*” (R8,4 million) to the service provider. However, both tenders were awarded to the same supplier. The contract was signed for R15,202 million on 5 August 2008 by the acting Chief Technological Officer although the awarding of the above tenders was not done in accordance with the DAF. According to the DAF, the approval level above R15 million is by the SABC board.

Response from the SABC

According to the Head of Procurement, the business plan was approved by the SABC board for R15 million. Two tenders were issued and awarded to one company. When the Technology Division formulated a contract document, they were advised by the Legal Division to award one contract instead of two.

Response from the AGSA

The former SABC board approved the business plan on 30 August 2007 and not the awarding of a tender. As the agreement was signed for an amount of above R15 million the SABC Board should have approved the awarding of the contract and not the BAC as stated in the report.

- (d) Since the implementation of the Group SCM Policy on 1 October 2007, neither the former GCEO nor the current acting GCEO who took office on 7 May 2008, appointed (BAC) members in writing as required by paragraph 6.8.7 of the approved Group SCM Policy, which states that “*The BAC shall be comprised of at least four senior managers, who will be appointed by Group Chief Executive Officer in writing in consultation with the Group Executive Committee*”. The Head of Procurement indicated that appointment letters were generated, but due to an administrative oversight, were never signed. The acting GCEO concurred that this was an

administrative oversight. All recommendations and decisions made by the BAC were therefore made by individuals not appointed in writing by the GCEO.

10.1.2.4 Conclusion

- (a) In various instances, evidence could not be found that deviations from the tender process as well as the awarding and approval of tenders were done in accordance with the delegated levels of authority as stipulated in the DAF.
- (b) Members of the BAC were not appointed in writing by the GCEO and all recommendations and decisions made by the BAC were therefore made by individuals whose appointment was not formalised.

10.1.2.5 Recommendations

- (a) The interim SABC board should determine whether expenditure incurred amounted to irregular expenditure where the approvals were not in accordance with the Group SCM Policy and as defined in the PFMA and, if so, the necessary action should be taken as prescribed in section 51(1)(e) of the PFMA.
- (b) The interim SABC board should take notice that according to paragraphs 5.11.1 and 5.11.2 of the Delegation of Authority *“Non-compliance with any provision of this policy shall be an offence punishable in terms of the disciplinary code of the SABC. In particular, the improper splitting of invoices or projects and the exceeding of the authority levels conferred upon any employee in terms of this DAF, for whatever reason, shall be subject to disciplinary action in terms of the SABC’s disciplinary code”*.
- (c) The interim SABC board should ensure that all committee members of the various procurement committees are appointed in writing and that their roles and responsibilities are clearly stated in the appointment letters.
- (d) Furthermore, all supply chain role players should be trained to implement all SCM policies and procedures.

10.1.3 Appointment of consultants

10.1.3.1 Allegations

Various allegations were received regarding consultants and service providers that were not appointed in accordance with the approved policies and procedures and that payments made to these consultants should be regarded as fruitless and wasteful expenditure. Due to time constraints, it was decided to investigate the appointment of consultants only for the following services:

- (a) The establishment of a technology program management office.
- (b) Risk management.
- (c) Debt origination.
- (d) Change management support services.
- (e) Secondment services in the CFOs office.
- (f) Public relations services.
- (g) Fleet management services.
- (h) Assessment of account executives.
- (i) To investigate the SABC board members.

10.1.3.2 Findings

(a) The establishment of a technology program management office

- (i) The Group Executive Committee of the SABC approved the awarding of a contract to a service provider for the establishment of a *"technology program management office"* at the SABC on 27 March 2006 at an anticipated cost of R10 million for one year on the following conditions:
 - The awarding of the contract to the service provider was for a period not exceeding one year.
 - That the appointment and performance of the service provider be reviewed on an annual basis.
- (ii) However, the former GCEO and the former Head: Legal and Business Advisory Services signed an agreement with the service provider on 28 September 2006 for the following amounts:

Phases of the project	Amount (R)
Once off during May/June 2006 (Phase 1)	7 165 085
Monthly payment from July 2006 to May 2009 calculated as R1 879 810pm for 34 months (Phase 2)	63 913 540
Project fee 15% of the capital cost of the project*	255 000 000
Total	326 078 625

*NOTE An estimate of the capital cost of the project amounting to R 1,7 billion was calculated by the SABC. Working paper obtained from SABC.

- (iii) The irregularities in the appointment of the service provider were submitted to the SABC board on 7 December 2007 by the Group Internal Audit Unit.
- (iv) During a meeting on 11 June 2008, the former SABC board decided to charge the former GCEO for signing a contract with a service provider to the value of approximately R330 million when he had no authority to do so. Furthermore,

the former SABC board was concerned that the former GCEO signed the contract without following applicable policies and procedures.

- (v) External auditors reported in a management letter dated 14 July 2008 that a contract was entered into with the service provider that was not authorised in terms of the delegation of authority and the contract may be such that the cost exceeds the benefit to be received.
- (vi) The appointment of the service provider was investigated by the Group Internal Audit Unit and in a report dated 15 July 2008 the following conclusions regarding the appointment of the service provider were reached:
 - The former GCEO and former Head: Legal and Business Advisory Services signed the contract outside the directive (resolution of the Group Executive Committee: 27 March 2006) and DAF.
 - The resolution of the Group Executive Committee was not adhered to in that the contract was concluded for a period of three years to be reviewed after 18 months. This was not in accordance with the conditions set by the committee of one year and to be reviewed on an annual basis.
 - The former GCEO and former Head: Legal and Business Advisory Services, contravened section 57(a) and (d) of the PFMA and the DAF, by signing the service agreement outside a directive and delegated authority in that they failed to ensure that the financial management and internal contract system of the SABC were adhered to.
 - The acting chief technology officer should have been aware at the time of concluding the contract that the estimated cost of the contract exceeded the authority of the Group Executive Committee and the GCEO, and therefore also contravened section 57(a) and (d) of the PFMA.
- (vii) The Group Internal Audit Unit also recommended, inter alia, in the report that disciplinary action should be instituted.
- (viii) A legal opinion requested by the previous chairperson of the SABC board (undated), was also obtained from a legal firm in this regard. The legal opinion, inter alia, stated the following:
 - That the service provider that was awarded the tender has been unfairly advantaged;
 - That the SABC is not in a position to set aside the contract;
 - That the Group Executive Committee failed to discharge its duties;

- That the former GCEO and former Head: Legal and Business Advisory Services be guilty of contravention of the PFMA in signing the contract; and
 - That certain other employees also contravened the PFMA in awarding the tender to the service provider.
- (ix) A memorandum of understanding with the service provider was subsequently signed by the former GCEO during December 2007, effective for the period 1 March 2008 to December 2010. In terms of this memorandum of understanding, in the event of conflicts between the agreement signed on 28 September 2006 and the memorandum of understanding, the memorandum of understanding shall prevail. The memorandum of understanding had been concluded on the basis that a new formal agreement between the SABC and the service provider would be finalised.
- (x) Furthermore, in terms of this memorandum, the SABC will be charged an amount of R4,5 million per month (as opposed to the almost R1,9 million per month as per the September 2006 agreement).
- (xi) Two addendums to the memorandum of understanding were also signed by the acting GCEO on 17 July 2008 and 28 November 2008, respectively.
- (xii) According to the minutes of the SABC board meeting dated 6 October 2008, the acting GCEO informed the SABC board that a three-year service agreement had been entered into with the service provider in September 2006 and the cost per month is R1,8 million plus disbursements. The acting GCEO also mentioned that a memorandum of understanding was concluded in December 2007 and was extended by way of addendums. However, the SABC board was not informed that the cost had increased from R1,8 million to R4,5 million when this memorandum of understanding had been signed between the two parties. The SABC board expressed concern that the total cost of the contract to the year 2010 had not been provided to them. During the same meeting, the SABC board resolved that:
- The proposed (new) agreement between the SABC and the service provider be approved in principle;
 - The proposed agreement be provided to the chief technology officer designated to assess the contract, revise the budget down and trim any excess costs; and
 - A joint meeting of the technology and finance committees be convened to consider the proposed agreement and make appropriate recommendations to the next board meeting.
- (xiii) The agreement was signed by the acting GCEO and the former chairperson of the SABC board on 30 March 2009 for a monthly fee of R1,999 million for the

period 30 March 2009 to 31 December 2010. According to this agreement, it supersedes all previous agreements between the SABC and the service provider.

- (xiv) Purchase orders were made out for payments of R4,793 million and R4,956 million, respectively, dated 6 May 2009. However, according to the SAP system, no payments have been made to the service provider in respect of these purchase orders, as alleged.

(b) Risk management

- (i) An agreement was signed on 7 October 2007 between the CFO, the acting Head of Legal and a consultant to perform consultancy services in connection with SABC's Asset and Liability Risk Management Committee to house and manage all enterprise-wide risks at the SABC. The agreement was for a period of 24 months at a fixed monthly rate of R75 000 according to annexure A to the agreement.
- (ii) The commencement date according to the agreement was 1 January 2007, which is 10 months before the contract was signed. Based on the invoices retained in a manual contract file at the offices of the CFO, total payments to the value of R1,835 million were made to the consultancy firm for the period 1 January 2007 to 30 May 2009 in this regard. Invoices for five months during the period were not retained in this file and were therefore excluded from the total payment value. Although the duration of the project's life was agreed on as 24 months, thus ending 31 December 2008, the firm was still invoicing the SABC for risk management consulting services as late as May 2009, which is five months after the agreed contract period ended.
- (iii) No formal extension to the existing consultancy agreement could be submitted. According to a letter dated 28 March 2009 to the CFO, the service provider decreased the fixed monthly rate from R75 000 to R55 000. Possible payments amounting to R390 000 (R75 000 x 3 months and R55 000 x 3 months) could have been made for the period January to June 2009 without an approved addendum to the agreement.
- (iv) A sample of five purchase orders released for the consultant was selected to determine whether adequate segregation of duties existed within the procurement process. In all these instances there were indications of inadequate segregation of duties, for example, either the personal assistant or the administrator of the CFO created the purchase requisitions whereafter the CFO himself released it. In four of the five instances the CFO accepted that the services were rendered satisfactorily and granted approval for payment. In addition to this, the CFO signed the consultancy agreement with the consultant on behalf of the SABC.

- (v) The principle of separation of powers is a primary underlined principle of the DAF. The following table includes the five instances of the approval of transactions for payment to the consultant without proper segregation of duties:

Purchase order number	Short text per SAP	Value of Purchase order (R)	Purchase requisition created by	Purchase requisition released by	Service acceptance on SAP done by	Agreement co-signed by	
4500040772	Risk management	250 000	Administrator of the CFO	CFO	CFO	Acting Head of Legal	CFO
	Risk management monthly	960 000					
4500003243	Risk Management Consulting	82 500	PA of the CFO	CFO	Divisional financial director	Acting Head of Legal	CFO
4500006245	Risk and enterprise risk management	132 500	PA of the CFO	CFO	CFO	Acting Head of Legal	CFO
4500006246	Risk Management Consulting	82 500	PA of the CFO	CFO	CFO	Acting Head of Legal	CFO
4500024007	Risk Management Consulting	102 500	Administrator of the CFO	CFO	CFO	Acting Head of Legal	CFO

- (vi) No evidence could be submitted that quotations were invited during the procurement process or that a fair, equitable, transparent or competitive process according to the PFMA had been followed in appointing the consultant.
- (vii) According to the SABC annual report of 2007-08 the risk, strategy and governance cluster has a tripartite mandate, which includes “*to limit the SABC’s exposure to all forms of risk, especially those relating to its image and finances*”. Furthermore, the annual report states that the challenge of internalising and implanting risk management throughout the organisation has already been identified. Although the risk management is the responsibility of a specific cluster, the process was still contracted out to the service provider.

Response from the SABC

The CFO indicated that by and large the PFMA and Group SCM Policy was disregarded by not inviting competitive quotations and tenders. He agrees with the conclusions that the AGSA have arrived at, that segregation of duties did not exist and is prepared to implement any recommendations given by the SABC Board. Furthermore, the CFO indicated that the contract was issued by the former SABC board before the SABC had an approved procurement policy in place.

Response from the AGSA

The contract was signed after the implementation of the Group SCM Policy and no evidence could be submitted that the Group SCM Policy was followed in awarding the contract or that the deviation from the normal procurement procedures was approved by the Head of Procurement.

(c) Debt origination

- (i) A proposal was made by the consultant referred to in paragraph (b) above, on 28 March 2009, to serve as debt originators at the SABC at a total cost of R250 000 for six months ending September 2009. The project commenced on 1 April 2009, one month before the proposal was approved by the CFO on 6 May 2009. In contradiction with paragraph 14.12.3 of the Group SCM Policy, work was undertaken by the consultant and the SABC was invoiced for services rendered to the value of R100 000 (April and May 2009) without a signed contract.
- (ii) The CFO accepted the proposal from the consultant without following the prescribed process when selecting consultants such as identifying the approach, inviting proposals, receiving and evaluating responses etcetera, which is in contravention to paragraph 23.14 of the group SCM procedure manual and paragraph 51(1)(iii) of the PFMA. Reasons for obtaining only one proposal were not recorded and approved by the Head of Procurement or the delegate as required in paragraph 14.16.3 of the Group SCM Policy.

Responses from SABC

The CFO indicated that the SABC board approved the rendering of this consultant services.

Response from the AGSA

No board approval for the appointment of the consultant could be submitted. Furthermore, the three quotations were not invited as required in terms of the Group SCM Policy.

(d) Change management support services

- (i) The SABC entered into two management consultancy agreements with a service provider. The first agreement was in respect of rendering services by providing ongoing change management support in Group Finance with specific emphasis on the move from K1 to Floor 14 in the Radiopark SABC building. The contract was for the period 15 July 2008 to 16 January 2009. An addendum to this agreement was later entered into between the same parties.

The term was extended to 17 April 2009 and the contract amount was R666 000.

- (ii) The second agreement was to develop and implement a “*communication plan for the office of the CFO*” for a 12-month period. The contract was for the period 15 July 2008 to 16 July 2009, to the value of R1,152 million.
- (iii) Both contracts referred to a “*schedule 1*” attached where the services were described. Both schedules referred to the “Communication and Change Management Activity Plan”.
- (iv) Three quotations, as required, could not be submitted. The reasons for the deviation from the Group SCM Policy were also not recorded.
- (v) There was no proper segregation of duties as per the section 9, paragraph 1 of the SCM Procedures Manual, as the CFO signed as representative of the SABC for both contracts, the administrator of the CFO created the purchase requisitions, the CFO released the purchase requisitions, and also approved the service entry sheets (SES) – which means that the service had been delivered and approval for payment is granted – for 17 invoices to the value of R1,246 million (excluding VAT) submitted. As legal representatives of the SABC, the Acting Head: Legal co-signed both contracts with the CFO and the Group Executive: Legal Services the addendum with the CFO.
- (vi) Furthermore, the SABC was also invoiced by the same consultant for professional services rendered to the SABC Financial Control Division in respect of “transition management” for the period January 2008 to September 2008. The total cost for the services rendered according to eight invoices provided was R1,197 million (excluding VAT). The following was also identified:
 - No supporting documentation was provided for the obtaining of three quotations for the services provided to the SABC by the same supplier. The reasons for the deviations were also not recorded and approved by the Head of Procurement or the delegate as per paragraph 14.16.3, section 14 of the Group SCM Policy.
 - No agreement could be submitted for the professional services rendered. According to an addendum attached to invoice 10446, the work commissioned had been ongoing since the old contract had expired. It was also stated that the request for contracts was submitted on 1 April 2008 and advice from the Legal Division as to the status of the contract to date was still outstanding.

- Two invoices to the value of R181 400 (excluding VAT) were supported by an internal memorandum where a request by the CFO was submitted for payment although no contract existed. The internal memorandums were dated 7 May 2008 and 2 June 2008 and were addressed to the CFO from the General Manager: Finance Corporate Risk and Funds. The internal memorandum dated 7 May 2008 stated that the request was due to the delay in the renewal of the expired contract. A request for permission to proceed with payment and the approval thereof were obtained for only one invoice amounting to R82 080 and this was granted by the Business Consultant: Group Internal Audit.
- No documentation was attached to the remaining seven invoices to the value of R1,048 million in order to request permission to proceed with payment without a contract. The purchase requisition release and service entry sheet approval for the invoices were performed by the following individuals.

Professional services rendered to SABC financial control in respect of transition management					
Month	Sub total (R)	VAT (R)	Total (incl VAT) (R)	Purchase requisition released by	Service Entry Sheet approved by
Jan 2008	51 600	7 224	58 824	CFO	General Manager: Finance Technology Division
Feb 2008	108 000	15 120	123 120	CFO	General Manager: Finance Technology Division
Mar 2008	54 000	7 560	61 560	CFO	CFO
April 2008	72 000	10 080	82 080	CFO	CFO
May 2008	109 400	15 316	124 716	CFO	CFO
Aug 2008	196 000	27 440	223 440	CFO	CFO
Jun & Jul 2008	355 549	49 777	405 325	CFO	CFO
Sept 2008	173 200	24 248	197 448	General Manager: Corporate Risk & Funds	CFO
TOTAL	1 119 749	156 765	1 276 514		

- (vii) The SABC was invoiced for a CFO breakaway by the same service provider to the value of R262 888 (excluding VAT). No supporting documentation was also provided for the obtaining of three quotations for the services provided to the SABC. The reasons for the deviation were also not recorded and approved by the Head of Procurement or the delegate as per paragraph 14.16.3, section 14 of Group SCM Policy.

Response from the SABC

According to the CFO the contracts focuses on shared services and the contract was extended to ensure continuity in the implementation of strategy. Furthermore, the CFO indicated that he can not recall the “CFO Breakaway session” and will require more information.

Response from the AGSA

Two new contracts were entered into with the consultant. However, three quotations were not invited as stipulated in the Group SCM Policy and approval to deviate from the Group SCM Policy was not obtained.

(e) Secondment services in the CFO’s office

- (i) An engagement letter was signed on 3 November 2008 between the CFO and an audit firm for the secondment of an individual to the SABC to assist with the interim CFO position. The need for a secondee was identified when the financial analyst went on maternity leave. The secondee was appointed to perform all the main responsibilities of the absent financial analyst and the annual cost to company for this analyst was R511 596. The secondee was appointed in accordance with the human resources policy with regard to the appointment of independent contractors dated May 2003.
- (ii) Seven payments to the value of R969 381 were made to the audit firm in this regard between 4 November 2008 and 30 June 2009. These payments include the professional services (hours) and disbursements.
- (iii) The deliverables, duties and responsibilities of the secondee were not specifically included in the engagement letter. Therefore the performance of the secondee against the prescribed measures could not be evaluated by the AGSA.

Response from the SABC

The CFO indicated that the candidate was recruited from an audit firm for secondment and was sourced and identified by the Human Resource Division.

(f) Public relations

- (i) The following contracts were entered into between the CFO and the consultant during the period 1 April 2007 to 30 June 2009:

Description of contract	Service period covered by contract	Dated and Signed by	Services provided per contract
Public Relations Consultancy Agreement	Services from 27 January 2009 (period end not defined)	19 February 2009 - CFO	The provision of media relations and publicity to the work of the client, including support to all programmes and events as briefed by the SABC. Fee for services rendered determined by the level of consultant(s) and number of hours worked. Account serviced by three consultants at rates of R1 500 per hour, R1 250 per hour and R750 per hour.
Public Relations Consultancy Agreement – Project Moribo	1 February 2008 – 31 July 2008; R50 000 per month (excluding VAT)	Contract not signed – contract under the management of the office of the CFO	Professional public relations and consulting services at a flat rate of R50 000 per month (excluding VAT)
Addendum to contract – extension of communication services (Project Moribo)	Extended period not defined; R50 000 per month (excluding VAT)	CFO (undated)	Professional public relations and consulting services at a flat rate of R50 000 per month (excluding VAT)
Public Relations Consultancy Agreement	1 March 2009 – 28 February 2010	23 June 2009 – CFO and Group Executive: Legal Services	Provide consultant with specific projects on an <i>ad hoc</i> basis. Account serviced by three consultants at rates of R1 500 per hour, R1 250 per hour and R750 per hour.

- (ii) No comparative quotations/proposals from other service providers for services, and no approval from the Head of Procurement to deviate from the approved procurement process, were provided to the AGSA.
- (iii) The unsigned public relations consultancy agreement indicated the services to be rendered for the project as “...the professional public relations and consultancy services offered by (the consultant), including without limitation, creative input, news writing, media liaison, strategic analysis, project communications, issues management and other advice services...”. The AGSA was therefore unable to match the services delivered by the consultant according to the invoices for the services described in the signed contract, as the contract did not indicate performance criteria or specific deliverables.
- (iv) The agreed fees per the agreement with the consultant were R50 000 per month (excluding VAT) for six months. The following service provided by the supplier falls within the ambit of the broadly agreed services, but no fee provision was made in the agreement or addendum to the contract for this payment:

Date of invoice	Date of payment	Description on invoice	Amount (R)
22 October 2008	28 November 2008	Project Moribo – Professional Services, Powerpoint development and Professional Financial Writer	141 360

- (v) Paragraph 14.12.3 of the approved Group SCM Policy requires the work of consultants to be regulated by a contract. The following consultancy service rendered by this same service provider to the News Division was approved and paid for by the CFO on behalf of the Division. According to a memorandum by the Chief Executive: SABC News to the General Manager: News Finance, the Division did not have a contract with the service provider:

Date of invoice	Date of payment	Description on invoice	PR created by	PR approved by	Amount (R)
31 January 2009	1 April 2009	Board activities – Financial writer, Powerpoint presentation and professional services	Administrator of the CFO	CFO	141 360

- (vi) Paragraph 22.1.3 of the Group SCM Policy requires all invoices to contain an associated purchase order number. Services amounting to R738 150 were procured from the service provider where the purchase order was created after the invoice date. In terms of the approved supply chain management and business workflow process of the SABC for acquiring goods and services, a purchase order should be created and approved before goods and services are procured from suppliers. The creation of purchase orders after the date of invoice increases the risk of officials not following the approved procurement process pertaining to quotations and bids. The details of the purchase orders created after the invoice dates are as follows:

Purchase order number	Date purchase order created	Date of invoice	Amount (R)
4500010241	11 April 2008	1 March 2008	57 000
4500010242	11 April 2008	31 March 2008	57 000
4500016277	25 June 2008	25 May 2008	57 000
4500016278	25 June 2008	30 April 2008	57 000
4500027296	10 November 2008	22 October 2008	141 360
4500028687	20 November 2008	25 June 2008	57 000
4500028687	20 November 2008	1 October 2008	57 000
4500035273	18 February 2009	31 January 2009	141 360
4500043899	30 July 2009	31 December 2008	113 430
TOTAL			738 150

- (vii) The following payments were made without adequate segregation of duties as the administrator of the CFO created the purchase requisitions whereafter the

CFO released the purchase requisition and the service acceptance in order to approve the payment on the SAP system.

PO number	Short text per SAP	Value of PO (R)	PR created by	PR released by	Service acceptance on SAP done by	Agreement signed by
4500027296	External Communications	141 360	Administrator of the CFO	CFO	CFO	CFO (Addendum to contract)
4500035273	External Communications	141 360	Administrator of the CFO	CFO	CFO	No agreement

Response from the SABC

The CFO indicated that the services were requested by the former SABC board to provide communication solutions for the organisation.

Response from the AGSA

No approval from the SABC board for the appointment could be submitted. Furthermore, three quotations were not invited as stipulated in the Group SCM Policy and the deviation from the SCM process was not approved by the Head of Procurement.

(g) Fleet management services

- (i) An agreement was signed by the General Manager: News Resources on 30 September 2008 for the period 1 October 2008 to December 2008 with a service provider for the rendering of a fleet management service for three months. The amount payable according to paragraph 9.1 and 9.2 of the agreement was as follows:

Service	Amount
Service fee	R30 000 per month
Drivers	R4000 per driver per month limited to a maximum of 15 drivers at a maximum total cost of R60 000 per month

- (ii) Three written quotes were not obtained as required by the Group SCM Policy.
- (iii) The following payments to the supplier were identified on the SAP system after the three-month agreement had expired:

Purchase order number	Date of payment	Amount (R)
1500046094	16 January 2009	2 240
1500047557	16 January 2009	2 300
1500049747	18 February 2009	90 000
1500051803	04 March 2009	90 000
1500054844	14 April 2009	93 760
1500055925	17 April 2009	7 250
1500057054	18 May 2009	180 000
1500058345	28 May 2009	625
1500059501	12 June 2009	90 000
1500061614	16 July 2009	2 375
1500062633	20 July 2009	92 500
Total		651 050

(h) **Assessment of account executives**

- (i) One of the focus areas in the 2009-10 business strategy is client satisfaction. In view of this, the Commercial Enterprises Division took a decision to approach the management of the top clients of the SABC in a different manner. A team of highly competent and professional individuals was to be selected to manage the accounts of the top clients of the SABC. The acting Group Executive: Commercial Enterprises invited all the accounts executives nationally to forward their applications to become a member of this high-profile team. An external service provider was appointed to perform the assessments of individuals that were shortlisted.
- (ii) The Human Resources: Sales and Marketing Division obtained a quotation from one supplier for the assessment. The quotation was as follows:

Deliverable	Professional fees (R)
Assessment and reporting (R6,789 x 20 candidates)	135 780
Development plans (R650 x 20 candidates)	13 000
Feedback session (R650 x 20 candidates)	13 000
Total (excluding VAT)	161 780

- (iii) Three quotations were not obtained from the suppliers registered on the prospective supplier database as required by the Group SCM Policy. No evidence were found that the reasons for deviation were recorded and approved by the Head of Procurement or the delegate as required by paragraph 14.16.3 of the Group SCM Policy.
- (iv) The assessment was done and the service provider was paid R135 780 (excluding VAT) on 13 February 2009.

- (v) After the assessment, unsuccessful candidates and/or officials at the Sales and Marketing Division reported their dissatisfaction with the assessment process to the unions which they alleged was not fair, equitable, transparent and competitive.
 - (vi) The unions raised the issue with management after which the acting GCEO, according to the employees, put the initiative on hold in March 2009. Documentary proof of this decision could not be submitted. To date, the initiative was not implemented at the Sales and Marketing Division and no actions were taken to pursue the concept. Although the assessments were done for the individuals that were shortlisted, the results have not been used.
- (i) **To investigate the SABC board members**
- (i) A memorandum dated 4 April 2008 drafted by the former chairperson of the SABC board leaked to the media, prompting an investigation into the identity of the individual responsible for leaking the memorandum to the media. Per discussion with the former acting company secretary, a resolution was taken at an SABC board meeting whereby the former acting company secretary was requested to proceed with procuring the services of an external forensic service provider to perform the investigation. A copy of the resolution was requested by the AGSA but could not be submitted.
 - (ii) The forensic firm submitted a proposal dated 8 May 2008 for the attention of the acting company secretary with a proposed fee of R218 600, excluding VAT and disbursements. The mandate per the proposal was as follows: "Establish the identity of the individual responsible for leaking the memorandum to the media."
 - (iii) No other quotations were invited for the forensic investigation and no approval by the Head of Procurement to deviate from the prescribed procurement process could be obtained.
 - (iv) The AGSA was provided with a report of the forensic firm dated 19 September 2008 where the following was stated by the investigating firm: "At this stage we cannot categorically state who leaked the memorandum to the media."
 - (v) Per discussion with the former acting company secretary, the individual responsible for leaking the memorandum to the media was not identified and therefore no further action against any individual took place. A review of available SABC board minutes and resolutions did furthermore not indicate any action by the SABC board on the report commissioned by the investigating firm.

- (vi) Payment to the firm responsible for conducting the investigation took place as follows:

Date of invoice	Payment authorised by	Date of payment	Amount (R)
14 July 2008	Acting Head of Internal Audit	29 August 2008	284 449
7 October 2008	Acting Head of Internal Audit	17 November 2008	13 983
			298 432

10.1.3.3 Conclusion

- (a) The stipulations of the PFMA and the Group SCM Policy were disregarded in most instances in appointing consultants by not inviting competitive quotations and/or tenders.
- (b) Approvals for deviations from the normal procurement process in appointing consultants could also not be submitted to the AGSA.
- (c) In some instances, the SABC was invoiced for services rendered by consultants, but without proper contracts being in place for these services.
- (d) Contracts/agreements signed between the SABC and consultants in some instances did not specify measureable deliverables, performance criteria and timelines, which makes it difficult to determine if contractual deliverables were met.
- (e) In signing contracts, approved levels were exceeded and decisions of the Group Executive Committee were disregarded.
- (f) Contracts were extended without following due process or payments continued although contracts were not extended.
- (g) Segregation of duties did not always exist in the awarding of contracts, certification of services rendered and approval of payments.

10.1.3.4 Recommendations

- (a) The interim SABC board should evaluate the following with regard to the appointment of consultants:
 - Reasons why consultants were appointed without following the approved Group SCM Policies and stipulations of the PFMA.
 - If deviations from the approved policies in appointing consultants were approved in accordance with the DAF.
 - Possible actions against employees, in terms of the PFMA and the disciplinary code of conduct and grievances procedures of the SABC, who appointed

consultants in contradiction to the stipulations of the PFMA and approved Group SCM Policy.

- Whether expenditure incurred amounts to irregular expenditure as defined in the PFMA.
 - If the SABC received value for money for the consultants appointed.
- (b) The interim SABC board should introduce measures to ensure that all agreements with consultants do contain measurable deliverables, performance criteria and specific timelines.
- (c) For the period 1 September 2007 to June 2009 an exception report had been created by the AGSA to include all payments made to consultants amounting to R279,797 million. It is recommended that the appointments as well as allegations with regard to the appointment of consultants not yet investigated be investigated to determine if similar shortcomings exist in the appointment, payment and management of consultants.
- (d) The interim SABC board should note that according to paragraph 5.11.3 of the DAF “Non-compliance with any provision of this DAF, or with any existing policy or procedure of the Corporation to which the exercise of delegated authority in terms of this DAF is subject, shall render the decision voidable at the instance of the board or any other individual or forum authorised to exercise such discretion on its behalf. The decision shall be subject to any vested third party rights in consequence of the decision and further subject to the rights of the SABC in terms of the Corporation’s disciplinary code”. In view hereof, the interim SABC board should consider if some of these procurement transactions, which appear to be irregularly concluded, should be voidable.

10.2 Fruitless, wasteful and irregular expenditure

10.2.1 International programme content

10.2.1.1 Allegations

It was alleged that programme content was procured without consultation or needs analysis and then not utilised.

10.2.1.2 Findings

- (a) According to minutes of the audit committee dated 26 March 2007 the Group Internal Audit Unit drew the attention of the audit committee to the fact that internal control deficiencies exist within the Content Enterprises Division with regard to the acquisition of international program content. Acquisition was not based on the needs analysis of SABC channels. According to the audit committee minutes, the

former chairperson of the audit committee requested that a forensic review be conducted.

- (b) An engagement letter was signed by the former chairperson of the audit committee, who is a non-executive member of the SABC board and the legal firm on 22 August 2007 to conduct an investigation into the acquisition of international program content. From documentation it seems that the former Head of Internal Audit started with the investigation into international acquisitions in 2006 but resigned in February 2007. An agreement between the acting GCEO and the former Head of Internal Audit was signed on 18 August 2008 whereby she agreed to assist the legal firm in finalising the investigation.
- (c) The first draft report of the Group Internal Audit Unit dated 2 September 2008 was issued to various persons including the acting GCEO, CFO, chairperson of the audit committee and the chairperson of the SABC board. The following results of the investigation were highlighted in this report:

Findings:	Draft report on 38 suppliers investigated (\$)	Draft report on 38 suppliers investigated (R)
Double payments made to suppliers	190 000	1 330 000
Overpayments made to suppliers	330 935	2 316 545
Material paid for but not received	3 364 970	23 554 790
Agreements to be renegotiated	2 070 725	14 495 075
Titles acquired more than once from same supplier during the same licence period	742 040	5 194 280
Total amount of irregularities identified	6 698 670	46 890 690

- (d) As per the report issued by Group Internal Audit Unit and discussed on 2 September 2008 the following major findings were summarised:
- Three consulting firms were appointed during the period September 2005 to March 2007 to draft policies and procedures for the Content Enterprises Division. As at 2 September 2008, this Division still did not have approved policies and procedures governing the activities within the Division.
 - The SABC paid for content, but never received the broadcast material.
 - The SABC paid for material but never broadcasted the content, or did not broadcast the material in terms of the contract.
 - The SABC acquired the same titles under different contracts from the same supplier for the same licensing period.
 - The SABC paid more for content when acquired for a second run than the first run.

- Fruitless and wasteful expenditure of R38 million was incurred.

(e) The following recommendations were included in the said report:

- The SABC board/management must commence with the recovery of overpayments and/or double payments.
- The approval of policies and procedures governing activities within the Content Enterprise Division should be fast-tracked.
- Record keeping within the SABC needs to be addressed.
- Policies and procedures should be implemented and implementation should be monitored by the governance cluster.
- The results of the investigation should be used to determine accuracy and completeness of data loaded onto the SAP system.

(f) According to the minutes of a joint audit and finance committee meeting held on 8 September 2008, the joint committee resolved that staff penalties be instituted for transgressions in crime and corruption matters in particular international acquisitions, both in terms of internal labour policies and related legislation.

(g) The Group Executive: Content Enterprises compiled an internal memorandum dated 12 January 2009 to the chairperson of the internal audit sub-committee, acting GCEO, acting COO and Head of Internal Audit to request access to the reports that have a bearing, directly or indirectly on the control, governance and integrity of his division. He furthermore indicated that he requested the reports in many instances in the last three years, but he was not confided in with regard to the alleged reports by any of the above.

(h) According to the action list (attached to the minutes) of the audit committee meeting of 18 March 2009 it was resolved that:

- The Group Executive: Content Enterprises must be engaged by the acting COO to explain the transgression in terms of international acquisition as outlined in annexures provided by the legal firm.
- The acting COO should produce and transmit a report on the outcome of the meeting with the Group Executive: Content Enterprises to the chairpersons of the audit and finance committees by 20 March 2009.
- The legal firm should proceed with the identification of individuals involved in the transgression and recommend the relevant actions and the process of recoveries be commenced with.

- The legal firm needs to make recommendations on improvements in the internal governance framework and needs to review the mechanism to acquire international content.
 - The legal firm needs to review the working process to ensure that all control breakdowns in SAP are addressed.
 - A full report should be tabled at the next audit committee meeting.
 - A team consisting of the finance committee, Content and Group Internal Audit Unit needs to be established to address all issues.
- (i) On 20 March 2009 the Acting COO submitted information to the audit committee clarifying certain issues mentioned in the report of the Group Internal Audit Unit.
- (j) According to a letter dated 18 March 2009, the legal firm provided feedback to the audit committee in which they included the summary of findings on individual reports that were already submitted in the first draft report to the audit committee on 2 September 2008. The same was also communicated to the chairperson of the SABC board on 25 April 2009 who also received the first draft on 2 September 2008.
- (k) On 15 June 2009 the acting Head of Internal Audit communicated to the legal firm that they should pause all activities with regard to this investigation on international acquisitions. The reason provided was that the SABC board members resigned and that there was no clear mandate for the services to be rendered by the legal firm in place.
- (l) The legal firm did a final handover of documentation, including individual reports and a summary of the findings on 26 August 2009 to the acting Head of Internal Audit. The following results of the investigations were highlighted in this report:

Findings	Final report on 169 suppliers investigated (US\$)	Final report on 169 suppliers investigated (R)
Double payments made to suppliers	190 000	1 330 000
Overpayments made to suppliers	330 935	2 316 545
Material paid for but not received	9 515 870	88 411 090
Agreements to be renegotiated	2 070 725	14 495 075
Titles required more than once from same supplier during the same licence period	742 040	5 194 280
Total amount for irregularities identified	12 849 570	111 746 990

NOTE: As at 2 September 2008, 38 suppliers were investigated. During the investigation additional suppliers were identified and inspected. According to the summary that was handed over on 26 August 2009, 169 suppliers were investigated.

- (m) The Group Executive: Content Enterprises confirmed during a meeting with the AGSA on 31 August 2009 that to date he had not received any of the reports from the legal firm to institute the necessary actions and that the acting COO has not formally raised the issue with him.
- (n) According to the SABC Shared Services Division, payments to the value of R3,449 million (excluding VAT) for the period 30 September 2008 to 20 July 2009 were made to the legal firm for services rendered with regard to the investigations and legal opinions for the acquisition of international content. The following table refers:

PO number	Invoice number	Payment date	Payment amount (excluding VAT) (R)
4500022753	211973	30 September 2008	192 888
4500026932	1025	17 November 2008	318 325
4500027511	2238	15 December 2008	271 165
4500032948	3419	30 January 2009	668 443
4500034768	5563	16 March 2009	375 903
4500037216	6751	20 April 2009	409 899
4500040581	9168	19 June 2009	739 575
4500042385	9039	20 July 2009	472 863
Total payments as on 20 July 2009			3 449 061

According to the Shared Services Division, purchase orders were created for an additional amount of R1,821 million to pay the legal firm, but had not been paid as at 20 July 2009. The following table refers:

PO number	Invoice number	Purchase requisition date	Purchase order amount (excluding VAT) (R)
4500040580	9339	11 May 2009	547 127
4500042564	11773	28 May 2009	891 970
4500042706	11832	28 June 2009	381 721
Payments not yet transferred			1 820 818

- (o) In order to avoid duplication and due to time constraints with regard to the AGSA's investigation, the information per the reports of the legal firm was not verified for accuracy, completeness or validity. The former Head of Internal Audit commenced with this investigation before 2007 and the final handover of individual reports was only done on 26 August 2009 (more than two years after commencement). Therefore it was not feasible or practical for the AGSA to reperform these procedures.

10.2.1.3 **Conclusion**

- (a) The problems or shortcomings with regard to international acquisition were already identified and reported by the Group Internal Audit Unit to the audit committee of the SABC in March 2007.
- (b) Detail findings by the legal firm have already been communicated to the acting GCEO, CFO, chairperson of the audit committee and the SABC board in September 2008 and in March 2009.
- (c) On 18 March 2009 the audit committee allocated responsibilities and actions to be taken as a result of the report.
- (d) Although material overpayments, underpayments, double payments, material procured but not received and titles acquired more than once have been identified in the reports of the legal firm, no evidence could be submitted that corrective actions were implemented by the SABC board or management to minimise this in future or that actions have been taken against employees for possible transgressions in the acquisition of international content.

10.2.1.4 **Recommendations**

- (a) The interim SABC board should follow up if policies and procedures for the Content Enterprises Division have been subsequently compiled and approved to ensure the implementation thereof. The company secretariat should keep a proper record of approved policies and Group Executive Committee/SABC board minutes and submissions for reference purposes to ensure a proper audit trail and safeguarding of company records.
- (b) Civil action or legal proceedings should be instituted as a matter of urgency to recover any overpayments as identified and to minimise any further losses.
- (c) The results of the investigation should be used to determine the accuracy of financial and operational data to ensure accuracy and completeness of records.
- (d) The interim SABC board should consider disciplinary action in terms of laid down policies and procedures in terms of section 51(e) of the PFMA against employees for transgressions with regard to international acquisitions.
- (e) Legal proceedings, including civil and criminal charges, should be considered against employees and former employees for transgressions with regard to international acquisitions.

- (f) The financial statements of the SABC should be reviewed in order to ensure the effect of the findings was properly taken into consideration.

Response from the SABC:

The Group Executive: Content Enterprises indicated that he received information from the Group Internal Audit at the end of August 2009 and on 8 and 9 September 2009, regarding the investigation performed. The working documents used by the Group Internal Audit Unit to reach the conclusions are still to be delivered. The Head: Group Internal Audit and the Division are currently working hard to ensure that the Division presents a well considered response to the Audit Committee on the conclusions made.

The Division has for a long time been very concerned about the timeous availability of these reports. The matter has been raised with the Audit Committee, so that the Division can make a submission and thus ensure that the SABC moves towards the conclusion of this matter. This is inclusive of the action/s that would need to be taken.

10.2.2 Petrol cards

10.2.2.1 Allegations

It was alleged that the petrol card expenditure of the SABC since 16 November 2007 to date amounted to R18,32 million. This expense is for management's petrol cards and includes services and other expenses for their cars.

10.2.2.2 Findings

- (a) According to the SABC's Car Allowance Scheme: Top & Senior Management Policy (effective from 1 October 2003) "*Employees of the Corporation on Top and Senior Management level are eligible to participate in the scheme*" as part of the competitive remuneration strategy of the SABC. Petrol cards were issued to top and senior management for the maintenance and running costs of vehicles purchased by employees. The total payments for all the cards issued for the period 1 January 2007 to 31 July 2009, provided to the investigation team, amounted to R11,333 million.
- (b) The policy is specific on who qualifies for a petrol card, but the policy does not prescribe a limit for usage.
- (c) In terms of the car allowance scheme, the Finance Department has the right to audit all petrol card transactions on a monthly basis for any excessive usage of the cards by the employee, but the policy does not enforce monthly monitoring by the Finance Department or remedial steps in cases of excessive usage. There were no structured audits by the Finance Department in this regard.

- (d) The petrol card expenditure for 11 SABC senior and top management were selected and the total cost per month for the selected employees for the period 1 January 2007 to July 2009 are as follows (all claims for amounts above R5 000 were highlighted in the table):

- Total monthly petrol card expenditure for the period 1 January 2007 to 31 December 2007 for the sample employees selected

Employees	2007												Total 2007
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Employee 1	3,044.97	2,952.48	1,634.84	3,576.36	6,602.82	8,660.05	1,516.78	2,052.81	2,785.87	2,606.01	3,425.42	1,991.52	40,849.93
Employee 2	5,512.14	6,295.45	3,039.72	1,916.07	2,332.67	3,008.03	3,374.77	2,429.23	1,906.49	1,397.15	3,216.19	11,091.62	45,519.53
Employee 3	5,235.06	5,484.94	2,274.38	3,063.17	1,158.65	1,944.37	10,438.76	4,554.49	8,382.36	6,691.34	2,642.16	3,538.75	55,408.43
Employee 4	18,388.43	3,731.77	1,834.57	30.35	8,313.58	10,005.01	3,341.48	3,675.53	2,947.64	11,721.07	2,269.48	11,991.72	78,250.63
Employee 5	5,748.78	3,399.46	2,907.72	3,460.00	6,442.30	3,625.68	3,201.20	4,510.20	11,448.87	3,815.55	7,661.34	4,240.35	60,461.45
Employee 6	3,612.04	2,408.12	15,173.46	17,103.72	3,424.15	5,756.22	12,545.65	6,729.60	1,260.16	1,273.22	1,640.74	2,006.50	72,933.58
Employee 7*	12,410.08	6,145.24	15,486.92	16,185.07	17,735.50	15,870.73	1,083.47	0,733.34	4,892.42	19,092.88	5,474.48	22,189.02	227,299.15
Employee 8	3,188.74	2,064.50	2,431.83	1,239.78	2,281.14	4,735.20	1,839.66	3,322.43	4,438.92	3,137.86	,235.08	5,063.38	67,978.52
Employee 9	2,762.02	2,069.37	2,776.83	80.66	1,749.86	25,689.37	3,136.08	9,341.81	1,637.23	8,044.12	4,410.78	3,465.13	65,163.26
Employee 10	5,874.93	3,287.23	7,195.56	6,786.26	22,657.02	7,289.09	6,990.81	8,024.92	8,652.12	7,980.93	9,635.34	13,998.84	108,373.05
Employee 11	4,207.52	6,210.79	4,582.39	7,709.61	6,217.44	1,895.18	26,386.93	7,741.13	804.39	58.37	452.80	1,607.38	67,873.93

* **NOTE:** the employee is a supervisor in the SABC Transport Division responsible for a fleet of vehicles.

- Total monthly petrol card expenditure for the period 1 January 2008 to 31 December 2008 for the sample employees selected

Employees	2008												Total 2008
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Employee 1	2,121.19	3,712.60	1,326.46	3,114.50	4,116.64	5,809.00	6,204.45	7,856.27	5,685.12	10,752.22	5,525.58	5,073.46	61,297.49
Employee 2	7,423.66	3,086.26	2,577.83	963.47	4,685.79	5,984.45	6,948.19	8,320.31	18,801.62	7,279.01	7,966.69	3,702.26	77,739.54
Employee 3	4,967.03	6,562.69	4,510.75	7,324.60	7,331.21	8,700.49	7,998.31	13,090.32	9,257.08	13,260.42	7,667.01	5,201.62	95,871.53
Employee 4	9,765.80	5,242.27	13,384.57	4,554.29	24,515.49	6,196.09	1,662.85	813.91	72,103.60	5,210.55	10,303.93	3,976.57	167,729.92
Employee 5	6,550.69	3,600.31	5,219.96	3,978.38	7,970.41	7,764.62	4,480.93	7,174.27	5,405.57	4,948.61	8,008.51	5,987.02	71,089.28
Employee 6	4,062.90	10,218.81	16.59	16.59	32,167.24	3,093.08	4,062.98	4,813.20	3,338.94	6,087.12	21,464.93	6,375.05	95,717.43
Employee 7*	17,946.67	2,902.55	16,689.05	27,155.08	25,167.77	32,566.74	18,748.90	41,639.30	36,580.78	27,225.91	27,976.30	35,288.41	319,887.46
Employee 8	1,621.51	6,464.16	3,612.87	2,005.04	4,373.37	4,011.23	7,866.06	4,923.79	3,980.86	5,414.03	16.59	16.59	44,306.10
Employee 9	3,524.05	3,776.20	3,247.73	4,158.24	7,844.19	6,636.01	3,320.59	5,799.34	5,640.60	5,474.99	6,428.27	4,766.84	60,617.05
Employee 10	7,998.96	4,746.53	12,140.61	9,359.82	18,908.17	17,044.36	10,143.69	24,564.94	5,637.56	16,523.10	26,689.28	8,390.63	162,147.65
Employee 11	3,626.13	3,496.08	11,689.65	8,443.36	3,913.38	40,692.19	6,610.27	5,261.95	13,143.00	6,773.73	5,302.54	5,926.04	114,878.32

* **NOTE:** the employee is a supervisor in the SABC Transport Division responsible for a fleet of vehicles.

- Total monthly petrol card expenditure for the period 1 January 2009 to 31 July 2009 for the sample employees selected

Employees	2009							Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	
Employee 1	4,047.65	5,908.52	5,812.06	5,532.51	7,387.64	8,035.68	16.59	36,740.65
Employee 2	14,107.44	3,175.50	1,290.58	4,688.97	4,583.07	5,116.29	8,576.29	41,538.14
Employee 3	11,626.06	4,662.92	5,358.22	7,965.47	7,235.14	6,152.45	6,834.16	49,834.42
Employee 4	22,108.98	1,920.59	2,184.70	4,100.24	12,448.69	1,688.78	3,107.60	47,559.58
Employee 5	6,348.59	2,427.08	5,688.93	1,859.87	3,271.10	1,974.25	13,569.79	35,139.61
Employee 6	9,774.96	3,430.60	2,197.83	2,487.29	7,813.94	20,866.92	3,295.20	49,866.74
Employee 7*	18,835.62	15,651.64	15,203.47	26,015.50	27,258.07	14,695.47	14,367.14	132,026.91
Employee 8	9,716.79	5,996.00	4,832.92	1,098.62	2,942.91	16.59	20,283.64	44,887.47
Employee 9	2,427.67	18,395.11	2,897.08	4,465.83	4,640.68	4,848.13	5,035.61	42,710.11
Employee 10	7,883.22	13,419.48	6,250.74	11,415.33	7,306.61	23,533.17	8,522.63	78,331.18
Employee 11	6,456.67	5,325.82	9,284.16	3,540.22	15,332.89	4,752.94	1,329.74	46,022.44

* **NOTE:** the employee is a supervisor in the SABC Transport Division responsible for a fleet of vehicles.

- (e) The number of top and senior managers issued with petrol cards averaged approximately 135 employees per month for the period 1 January 2007 to 30 September 2008. The number of cards issued increased from 137 in September 2008 to 202 in October 2008 then increased on a monthly basis to 251 in July 2009.
- (f) During its meeting of 30 July 2009, the interim SABC board decided to withdraw all petrol cards for management and replace the petrol cards with fuel allowances except where there is a contractual obligation/condition of service. However, by September 2009 the petrol cards were still used by senior and top management.
- (g) The General Manager: Finance indicated in a written confirmation on 26 August 2009 to the AGSA that he is not aware of a formal communication regarding the withdrawal of the petrol cards, except a statement that was made in a staff meeting by the chairperson of the interim SABC board. The chairperson of the interim SABC board further indicated that the interim SABC board would be looking at the contractual implications of withdrawing the benefit of each person who has a petrol card.

10.2.2.3 **Conclusion**

- (a) Petrol cards were issued to senior and top managers and the current policy did not place a limit on the usage of the cards.
- (b) The benefit of participating in the scheme is not linked to the travelling duties of the position.
- (c) Monitoring by the Finance Department takes place on an ad hoc basis and no structured management information on the actual costs for individuals is available.
- (d) Management information on the usage of petrol cards is not submitted to, or considered in, management meetings of some divisions.
- (e) There was a sharp increase in the number of petrol cards issued to employees from September 2008 to October 2008.

10.2.2.4 **Recommendations**

- (a) Management should investigate the number of cards issued and verify that only qualifying members of top and senior management were allocated petrol cards.
- (b) The policy should be reconsidered (as per needs analyses of travel and maintenance for business purposes) and should at least include mandatory evaluations of monthly usage as part of the Finance Department's function and capping of the monthly amount that an employee could spend.

- (c) The policy should also be revised to include disciplinary or corrective actions for cases of excessive use.
- (d) Structured management information should be submitted to and considered during executive management meetings.
- (e) The expenditure incurred on petrol cards should be properly analysed and all excessive costs should be investigated. Where appropriate, disciplinary action should be instituted.

Response from the SABC

The Group Executive: Content Enterprises indicated that employee number 4 mentioned in the table incurred and claimed R72 000 expenditure in one month in 2008, for the repairs of a damaged car engine.

10.2.3 Private travel company

10.2.3.1 Allegation

An allegation was received regarding the agreement with an external travel agent to utilise the SABC sport brand.

10.2.3.2 Findings

- (a) Two “licence agreements” were signed between the SABC and a private travel company on 25 May 2006 and 11 July 2008 by the General Manager: Business Development for a two-year contract period, respectively. According to the licence agreements, the private travel company may use the “SABC sport” brand on the SABC Sport Travel Website to:
 - (i) promote SABC sport and compile sport packages
 - (ii) promote and advertise SABC sport travel packages
 - (iii) secure travel related facilities.
- (b) Furthermore, in terms of the agreements the private travel company shall pay to the SABC 50 per cent of the total profit before taxation made by the selling, marketing and advertising of travel packages using the SABC sport brand and the SABC Sport Travel Website.
- (c) According to the SABC board meeting minutes dated 30 August 2007, the SABC board raised their concern whether there had been due compliance with the PFMA in relation to the establishment of the entity. The SABC board resolved that the GCEO should get a legal opinion on whether the establishment of this entity constitutes a

contravention of the PFMA. To date of the finalisation of this report, the legal opinion was not provided to the AGSA.

- (d) The following payments were made by the SABC to the private travel company, for a total amount of R11,293 million, for travel arrangements/bookings made for the period 1 September 2007 to June 2009:

Run date	Payment documents	Amount paid (R)
20071101	1500001239	187 378
20071116	1500002852	262 775
20071207	1500005215	102 142
20080123	1500007929	37 117
20080306	1500012755	135 660
20080722	1500027622	2 086 206
20080722	1500027628	6 002 152
20080813	1500030402	197 178
20080815	1500031195	282 059
20080902	1500032972	184 368
20080912	1500034074	1 816 200
Total		11 293 235

- (e) The above bookings/arrangements for accommodation and transport were done in contravention of the travel policy of the SABC. According to paragraph 1.3.3.3(a) Air Flights and Hired vehicles, of the SABC Travel Policy ((currently under review) which took effect 1 October 2003) *“All bookings to be made via the SABC Travel Office also known as AIRWAVE Travel”*. The policy further states in paragraph 1.3.8.1 that *“The SABC’s Travel Office in Auckland Park is responsible and must be used for:*
- (a) travel guidance and advice;*
 - (b) the booking of air flights, hired vehicles and other modes of transport travel (e.g. long distance train and/or bus tickets, etc.);*
 - (c) the booking of appropriate accommodation;*
 - (d) foreign currency arrangements.”*
- (f) No evidence could be submitted as to who approved the deviation to utilise the services of the private travel company, instead of utilising the services of SABC AIRWAVE Travel as stipulated in the SABC Travel Policy.
- (g) According to an internal audit report issued in June 2009 the following revenue in terms of the licence agreement was received by the SABC:
- For 2007, R149 981 was invoiced in August 2008 and cash was received on 25 March 2009.
 - For 2008, R293 269 was invoiced on 31 March 2009 and cash has not yet been remitted to the SABC by June 2009. The payment of profit was not done in

accordance with section 6 paragraph 6.3 of the licence agreement that states “*In consideration of the rights granted to the Licensee in terms of this agreements, the Licensee shall pay the SABC an amount equal to 50% (fifty percent) of the total profit made from the selling, marketing and advertising of all travel packages and travel products and the website, pursuant to the project. Such payment shall be accompanied by full detail of the calculation thereof, and made before taxation on or before the 7th day of every succeeding month following the month in which the SABC finalises any FIT or IT Sport travel sales*”.

- (h) Furthermore, according to paragraph 4.1.13 of the licence agreement the private travel company is obliged to provide the SABC with a copy of the bank statement of the separate bank account created for the purpose of this agreement (paragraph 4.1.11) by the 14th working day of the month. According to the internal audit report the line manager did not effectively monitor the performance of the private travel company against its contractual obligations, namely timeous reporting of financial records and payments of revenue due to the SABC.
- (i) Invoice number ST00221: Beijing Olympics and invoice ST00238: Beijing Paralympics paid to the private travel company for the total amounts of R6,002 million and R1,816 million respectively, were reviewed.
- (j) The original list of travellers included 33 people including a non-executive member of the SABC board as well as the CFO and the acting GCEO (executive SABC board members). According to the DAF all travel is subject to the submission and approval of a business plan in terms of the Travel Policy which policy also sets out the classes of travel, hotel accommodation, motor vehicle and daily travel allowance permissible in respect of employees at various scale codes. No employee may approve his/her own travel or related expenditure. Furthermore, as a non-executive board member was on the list, according to section M3 of the DAF, the business plan should have been approved by the chairperson of the SABC board. However, the business plan for the trip amounting to R5,794 million was approved by the Group Executive: Content Enterprises although it was not within his delegated authority. The acting chief operating officer approved the trip of the Group Executive: Content Enterprises and his partner on 16 July 2008.
- (k) The number of delegates included in the business plan for the Beijing Olympics that was approved by the Group Executive: Content Enterprises reduced from 33 to 26 persons. No evidence was provided to the AGSA team that the final list of 26 delegates was approved by the chairperson of the SABC board.
- (l) The estimated costs for the Beijing Olympics trip increased from R5,794 million as stated in the business plan to R6,002 million and no evidence was provided that it had been approved as an addendum to the business plan. The amount of R6,002 million was paid to the private travel company on 22 July 2008 and the amount was based on the invoice from the private travel company which charged travel packages for 33

people. However, according to the final list of travellers provided to the AGSA from the Content Enterprises Division only 26 people travelled to the Beijing Olympics.

- (m) The original list of delegates for the Beijing Paralympics contains 12 people, including a SABC board member. The business plan for the Beijing Paralympics was also approved by the Group Executive: Content Enterprises although it was not within his delegated authority to approve the plan. According to section M3 of the DAF the travel cost of SABC board members must be approved by the Chairperson of the SABC board.
- (n) According to the group internal audit report dated June 2009, the guest list attached to the business plan was not formally approved by the SABC board, although executive directors, non-executive directors and special guests (external stakeholders) were included. The internal audit report states that the business plan and guest list for the Beijing Olympics were discussed with the GCEO and the former chairperson of the SABC board for approval, that these communications were done via email and that the approval was not obtained through a formal sign off of the business plan, which management acknowledged as being an error on their part.
- (o) The private travel company claimed per invoice dated 1 September 2008, travel packages for 12 people for the Beijing Paralympics amounting to R1,816 million, which the SABC paid on 11 September 2008. However, according to the final list of travellers provided to the AGSA, only eight people travelled to the Beijing Paralympics.
- (p) Although the final number of people who travelled to the Beijing Olympics and Paralympics was less than the number of people invoiced for by the private travel company, no evidence was provided by the finalisation of this report that the SABC performed a reconciliation of the payments made according to the invoice and the actual cost of the final number of people who travelled to the Beijing Olympics and Paralympics and that the private travel company refunded the SABC for the calculated difference.
- (q) The list of delegates for the Beijing Olympics included non-executive SABC board members, executive board members of the SABC and employees, that were accompanied by their partners. If an employee's partner accompanies the employee on a trip, the employee is deemed to have been granted a taxable benefit by the employer. In terms of the Income Tax Act, 1962 (Act 58 of 1962) Seventh Schedule paragraph 16: *"(1) for the purposes of this schedule and of paragraph (i) of the definition of 'gross income' in section 1 of this Act, an employee shall be deemed to have been granted a taxable benefit in respect of his employment with an employer if as a benefit or advantage of or by virtue of the employee's employment with the employer or as a reward for services rendered or to be rendered by the employee-*
 - (a) *The employer has granted a benefit or advantage (whether directly or indirectly) to a relative of the employee; or*

(b) *Anything is done by the employer under any agreement, transaction or arrangement so as to confer any benefit or advantage upon any person other than the employee (whether directly or indirectly, And such benefit or advantage, if it had been granted directly by the employer to the employee, would constitute a taxable benefit contemplated in paragraph 2".* According to the Income Tax Act the definition of an employee include directors of companies.

- (r) It was verified by the payroll manager that for one SABC non-executive board member and two SABC executives who were accompanied by partners, income tax was not deducted on the benefit received.

10.2.3.3 Conclusion

- (a) The travel arrangements made by the private company were not in line with the SABC Travel Policy which states that the SABC Travel Office must be used for all travel and accommodation arrangements.
- (b) The private travel company did not submit bank statements and did not pay the profit sharing in accordance with the agreement.
- (c) The business plans for international travel were approved by the Group Executive: Content Enterprises without the delegated authority.
- (d) Income tax was not deducted on the taxable benefit received by delegates who were accompanied by their partners.
- (e) The private travel company invoiced the SABC for more travelling packages for both the Beijing Olympics and the Beijing Paralympics than the number of people who actually travelled to Beijing. However, no evidence was provided that the SABC attempted to recover the overpayment or that the private travel company refunded the SABC.

10.2.3.4 Recommendation

- (a) The interim SABC board should evaluate the licence agreement with the private travel company, in consultation with the National Treasury and the Department of Communications, to determine if due process was followed in entering into this agreement.
- (b) The General Manager: Business Development must, in the interim, ensure that the private travel company comply with its obligations in terms of the agreement.
- (c) The SABC should ensure adherence to their travel policy and disciplinary action should be considered against those who contravened the policy.

- (d) The interim SABC board should investigate if the total payments made for the trips should be regarded as irregular expenditure and, if so, the interim SABC board should report such irregular expenditure in accordance with section 55(2)(b)(i) and (ii) of the PFMA.
- (e) The interim SABC board should consider appropriate disciplinary steps in terms of the PFMA if irregular expenditure was incurred.
- (f) The tax implications of the above trips should be investigated and all other international trips should be reviewed for compliance with the Income Tax Act.
- (g) The interim SABC board should investigate, and if applicable recover, the overpayments for the cost for the Beijing Olympics and Paralympics from the private travel company.

Response from the SABC

The Group Executive: Content enterprise indicated that in order to look at specifically the Beijing trip from an operational perspective would not be correct and one rather should look at the operational execution of hospitality events since the inception of the agreement with the private travel company. All the hospitality was conducted through the private travel company as they could provide a one stop service regarding hotels, flights and events tickets at good rates based on their world wide partnerships with other travel companies.

When the Sport Division facilitated the bookings through the private travel company it should be based on an approved business plan that would indicate the number of individuals that would be travelling to the venue. Once the costs were agreed, payment had to be processed in order to secure the hotels and flight tickets.

In order to ensure that the private travel company was able to make the bookings it was decided to load the private travel company as an official SABC vendor. In order to process an invoice through the SAP system the normal payment processes had to be followed, namely a business plan must be approved and an original invoice and approval of the payment should be requested from the line manager. This payment principle has been applied consistently.

The rest of the information is still being gathered as the documents have been archived.

Response from the AGSA

The travel arrangements made by the private travel company were not in line with the SABC's own Travel Policy which states that Airwave Travel must be used for all travel and accommodation arrangements.

10.2.4 Bursaries

10.2.4.1 Allegation

It was alleged that the SABC has a different set of rules for management, as in February 2009 the SABC paid an amount of R175 000 for the MBA studies of a manager of the SABC.

10.2.4.2 Findings

- (a) According to paragraph 4.1 of the SABC Bursary Policy “*These bursaries will be offered to permanent employees for recognised formal tertiary studies that are in line with their career and personal development plans or addressing the scarce skills within*”. During 2007 the Executive: Commercial Enterprises approved a bursary for MBA studies for the Manager: Television & Sales.
- (b) However, a sponsorship agreement (for the bursary) was only signed between the Manager: Television and Sales and the General Manager: Human Resources on 10 December 2008.
- (c) Invoice number INV000016194 from the University of Pretoria dated 31 January 2009 for the total amount of R47 300 was received on 24 February 2009 by SABC and paid on 3 March 2009.
- (d) The Manager: Television and Sales submitted his resignation on 17 July 2009 with effect from 31 August 2009. In terms of paragraph 7 of the sponsorship agreement “the funds advanced shall not be repayable unless the staff member 7.1 resigns from the employment of the SABC during the duration of the programme.” Upon receiving the resignation of the Manager: Television and Sales, the General Manager: Human Resources was tasked with compiling and submitting a recovery plan for all monies owed to the SABC by the Manager: Television and Sales in terms of all his contractual obligations.
- (e) According to the General Manager: Human Resources at the time of the finalisation of this report, the former Manager: Television and Sales has acknowledged telephonically the delivery of the letter from the SABC, but has not signed the letter from the General Manager: Human Resources acknowledging his outstanding debt. The matter has been handed over to the SABC Legal Service Department for collection.

10.2.4.3 Conclusion

A bursary was granted to the Manager: Television and Sales bursary according to paragraph 4.1 of the SABC Bursary Policy. An agreement was subsequently signed between the SABC

and the Manager: Television and Sales. The General Manager: Human Resources was tasked with the responsibility to recover the funds.

10.2.4.4 Recommendation

The SABC must ensure that the former Manager: Television and Sales sign an acknowledgement of debt for the outstanding bursary money not recovered from his salary and that the money is recovered.

10.2.5 Presidential Golf Day

10.2.5.1 Allegation

It was alleged that the SABC management decided to fund the Presidential Golf Day in the midst of the financial crisis at the SABC.

10.2.5.2 Findings

- (a) The Presidential Golf Day is an annual event following the President's State of the Nation Address. The SABC indicated that they have participated in this annual event for a number of years. The golf day was hosted on 4 June 2009 by the Ministry of Public Service and Administration in Cape Town. The SABC assisted in the production of an audiovisual production on request from a foundation which was broadcast during the prize giving dinner at Somerset West in the Western Cape. The following table shows the detail of the services rendered by SABC to the foundation:

Task	Description	Amount (R)
Editing	R530 per hour	3 180
Graphics and Treatment	R1500 per hour	12 000
Final Mix	R500 per hour	4 000
Voice Over Artist	R1200 per hour	1 200
DVC Pro Tape	DVC Pro tape for the 15minute long AV	152
Transferring Material	Transferring material from DVD Pro to DVD for an hour	450
DVD	To transfer material from DVC pro	20
Camera Person	R2000 per day	4 000
Flights	Return Flights to and from Cape Town	9 054
TOTAL		34 056

***NOTE:** information provided by the General Manager Marketing: SABC News and Current Affairs

- (b) The SABC is in the process of invoicing the Foundation for the total amount of services rendered during the Presidential Golf Day.
- (c) Additional to the service provided, the SABC presented four branded golf bags as prizes during the Presidential Golf Day at a total cost of R2 280.

- (d) The SABC also provided free airtime to the “value” of R340 500 for coverage and marketing of the event. This coverage includes slots during news broadcasts amounting to R157 500. Detail of the airtime provided are as follows:

Channel	Value of free air time to cover event (R)
SABC 1	102 500
SABC 2	45 500
SABC 3	192 500
	340 500

- (e) Paragraph 9.6.5 of the DAF requires sponsorship to be managed by means of a business plan. The business plan should contain the following information:
- Value of the sponsorship
 - Nature of the sponsorship
 - Programme to which the sponsorship relates
 - Business units affected by the transaction
 - Approving authority in terms of the DAF
 - Details of any preapproval processes, including a summary of the recommendations of those meetings
 - Detail of authorised signatory on behalf of the SABC

No business plan could be provided for the sponsorship of airtime.

10.2.5.3 Conclusion

- (a) From available documentation inspected it was noted that the SABC paid actual cost of R2 280 for prizes for the event. The value of free air time offered for the event amounted to R340 500.
- (b) Internal production costs of R34 056 were incurred to produce an audio visual, which have not yet been invoiced.
- (c) No business plan, approved for the sponsorship of the Presidential Golf Day as required by paragraph 9.6.5 of the DAF, could be provided to the AGSA.

10.2.5.4 Recommendations

Sponsorships, which includes the provision of free air time to market and provide coverage of events, should be considered and authorised with due cognisance of the financial austerity plan of the SABC. Business plans should be compiled and approved for all sponsorships given by the SABC as required by paragraph 9.6.5 of the DAF.

10.2.6 Security costs, including car hire, for the former chairperson of the SABC board

10.2.6.1 Allegation

It was alleged that in terms of SABC policy, the chairperson of the SABC board is entitled to a once-off amount of R40 000 to cover basic security, and this would include security fencing/wall and armed response. It was alleged that the chairperson of the SABC board had security guards stationed at her house for longer than a year, costing in excess of R180 000.

10.2.6.2 Findings

- (a) The Home Security Equipment Policy, effective date August 2002, states that *"the provision of home security systems and equipment is not a condition of services. This will only be provided at the sole discretion of the Group Chief Executive Officer. The system and its cost must be approved by the Group Chief Executive Officer in consultation with the relevant Divisional Head and the system will be provided to upgrade home security systems and equipment and an agreement should be entered into between the SABC and the employee"*. No policy regarding the security cost for the board members specifically could be submitted.
- (b) Payments for security costs were extracted from the SAP system from 1 September 2007 to June 2009 and it was identified that the SABC paid for personal security costs to the value of approximately R393 899 during the said period for both the former GCEO and former chairperson of the SABC board (R233 751 and R160 148, respectively). Invoices were randomly selected, obtained and inspected and it was confirmed that these security costs were incurred in respect of security at the residence of the former GCEO and the former chairperson of the SABC board.
- (c) According to a letter to the former chairperson of the SABC board from the former GCEO, dated 16 October 2006, the former GCEO requested permission to make use of a 24-hour armed guard at his home on a permanent basis. This was approved by the former chairperson of the SABC board. However, no approval could be obtained for the security costs at the former chairperson of the SABC board's house.
- (d) An agreement should have been entered into between the SABC and the employee as per the SABC Security Equipment Policy, effective date August 2002, paragraph 6. However, no agreement was obtained in respect of the former GCEO.
- (e) According to a report dated 1 July 2005 from an audit firm regarding a payroll diagnostic review of the SABC, the fact that employees were not taxed on security benefits was brought to the attention of the SABC. It was also recommended that controls must be identified and implemented to ensure that employee benefits are correctly processed through payroll. As confirmed by the payroll Manager: Compliance and Technical, individuals receiving security benefits are not taxed as per

the Seventh Schedule, paragraph 2(e) of the Income Tax Act. The main reason provided for this was that the Human Resource Division was not informed about this and the issue was an outstanding item on payroll's non-compliance issues.

10.2.6.3 **Conclusion**

The SABC paid for security at the houses of the former GCEO and the former chairperson of the SABC board for the period 1 October 2007 to 30 July 2009 amounting to R206 513 and R186 243, respectively. No approval could be provided for the security costs of the former chairperson of the SABC board. Both the former GCEO and the former chairperson were also not taxed on this fringe benefit.

10.2.6.4 **Recommendation**

- (a) The taxable benefit received by the former GCEO and the former chairperson of the SABC board should be dealt with in accordance with the Income Tax Act.
- (b) Systems should be put in place to ensure all taxable benefits are taxed in terms of the requirements of the Income Tax Act.
- (c) The interim board should determine if the security at the chairperson of the SABC board's house was approved at the correct level and if the SABC suffered any losses, because no agreements existed between the SABC and the former GCEO and the former chairperson of the SABC board. Based on the outcome, appropriate actions should be taken against those responsible.

10.3 **Human resource related issues**

10.3.1 **Payment of severance package to the former GCEO of the SABC**

10.3.1.1 **Allegation**

It was alleged that the dismissal of the GCEO had cost the corporation well in excess of R8 million. The amount quoted did not include the severance package of approximately R7 million that had to be paid to the former GCEO.

10.3.1.2 **Findings**

- (a) On 22 January 2009 the SABC gave the former GCEO notice to terminate his employment on the grounds of alleged incompatibility and irreconcilable differences.
- (b) In a letter dated 29 January 2009 to the former GCEO from the former chairperson of the SABC board, it was stated that in terms of a board resolution dated 19 January 2009 he would be paid an amount equal to the ordinary remuneration that would otherwise have been due to him for the remaining period of his employment

contract with the SABC, at the rate of remuneration that applies as at the date of termination of his employment contract. According to this letter, the effective date of the termination of the former GCEO's employment contract was 31 January 2009 and all calculations had been determined on the basis of this termination date. Any memberships of associations, boards, committees, corporations, and or trusts held by the former GCEO by virtue of SABC board authority, mandate or otherwise, would also terminate on 31 January 2009. The SABC access card would be cancelled as well as the access to his office and SABC premises.

- (c) The former GCEO disputed the validity and lawfulness of the termination of his employment and referred a dispute to the Labour Court claiming that his dismissal was automatically unfair because the reason for the dismissal was that he had exercised his rights under the Labour Relations Act. The former GCEO and the SABC then agreed to settle all claims and disputes which the GCEO may have against the SABC in terms of a settlement agreement. The former GCEO resigned from his employment with effect from 1 February 2009 and the SABC accepted his resignation.
- (d) According to a settlement and a Restraint of Trade Agreement signed between the interim SABC board and the former GCEO on 14 August 2009, and confirmed in a letter to the minister of Communications (minister) on 6 August 2009, the SABC would pay the settlement amount to the former GCEO on or before 31 October 2009. This will be payments, less amounts already paid to him in respect of the said salary and bonus payments during or about January 2009 or February 2009 following the termination of his employment and less any amounts required to be deducted in respect of tax and payable to the Receiver of Revenue:

Description	Amount R
1. Salary and benefits	
Contractual obligations, including salary and benefits	3 960 026
Incentive Bonus Bank	2 139 788
Incentive bonus payment for year ending March 2008	900 055
2. Payment of legal fees	2 100 000
This represents the former GCEO's total legal fees that were incurred as well as legal costs associated with the other legal action instituted by the former GCEO to defend his case against the SABC	
3. Restraint of Trade payment	4 400 000
This is to protect the SABC's protectable interest covering all confidential information, trade secrets, marketing and strategic information and any other matter deemed necessary to protect the interests of the SABC. The Restraint of Trade payment was recommended by the interim board for an 18-month period from August 2009	
TOTAL	13 499 869
Less amounts already paid on 31 January 2009	6 099 814
TOTAL OUTSTANDING	7 400 055

- (e) As at the termination of the former GCEO's employment contract on 31 January 2009, leave cost (102 days) of R638 346 were paid to the former GCEO. This payment did not form part of the settlement.

- (f) It was stated in a letter dated 6 August 2009 to the minister that the interim SABC board was pleased that an amicable settlement had been reached with the former GCEO and the full and final settlement adequately addressed the historical issues between the SABC and the former GCEO and would contribute to the company's stability moving forward.
- (g) The attorneys confirmed on 16 July 2009 that the total legal costs of the SABC to provide legal assistance to the SABC board in proceedings in respect of the former GCEO to date have been R4,387 million (including VAT).
- (h) According to the SABC interim board *"The former GCEO has since been paid R4 400 000 less taxes. In terms of the settlement agreement the SABC must still pay R2 100 000 for the former GCEO's legal fees and R900 055 for the incentive bonus payment (less tax) which is due and payable by the end of October 2009, the final settlement date"*.

10.3.1.3 Conclusion

The former GCEO resigned from the SABC with effect from 1 February 2009. A settlement and a Restraint of Trade Agreement was signed between the chairperson of the interim board and the former GCEO on 14 August 2009. The outstanding balance is due by the end of October 2009.

10.3.2 Suspension of SABC employees

10.3.2.1 Allegations

As a result of the preceding findings in this report which suggest a business culture of not taking timeous action against potential misconduct, the status of suspensions were considered.

10.3.2.2 Findings

- (a) A list of 34 employees who were suspended with pay during the period April 2006 until August 2009 (one employee suspended twice) was obtained from the General Manager: Group Employee Relations. The completeness of the list was not verified. The employees were suspended for different reasons, the most common areas of which are summarised below:

Summary of most common reasons for employee suspensions	No. of employees suspended
Dishonesty	8
Unauthorised industrial action *	9
Contravening provisions of the PFMA	3

* **NOTE:** *Unauthorised industrial action was due to an unprotected strike by the call centre.*

- (b) It was noted that the suspensions lasted for a period of up to 39 months (3,3 years). The detailed salary packages of the individuals on suspension were not readily available to calculate the total cost of the suspension. It is, however, estimated that the total salary cost of suspending the 34 individuals amounted to R8,3 million.
- (c) The employees were suspended on average of 10.4 months.

10.3.2.3 Conclusion

A minimum of 34 employees were suspended for an average of 10.4 months during the period April 2006 to August 2009 before the suspensions were finalised and in some cases the suspensions lasted up to 39 months (3.3 years). The salary (cost to company) cost incurred by the SABC in respect of the suspended employees is estimated at approximately R8,3 million.

10.3.2.4 Recommendation

- (a) The delays in finalising the cases should be investigated and in cases where individuals failed to exercise their management functions in an effective way, they should be held accountable.

11. Overall responses

Responses were not provided on every finding or on each set of conclusions. However, overall responses were received which indicated concurrence with the findings unless otherwise indicated.

11.1 Responses from the Acting GCEO

The report is regarded and considered as serious in essence. There has been clear provable evidence of contravention of approved policies and regulations in many areas. There has been instances in which governance protocol has been flouted and disregarded completely.

It is no surprise that the situation regressed to a point of a financial crises because right at the top, at the executive and board level some of these transgressions were patently propagated.

The overall findings are generally not in dispute and can be accepted as the true reflection of the status quo at a particular time during the investigation. It is also acknowledged that there were no less than 15 serious allegations that were submitted to the AGSA, and not covered during the investigation due to time constraints. These allegations must be investigated later on, in the interest of finding a permanent workable solution for an effective, well managed SABC.

Some of the findings need to be tested legally and therefore, cannot be taken, as conclusive subject to a rigorous legal test to ensure veracity and validity of these findings. The process outside the SABC and be handled by experts if the organisation decides to criminally charge specific individuals. The SABC does not have the resources and expertise at this point in time to internally pursue these matters.

11.2 Response from the chairperson of the interim SABC board

The SABC interim board is not in a position to comment on the factual correctness of the findings in the report due to the time constraints since the interim SABC board has not been able to independently verify the contents of the report. The interim SABC board however assumed that all the facts as presented therein are correct and will focus on the way forward regarding the specific recommendations made in the report by ensuring the issues of non-compliance are addressed decisively by the interim SABC board.

As such, the interim SABC board will:

- Immediately act upon the findings and recommendations relating to the supply chain management, fruitless and wasteful expenditure and human resources related issues.
- Seriously consider and institute disciplinary actions against individuals still in the employ of the SABC.
- Consider instituting legal or criminal proceedings against individuals who are no more in the employ of the SABC.
- Compile proposals on changes to certain policies, practices and schemes as part of its exit report to the new permanent SABC board.

The interim SABC board agrees that the SABC's fundamental challenges and the underlying causes contributing to the current situation are the lack of its quality of reporting, governance arrangements and leadership oversight. By implementation the steps discussed above, the interim SABC board will address some of these fundamental challenges that the SABC faces and contribute to reducing the risk of deficiencies recurring in future.

11.3 Response from the Director General of the Department of Communication

The Department acknowledged that there are major challenges at the SABC and that as a shareholder, the Department had to move swiftly to arrest the situation. The Minister established the SABC Task Team that has been working very closely with the interim SABC board, the National Treasury and partly the AGSA to deal with these challenges.

As a shareholder, the Department will be playing a more active role to ensure that the SABC is able to turn around the situation in order to successfully play its strategic role as a public broadcaster with the highest standard of corporate governance being observed.

The Department can intervene within the provision of relevant legislation governing the public broadcaster. The Department is working on measures to ensure that it is able to anticipate future challenges and mitigate against those risks timeously.

In the interim the Department has decided on the following measures:

- More regular meetings between the SABC board and management and the Department.
- Regular meetings between the Department and the SABC to discuss the SABC's quarterly performance reports (financial and non-financial).
- More regular financial reporting to the Department, i.e.: quarterly financial statements and monthly management accounts.
- Regular reports to the Department from the Audit and/or Risk Committee.
- Access to all internal audit reports of the SABC.

Further to this, the Department will be meeting with the Interim SABC Board to finalise the exact steps to take on the transgressions, especially those related to human resources as per the findings in this report.

12. APPRECIATION

The assistance rendered by the interim SABC board and employees of the SABC during the investigation is appreciated.

Auditor-General

Pretoria

18 September 2009



AUDITOR - GENERAL
SOUTH AFRICA

ANNEXURE A**LIST OF ALLEGATIONS NOT INVESTIGATED**

Allegations received but not covered during this investigation:	
1.	Supply Chain Management:
	a) The General Manager at News Resources did not declare his business interest; b) Various allegations of deviations from the procurement process in awarding contracts were identified and included below: i) Due processes are not followed, i.e. some tender documents go directly to the SABC board without going through the sub committee of the SABC board, some directly to the sub committee without going through the bid adjudication committee; ii) Payments are made to service providers that do business without being registered on the database; iii) Management temper with shareholding/ equity of companies with the view of increasing the status of BEE companies; iv) Companies are requested to submit outstanding tender documents way after the closure of the tender, even three months after the closing date; v) Lack of price targeting, the bill of material in a tender are way above the market rate which often makes the bidder to be above the SABC budget. Sometimes the recommended bidder is R80 million more than the other bidder that could render exactly the same services; vi) If the SABC board awards the tender to another bidder (not the one recommended by management) , the SABC suggests out of court settlement by paying money to the losing bidder instead of challenging them in court; vii) Management increases the bidding price of tenderers during or after the tender has been awarded; and viii) Alleged outside interference with the tender process specifically related to the procurement of outside broadcast vans.
2.	Fruitless and wasteful expenditure:
	a) Hiring of a car and driver/ guard for the former Chairperson of the SABC board without proper authorization, the bill was in excess of R200 000; b) The SABC incurred costs of more than R1 million in defending high court cases; c) Various allegations of extravagant and irresponsible wastage of money for conferences, entertainment, catering and gifts were identified and included below: i) Financial strategy and planning meetings, food, beverages, renting of tables and chairs, drapings, waiters etc. to the value of R1,379 million;

	Allegations received but not covered during this investigation:
	ii) SABC board's Christmas party to the value of R481 707, it appears that the invoice was split into two which is prohibited; iii) Gifts sets to the value of R365 342 were procured at the time when the SABC was in deep financial trouble; iv) Conference held in Zanzibar to the value of R79 221; v) Expenses of the Chairperson of the SABC board at the Cape Town Jazz festival to the value of R151 994; vi) Various payments for gift sets; d) Overseas flights never approved or verified by the SABC board; e) Various allegations of payments made to 15 consultants/ service providers that are enormous and illegitimate in terms of the SABC's regulatory environment, the internal policies and applicable legislation, including the estimated payments made to these service providers amounting to approximately R212 million. f) Two consulting firms are both paid for external audit services; g) An amount of R5,741 million was paid to a consultant for the implementation of SAP. Another consultant was also appointed to perform a similar task, therefore duplication of work were performed and the SAP project cost the SABC an amount in excess of R200 million so far; h) Two different companies were paid to supply ANC Conference t-shirts; i) External lawyers are used in respect of the Multi-term Agreement 2009/10. The SABC use external lawyers for labour cases, while the SABC has lawyers employed for exactly that purpose; j) The SABC makes payment for goods/ services without pre-approved purchase orders and/ or contracts. Payment to the value of R10,727 million were made to consultants without legal contracts being in place; k) Losses incurred on the Green Revolution project; l) Allegations that the SABC agree to excessive discounts for TV and radio exposure outside the SABC policies and procedures and that discounts to the following suppliers were not adequately authorised: i) A 40 per cent discount on R7,984 million; and ii) A 35 per cent on a deal valued at R158 million; m) Team of Content Enterprises attended the LA Screenings whilst the SABC is overstocked on foreign programs and need critical savings. The company secretary

	Allegations received but not covered during this investigation:
	attended the function as well. n) Allegations were made that sports rights were acquired although it has not yielded any return on investment. o) The SABC lost the soccer rights, boxing rights and cricket rights. The Executive Manager is not being held responsible for causing this significant financial loss to the SABC; p) The SABC was involved with the Siyanqoba Campaign which cost the SABC millions of rands, the decision was possibly not made in compliance with the SABC's regulatory environment; q) Irregularities at the 2006 Golden Plum Awards where the SABC said they would donate all the proceedings from the event into a trust fund. The award was awarded to a close friend of a former employee; r) There is an alleged misuse of R6 million at Channel Africa during 2009; s) SABC Entertainment is a test channel, close to R15 million are spent for a channel that does not generate any revenue and excessive salaries are being paid to contract workers at the channel; t) SABC is still paying for the former GCEO's home security, DSTV and fuel; u) An Executive Manager negotiated with a Nigerian company to sell soap operas at \$500 per hour while under the most conservative pricing the SABC can sell the same for \$1000 per hour; and v) Digital Technology budget was used for the purchasing of a stand and design for the amount of R450 000.
3.	Human resource issues
	a) The former chairperson of the SABC Board granted leave to an employee for 3 to 4 months; b) The former GCEO suspended an executive member of management without consulting the SABC board; c) Management and staff structures have changed severely since December 2006. An alarming number of managers have been appointed since (increase of 50 per cent in Senior and Middle Management) whilst staff at lower levels only increased with 3 per cent;

	Allegations received but not covered during this investigation:
	d) General Managers are reporting to other General Managers which is not in line with internal policies and procedures; e) Executives and Top Management arriving late and leaving early from work; f) Individuals on Group Executive level are absent from work for extended periods; g) Allegations of nepotism and favouritism in the Sales and Marketing Division, including allegations of unilateral changes made to the payment of commission to staff without proper consultation; h) Concerns were raised about the ability and qualifications of management to properly and effectively manage the organisation; i) In general there is a lack of motivation, commitment, will and expertise from the top management. Poor judgement of management and obvious irresponsible management decisions; k) Unethical behaviour by management; l) Employee relations, with specific reference to the relationship between senior management and the rest of staff; m) Significant monthly salary bill in the Content Hub to the value of R7 million which excludes the salaries of the general managers; n) Although the SABC and SAPS received evidence under oath that an employee received a cash kickback (corrupt benefit) from a supplier, he remained an employee; o) Although an employee was found guilty on serious charges in a disciplinary hearing, certain employees are trying to stop the intended civil recovery against the employee;