

SABC board active, MPs told

Communications Minister Faith Muthambi stunned parliamentarians on Tuesday by insisting the SABC board was functional and could take decisions despite having only three members.



Muthambi also defended the reappointment of Hlaudi Motsoeneng as group executive for corporate affairs, arguing that he had the requisite qualifications and experience to hold the senior post.

The board, which is meant to have 12 members, requires at least nine to reach a quorum.

Inquiry

Two board members, Krish Naidoo and Vusi Mavuso, resigned in October during the board's presentation in Parliament at which it justified Motsoeneng's reappointment.

A few weeks later, the deputy board chairwoman, Leah Khumalo, resigned after MPs gave the remaining members an ultimatum: quit or be forced out through a parliamentary inquiry.

The remaining board members - chairman Mbulaheni Maguvhe, Aaron Tshidzumba and Nomvuyo Mhlakaza - have indicated they would not resign. Parliament's communications portfolio committee is preparing to hold an inquiry into the remaining SABC board members' fitness to hold office.

Companies Act empowerment

Muthambi said the provisions of the Companies Act catered for the remaining three board members.

"The SABC board exists and is empowered by the Companies Act to operate and, therefore, the SABC board is operating under the remaining board members," she said. The act trumped the Broadcasting Act in SABC matters, she argued.

The Broadcasting Act stipulates the 12-member SABC board should have at least nine members to reach a quorum.

According to Muthambi, the Companies Act stipulates that the failure of a company to have a minimum number of board members "does not limit the authority of the board or render invalid any decision it takes". The act stipulated "where there is a conflict between two acts the Companies Act will prevail".

Muthambi's interpretation of the two acts governing the public broadcaster appears to be at odds with that of Parliament's legal services unit. In 2015, the unit issued a legal opinion that the Broadcasting Act trumped the Companies Act when it came to SABC matters.

Media Monitoring Africa director William Bird said Muthambi's interpretation of the acts was "convenient and cynical". The Broadcasting Act was the main law governing the SABC as a public broadcaster.

Current crisis

Motsoeneng's appointment in October sparked the current crisis at the SABC when two board members abruptly resigned in protest. In October, the DA launched a court application seeking to have Motsoeneng's appointment as group executive of corporate affairs invalidated. The party wants him removed from the SABC.

Motsoeneng was shifted to his old position after losing his job as chief operating officer in September when the Supreme Court of Appeal dismissed his application for leave to appeal against a ruling by the High Court in Cape Town setting aside his permanent appointment. The SABC then announced that it had reappointed Motsoeneng to his previous post as group executive for corporate affairs.

Muthambi said: "When his [Motsoeneng's] appointment was legally challenged, the SABC was legally bound to reappoint him to his old position ... It [the position of group executive for corporate affairs] was not vacant ... the SABC used its discretion to reshuffle, which meant there was no need for the position to be advertised."

It emerged in Parliament in October that Bessie Tugwana, who had occupied the position of group executive for corporate affairs, was shifted to the position of acting chief operating officer at the SABC.

Quizzed by MPs about Motsoeneng's qualifications, Muthambi referred to the SABC's annual report, which states he completed a Leadership Development Programme at the Gordon Institute of Business Science.

Source: Business Day