



MEDIA STATEMENT
FINDINGS AND RECOMMENDATIONS OF THE COMMISSION OF INQUIRY INTO
SEXUAL HARASSMENT

Johannesburg- Tuesday, 6 November 2018 - On 1 June 2018, the SABC announced the establishment of Commission of Inquiry into Sexual Harassment (the Commission) to investigate instances of sexual harassment at the Corporation. The Commission, which is independent from the SABC and headed by an independent commissioner completed its work on 31 October 2018 and presented its final report to the SABC board which the board accepted in its entirety.

The inquiry was organisation-wide and submissions came from all the provinces in which the SABC has presence, except the Western Cape. The objective of the inquiry was to determine whether there is a discernible trend of sexual harassment at the SABC. The Commission aimed to determine the prevalence and extent of the sexual abuse and the role of institutional culture in enabling it, and the reasons why the problem had not sharply come to the fore, despite the SABC having an existing Sexual Harassment Policy.

The Commission was therefore mandated to make recommendations on measures which should be implemented by the SABC's management in order to achieve a safe working environment for all employees, regardless of their gender.

Over the past two years the SABC has been in the news over all sorts of problems that included victimisation, sexual harassment, bad employment practices etc. which have caused many employees to not trust internal structures with their grievances. The independent commission was told by those who testified that the only reason they approached the commission was because they investigated the background of panellist and only after doing that did they feel safe to approach the Commission.

The Commission was made up of two gender experts (one female and one male) supported by a legal person and a social worker during hearings to provide counselling to complainants. The duration was from end June to October, 2018 and hearing started from beginning July to end September 2018.

The inquiry was open to former and current employees of the SABC. If a complainant was a former employee, the case could only be accepted if the alleged perpetrator of the sexual harassment was a current SABC employee. The removal of this time limitation clause for complainants was a good and progressive step taken by the SABC because in most instances, victims of sexual harassment often leave their jobs not because they don't like it but, because they feel vulnerable and unprotected in a very hostile/unsafe working environment.

The mandate of the Commission was to accept verbal and written allegations of sexual harassment. It was also meant to provide employees with an opportunity to report experiences they may have had of sexual harassment which were either never addressed or were not dealt with to the complainant's satisfaction. The Commission was to make findings and submit recommendations which are to be implemented by the SABC.

It is important to mention that the Commission was not a judicial commission with powers to subpoena and, this weakness made it difficult for the Commission to force two alleged perpetrators to present themselves to the Commission. In both these cases the panel investigated the cases, analysed information and made preliminary findings and recommendations to be further explored and implemented by the SABC. In this way, the complainants were given a second chance to find justice.

The SABC provided a private email address to be used by the Commission and all those who wanted to communicate for example, complainants and whistle blowers. It is recommended that the private email address stays open beyond the completion of the Commission's work to enable former and current employees who did not participate in the process to still come forward with their submissions. The commission will consider such submissions in the same manner as the one's received during the initial process.

The statistics of the submissions received is as follows:

- Cases lodged directly by victims - 10 (ten)
- SABC officials interviewed - 25 (twenty five)
- Cases lodged by whistle blowers - 7 (seven)
- Alleged perpetrators interviewed - 11 (eleven)
- Number of unions engaged - 2 (two)
- Number of external witnesses - 2 (two)
 - Comprehensive submissions - 40 (forty)

The numbers above exclude figures that still remain confidential because they could not be corroborated.

Findings of the Commission

Below are the key findings of the Commission's inquiry:

- 1) For the individual cases that came before the Commission there are individual findings against each case lodged by the complainants.
- 2) In most cases HR failed to follow procedures outlined in the SABC policy on Sexual Harassment as well as the code of good practice of the EE Act. Was it ignorance or cover-up for managers as alleged by complainants?
- 3) The SABC must be congratulated for instituting the inquiry but, for this to truly give complainants justice and closure, the recommendations for each case must be implemented expeditiously. Most of the complainants do not have jobs and medical aid to access counselling and this is a service all require. The short term provision of counselling during the hearing had visible positive impacts on complainants and all appreciated the service.
- 4) The findings that relate to individual cases require re-opening of such to ensure appropriate responses in line with SABC Policies and the Code of the Employment Equity Act.
- 5) A strong perception exists that HR and senior managers collude with and cover up for alleged perpetrators and, the poor and inept handling of cases seen has not done much to disprove this perception.
- 6) There is strong fear of loss jobs in telling truth to power, lack of trust and loss of confidence in HR, the SABC's ability to address gender-based violence as well as related discrimination in the workplace.
- 7) Of all the cases the Commission came across, no alleged perpetrator was ever suspended or found guilty of sexual harassment even though this was the main complaint. Those charged (often supervisors to complainants) were allowed to work (victimization not monitored) and then found guilty of unprofessional behavior, [not sexual harassment] where cases went that far.
- 8) HR and most Senior Managers demonstrated a serious lack of knowledge and understanding of human rights statutes, gender relations and issues of power relations between men and women. In the process, they have been complicit in the violation of the rights of complainants. Complainants want redress in the form of a hearing to confront the alleged perpetrators.
- 9) Failure to handle cases in line with policies and the law led to the premature resignation from jobs by all but one complainant whilst all alleged perpetrators still enjoy their senior jobs and perks. Most complainants remain unemployed, still emotional and depressed and angry. The one still in the employ of SABC continues to suffer victimization for reporting the case.
- 10) All complainants except for two were freelancers. The appointment and dismissal of this important cohort, namely freelancers is vested in line managers and appear to have been

used for personal gain by the perpetrators. This is an area of high risk for litigation, financial loss and reputational damage.

- 11) Reputational or brand damage - whistle blowers and some complainants angrily made such statements, “the SABC, particularly Channel Africa is like a brothel run by prostitutes; Lotus FM is run by men who regard the station as their fiefdom and the women their personal harem! Men at the SABC prey on young women at the nearby institutions of higher learning with promises of work even if they are archivists”!
- 12) Almost all cases are older than 5 years, yet complainants still carried the pain and hope that one day they will see justice done for them. Some were still battling to cope emotionally when reliving the harassment and expressed the joy at having approached the Commission which they saw as independent.
- 13) Most cases reported came from Lotus FM and Channel Africa; there is a worrying history of gender-based violence cases from Lotus FM indicating a need for strong leadership which appears weak. The case that is currently in the media is a point in question and it would be advisable for the Legal Section to support the leadership so that the SABC does not incur high reputational damage and litigation cost.

Recommendations

- 1) There is need for the overarching training of all staff on gender equality and human rights with a particular focus on gender equality, violence against women taking into consideration the current trends and context. The skills of officials who serve on the sexual harassment panels must be enhanced.
- 2) SABC does not take sexual harassment seriously and the culture of sweeping things like sexual harassment under the carpet prevalent. SABC needs to develop a culture that embraces the enhancement of human rights and gender rights.
- 3) SABC needs to reintroduced an induction programme to ensure that employees are inducted into the culture of the Corporation and various policies. In the absence of cooperative culture, everybody does as they please.
- 4) SABC needs to hold diversity management and drive a culture of acceptance and respect for the diverse cultures in the organisation.
- 5) The SABC’s sexual harassment policy needs to be reviewed to be in line with international law, SABC policies and domestic laws. To supplement the policy, a standard operating procedure or policy guidelines must be put in place to give teeth to the sexual harassment policy.
- 6) SABC should provide a budget and other resources for the effective and full implementation of sexual harassment policy.
- 7) The SABC should introduce a gender desks or gender focal points.
- 8) The almost parity between women and men in employment figures does not translate into the SABC being a gender responsive work environment.

- 9) SABC should urgently establish a structure outside Human Resources that will implement the recommendations of the Commission's reports and a committee such as HR Board Sub Committee to monitor the implementation thereof.
- 10) SABC should consider developing an incentive to get people who were promoted through sexual favours to come forward as was the case with amnesty during the Truth and Reconciliation Commission or the South African Revenue Services with tax dodgers.
- 11) The policy on appointment of freelancers is very problematic because it gives excessive power to one or few individuals. This practice needs to change urgently so that the process can be more inclusive of other decision makers through interviewing panels with the positions advertised in line with normal standard recruitment procedures.
- 12) One of the human resources policies that needs to be changed is the one that applies to freelancers and their entitlement to employment wellness programme in cases where the freelancer has been sexually abused.
- 13) There is an urgent need to focus on both the Channel Africa and Lotus FM leadership and support to address the worrying cases of gender-based violence.

Conclusion

The SABC has noted that findings and recommendations in the Commission's report and the SABC board has instructed the executive management to implement the recommendations with immediate effect. The SABC board has recommended that the Commission is appointed as the body to monitor the implementation of the recommendations and to provide regular feedback to the board.

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