



An analysis of the main barriers to effective corporate governance at the SABC

by

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ABSTRACT

South Africa is a highly structured country with numerous rules, practices and regulations. These laws are imperative in the successful running of companies including State-owned Companies (SOCs). The SOCs including the South African Broadcasting Corporation (SABC) are governed by corporate governance framework which define the principles of fairness, accountability, responsibility and transparency – where role players are identified, those responsible for the corporate governance and to whom they are accountable. South Africa further considers its best corporate governance practises through implementation of various versions of the King Reports of Good Corporate Governance which have their foundations in effective and ethical leadership.

In some instances, SOCs can be forced into complying with those laws which can lead to poor corporate governance and dysfunctionality of a company. In the case of the SABC, there were numerous allegations of maladministration, financial mismanagement, unethical conduct, abuse of power, political interference and governance challenges.

The study is therefore concerned with the effective corporate governance at the SABC. It examines the main barriers to effective corporate governance rules and practices within the SABC or, put differently, why good corporate governance has eluded the SABC.

The study applied the qualitative approach. The primary data was collected through semi-structured interviews - from former and current members of the boards of directors, government as a shareholder, former and current officials, representatives of the regulator and other experts in public broadcasting. The secondary data has been examined from various archival resources such as SABC Annual Financial Statements and Reports and policies which are useful for triangulation.

It was found that the main barriers identified include political parties interference, lack of board commitment to fulfill its oversight role, abuse of shareholder's power, no consequence management in transgression and performance monitoring systems,

lack of adherence to the regulatory framework, appointments of unqualified and unskilled board member, lack of transparency and disclosure, and SABC funding.

Based on the findings, it was concluded that The SABC has enough applicable legislation and internal policies to protect itself from abuse by the shareholder and ensure good corporate governance but effective enforcement of existing laws and regulations constitutes a major challenge for the development and implementation of corporate governance.

DECLARATION

I Wendy Loliwe, student number: 886878

I am a registered student for a Masters in Management in the field of Governance and Management.

I hereby declare the following:

I confirm that the work that I have submitted for the above course is my unaided work. I have followed the required guidelines in referencing the thoughts and ideas of others. I am aware of the correct method for referencing and plagiarism as explained in the WSG Style Guide and as it was discussed in class during Orientation.

I am aware that plagiarism is wrong and not acceptable. I understand that the University of Witwatersrand may take disciplinary action against me if I fail to correctly acknowledge the sources used in my study.

Signature:  _____

Date: _____

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I give thanks to the Lord, for He is good; for His Mercy endureth forever.

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ACRONYMS

AGSA: Auditor General of South Africa

ANC: African National Congress

BBC: British Broadcasting Corporation

COO: Chief Operations Officer

CFO: Chief Financial Officer

DCDT: Department of Communications and Digital Technologies

DOA: Delegation of Authority Framework

DTT: Digital Terrestrial Television

GCEO: Group Chief Executive Officer

ICASA: The Independent Communications Authority of South Africa

MOI: Memorandum of Incorporation

OECD: Organisation for Economic Cooperation and Development

PBS: Public Broadcasting Service

PCS: Public Commercial Stations

PFMA: Public Finance Management Act

PSEAC: Presidential State-Owned Enterprises Advisory Council

SAA: South African Airways

SAARF: South African Advertising Research Foundation

SABC: South African Broadcasting Corporation

SCOPA: Standing Committee on Public Accounts

SIU: Special Investigating Unit

SOCs: State-owned Companies

SOS Coalition: Support Public Broadcasting Coalition

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1. CHAPTER ONE: INTRODUCTION

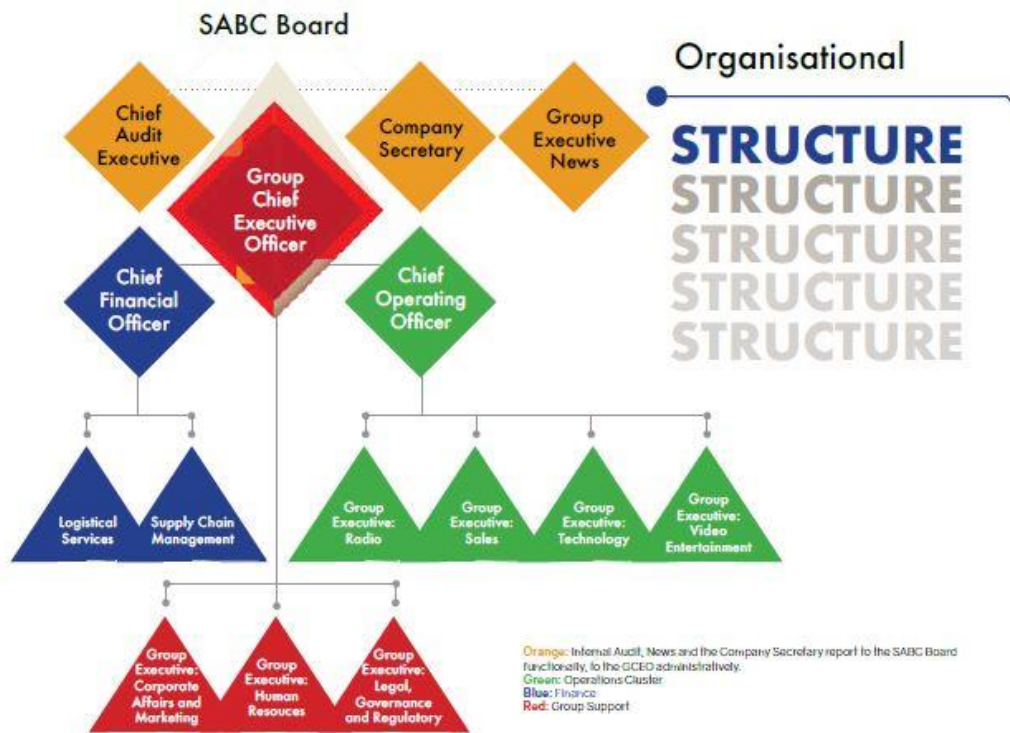
1.1 Introduction and Background

The South African Broadcasting Corporation (SABC) Limited (“the SABC”) is a public broadcaster under Schedule 2 of the Public Finance Management Act No. 1 of 1999, (“PFMA”). Its mandate is to inform, educate and entertain the public of South Africa. It was established in terms of the Broadcasting Act (as amended) (“the Act”), the Charter, Regulations and License Conditions issued by the Independent Communications Authority of South Africa (“ICASA”). The SABC license conditions provide for five television channels and 18 radio stations including the Public Commercial Stations (“PCSs”). To many millions of South Africans, its radio, digital and television services are the only sources of news, entertainment, information and current affairs. For it to be a trusted source of news and information, it has to be managed, controlled and run by a credible and ethical leadership – both the board of directors as well as all tiers of management. Its corporate governance rules, systems, structures and practices should be beyond question on paper and in practice. This has not always been evident, as so many news articles and statutory investigative reports have pointed out. Over and above media reports on governance and leadership problems at the SABC, the public broadcaster has been a subject of numerous official inquiries into its affairs. Few of these have focused on corporate governance and even fewer have been done from an academic point of view.

The SABC has to provide universal service and access to the citizens of South Africa according to the Broadcasting Act. At the same time the SABC plays an important developmental role in terms of, programming, local content and different languages it broadcast in on its platforms . It is expected to meet local content and languages quotas as stipulated in the SABC Licence Conditions which are monitored by ICASA. The SABC is also required to acquire audience research information from South African Advertising Research Foundation (“ the SAARF”). This audience research information assists the SABC to compete fairly with other broadcasters in terms of its

radio and television audience targets as well as in recruiting advertisers who are the other source of revenue (alongside income from licenses).

Figure1: SABC Structure



Source: SABC Corporate Plan, 2021

1.2 Scope of the study

The aim of this study was to investigate and understand the main barriers to effective corporate governance rules and practices within the SABC or, put differently, why good corporate governance has eluded the SABC. In answering the questions posed by this study, a theoretical argument was articulated using agency theory, stakeholder theory, stewardship theory, political theory and shareholder theory. The emphasis on effectiveness was deliberate as the SABC has corporate governance rules and practices, their implementation was open to question, hence the need for this study.

Other public broadcasters like the British Broadcasting Corporation (BBC) were used as a benchmark for what would be the effective corporate governance rules and

practices. This means a comparative analysis between the SABC and BBC was done to determine bad and ineffectual corporate governance viz-a-viz good and effective corporate governance. This study focused on the impediments to implementation and embedding a culture of good corporate governance. It is important to note that – while interrelated - ethics, good governance and compliance are distinct and, as such, the researcher did not focus on one at the expense of the others. Hopefully, the outcome of this study helped provide new insights which would assist future researchers to inquire deeper into possible solutions to this situation – which was not the scope of this study.

1.3 Problem Statement

After the end of formal apartheid in 1994, the all-race South African government adopted new approaches to economic development. It reoriented them and made sure that SOCs played a crucial role in the economic advancement, growth and development of South Africa in its entirety. As such, it is fundamental for them to be well governed in order to execute their mandates.

Matsiliza (2017) mentions that most SOCs have been accused of being involved in “state capture” (understood by this researcher as the repurposing of SOCs to serve the interests of a few non-state parties instead of the broader South African public). They have also been criticised for corruption, financial mismanagement, maladministration, unethical conduct and governance challenges which have resulted in organisational underperformance, a number of financial bailouts from government, high rate of hiring and firing of boards and Chief Executive Officers (“CEOs”) and interference of shareholder representative ministries in board and, at times, executive management matters.

The SABC is no stranger to these claims. In recent years the public broadcaster has failed to meet its financial targets, and ended up being bankrupt, requiring fiscal injections from the government to continue operating. It has also been followed by allegations of “maladministration, systematic corporate governance failures, abuse of power and irregular appointments made by the SABC leadership” and ended up being investigated by the office of the Public Protector (Madonsela, 2014). Madonsela (2014) further investigated other several ethical complaints lodged against the SABC

lodged by former SABC executives and related to corporate governance failures involving the SABC board, management and the shareholder representative – including unlawful interference by the then Shareholder Minister and the Department of Communications into the SABC affairs, mismanagement of funds that led to the escalation of spending by the SABC board and management and political interference in appointing the board and executive management.

In 2017, there was the issue of the unlawful change to the SABC's Memorandum of Incorporation (MOI) which saw the responsible minister being taken to court by Support Public Broadcasting Coalition ("SOS"). The high court judgment found that the Minister had unlawfully interfered in the SABC affairs. The minister, it was found, had used her power to amend the MOI in order give herself the power to appoint the SABC Group Chief Executive Officer ("the GCEO"), Chief Operations Officer ("the COO") and Chief Financial Officer ("the CFO"). These might have been triggered by the role players – board, management and the minister – not being able to separate their roles and responsibilities as stipulated by King III Report on Corporate Governance, Companies Act No. 71 of 2008, the Broadcasting Act No. 4 of 1999 and SABC MOI (Department of Communications, 2016). The motivations would be further explored later in this report.

Thabane and Snyman-Van Deventer (2018) observe that corporate governance is guaranteed to fail when board members and management do not demonstrate effective leadership, and lack autonomy, authority and accountability in exercising their duties. They reiterate that good corporate governance is strengthened by ethical values of accountability, independence, responsibility, fairness and transparency as stated in King III. In the case of SABC, the Shareholder's Compact creates the balance between accountability and transparency in the governance of the SABC. This document is signed and reviewed annually by the responsible shareholder representative minister and the board to ensure board's commitments including applying strategic leadership, integrity and ensuring a financially viable SABC that upholds to best practice in all applicable policies are met.

On independence, the SABC has also been faced with serious threats to its independence where the ruling party – African National Congress ("the ANC") - from time to time sought to influence editorial content decision making through SABC

executives in order to advance the party's interests (Bronstein & Katzew, 2018). It is therefore worth investigating the impact of these corporate governance and ethical deviations in the SABC as they hinder its effective corporate governance. This study further sought to interrogate these through interviews.

1.4 Research Questions

Taking the preceding passages into account, the study sought to answer the following main question:

Why has good corporate governance eluded the SABC?

It looked at this question through the perspectives of legal statutes, governance frameworks and models as well as the interplay between structures, systems, processes and actors, and a comparative analysis with other public broadcasters such as the BBC.

The study also sought to answer these sub-questions:

- What are the main reasons that explain ineffectual corporate governance at the SABC?
- What are the main barriers to corporate governance at the SABC?
- What are the existing corporate governance structures at the SABC?

1.5 Research Purpose

The purpose of the study was to understand the main barriers to effective corporate governance at the SABC. The contraventions of the applicable SABC's corporate governance frameworks were referenced in support of this framing. Whilst the focus of the research was to identify the main barriers to corporate governance, it was hoped this research would contribute to better theoretical understanding of the issues and lay the basis to future researchers interested in proposing detailed solutions.

1.6 Research Objectives

- To understand the existing corporate governance structures (role players), systems, frameworks and models at the SABC;
- To determine the main barriers to effective corporate governance at the SABC; and,
- To understand the main reasons that explain ineffectual corporate governance at the SABC.

1.7 The Structure of the Study

The Chapters of this study are structured as follows:

Chapter 1 explains the introduction and background of the study. Chapter 2 describes the literature review on corporate governance. Chapter 3 discusses the research methodology used to answer the research questions – main question and the sub-questions. Chapter 4 illustrates the findings of the study from the participants. The interpretation of the research findings were obtained using interviews. Chapter 5 provides an analysis of the corporate governance system in the SABC and offer some suggestions or recommendations for improvement to make the corporation's corporate governance more effective and sustainable. Finally, Chapter 6 provides the conclusions on the outcomes in chapters 4 and 5 of the study.

1.8 Chapter Summary

This chapter introduced the SABC's background, its mandate as a public broadcaster and its corporate governance structures. There was an emphasis on the context within which the research topic was created. The chapter also dealt with the problem statement and the research questions that the study intended to resolve. The next chapter provides the literature review about corporate governance in South Africa and SOCs including in relation to the SABC, in Africa and international corporate governance best practises. Different definitions of corporate governance will also be highlighted.

2. CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter discusses the available literature on corporate governance, the history of corporate governance in South Africa and SOCs, definitions of corporate governance, its principles and corporate governance in relation to the SABC, the theoretical framework, legislative framework, international corporate governance best practises and finally the overview of corporate governance in Africa.

2.2 History of Corporate Governance in South Africa and SOCs

It is almost common cause that there was, if at all, lax regard and compliance with anything approximating corporate governance – let alone good – corporate governance prior to the end of the apartheid dispensation in the early 1990s in South Africa.

There are many studies that have been done to look into the period ahead of 1990 – which informally is baselined as the end of apartheid rule in South Africa, markers in this regard included the release of political prisoners and the unbanning of former liberation parties. This period came after apartheid became unviable as an ideology: although militarily powerful, the apartheid regime was becoming politically, morally and economically bankrupt. It faced further isolation from the West, especially in America where the Black Caucus was stepping up pressure for the introduction of the Comprehensive Anti-Apartheid Sanctions in protest against the slaughter of unarmed black African civilians in the late 1980s.

From an economic perspective, two things happened: first, a group of white business people, mostly Afrikaners, went to Dakar, Senegal, to meet with the exiled leadership of the ANC for the future of their country; and second, in parallel, the informal talks with Nelson Mandela, then a life-long prisoner held at Victor Vester Prison (after two decades at Robben Island) were reaching their peak.

Corporate South Africa – white Afrikaners (with political and some economic power) and the English (wielding mostly economic power) – read the mood, and then began to prepare for inevitable and imminent change. Among others, the laager apartheid economy was also nearing its end.

In a seminal paper, Padayachee (2013) traces this epic journey using the corporate governance lenses. In the paper, afore-referenced, he traces what this researcher characterises as the short history of South Africa's corporate governance. He then layers a new provocative dimension of "Ubuntu" or African humaneness and comes to an inconclusive submission, declaring the latter an aspiration rather than an achievement.

Usefully, he traces corporate governance in South Africa before 1994 and since 1994, and then traverses uncharted territory of what 'extending corporate democracy" could look like, and, importantly for the purposes of this paper, what the SOCs sector's corporate governance could look like.

Padayachee's (2013) input is enriched by two factors: first, over and above him drawing on inputs from interviews with players on the field, he complements this with empirical and academic inputs; and second, he uses his own, what could be called, field or lived experience to enhance his contribution.

Prior to 1994, he observes that corporate governance had the following features:

- the dominance of powerful individuals, family trusts and groups sharing common social, cultural, linguistic norms, bound together outside the boardrooms through old school, club, societal, church, sports and other networks including *secret societies* (e.g. Broederbond, Freemasons – italics are the researcher's emphasis);

- a strong presence of major western companies on the boards of South Africa's powerful conglomerates or their subsidiaries;
- board charters, sub-committees such as Audit, Remuneration and Risk, shareholder compacts and so on were mostly unknown, and not generally the norm in governance structures;
- annual general meetings were perfunctory and predictable gatherings that rubber stamped the Board (that is, Chairman's) decisions, and shareholder activism was unheard of; and,
- "Writers including Stefan Andreasson (2011) observe that as late as the early 1990s a sound corporate governance culture based on transparency and disclosure were muted or stifled."

Ahead of the transition from apartheid to post-apartheid democracy, corporate South Africa began the process of embedding corporate governance. Mervyn King was tasked with drawing up guidelines – a set of non-binding codes known as the King Codes of Good Governance. Since then, these have been refined and strengthened, and have been adopted even by the SOC and public sector. The King Codes of Good Governance advocated an integrated approach to good governance, focussing on the shareholder/management divide, debated for a sole board, with a strong element of properly constituted and well informed board members including a majority of independent non-executive directors, and stressing the fundamental principles of sound financial, social, ethical and environment practices administered by a number of relatively independent board sub-committees. Good corporate governance further expects an acknowledgement that an organisation doesn't operate in a vacuum, but is an integral part of society and therefore has accountability towards different stakeholders.

On the other hand, Maroun and Cerbone (2020) state that South Africa offers an interesting case study for examining developments in corporate governance practices and how information is being reported to stakeholders. As a major African economy, South Africa displays a significant gross-domestic product relative to its neighbouring countries and a fairly diverse economy. South Africa has a well-developed and

regulated capital market, ranks among the top in the world for the quality of its financial reporting and assurance practices as per the World Economic Forum report of 2018 and is widely regarded as a pioneer in corporate governance and emerging forms of external reporting, including integrated reporting.

They say this should be in contrast with lethargic economic growth, high levels of inequality, extensive corruption in the public sector and a colonial legacy which has been difficult to overcome despite more than 20 years of democracy. In this way, while South Africa maintains a “first world” financial market infrastructure, it is also a developing economy which faces a host of economic, social and political challenges which are likely to influence the development and application of codes of best practice dealing with corporate governance.

Padayachee (2013) notes that South Africa’s corporate governance practice has been influenced by the Anglo-American developments (such as the Combined Code in the UK).

Locke (2020) states that South Africa was only the second country after the United Kingdom to publish a shareholder stewardship code. The Code for Responsible Investment in South Africa (CRISA), published in 2011, was guided by the United Nations Principles of Responsible Investment and with prominence on responsible investing over and above shareholder engagement principles. The Institute of Directors South Africa (IoDSA) was also the initiator of this Code, but its secretariat has since moved to the Association for Savings and Investment South Africa (“ASISA”), an industry body representing asset managers.

Van Zyl & Mans-Kemp (2020) cite that “corporate governance models could be categorised as Anglo-American, European or Japanese”. They reiterate that according to Reed (2002), developing countries including South Africa support the Anglo-American model. Shareholders are regarded as critical corporate governance participants when this model is adopted. Corporate governance research largely stems from the agency theory that is based on the complex relationships between shareholders and managers. While shareholders expect that managers will make

decisions that are in their best interests, managers' actions might be driven by self-interest. Corporate governance guidelines are, therefore, developed to assist boards in managing and aligning different stakeholders' interests. The agency theory will be elaborated in one of the coming chapters.

Padayachee (2013) observed that King was moderate in the beginning. For example, given the role of founding families in South Africa's business sector, he accepted that combining the roles of chairman and CEO could continue even though the preference would be following the international trend of having the two roles performed by different individuals.

Indeed, it would be years before the split of the two positions happened. Over time, too, several changes have taken place. Two are worth noting: first, a cool-off period has been observed; and second, in instances where a non-executive chairman is deemed not sufficiently independent, a role of a lead independent director has been created as a check and balance.

The "cool-off" has been necessitated by, for example, by a chief executive retiring from day-to-day running of the company only to return a few years later as its chairman. Two cases are worth citing here to illustrate this point: in South Africa's private sector, Koos Bekker, who used to run Naspers, a large media group listed in Johannesburg and Europe stock exchanges, took a sabbatical after retiring as the company's chief executive and returned years later to become its chairman. In the public sector, Mafika Mkwanazi returned to become non-executive chairman of Transnet, the state-owned freight logistics company. Earlier, he had run Transnet as its chief executive.

For years, businessman Siphon Nkosi, who ran Exxaro, the mining company, served as a lead independent non-executive director at Sanlam, the insurance group. This was while Johan van Zyl, formerly the group's chief executive officer, served as Sanlam chairman for long enough to be considered not adequately independent. Once

he stepped down and an outsider, Elias Masilela, was appointed chairman, the role of lead independent director was discontinued.

A further post-apartheid development in South Africa's corporate governance has been the racial and gender diversification of corporate boards. Regrettably, this positive trend – of race and gender inclusivity – has been undermined by the appointment of what Padayachee (2013) describes as the “usual suspects” – a reference to a small pool of black, African and women and men onto previously whites-only boards of directors.

This small pool is not the result of lack of black, African or women talent. Rather it is partly the result of the informal manner in which non-executive directors are recruited. In most instances, it is an agreement between the chairman and CEO.

Over time, however, South African companies have sought to formalise the recruitment process. Most listed companies and SOCs have nominations and governance committees. Amongst the many tasks of the nominations and governance committees are the issues of dealing with non-executive director recruitment and directors' rotation and continuously assessing the independence of incumbent directors.

Padayachee (2013) believes that King did little earlier in providing guidance on the process of nominations, “the composition of the nominations committee, etc, key elements in ensuring the independence of non-executive directors from management (Malherbe and Segal 2001: 51)”.

Related to this has been the level of disclosure is another feature. Increasingly, shareholders are requiring greater transparency around the number of boards each director sits on. The fewer the better. The logic here is that many boards can distract

a director and make it harder for them to give time to all the companies on whose boards they serve.

Despite the many changes on the boards, available literature reviewed shows little evidence that the value system of boards in South Africa has changed. “Wendy Luhabe (a businesswoman), who has served on many board since the beginning of the transition, observes that in the end ‘company boards have a habitual way of working which is preoccupied with shareholder returns and financial performance to the exclusion of other equally legitimate issues in business (Padayachee, 2013).

Although South Africa’s corporate governance is well regarded – with the World Bank ranking it higher – it has been set back, somewhat, by the advent of private equity firms. Padayachee writes that despite the many benefits of private equity firms to the wider economy, this industry appears driven by the bid to avoid adherence to highest standards of corporate governance.

More concerning, too, is a trend by private equity owners to delist the companies they take over soon after acquiring them. An unlisted company has far fewer laws and codes, especially disclosure requirements, to comply with compared to listed ones.

For example, after being bought by Bain Capital, Edcon, a South African retail group, was delisted.

There have been two other notable developments in corporate governance in South Africa. First, the entry and rise of a new class of players: institutional shareholder advisory services or proxy managers. These are consultancies that research and prepare reports to guide institutional shareholders or asset managers on how to vote on a range of issues during annual general meetings on resolutions including executive remuneration, re-election of directors, acquisition of new assets and so on. The most prominent one is Institutional Shareholder Services (ISS) which is based in

London, United Kingdom. It describes itself as a “leading provider of corporate governance and responsible investment solutions, market intelligence, fund services, and events and editorial content for institutional investors and corporations, globally... Governance offerings include objective governance research and recommendations, and end-to-end proxy voting solutions. Institutional clients have long turned to ISS to apply their corporate governance views, identify environmental, social and governance risk, and manage their complete proxy voting needs on a global basis” (<https://www.issgovernance.com/about/about-iss>). These organisations’ power has grown in the recent past. Directors who are overstretched or have integrity issues are voted down as a result of advice notes of these organisations.

Indeed, the proxy advisers are not applicable to both unlisted companies and SOCs in South Africa.

One issue that is being rethought is the proposal to have worker representation on boards of companies. This is quite apart from the normal bargaining arrangements through which unions are allowed to organise unions within a company if they meet a certain threshold of membership. Since between the 1980s to mid-1990s, unions have enjoyed greater freedoms especially as a result of the enactment of two pieces of laws: namely, the Basic Conditions of Employment Act, and the Labour Relations Act. In 2022, the Minister of Labour and Employment Thulas Nxesi ordered a review of both acts at the National Economic Development and Labour Council (Nedlac), a statutory body bringing together government, labour unions, civil society and business.

Initially, both trade unions and the Department of Trade, Industry and Competition (“the DTIC”) were opposed to the idea of worker representation on boards of companies. In theory, at least, this would mean a departure from the Anglo-American model (where there is one board) towards the German-Japanese which espouses two-tier boards or what this researcher believes to be a hybrid version of the two models. In the latter model, trade unionists or people with labour union backgrounds are appointed onto the single board, as referenced elsewhere in this report.

Padayachee believes both the DTIC and King 2 were of the view that worker representation on boards of companies is inconsistent with good corporate governance, and would carry “vested interests rather than company-wide interest in the Board. The DTIC view is that two-tiered board (is) ‘too costly’ or inefficient or will deter investment or is otherwise undesirable (in Spisto 2005:95)”.

SOCs – like energy utility Eskom and the Industrial Development Corporation – have in the past appointed former and incumbent trade union leaders onto their boards. It remains unclear whether this move made these SOC’s unattractive to funders and bondholders.

In 2019, the Minister of Trade, Industry and Competition Ebrahim Patel tabled proposals to amend the Companies Act. Among others, there was a proposal for the act to be amended to allow worker representatives onto boards of companies. This was resisted by business representatives.

2.3 Principles of Corporate Governance

In their paper, “Corporate Governance Practices and Challenges in Africa”, Ayandele and Isichei (2013) list the following principles from the Organisation for Economic Cooperation and Development (OECD) in 2004: disclosure and transparency; the responsibilities of the board of directors; equitable treatment of all shareholders; and rights of shareholders. Further iterations in 2009 expanded the list of principles to include: honesty among all company’s stakeholders especially in instances of conflicts of interest; accountability of employees, directors and management; integrity and avoidance of situations that will compromise management, directors and employees in decision making; and selflessness.

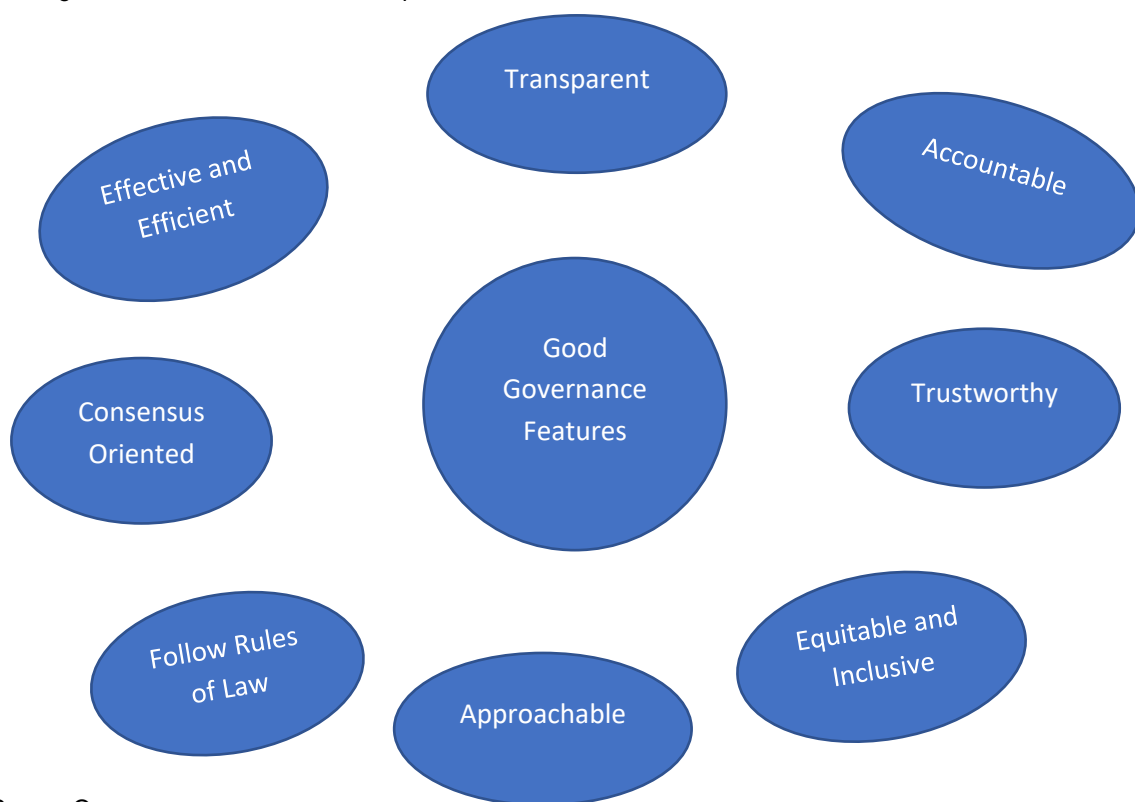
These are very important principles and commitments. But, ultimately, their successful implementation depends, this researcher argues, on ethics of individuals. Ethics, that which is practiced when no one is watching, determine success. Humans are fallible. Traits such as greed can lead to catastrophic corporate failures. As will be seen later in the report, the SABC’s corporate governance challenges occurred despite having systems in place to avoid governance breaches. There is, however, hope that the

vigilance and strengthening of corporate governance systems – including stiff financial penalties for collusive practices – may deter individuals from abusing their privileged access to market sensitive inside corporate information that is not available to outsiders.

The other emerging risk to adherence to these principles is the fact that the majority of non-executive independent directors are entitled to – and do draw – lucrative fees from the companies they are supervising. Whilst these fees are not as high as the remuneration earned by executives and executive directors, they remain considerable both in the private sector as well as in the SOC sector. Also, the more meetings the board has, the higher are the fees. The danger is whether this compensation has no effect on the independence of independent nonexecutive directors.

Perhaps, the discourse on executive remuneration will lead to discussion about appropriate fees to be levied by the independent non-executive directors, and the role of independent board evaluation exercises.

Figure 2: Good Governance Principles



Source:Own

2.4 Definitions of Corporate Governance

There are many definitions of corporate governance. But the common elements include references to organisational structures, systems, codes and processes. In their paper, “Fundamental and Ethics Theories of Corporate Governance,” Abdulla and Valentine (2009) trace the origins of the term “corporate governance” to a Greek word “kyberman”, meaning “to steer, guide or govern”, and is applicable to all sorts of organisations and companies. Put differently, corporate governance refers to systems, processes and structures by which companies are governed or run.

Ayandele and Isichei (2013) see corporate governance as the manner in which the power of the corporation is exercised in the stewardship of the corporation’s total portfolio of assets and liabilities with the objective of maintaining and increasing shareholders’ value and satisfaction of other stakeholders in the context of its corporate mission. Using this definition, it could be gleaned that corporate governance refers to the distribution of power to various players in and outside the organisation.

The players in corporate governance typically include owners/shareholders, executive management, employees, communities, governments and increasingly regulators.

As well as being driven by role players – internal and external actors – corporate governance finds expression through a series of codes, board charter, terms of reference of various board committees and those of the executive committee, protocols, statutes and structures. Examples in this regard include documents such as the memorandum of incorporation (Moi), shareholder’s compact, policies such as code of ethics, how to deal with conflicts of interests, disclosure requirements, voting procedures and allocation of votes’ weighting among different classes of shareholders, and procedures and protocols on how to appoint independent non-executive directors onto the board of a company.

In South Africa's case, for example, the key drivers of corporate governance are the various versions of the Companies Act No.71 of 2008. During this paper's preparation this act was being amended by South Africa's sixth parliament. This could be regarded as the "hard" version of corporate governance. For decades, this piece of legislation has guided South Africa's capitalism from apartheid days to the dawn of all-race democracy in 1994. Over time, the Companies Act has evolved. The language, previously couched in guidance terms, has changed into prescriptive tones and contents. For example, the latest versions – after 1994 – contain a section that spells out the role of directors of the company.

In the case of state-owned companies (SOCs), including the SABC, the subject of this research report, corporate governance is also prescribed and spelled out in such documents as the founding or enabling legislation. A case in point here is the Broadcasting Act which sets out, among others, the nature and mandate of the SABC and how its board post-1994 is constituted including the division of power between independent, non-executive directors and the internal executive directors (such the chief executive officer and chief financial officer including, lately, the position of chief operations officer).

In addition to enabling laws, SOCs are also subject to the prescripts of the Public Finance Management Act (something private, publicly listed companies are not required to observe) and the Protocol on Corporate Governance of 2002 by the Department of Public Enterprises, according to Padayachee (2013) in "Corporate Governance in South Africa: from 'Old Boys Club' to 'Ubuntu.'"

Effective corporate governance is measured, among others, by the frequency of special board meetings (the fewer the better), the size of the board, whether there's only a unitary board or both a supervisory and management boards, and whether the positions of chairman and chief executive officer are held by a single individual or ideally two separate persons with different roles and responsibilities.

The “softer” version of corporate governance is contained in various versions of the King Codes of Good Corporate Governance which were introduced as apartheid was in its final years after 1990. Initially meant for publicly-listed companies, these codes have since also been adopted by the SOCs. Although non-binding, hence the phrase ‘softer’, the codes have been widely embraced in South Africa and have contributed to the growing separation of the holders of positions of chief executive and that of chairman.

Padayachee (2013) notes that corporate governance can broadly fall into two systems: first, “an Anglo-American model that emphasises shareholder rights, wealth maximisation and outsider control; (and second) a German-Japanese model that incorporates different stakeholders’ interests, and relies on insider control.”

One of the distinguishing features of the two models is that the dominant Anglo-American prioritises profit maximisation (one stakeholder’s interests) and places responsibility on boards (of directors) made up of outsiders with various skills sets. The German-Japanese one is known for two boards – a supervisory one and a management one – and are “open to employee representatives with rights equal to shareholder representatives, as one way to develop checks and balances of power” (Padayachee, 2013).

Various South African SOCs have experimented, without changing laws and Mols, with the appointment of labour unionists onto boards of directors. For example, during his tenure as general secretary of the Congress of SA Trade Unions (Cosatu), Zwelinzima Vavi, served as a non-executive director of the state-owned Industrial Development Corporation (IDC). Similarly, Frans Baleni, formerly the general secretary of the National Union of Mineworkers (NUM), served on the board of the state-owned Development Bank of Southern Africa, and, Bheki Ntshalintshali, Vavi’s immediate successor at Cosatu, served on the board of Eskom, the power utility, as a non-executive director.

Even though the Department of Trade, Industry and Competition (DTIC) was initially opposed to worker representatives onto boards of companies, the stance has changed. Amendments to the Companies Bill of 2021 include a requirement for worker representatives on the boards of companies.

The dominant model also tends to have smaller boards, whilst the German-Japanese one boasts larger boards. At one point, notes Padayachee, that Toyota's board had 60 individuals with only one external appointee. The jury is still out whether the Anglo-American model, which has been adopted by many African countries, provides better guarantee of corporate success or indeed whether it assures effective corporate governance.

However, before going any further, it is important to establish a common understanding of what is meant by corporate governance in this context.

Lazenby (2014); Hossain, Enam and Hasan, (2017); & Zou, (2019) broadly define corporate governance as entailing a process/system/structure for decision making, accountability and control by an organisation to achieve its objectives. Although there are varied definitions of corporate governance, the common thread running through them includes a set of processes and structures to control and direct an organisation. Ching et al (2006) further state that corporate governance comprises a set of rules, which govern the relationships between management, shareholders and other stakeholders such as communities, employees, regulators and governments. This is important as it introduces the critical role players in the governance matrix.

Corporate governance is regarded as a critical element for SABC's business success and the corporation is obliged to ensuring that good governance is applied for its sustainability and viability. This is a responsibility that is adopted at all levels of the SABC. The SABC ensures that its processes and practices are reviewed on an ongoing basis to ensure compliance with relevant legislative requirements, the use of funds in an economic, efficient and effective manner, and adherence to good corporate

governance practices that are continually benchmarked locally and internationally. Processes and practices are supported by the principles of openness, integrity, and accountability and an inclusive approach that accepts the importance of all stakeholders with respect to the viability and sustainability of the SABC. It is for this reason the SABC is guided by the principles of King IV on Corporate Governance for South Africa (SABC Annual Report, 2018).

In the case of South Africa, the King Commission on Corporate Governance was established to develop a set of non-binding corporate governance guidelines mainly for the private sector. These were later adapted for, and adopted by, state-owned companies (SOCs). The non-statutory practice of corporate governance has been shaped over the years by King I (1994), King II (2002), King III (2009) and now King IV (2016). SOCs are also expected to comply with them. The applicable definition of corporate governance used in this study includes elements of King IV definition as it includes reference to ethics. For instance, King IV widens the definition of corporate governance to include ethical and effective leadership by the Board in its goal to achieve an ethical culture, good performance, effective control and legitimacy of leadership. The aspects of King IV to be analysed in order to find out the problem at the SABC will be leadership, organisational ethics, governing structures and delegation of authority framework.

However, King III is applicable in defining the roles and responsibilities of the board in terms of corporate governance. For example, King III, principle 2.1 mentions that “the board should act as a focal point for and custodian of corporate governance.” It also sets out requirements for the board and its purposes, what needs to be in place and criteria to be met to be appointed to the board. So both King III and King IV are analysed as they reinforce each other. Zattoni et al. (2013) note that there are few, if underdeveloped, qualitative studies on corporate governance in Africa, and more developed ones in the UK and continental Europe. These are published in European journals and tend to focus on boards of directors more than other role players including corporate governance related practices.

In the case of the SABC, the qualitative studies on corporate governance were specifically focusing on the existence and degree of compliance and monitoring, political interference, its independence and fulfilment of the public mandate. There is little, if any, research that focuses on the main barriers to effective corporate governance. So, the value of this study is to increase the present knowledge in the area of corporate governance especially in public broadcasting in South Africa through the lens of the SABC which is a public good.

In South Africa, the issue of corporate governance has, quite rightly, attracted attention since 1994 when South Africa opened up to global opportunities and embraced global best-in-class institutional rules and practices. The country was strongly committed to keeping up with developments in global corporate governance (Padayachee, 2013). During the apartheid era, the notion of corporate governance culture was in its infancy. Thabane & Snyman van Deventer (2018) mention that corporate governance is an important issue in South Africa, especially in the public sector where corporate scandals, poor financial performance and governance failures have plagued SOCs in recent years. Owing to low levels of citizens' trust resulting from the scandals in public institutions, there is a fresh focus on efforts to strengthen adherence to the highest standards of corporate governance, and the SABC has been no exception. For example, as this research was being conducted, the South African government had established a panel of experts through a structure called Presidential State-Owned Enterprises Advisory Council to advise the President of the Republic on SOCs. This underscores the importance of the role being played by SOCs.

A review and content analysis of qualitative corporate governance studies demonstrate that they have grown in numbers since the 1990s but there is still a minimal body of published work on corporate governance. A range of disciplines have been used in these studies, predominantly management, with implementation of a wide range of methods, including interview, often in combination with other methods to get a better understanding and justification of corporate governance phenomenon. Ahrens et al. (2009) observe that it is necessary to have studies of corporate governance practice that address interactions and key relationships between various

corporate governance practitioners, as well as focusing on formal and informal corporate governance structures and processes.

On the other hand, the definitions mentioned above alone do not give the full understanding of what corporate governance is and how to implement it effectively. Therefore, there is a need to consider theoretical frameworks and methodologies that contribute to enriching the knowledge of corporate governance issues at the SABC and assist in enhancing the texture of future debate. This is undertaken in the next section.

2.5 Corporate governance at the SABC – a theoretical framework

According to Abdullah & Valentine (2009) the fundamental theories in corporate governance are agency theory, stewardship theory, stakeholder theory, resource dependency theory, transaction cost theory, political theory, shareholder and ethics theories. However, for the purpose of this study, not all of these theories are considered. Still they are defined in the body of the study. The emphasis is on agency theory, stakeholder theory, stewardship theory, political theory and shareholder theory because they are better placed to understand corporate governance issues faced by the SABC.

2.5.1 Agency Theory

Abdullah & Vallentine (2019) define agency theory as one dealing with the relationship between the shareholder (“principal”) and executives (“agents”) where executives are appointed and entrusted by the shareholder to run and make decisions on behalf of the organisation. It was introduced to achieve a separation of ownership and control. The challenge with this theory is that executives may be expected to make decisions that will benefit and suit the shareholder, but in reality executives do not necessarily conform to that expectation. The shareholder sees itself as an owner of decisions whereas executives feel they are in control of decisions to be made. The application of this theory may be a challenge in corporate governance structures, because

executives are appointed to establish proper governance structures and processes instead of taking care of shareholder's interests and needs.

Croucher & Miles (2010) look at the role of employees as stakeholders in the application of corporate governance in the life of a company. They do so through two sets of lenses – first, the “hard law” or statutes, and second, “soft law”, a set of non-binding or voluntary codes such as the several iterations of the King Code of corporate governance. Their submission is that employees are not just passive participants in the affairs of the company. They, individually and collectively or through their representatives, have agency.

This suggestion is supported by the corporate governance approach used by Thabane and Snyman-Van Deventer (2018). Their approach encompasses the systems and structures as well as the actors within what could be regarded as an ecosystem of governance which is complex in an SOC setting especially in South Africa and, perhaps, across the African continent. This is because the interplay between various actors, structures and systems is not uniform in the SOC environment.

Thabane & Snyman-Van Deventer (2018) further write that, “governments may also run public corporations to improve labour relations in strategic economic sectors, limit private and foreign control of the domestic economy, generate public funds for the fiscus, increase service delivery, and encourage economic development and industrialization”. They look at the problems facing South Africa's SOCs through the prism of theory especially agency and stewardship theories. This approach helps to highlight the unique problems faced by the SOCs.

Thabane & Snyman-van Deventer (2018) attribute some of the SABC problems to corporate governance as a result of agency theory application by the minister and management. For instance, the minister would want to act as an owner of the entity and oversee it whereas there is management team in charge of the day-to-day affairs of the organisation. Sometimes there will be political pressure that forces the minister to take that decision where party politicians would like the minister to be in control and make decisions that will serve party interests and forget about the public interests.

Most of the SOCs including the SABC find themselves caught up in this dilemma. Daily; Dalton, & Cannella, A.A (2003) note that agency theory is one of the most used

theories in corporate governance. This assesses the behavioural and structural relationship of the shareholder and the executive management respectively. This assertion is not different with public organisations.

Dallago & Iwasaki (2007) suggest that corporate governance procedures and standards can provide an answer to this ownership and control dilemma by defining how corporate rights and duties are managed within organisations which lead to proper decision-making processes and control distribution. But the first step will be to create a corporate governance structure which is the board which will monitor and assess the behavioural aspect of the agent through corporate governance procedures and standards.

2.5.2 Stewardship Theory

The agent theory is connected with the stewardship theory. Davis et al. (1997) describe stewardship theory as one where “a steward protects and maximises shareholders’ wealth through firm performance, because by so doing, the steward’s utility functions are maximised”. It means there is also a relationship between the shareholder and executives as stewards. The difference here is that the shareholder and stewards choose to act as stewards and work together to achieve the same goal instead of enriching their narrow self-interests. This behaviour impacts positively on the performance of the organisation and contributes towards its success. In this case, the shareholder gives the stewards independence built on trust and accepts the corporate governance structures established in order to maximise the shareholder’s profits and at the same time the stewards will be seen as effective stewards of their organisations.

Table 1: Summary of Agency and Stewardship Theoretical Elements

	Agency Theory	Stewardship Theory
What	Based on the principal-manager employment relationship: describes the behaviour of the parties and the resulting structural mechanisms of the organization	Based on the principal-manager employment relationship: describes the behaviour of the parties and the resulting structural mechanisms of the organization
How	Performance: principal enacts governance mechanisms to curb an agent’s unethical behaviour	Performance: principal creates an environment conducive to facilitating a steward’s pro-organisational behaviour
Why	Economic model of man: individual/self-serving	Humanistic model of man: collective/other-serving

Source:Whetten (1989)

Whetten (1989) mentions that both theories seek to address the same *what*. Agency theory and stewardship theory are based on the principal-manager employment relationship, and describe the behaviour of the parties and the resulting structure of the organisation. Likewise, both theories seek to address the same outcome, firm performance (Davis et al., 1997; Fama and Jensen, 1983; Tosi et al., 2003). However, the theories differ in the *how* and *why*. Agency theory indicates that increased performance is the result of the principal applying governance structures to control the unethical behaviour of the agent, based on the assumed self-serving agenda whereas stewardship theory implies increased performance is the result of the principal encouraging a governance structure that empowers and motivates pro-organisational behaviour of the steward based on the assumed shared interest.

2.5.3 Stakeholder Theory

Fauzia, Yusoff and Alhaji (2012) state that the stakeholder theory focuses on the issues concerning the stakeholders in an institution. It stipulates that a corporate entity seeks to provide a balance between the interests of its diverse stakeholders in order to ensure that each interest group receives some degree of satisfaction (Abrams, 1951). However, there is an argument that the theory is restricted (Coleman, 2008: 4) because it identifies the shareholders as the only interest group of a corporate entity. However, the stakeholder theory is better in explaining the role of corporate governance than the agency theory by highlighting different groups of an organisation (Coleman, 2008: 4). It has become more important because many researchers have recognised that the activities of a corporate entity influence the external environment requiring accountability of the organisation to a wider universe than simply its shareholders. This theory should apply more on public entities as they need to also be accountable to the wider public.

2.5.4 Political Theory

Political theory is about political influence in the governance structure of a company. Having political influence in corporate governance may direct corporate governance within the organisation. Public interest is much reserved as the government participates in corporate decision making, taking into consideration cultural

challenges. The political model stresses the allocation of corporate power, and profits and privileges are determined mainly in government's favour. The political model of corporate governance can have a huge influence on governance development.

A range of theories will help to create, explain and enhance meditating about corporate governance challenges as well as meanings, practices, processes and relationships associated with the concept. A combination of various theories is viewed as the best route to describe effective and good corporate governance practices rather than theorising about corporate governance based on a single theory (Abdullah & Valentine, 2009).

2.6 Corporate governance at the SABC – a legislative framework

The SABC is managed by the Board of Directors which is recommended by the Parliamentary Portfolio Committee on Communications and Digital Technologies. The Board members are mainly non-executive directors. The Communications and Digital Technologies Portfolio Committee then recommends to the National Assembly which finally recommends the proposed names to the President of the Republic of South Africa. The final approval and appointment is done by the President. The appointed Board of Directors in turn appoints the GCEO to manage the entire business.

In terms of legislative framework, the SABC is expected to comply with the Broadcasting Act No.4 of 1999, the Public Financial Management Act No.1 of 1999 (PFMA) and the Companies Act No. 71 of 2008. In addition, it also has to adhere to provisions of the King Codes of Corporate Governance, the government-inspired Protocol on Corporate Governance in the Public Sector as well as its Memorandum of Incorporation. Together these shape the SABC's corporate governance environment and are meant to promote effective and good corporate governance. The key legislation upon which corporate governance rests in South Africa is the Companies Act No. 71 of 2008. This is significant in two senses: first, it brings all the historical features of corporate law including aspects of the apartheid era borrowed from South Africa's colonial power, the UK; and second, it includes post-apartheid era improvements as well as modernisations to incorporate lessons from international corporate governance failures. Unlike soft law such as the King Codes, the hard law

like the Companies Act No.71 of 2008 is prescriptive and binding. For example, Section 76 of the Companies Act No.71 of 2008 spells out the duties of directors.

On the other hand, soft laws or the non-binding codes, such as various versions of the King Codes of corporate governance, have gained prominence in South Africa. Like the Companies Act No.71 of 2008, these codes have sought to keep abreast of South Africa's post-apartheid character as a constitutional democracy, and, over time, the language of the text in both laws and codes has become stronger and more directional.

Having the employee rights recognised by hard and soft laws is one part of advancing workers' and, indeed, all stakeholders' interests. But having them exercised and asserted is another part. The efficacy of soft laws will depend on other factors including the judiciary in South Africa, as recognised by Croucher and Miles (2010). This input is valuable as it also notes the difficulty of enforcing soft laws as a tool of effective corporate governance. The challenges include the voluntary nature as well as the fact that the fulfilment of the non-financial targets by the company is not as measurable as, say, the costs, income, loss or assets and liabilities (Croucher and Miles, 2010).

In a private sector setting, roles between different actors are much clearer and better defined. Shareholders or owners of the company appoint directors to run the company on their behalf with minimal interference. The directors appoint executives to manage the day-to-day operations of the firm. In SOCs, these roles are not as clear cut as that. In an SOC setting, the ultimate owners or shareholders of an SOC are the South African public. In theory at least, the South African public exercises its rights through the state via various shareholder representative ministries – for example, the Department of Public Enterprises (for SAA) and the Department of Communications and Digital Technologies (or DCDT for the SABC). The owners – and their representatives (ministries) – appoint boards which, in turn, appoint executives to run a particular SOC. This does not always occur though, as aptly recognised by Thabane and Snyman-Van Deventer (2018). For example, in the case of the SABC, the board is appointed by the President of the Republic on the recommendation of Parliament.

Firstly, perhaps, conflicting objectives occur because they are mandated by legislation – for instance the SABC has both a public service mandate and a commercial mandate in order to make profit and be self-sustainable in terms of the Broadcasting Act No 4 of 1999. Organisationally, it has the hybrid structures of a commercial broadcaster and

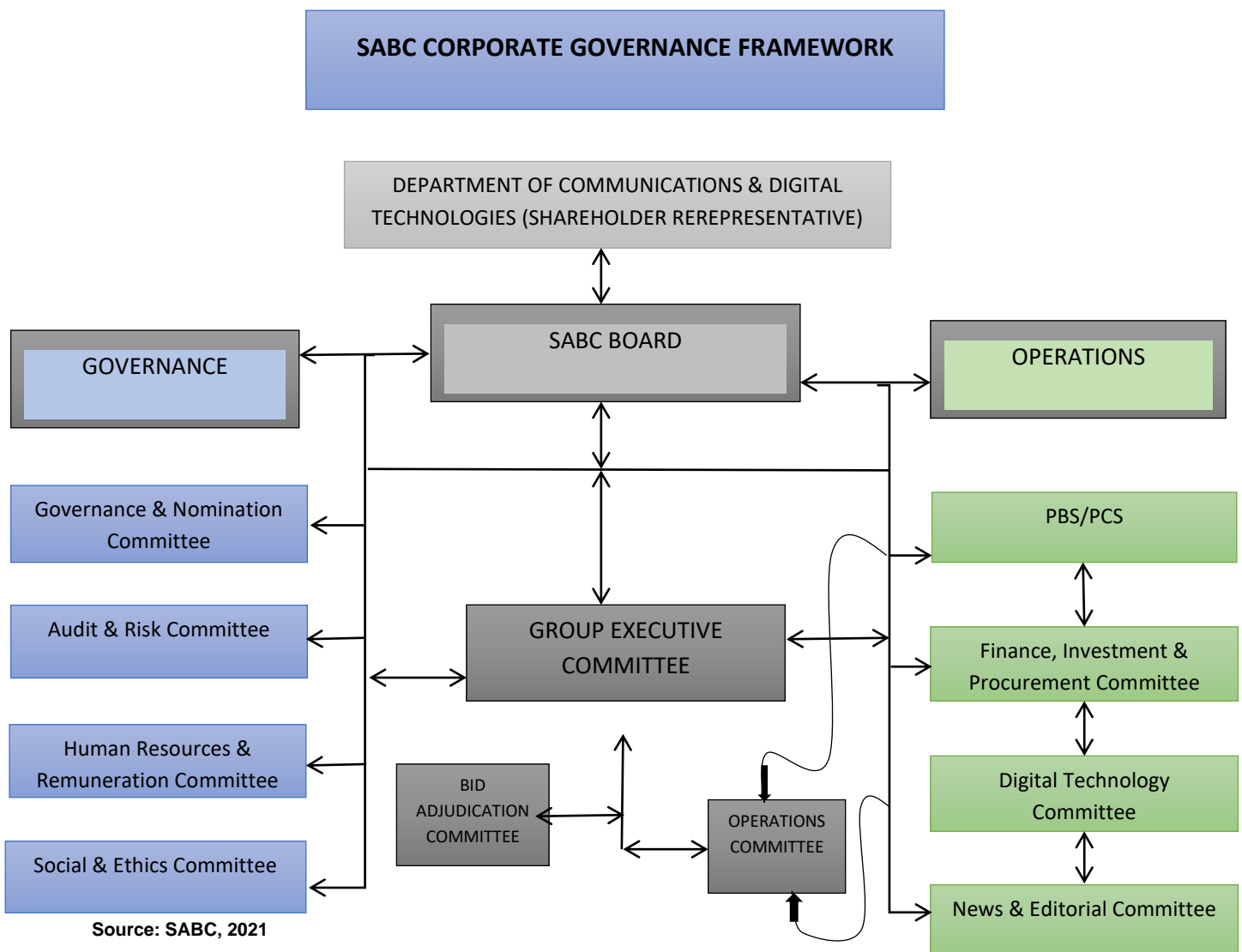
a public broadcaster. Government, as the shareholder, is in a position to influence any decisions of its portfolio of enterprises. For example, the DCDT and National Treasury might have different objectives for the SABC. The National Treasury might be concerned primarily with the impact of SABC on the national budget and in operating efficiently and embracing financial accountability as stipulated in the Public Finance Management Act No.1 of 1999 (PFMA), whereas the DCDT might be more interested in the production of more local content with less regard to costs as stipulated in the Broadcasting Act No.4 of 1999. The board might be pressurised by the shareholder to make decisions that favour it and result in the board flouting corporate governance principles. These conflicting objectives do confuse organisations and eventually affect their financial performance (Wong, 2004).

Secondly, it seems to this researcher that political interference is another possible corporate governance challenge experienced by SOC boards. According to Wong (2014) in some organisations, board members are appointed based on their political affiliation without looking at whether they are qualified and committed to occupy those positions. As a result, board members aligned to politics are a problem as most of the time they are not interested in achieving performance targets of the organisation but will provide opportunities for ad hoc interventions to satisfy political needs. A case in point is the SABC where Hlaudi Motsoeneng, who was affiliated to the African National Congress (ANC) and a former SABC Chief Operations Officer without qualifications appeared to wield more powers than the board, a point noted by Thabane and Snyman-Van Deventer (2018) and, most recently, borne out by testimonies of several witnesses before a parliamentary inquiry into the affairs of the SABC. However, after his dismissal, Motsoeneng left the ANC and founded a new political party called the African Content Movement (ACM) in 2018.

The SABC Board comprises of 15 members: three (3) executive and twelve (12) non-executive directors, with a majority of non-executive directors to ensure independence and objectivity in decision-making. The SABC Board's responsibilities are supported by a governance structure of Board Committees and a clear and comprehensive Delegation of Authority ("the DoA") Framework. There are a number of Board Committees that are there to assist the Board in discharging its responsibilities. Each Committee operates within the scope of its defined Terms of Reference that set out

the composition, role, and responsibilities, delegated authority and meeting requirements of each committee. The Government of the Republic of South Africa is the sole shareholder of the SABC. The Minister of Communications and Digital Technologies is the shareholder representative. Therefore the SABC Board is accountable to the executive authority/shareholder, which is the Department of Communications and Digital Technologies (SABC Annual Report 2021/2022).

Figure 3: SABC Corporate Governance Framework



2.7 International Corporate Governance Best Practice

To better understand the SABC's corporate governance, it is important to briefly discuss corporate governance framework and model which have been implemented

by the British Broadcasting Corporation (“the BBC”). The selection of the BBC is being informed by two interrelated reasons: first, the similarities in the two institutions – both are public broadcasters; and second, because of South Africa’s historical ties with Great Britain (the former was the latter’s colony). In addition, the governance models have strong parallels which make comparative analysis credible. Yet, the researcher will also seek to highlight differences in the governance models. The BBC is a public broadcaster and is funded by government mainly through license fees collection. Amongst others, it is governed by the BBC Charter and Framework Agreement. It is independent in all matters relating to the fulfilment of its public mandate and management of its affairs. Its mission is to act impartially in serving public interests (Broadcasting Royal Charter, 2016). The BBC is run by an independent board which is responsible for the strategic direction of all the BBC businesses in accordance with the provisions set out in the Charter and the Framework Agreement.

The Broadcasting Royal Charter (2016) stipulates that the board must have 14 members with 10 non-executive members and four executive members. The chair and four non-executive members representing the four nations are appointed by the King-in-Council in the recommendation of Ministers, with one member representing each of the four nations of the UK. The BBC Board appoints a further five non-executive members through its Nominations Committee. There are four executive directors on the Board, including the BBC’s Director-General who is the Corporation’s chief executive officer and editor-in-chief - the four executive members are chosen by the board. One of the non-executive members gets selected by the non-executive members in consultation and agreement with the Secretary of the State to act as Senior Independent Director who shall exercise a role that accords with the generally principles of good corporate governance – which means this member shall sustain and protect BBC’s independence by acting in the public interest and exercising independent judgement. The BBC board members are known as being highly professional, independent and non-political.

In the case of SABC, the Companies Act No.71 of 2008 is the first law to be complied with after the Constitution of the Republic of South Africa No.108 of 1996. The second is the Broadcasting Act No.4 of 1999 and then the Public Finance Management Act No.1 of 1999. In terms of the Broadcasting Act, the Minister of Communications does

not have the power to appoint the board. The board is appointed through a parliamentary process that includes the National Assembly making recommendations to the President of the Republic. The involvement of the executive arm of government (through the President) in the appointment and removal of the board members effectively but subtly introduces politics in the corporate governance of the SABC. While the BBC has a senior non-executive director member, the SABC has a deputy chairperson. In the private sector, this is an anomaly. Instead, in the private sector boards, the norm in well governed companies is to have a lead independent non-executive director as part of safeguards for independence and stronger governance especially in instances where the chairman is deemed as insufficiently independent as referenced earlier in this report. As in the case of the BBC, the Director-General (the de facto Chief Executive Officer) is also the editor-in-chief of the organisation. This has been the case with the SABC until recently. This practice has since been discontinued: the editor-in-chief role is now being performed by the Group Executive for news and current affairs, a professional journalist by training. This is an important distinction.

2.8 An Overview of Corporate governance in Africa

Regrettably, literature on corporate governance in Africa is limited, and a bit out of date which makes analysis challenging. Of the limited literature that exists, the prevalent view is not encouraging. Ayandele and Isichei (2013) note that even though corporate governance has been in existence for centuries in the developing world, it became only a feature in Africa *save for South Africa* (the italics are the researcher's emphasis) "in the beginning of the 1980s". According to Soyibo et al (2002), "the term good governance was first mentioned in 1989 World Bank report on sub-Saharan Africa but since the 1990s many donor agencies have sought the pursuit of good governance."

This is understandable. Most African economies were largely underdeveloped and companies that existed were mainly state-owned soon after the end of colonialism, and much of Africa's economies were informal with no debt capital markets to speak of. This picture would change, somewhat, with the advent of donor agencies, foreign

aid and structural adjustment programmes (SAPs) which advocated for privatisations of the state monopolies.

The other objective circumstances for the uneven application of corporate governance in Africa is lack of capacity, “interlocking relationships between government and financial sectors, weak legal and judiciary and limited human resources capabilities. Corporate governance structures in developing countries are generally weak,” observe Ayandele and Isichei (2013). These challenges are worsened by corruption. Damningly, the 2013 paper concludes that corporate governance practices in “most African countries are ineffective, inefficient and have ultimately failed.”

Ayandele & Isichei (2013) make some practical suggestions including the need to strengthen enforcement mechanisms of regulatory institutions, review existing corporate governance laws to bring them in line with existing challenges and international best practices, and companies must ensure appropriate disclosure of all information that affects all stakeholders – both internal and external ones.

Also, the heightened focus on corporate governance and the growth of the private sector including entry of foreign multinationals and development of debt capital markets including stock exchanges augur well for the embrace and strengthening of corporate governance across Africa. Technological advances are a greater enabler of transparency and disclosure.

Already progress is evident. A more recent study, by Ayogu for the African Development Bank, notes some of Africa’s progress. Countries in the survey included: South Africa, Nigeria, Zimbabwe and Kenya. “In ‘shareholder rights around the world’, South Africa scored 5(4) where 4 is the mean for country group in the English-law origin while the rest of listed African countries each scored 3. To provide perspective, it should be noted that the mean for French origin, German-origin, and Scandinavian-origin country groups are 2.33, 2.33 and 3.0, respectively. In ‘creditor rights around

the world', all the African countries each scored 4 (3.11) with the exception of South Africa that scored 3."

Further, as far as board size is concerned, "the main findings are that, the market penalises large boards – between 4 and 10 – beyond which no systematic relationship appears to exist; profitability ratios and asset utilisation deteriorates rapidly over the range of board sizes between 4 and 10, and less visible beyond; CEO incentives from compensation and the threat of dismissal operate more strongly in firms with small boards. (Critically) the study also found that the market rewards the separation within the same company of the positions of CEO and Chairperson of the Board (Ayogu)."

2.9 Chapter Summary

The discourse in Chapter 2 was about the history of corporate governance in South Africa prior to the end of the apartheid dispensation in the early 1990s. Different sources suggest that after the end of the apartheid era, corporate governance in South Africa has improved due to different pieces of legislation, guidelines and regulations that have been drafted and promulgated. These legislations have been adopted by SOCs and other public entities/sectors. There was also a focus on corporate governance in Africa and on international best practices. Corporate governance theories were also discussed in order to get to understand corporate governance issues faced by the SABC. A further discussion was on the SABC legislative framework that shaped the SABC's corporate governance environment and was meant to promote effective and good corporate governance. The literature has also been consistent in corporate governance definitions with the common elements including organisational structures, systems, codes and processes.

The next chapter deals with the research methodology that was used to gather the research data.

3 CHAPTER 3: RESEARCH METHODOLOGY

3.1 Introduction

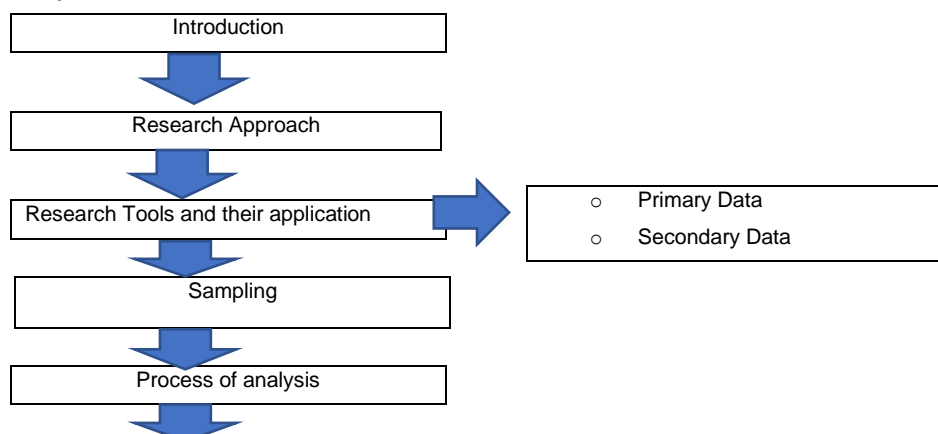
This chapter examines the research methodology used to answer the following research questions – main question and the sub-question:

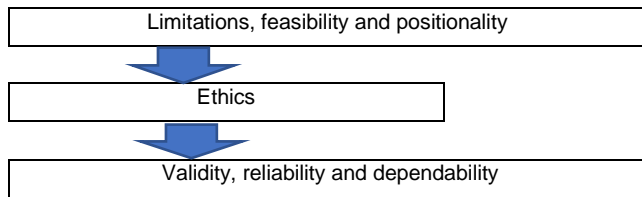
- Why has good corporate governance eluded the SABC?
- What are the main reasons that explain ineffectual corporate governance at the SABC?

Kothari (1990) defines research methodology as a systematic way of solving the research problem. It is further known as a science of studying how research is scientifically done. Various steps that are generally studied are adopted by a researcher in studying his or her research problem along with the logic behind them. On the other hand, Wagner et al. (2012) mentions that the research methodology indicates which research approach the study undertakes and why it is chosen, the research design selected, how data is collected and analysed.

This study has taken the Qualitative research method because it is deemed the most appropriate and best suitable approach in achieving the objectives of the study. The research tools used are primary data and secondary data. The collection of primary data has been achieved through semi-structured interviews, while the secondary data is conducted by looking into data from various archival resources. After collecting primary data through interviews, the data was recorded manually. The Figure below shows an outline of the chapter.

Figure 4: Chapter 3 Outline





Source: Own

3.2 Research approach

The study has adopted a qualitative research approach. According to Wagner et.al (2012) a qualitative research approach tries to study human action from the insider's perspective. The emphasis is more on an inductive analytical approach, influenced by interpretivism paradigms. Kothari (1990) further mentions that qualitative approach is concerned with subjective evaluation of human behaviour, opinions and attitudes i.e. examine why human beings think and do things in a particular way.

The other reason for using this approach is because it is the most suitable technique to provide in-depth understanding of the topic. This has been done through analysing corporate governance theories and finding the associated meanings, mechanisms, processes and relationships, and relating them to the corporate governance at the SABC and its barriers.

According to Zattoni et al. (2013) qualitative researchers use a number of different theories, covering several fields, and adopt a wide range of methods to get a better understanding of corporate governance arguments. Therefore, governance scholars are encouraged to conduct rigorous and relevant qualitative research in order to provide improved understanding of corporate governance techniques, rules and procedures.

Quantitative research approach's emphasis is on quantification and measurability of constructs, influenced by positivism paradigm. The importance of this approach is on deductive data analysis. It is about testing research hypothesis (Wagner et.al., 2012)

Table 2: Summary of Qualitative and Quantitative Research Approaches

Research Approach	Paradigm	Research Method	Ethics – Role of the Researcher
Quantitative	Positivism	Surveys, Observations, Experiments, etc.	Objective observer
Qualitative	Interpretivism	Interviews, Focus Group Discussions, Ethnography, etc.	Inter-subjective insider

Source: Wagner et.al, (2012)

3.3 Research Tools and their application

Research tools used in this study include primary data and secondary data. Kothari (1990) mentions “that the primary data get collected for the first time and authentic. The secondary data, on the other hand, are those which have already been collected by someone else and which have already been passed through the statistical process.” The primary data collection has been conducted by using semi-structured interviews, while the secondary data has been examined from various archival resources such as SABC Annual/Financial Reports and policies which are useful for triangulation.

There are three (3) types of primary data - a *structured interview* which uses formally structured questions and mostly used in statistical investigations in an intended order, a *non-structured interview* which does not use formal questions, different questions asked are consistent with the context of the systematic study; and a *semi-structured interview* which uses set questions however the interviewer can deviate from the questions as long as she/he remains with the scope of the interview (Kabir, 2016).

According to Longhurst (2009) the semi-structured interview is a research interview, which is a type of conversational face-to-face interaction - an interviewer asks questions in order to elicit information from the interviewee or participant. An interview

has to be particularly well-prepared and in-depth to allow it to be semi-structured. An interview guide is used to set up clear instruction for interviewers.

In this particular study, the interviews were conducted virtually and physically with 17 participants from different backgrounds. These include former and current members of the boards of directors, government as a shareholder, former and current officials, representatives of the regulator and other experts on public broadcasting by spending approximately 45 minutes on each interview.

Table 3: Study Population and Sample Size

TARGET GROUP	POPULATION OF SELECTED GROUP	SAMPLE SIZE
1. Former SABC Board Members	12	5
2. Current SABC Board Members	12	2
3. Former SABC Board Chairperson	4	2
4. Current SABC Board Chairperson	1	1
5. Current Executives (Assurance Providers)	5	2
6. Shareholder Representatives	2	1
7. Current Regulator Representatives	5	2
8. Experts in Public Broadcasting	3	2
TOTAL	44	19

Source: Own

A telephone interview was used as a backup for one (1) participant who was not willing to participate in a physical or virtual meeting. This was also due to the COVID-19 pandemic which required social distance observation. There were also two (2) physical interviews which were done in a private location for confidentiality and the locations were selected by the participants for their comfort during the interviews. There was an expectation that all these different participants will contribute to the baseline information and better clarify how the SABC applies corporate governance rules and practices through the information and experiences gathered from them.

Wagner et al. (2012) state that a semi-structured interview is a two-way communication and a purposive interaction where the interviewer uses predetermined but open-ended questions. They further mention that if the interview is done in a proper

manner, it yields rich information. Hence in this study, the semi-structured interview deemed to be the most suitable method to collect the data from the participants. An interview guide that covered the structure of how the interview conducted was developed. After finishing the interviews, the data was manually transcribed. The secondary data was been collected from various resources such as the SABC's policies, codes of conduct, government's legislative documents, reports, journals, annual reports, press releases, and reports from Right to Know and Media Monitoring Africa.

This is information that already exists and has been very helpful in comparing information relating to the issue at hand. This has been of benefit when looking at positionality point of view. (See section 3.5 for more detail). The secondary data was used as an enhancement of the primary data.

3.4 Sampling

Neuman (2011) mentions that there are two main types of sampling: namely, probability sampling – which involves random selection; and non-probability sampling – which involves non-random selection. The types of non-probability sampling are convenience/accidental sampling, quota sampling, snowball sampling and purposive sampling; and the types of probability sampling are system random sampling, systematic sampling, cluster sampling and stratified sampling.

Purposive sampling is suitable for this study because the study utilised the qualitative research approach which requires a small sample. The sample was chosen deliberately to answer the research questions, it is knowledgeable about the topic and it can assist to achieve the research objectives.

The main focus of sample determination according to Brynard et. al, (2014) is absolute versus relative size. They further differentiate between purposive sampling and convenient sampling. Purposive sampling targets certain sample because of the assumption that it has the information that is being investigated or the researcher is looking for. Whereas convenient sampling is a non-random sample in which the researcher selects anyone he or she happens to come across.

However, the purpose of sampling in a qualitative study is to intensify knowledge and give crucial information about a larger process, relationship, or social act. New theoretical perceptions, different aspects of people or social settings, or new perspectives of multifaceted situations, experiences or relationships get discovered and enriched (Neuman, 2011).

In this study, the sample was chosen from key decision makers including six former SABC board members from different eras, two current board members, one former official, two current officials, two participants from the DCDT (as a shareholder representative), two members from the regulator – the Independent Communications Authority of SA (ICASA) – and two other experts on public broadcasting. To ensure balance, the sample of interviewees was drawn from various post-apartheid eras of the SABC. In theory, at least, these participants are all supposed to be custodians of accountability and good corporate governance and to have the SABC's best interests at heart as is envisaged by the PFMA which requires directors and officers of an SOC to always act in the best interest of the company instead of who might have appointed them.

3.5 Process of analysis

Wotela (2017) mentions that in a qualitative study, the researcher is expected to do two things with the data: first, data processing; and then data analysis. In data processing, activities are done to prepare the data for analysis.

In this study, data was collected from interviews done with participants, notes taken during interviews, interview recordings and supporting documents. The collected data from interviews and recordings were transcribed to text. Content analysis was therefore done from the information obtained during the interviews. Content analysis means the subjective interpretation of information after it is systematically arranged according to themes or patterns of interest. The next step was of organising information from the literature review into themes, and also arrange supporting documents and interview notes into themes. The themes are as follows:

- Theme 1: A Conceptual Framework of Corporate Governance
- Theme 2: A Theoretical Framework of SABC Corporate Governance

- Theme 3: A Legislative Framework of SABC Corporate Governance
- Theme 4: Perceptions of SABC as a State Owned Company (SOC)

Furthermore, data was transcribed from recorded interviews into text in a word document and coded according to themes in order to make sense. Some themes have been drawn from the literature review which assisted in clarifying and verifying information in preparation for the findings. Then content analysis was finally done based on empirical information theme-by-theme and not on participants.

Wotela (2017) further explains that the data should be compiled in order for it to be in an organised manner that makes sense. The empirical information and data from literature review being processed should be packaged into the above-mentioned themes as soon as they are gathered. After preparing the data, the researcher can then proceed to analyse the data or information.

3.6 Limitations, feasibility and positionality

In this and the next session the researcher plans to deal with the following issues: first, possible and probable challenges she might experience; and second, how she sought to mitigate these.

At the outset, she should point out that the biggest threat to the successful execution of this research study was it being undertaken and then fail to pass rigorous peer review or worse, fail to pass ethical hurdles and open her and the university to questions about bias and conflicts of interests.

She spent a better part of her professional life in and around the communications and public broadcasting environment. In fact, she spent all her professional life in the public sector – both directly in government and at the SABC (the subject of inquiry).

To be direct, she was employed at the SABC for more than a decade during which she interacted with different levels of management including previous and current board members. Prior to joining the SABC she worked for the Department of Communications (now referred as DCDT - the shareholder). This is a double-edged sword: it is both an advantage and a disadvantage. On the positive side, it meant that

it would be easier to access information and the sample. On the negative side, this could raise issues – real and/or imagined – of bias, conflict of interests as well as colouring the views of respondents in the sample (who might feel uncomfortable in answering certain questions honestly or provide answers they think she required as a researcher or, even worse, dissuade participants from participating completely). She was fully cognisant of these issues, and did not take them lightly.

For avoidance of doubt, this researcher made this undertaking at the start of the research study: *“Let me state the following: as my professional home, I love the SABC and would not wish it any harm. I am only driven to research project by two interests: first, to advance myself as a professional by fulfilling the requirements of the degree; and second, to contribute to the body of knowledge about corporate governance in the context of public broadcasting. I regard these primary drivers of my interests as being both noble as well as in the public interest.*

“As I have done in numerous other declarations, I regard my reputation and that of the university and the SABC as being of paramount importance. Accordingly, I will do all that is humanly possible to safeguard these during the course of this academic study. As indicated, I deal further with the issue of ethical safeguards in the next section.

“I will take extra precaution to ensure that I maintain a professional distance between myself and the interviewees during the course of the study, and that I do not abuse my access and proximity to decision-makers.

“To this end, for example, as well as being aware of my possible bias, I have decided that the sample should include people I have not worked with directly as well.

”n addition, I might experience some limitations when it comes to access to existing board members and top executives because of their busy schedules and unavailability as well as possible reluctance to engage in this exercise whilst they are still serving on the board. There could also be some limitations to schedule interviews with previous board members of the SABC as they are no longer part of the entity and the study might not be a priority for them. Another limitation might be in the information gathered from the previous board members which will also need to be verified, because some of it might very well have contributed to the barriers of corporate governance at SABC. Therefore, it is imperative to schedule enough time in collecting

data especially for interviews, be knowledgeable about the subject matter and be certain of the tools/devices used to analyse data.”

Another limitation might be the interview time, participants may be willing to give less time than the scheduled 45 minutes. The sample size might prove to be a limitation in the sense that it might not provide diverse opinions from the selected sample for generalising. There was a risk to the validity and reliability of a qualitative study which might be caused by limitations of the participants' consciousness. For example, participants might deliberately choose to share distorted information. To avoid that, *“whilst I will have to be friendly I need to ask straight forward questions to the participants. There might also be a challenge in terms of literature pertaining to the subject matter. As has already been indicated elsewhere in this paper, whilst corporate governance studies have grown in numbers since the 1990s there is a limit to published work on corporate governance.*

For my part, other than being humanly fallible, I have found no cause to not undertake this project. In the next section I deal with extra precautions to safeguard the professional integrity of the work being contemplated. Therefore an internal-external perspective will be used to manage my position within the study,” she wrote during the proposal.

3.7 Ethics

In this section, the plan is to deal with the challenge of how to apply ethics when no one else is looking during the course of the research study.

First, it is significant to mention that this researcher took this responsibility seriously. She pledged, “I have conducted the study in an ethical manner according to Guidelines of the University of the Witwatersrand. I have applied for ethical clearance certificate from WSG Human Research Ethics Committee (HREC) clearance before undertaking the study. The study was carried out solely as a means to fulfil the requirements for a Master of Management degree.

“I requested and received a formal consent letter from the SABC to conduct the study to safeguard sensitive and confidential information of the SABC. I also clearly explained what the study is all about to all participants in keeping with the requirements of WSG HREC. Crucially, these permissions were provided to the university for recordal as an additional step of strengthening the ethical underpinning of this enterprise”.

The information provided was treated with strictest confidentiality at all times, and securely stored in a secured password-protected computer and will be kept for five years. I asked participants to explicitly consent to having interviews recorded and were made aware that they could opt out at any time. It was also the researcher’s obligation to keep the identities of participants anonymous and their responses are treated confidentially too. Pseudonyms were used to represent participation and secure confidentiality in the final research report.

3.8 Rigour and trustworthiness

Reliability and validity of information are important to ensure a quantitative study is thorough. These are instruments used to establish credibility, authenticity, consistency and honesty in a study. Although absolute reliability and validity of information are practically impossible to achieve, they are principles to aim for in conducting research (Neuman, 2007).

However, Lincoln & Guba (1985) suggest that rigour and trustworthiness of a qualitative research study is important to assess its value. Trustworthiness involves “the Four Dimensions Criteria” (FDC): Credibility, Transferability, Dependability and Confirmability.”

Credibility - confidence in the 'truth' of the findings. In order to increase credibility of the data collected and of the subsequent results, the semi-structured interview procedure also allowed focus and flexibility during the interviews. The interview protocol allowed the expansion of answers and the opportunity for requesting more information, if required. In the case of credibility, the researcher concentrated on capturing the perceptions of the participants and tried to understand how conversant

they were with the subject matter. This at least enhanced the credibility of the information shared.

Confirmability – this refers to a degree of neutrality or the extent to which the findings of a study are shaped by the respondents and not researcher bias, motivation, or interest. In this case Lincoln & Guba (1985). data triangulation was another method used to validate results of data, by comparing and complementing a number of sources used in collecting data. Data from different sources – primary data such as participants' interviews and secondary data such as policies, archival information, financial reports etc – were used and compared in the triangulation process to check data credibility and reliability.

Transferability – that is, showing that the findings have applicability in other contexts, according to Lincoln & Guba (1985). Purposeful sampling was used, participants were chosen on purpose. The researcher had a specific purpose in mind when selecting the sample.

Dependability – that is, showing that the findings are consistent and could be repeated. An audit trail of participants' interview guides with notes was kept as evidence.

3.9 Chapter Summary

This chapter explained the research methodology of the qualitative research approach and discussed all the components in detail including the sampling, processing of data analysis, ethical considerations and limitations, rigour and trustworthy of the study. For the sake of emphasis, the researcher elected to keep portions of the preceding chapter in first person terms. The next chapter presents and analyses the research findings.

4 CHAPTER FOUR: PRESENTATION AND ANALYSIS OF DATA & FINDINGS

4.1 Introduction

This chapter illustrates the findings of the study from the participants. The participants were seventeen (17) and they are key decision makers including five former SABC board members from different eras, two current board members, two former SABC Board Chairpersons, one current Board Chairperson–, two current officials –, one participants from the DCDT (as a shareholder representative), two members from the regulator - Independent Communications Authority of SA (ICASA) and two other experts on public broadcasting. The interviews were carried out virtually, telephonically and face-to-face and virtually for those participants who were not comfortable to meet physically. This was due to the COVID-19 pandemic, which had protocols to be followed at all times.

The participants were chosen with the objectives of understanding the existing corporate governance structures (role players), systems, frameworks and models at the SABC, to determine the main barriers to effective corporate governance at the SABC and to understand the main reasons that explain ineffectual corporate governance at the SABC.

There were also documents that guided the board in addressing inadequate corporate governance at the SABC; including The Public Protector Report: When Governance and Ethics Fail, The Parliamentary Enquiry: Final Report of The Ad-Hoc Committee on the SABC Board Inquiry into the fitness of the SABC Board, Matojane Judgement, Thloloe Commission and the SABC SOC Ltd, 2021.

This chapter also provides the analysis of the data and findings of the study. The meaningful interpretation make provision for an analysis of the corporate governance system in the SABC and offer some suggestions for improvement to make the corporation more effective, sustainable and good corporate

governance. The analysis of the data and findings also aims at answering the following main research questions:

Why has good corporate governance eluded the SABC?

And also one sub-question:

- What are the main reasons that explain ineffectual corporate governance at the SABC?

4.2 Demographic Profile

The demographic profiles of the participants give a better understanding of the sample. For confidentiality, the researcher kept the identities of participants confidential in line with their preference, and their responses were treated confidentially too. Pseudonym (assigned numbers) has been used to represent participation and secure confidentiality.

A brief summary of the participants' demographic profiles is in the below Table:

Table 4: Participants' Demographic Profiles

Participants	Designation	Period
1	Former SABC Board Member	2001 – 2004 2004 – 2008
2	Former SABC Board Member	2011 – 2013
3	Former SABC Board Member	2013 - 2016
4	Former SABC Board Member	2014 - 2016
5	Former SABC Board Member	2013 - 2016 March – Sept 2017 2017 – 2018
6	Former SABC Board Member	March – Sept 2017 2017 - 2018

7	Former SABC Board Member	March – Sept 2017 2017 – 2018
8	Current SABC Board Member	2017 – to date
9	Current SABC Board Member	2017 – to date
10	Current SABC Executive	2017 – to date
11	Current SABC Executive	2017 – to date
12	Former SABC Executive	2001 - 2011
13	ICASA Council Member	2017 - 2021
14	ICASA Council Member	2020 - to date
15	DCDT Official	2016 – to date
16	Expert in Public Broadcasting	2008 - 2021
17	Expert in Public Broadcasting	1995 – to date

Source: Own

4.3 Thematic presentation of Findings

The basis of the findings came on the main themes that were drawn from the research questions. The participants were asked questions that were developed out of the research questions. Findings from the interviews are presented as follows:

4.3.1 A Conceptual Framework of Corporate Governance

The participants were clear about the concept of corporate governance but felt it was too abstract and as a result, some adopted a different approach to it at the SABC. Although there are varied definitions of corporate governance, they all agreed to the corporate governance broad definition of Lazenby, et al (2014) that it is the process/system/structure of decision-making, accountability and control by an organisation in achieving its objectives. However, some participants felt that SABC could do much better if it strengthened its decision-making processes and structures.

Participant 11&15 mentioned that corporate governance was too wide a concept, and that it should be looked at in relation to King IV. They further mentioned that during their tenures at the SABC board, they got the impression that they did not score well in practising good corporate governance for the SABC. There was always pressure from the previous minister of communication as a shareholder and Standing Committee on Public Accounts (SCOPA). The board of directors was sometimes defensive in taking certain decisions. Some directors were not fully experienced to be board members. If the driver has no clue, you are bound to have problems, they observed.

The Corporate Governance Framework of the SABC states among other things that that SABC processes and practices are reviewed on an ongoing basis to ensure compliance with applicable legislative requirements, the use of funds in an economic, efficient and effective manner, and adherence to good corporate governance practices that are continually benchmarked. The SABC's processes and practices are strengthened by the principles of openness, integrity, and accountability. *However, participant 11 mentioned that "there was no cohesion within the board in terms of taking decisions. The appointment of Hlaudi Motsoeneng as the Chief Operations Officer was done inappropriately; proper processes were not followed; and there was no transparency in the process. As a result, some board members disagreed on the process followed and disassociated themselves with that process. The problem was always non-compliance with processes."*

Participant 5 cited that "corporate governance systems, structures and processes at the SABC existed but were inadequate. They were so unreliable. There were situations where items would be smuggled in the agenda. Inadequacy was a problem in the event system existed and other instances they were not adhered to."

Participants 1, 2, 6 & 13 said that corporate governance was fundamentally good and strong. The current leadership was aware of corporate governance issues and were trying at all times not to violate them. Various SABC employees model their behaviours

from their leaders, they are able to embed and entrench the culture of ethics. Leadership is also committed and systematic in ensuring things are done correctly. When they all came at the SABC they were aware of the issues stemming from Parliamentary Inquiry, SIU, Public Protector, and Matojane Judgement. As a result, some executives were even disciplined for their governance transgressions. Disciplinary action is instituted in response to employee misconduct or anyone violating governance processes and principles and general non-compliance. As leadership, they are mindful of what corporate governance is all about – not about the number of committees but on how decisions are made in the interest of the SABC. There is an ethical cadre of management which live corporate governance. The 2018-2023 Board also takes decisions independently, though there might be debates as a unit.

In addition, the Governance Framework is in place. Governance is key as a strategic pillar of the organisation, and executives are performance-assessed quarterly.

However, participant 3 felt that the SABC had a challenge in observing corporate governance and in practising King IV. The SABC over relies in the Broadcasting Act including in Board appointments. It is important for the SABC to be aligned with King IV principles in order for board of directors to practise good corporate governance, especially Principle 1,2,6,7,11-15 .

More than three participants agreed that corporate governance at the SABC is fairly good. However, the governance structures need improvement. They qualified their statements by looking at the SABC finances. There is little money with so many demands. Over time, however, finances became stable. The SABC was breaking even and making profit. Given that government was not prepared to give more funding the SABC had no option but to undertake a retrenchment process. This led to loss of skills and talent. There was also stability in terms of the top executive directors - Group CEO, COO and the CFO. For the first time in many years, the GCEO served out a full five-year term.

This observation was also made in the SABC Corporate Plan 2022-23. It says, “Over the past four years, a great deal of effort has been made to address the governance shortcomings of the Corporation, in order to prevent ethics and governance failures. This will result in an improved contribution to quality decision making at the Corporation. For the first time in several years, the SABC has enjoyed a stable Board and Executive leadership team that has worked hard to establish a solid governance framework. The improvement in external audit outcomes year-on-year is testament to the work being done.”

Participant 6 & 7 believed that the board knew what corporate governance was and strived to adhere to policies and legislation applicable to the SABC at all times; even though people outside the SABC might have a different view.

One whether there are any measurable barriers that hinder the effective corporate governance at the SABC, four participants (participant 3,16,4 &5) had the following thoughts:

Participant 3 said one of the barriers is how the SABC Board is appointed. The Board of Directors are not appointed based on what they will bring to the SABC. Unlike the SABC’s board appointment, the BBC focuses on the interests of the people. Participant 16 further said they are not equipped with proper governance prescripts and there are no set requirements. For example, some board members got their training to be a director within six months of their appointment. Participant 4&5 alluded to the fact that the Parliament also over relies on the Broadcasting Act in terms of the Board appointment.

4.3.2 A Legislative Framework of SABC Corporate Governance

The reason this theme was formulated was to get answers to the main research question: Why has good corporate governance eluded the SABC?

The question was looked at through the perspectives of legal statutes, governance frameworks and models as well as the interplay between structures, systems, processes and role players.

All the participants were clear about the legislative framework of SABC corporate governance. They all agreed that in addition to the Broadcasting Act, the SABC is regulated by the Companies Act, its Memorandum of Incorporation, the provisions of the Shareholder Compact, the PFMA, conditions applicable to the licence issued to the Corporation by ICASA, National Treasury Regulations, King IV and all other applicable laws of the Republic of South Africa.

Some participants believe that in so far as SABC & DCDT processes, they are very cumbersome. They are designed to frustrate those coming up with change. Most officials were deemed as opposed to change.

However participants 1, 4, 5 and 19 believe that most SOCs are governed by, and are creatures of, founding legislation. In the case of the SABC, the founding law is the Broadcasting Act. The SABC is also subject to the provisions of the Companies Act. As with Section 11 of the Broadcasting Act, which grants the control of the corporation to the board, Section 66 of the Companies Act clearly stipulates that the business and affairs of the SABC must be managed by or under the direction of the board.

The founding legislation has established in it multiple reporting and accountability lines. This arrangement makes a reconciliation with other standards of good corporate governance practice challenging. In this case, in terms of Section 18 of the Broadcasting Act, the Minister of Communications and Digital Technologies has functional and financial responsibility over the SABC, but no related and direct accountability over the appointment of the board. The latter responsibility lies with the President of the country based on names submitted to him by Parliament.

4.3.3 Perceived main barriers to effective corporate governance at the SABC

The researcher also discovered that participants had some recurrent issues at hand while conducting the interviews, and they are strategical inefficiencies within the

SOCs. These inefficiencies are no different from the SABC. They are perceived as follows:

4.3.3.1 Relationship of the Shareholder, Regulator, Board and Management

Most of the participants mentioned that the biggest barriers included working in silos and lacking transparency by the broadcasting industry role players. There is also no information sharing culture. However, all these role players should be given space to do their jobs independently and not be influenced. They are also expected to get correct information from their colleagues in order to make informed decisions. For instance, regulators should regulate with independence, without fear and favour, consider the viability of the broadcaster and follow trends. This approach will enable them to make informed regulations of the broadcasting sector. There is also a challenge of running the corporation through meetings, where Board depends on what is said by executives. Document management is part of the corporate governance problem. Working together as a collective will help the industry in taking proper decisions and improving its governance structures and delivery processes.

4.3.3.2 Appointment of Board Members and Executives

South Africa has about 700 SOC's operating at local, provincial and national levels. They have different mandates but most of them have common features of delivering public services, or regulating activities for fairness and anti-competitive practices or providing economic development. In order for the SOC's to execute their mandates, they need to appoint executives for implementation of strategies and Boards to play an oversight role without getting involved in day-to-day operations. However, appointing board members and running SOC's well has been shown to be a challenge (Lukas Muntingh, 2020).

Most of the participants were of the view that the SABC Board Members and Executives were appointed based on their political affiliation. There are no standard recruitment criteria applicable in the appointment of SOC board members. Most

political parties are contesting for their candidates to win representation on boards so that they push their agendas. This approach is not unique to the SABC. As a result, these board members face the dilemma and pressure of being expected to be accountable mostly to their political constituencies than the public.

4.3.3.3 Political and ministerial Interference

On the political and ministerial interference, participant 16 felt that it is problematic. For instance, appointment of the three executive directors – GCEO, CFO and COO – should be done by the Board not the Minister. This is not to suggest that there shouldn't be the Minister's input. As a result, in 2017, the SOS Coalition and Media Monitoring Africa took the previous Minister of Communications, Faith Muthambi, to court for unlawfully interfering in the affairs of the SABC. She amended the MOI and the SABC Charter in respect to the appointment, discipline and suspension of the three executive directors. This was found by the high court to be inconsistent with the Broadcasting Act and invalid. The Matojane J judgment clarified the amended MOI was unconstitutional in terms of the appointment of the three executives directors. The judgement further mentioned that the improper Ministerial interference in the affairs of the SABC was demonstrated in the report of the ad hoc committee on the SABC Board Inquiry into the fitness of the SABC Board which found that the previous Minister, Ms Muthambi unlawfully interfered in the affairs of the Board. At paragraph 39 of the report dealing with the role of the shareholder representative the report stated:

“The Committee found that the Minister displayed incompetence in carrying out her responsibilities as Shareholder Representative. Evidence suggested major shortcomings in the current Shareholder Representative's conduct particularly in relation to her apparent failure to lodge the October 2014 amendments to the MOI, and her role in Mr (Hlaudi) Motsoeneng's permanent appointment as COO. The Committee is of the view that the Minister interfered in some of the Board's decision-making and processes and had irregularly amended the MOI to further centralise power in the ministry. In light of this, all political interference in the SABC Board's operations must be condemned and must be reported to the Ethics Committee for processing in line with its mandate. In addition, Parliament must refer any violations of the Constitution, Privileges Act, the Executive Code of Ethics and/or the Broadcasting Act to the Ethics Committee and/or the Presidency for processing and—if there is sufficient proof—ordering appropriate corrective action which could include but is not limited to the institution of charges”.

4.3.3.4 Board Independence

Participant 4, 5, 10 & 19 said that during their era, they were empowered as Board members. Tools including policies and governance frameworks to do oversight work were in place but not independent. They were never given an opportunity to do what they were appointed for. He further mentioned that “as long as there is a ruling party, the ANC and Ministers that are agents, independence will be compromised.” They also felt that the only limitation was to keep the interests of the ruling party instead of the shareholder. As a result, at some point some board members felt compromised and later resigned.

However some board members believed that they were sufficiently independent and empowered to fulfil their role. They did not have any vested interests. The independence is spelt out clearly from the Board Charter, and empowered by the legislation. The law is also there to guarantee independence of the SABC board. As long as one stood one’s ground one could find ways to work as a collective and perform their role as a board. The only challenge is to what extent are the laws amended every now and then to address all sorts of emerging situations. They further illustrated that they were given opportunities to have strategy sessions to make sure they are aligned to the statutory mandate of the public broadcasting which get cascaded to the state of the nation address. Their independence got to be exercised in order to meet regulatory mandate of ICASA. In a nutshell, they felt they were given space to do their job and became accountable for outputs and results. “Whether the environment and the organisation was conducive to do the work, that is a story for another day,” said participant 13.

Participants 11 & 14 cited that independence became complicated with a bigger board. Twelve non-executive directors is an overkill. In the 18 months one was in the board, there were five ministers which was catastrophic. The ministers were not focused on the best interests of the SABC, he never found them eager to grasp issues and prioritise work at the SABC.

4.3.3.5 Poor understanding of government oversight role

Participants 8 & 16 mentioned that it has not been clear what the different oversight roles are between government and the board. The roles are blurred. The Japan Broadcasting Corporation (also known as NHK), BBC, SABC, among other public broadcasters, are all subject to political pressure. Governments sometimes overstep their powers and try to intervene in operational matters. For example, the then Minister of Communications and Digital Technologies, Stella Ndabeni-Abrahams, was seen as trying to intervene on SABC recent retrenchments process and to undermine the board in terms of their process. Ndabeni-Abrahams requested a full plan of how the SABC would undertake the retrenchment process and that it be submitted to parliament. This was despite a labour court ruling favouring the SABC board-approved retrenchment process in December 2020. The ruling declared that the public broadcaster's retrenchment process was lawful and above board.

However, there is another view from participant 15. She feels that different oversight roles are clearly defined. It is when interests come to play that roles become blurred. The regulations are clear and the Broadcasting is also clear. According to the SABC Board Charter "the relationship between the Shareholder and the SABC Board is governed by the Shareholder Compact". It is the joint responsibility of the Shareholder and the Board to ensure that the Shareholder Compact is developed and signed.

4.3.3.6 Unskilled/ unqualified board members and executives

In the case of participants 6 & 7, their views were that during their tenure there were missing skills in their board. There was no finance person in the board even though there were known financial challenges at the SABC. The chairperson of board, an experienced black African accountant who was perfect for the job faced accusations of conflict of interest and ended up being fired. They further mentioned that some members were not skilled enough to be board members. What also came out of them was that executives see governance as a by-the-way thing. Lack of detailed induction processes to shape the mindset of new executives about corporate

governance is imperative. At the SABC, there is no matrix or tool used when employing leaders. The appointment of unethical and unskilled executives leads to ineffectual corporate governance. As a result, leaders who are scared of making difficult decisions sometimes end up bypassing or transgressing governance processes.

4.3.3.7 Ethical Leadership

Participant 7 firstly quoted what King IV Code on Corporate Governance says about ethical leadership. King IV notes that corporate governance is about effective leadership with ethical behaviour. In order for the governing body to offer effective leadership, it must possess ethical characteristics, including accountability, transparency, fairness, integrity, responsibility and competence.

The SABC has not been immune from the corruption culture that has engulfed the country. However, there have been appointments of a layer of leadership whose ethical has been unimpeachable. Fortunately, the latest SABC leadership has been able to embed and entrench the culture of ethics. There is a governance framework which has come to life. Quarterly assessments are done with management and governance is key as a strategic pillar of the organisation. The top management is not afraid to take action against anybody violating governance processes. They even championed values as management and are living them.

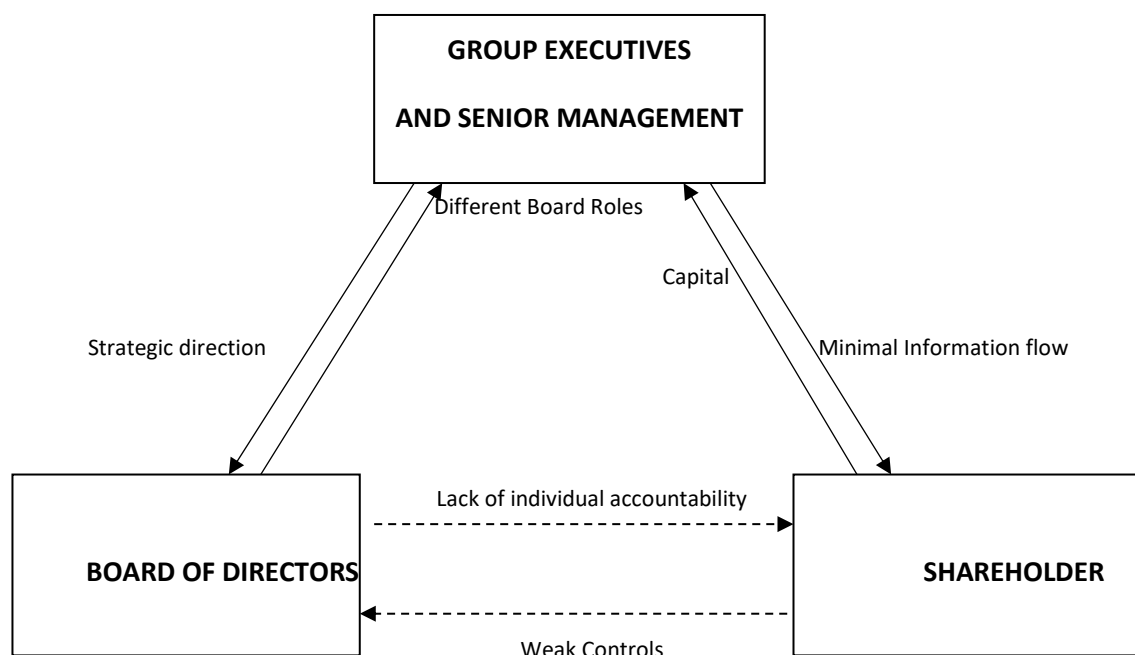
4.4 ANALYSIS OF DATA & FINDINGS

Discussions of findings

The analysis of the research findings dealt with the research questions and this was demonstrated by ineffectual corporate governance occurrences at the SABC. They were highlighted as follows:

4.4.1 Lack of Board accountability

Figure 5. Lack of board accountability and inadequate or minimal information flow to the shareholders result in weak controls.



(Source: Model developed by Madhani based on Montgomery and Kaufman, 2003)

It is therefore crucial to demonstrate that among other things the evidence from the findings of the study is that ineffectual corporate governance at the SABC is a result of lack of board accountability and inadequate or minimal information flow to the shareholder. A good corporate governance practice results in an accountable board of directors who ensures that the shareholder's interests are protected and safe. (Fauziah, ; Yussof, & Alhaji, ,2012). The accountability and transparency component of corporate governance would assist companies gain shareholder's trust.

On the other hand, Katz (2021) further explains that there is wide perception by corporate governance professionals, including academics and senior business leaders, that directors' responsibilities should not be restricted to enhancing and safeguarding the interest of shareholders. There are other stakeholders whose interests are also relevant and require recognition. These include the public, employees, customers, suppliers, investors and regulators.

Fauzia et al, (2012) states that "Corporate governance improves stakeholders' confidence and this would assist the sustainability of business in the long run. The

present corporate governance theories cannot fully explain the complexity and inconsistency of corporate business. Corporate governance may differ from country to country due to their various cultural values, political and social and historical circumstances. In this sense, corporate governance in developed countries and developing countries can vary due to the cultural and economic contexts of individual countries. However, the literature has confirmed that even with strict regulations, there have been breaches in corporate governance. Therefore a different perspective towards corporate governance within companies should be acknowledged.”

4.4.2 Political Interference leads to abuse of power

When looking at the political interference at the SABC the report of the Ad-Hoc Committee on SABC Board inquiry found that a number of political parties had improperly interfered with governance at the SABC. Another finding was that Minister Muthambi’s involvement in key decisions excluded board members, the introduction of a new Memorandum of Incorporation (MOI) which gave her more power to make executive decisions and the contravention of the Broadcasting Act. As a result some media watchdog groups were of the view that political interference allegations at the SABC should be given a serious consideration and be addressed. The public broadcaster’s environment must be free of intimidation and abuse of power.

4.4.3 Lack of Consequence Management

Consequence management is another challenge that leads to ineffectual corporate governance at the SABC. There used to be no culture of consequence management. For example, the immediate past GCEO joined the SABC when 70% of executive members were being investigated and 75% of them were in acting positions. Lots of employee relations issues were left unattended deliberately. The organisation was rendered dysfunctional and a lot of cases were investigated by the SIU and the Public Protector. For instance in 2014 the (then) Public Protector issued a report, Report No 23 of 2013/2014 titled “When Governance and Ethics Fail”. The report detailed irregularity in the appointment of Hlaudi Motsoeneng who served as the acting Chief

Operating Officer of the SABC from 2011 – 2013. The report also dealt with instances of interference in the SABC by a former Minister of Communication. The remedial actions were never implemented and the initial failure by the SABC Board to implement the remedial action prescribed by the Public Protector led to litigation. (SCA).

4.4.4 Unethical Behaviour

Another important case in terms of ethical leadership was when the then chairperson of the Board Ms Ellen Tshabalala charged for misconduct in terms of the Broadcasting Act by misrepresenting or lying about her academic qualifications on her Curriculum Vitae submitted to Parliament and also knowingly making false statements in an affidavit concerning the said qualifications in contravention of the Justices of Peace and Commissioners of Oath Act. It is a responsibility of an ethical leader to serve other with honesty, transparency, integrity, trust, respect among other things. ethical when holding any public office. These set of principles and values are recognized by the majority as a sound basis for the common good.

4.4.5 Unstable leadership

In recent times, South Africa's SOCs, both small and large, have become subjects of public inquiries by various authorities including the Public Protector, the SIU, parliamentary inquiries and the Zondo Commission of Inquiry into Allegations of State Capture, Fraud and Corruption. The latter inquiry which concluded its work in 2022 laid bare the extent of corruption and how SOCs were repurposed into serving the interests of a few non-state actors. The SABC was not spared from this negative light.

Addressing the governance challenges led to leadership changes and instability.

When analysing the findings highlighted by most participants regarding political interference, what comes to mind is the mass resignations of the board members of the SABC. This was reported by the media in 2013 when eight board members resigned citing their reasons among other things as political interference, favouritism, vested interests and corruption at most levels of the corporation. The resignations led

to the SABC board not being able to make a quorum because there were only three board members who remained. This meant that the remain board members were unable to make any decisions. The legal option was to appoint an interim board in order to continue with the oversight role of the SABC.

This did not end in 2013, it also happened in 2018 when the four interim board members – Khanyisile Kweyama, Mathatha Tsedu, Krish Naidoo and John Mattison – who had been appointed to resolve challenges at the public broadcaster ended up resigning. It was believed that the exodus of these board members after a strained engagement between them and the then Communications Minister Stella Ndabeni-Abrahams who appointed during that interim board's tenure. In a letter submitted by one of the board member, one of the reasons was cited as "the difference between corporate independence, accountability and political interference that led to a breakdown in the relationship with the minister." Once again this emphasised concerns over the effective corporate governance of the public broadcaster.

4.4.6 Government role clarity

The study has also noted poor understanding of government's oversight role between government and the board especially of the public entities. The roles are perceived as ambiguous. This is evident in the latest court application filed by Media Monitoring Africa over the delays on the SABC Board appointment which occurred during the finalisation of the research study. The president of the Republic was being urged to appoint the SABC Board urgently as the public broadcaster had been operating without a board for almost five months. The term of the last board ended on 15 October 2022. It is believed that President's delay in appointing was due to the vetting of the proposed board members. This could be interpreted as another instance of political interference.

After all, the law is clear "in terms of Section 13 of the Broadcasting Act, non-executive members of the SABC Board must be appointed by the President on the advice of the National Assembly following a process of public participation in the nomination and transparency and openness in the selection." Vetting exercises add an element of subjectivity.

4.5 Chapter Summary

This chapter presented the research findings that were gathered using interviews. The 17 participants were chosen with the objectives of understanding the existing corporate governance structures (role players), systems, frameworks and models at the SABC. The aim was to determine the main barriers to effective corporate governance at the SABC and to understand the main reasons that explain ineffectual corporate governance at the SABC.

A further analysis of data collected from the study on the main barriers to effective corporate governance at the SABC was done. The analysis was based on the main themes that were drawn from the research questions and addressed in the last chapter.

From this analysis, it is clear that ineffectual corporate governance at the SABC is a result of lack of board accountability and inadequate or minimal information flow to the shareholder. Poor decision making that goes unchallenged seems to be another hurdle. The culture of no consequence management from leadership non-compliance and transgression has created management dysfunction.

5 CHAPTER FIVE: RECOMMENDATIONS AND CONCLUSION

5.1 Introduction

The study was undertaken to investigate the main barriers to effective corporate governance at the SABC. It was never the main purpose to recommend detailed remedies. The hope, however, was understanding the problem would form a key part of working out durable solutions to the governance lapses.

The SABC has enough applicable legislation and internal policies to protect itself from any abuse by the shareholder and ensure good corporate governance but effective enforcement of existing laws and regulations constitutes a major challenge for the development and implementation of corporate governance.

5.2 Recommendations

In the wake of recent corporate governance failures especially in the SOC sector, numerous suggestions have been made about how to improve corporate governance at the SABC. Reference is made to a few here:

- An alternative board recruitment should be explored to depoliticise the appointment process. Put differently, professional recruitment services should be given guidelines by the board for skill sets required for recommendation to shareholder representative ministry and cabinet's approval (not the president's);
- Like in other boards, a board succession plan, driven by the board's nominations and governance committee, should seek to balance continuity with change to ensure leadership stability;
- Ideally, the shareholder should exercise its influence through holding the board accountable to the shareholder's compact;
- The board members must be independent and have lesser interest in matters of politics;

- Regular independent board evaluations should be conducted to assess diligence and compliance with corporate governance – and results should be made available to government as shareholder;
- Effective corporate governance is a function of consistent implementation and monitoring;
- Consequence management and disciplinary action should be taken for board members and executives with unethical dealings that lead to wasteful and irregular expenditure;
- Suitably qualified board members with industry experience should be appointed;
- Board members should jealously guard their independence and act, at all times, in the best interests of all the corporation's stakeholders;
- The SABC Bill should be written in such a way that looks at the public broadcaster that operates in a digital and highly competitive environment
- The board's role must be clarified and members should know exactly what is expected of them
- A well-functioning board should have committees with competent members – equipped with requisite skills to take the organisation to a better level
- The Broadcasting Act No.4 of 1999 in its current form seems outdated. It needs to be updated to regulate an entity that operates in a technologically advanced environment;
- The SABC should consider appointing board members with strong leadership skills, revenue generating skills; business acumen to turn the organisation around, technological skills as the public broadcaster needs to fully migrate to digital broadcasting – Digital Terrestrial Television (DTT), financial skills to assist in financial oversight;
- The SABC board should align itself with King IV Codes of Good Corporate Governance as they are sound guidelines and enablers of good corporate governance;
- There also needs to be a strong Company Secretary who guides the board on governance;

- Corporate governance should not be seen as a red tape or a tick box exercise. Rather it ought to be on top of things to be done and benefit the organisation in making proper decisions; and,
- A public service broadcaster should be redefined in the light of the high competition it faces.

5.3 CONCLUSION

This study has sought to establish and understand corporate governance from a theoretical perspective. To this end, it surveyed a few theories and approaches to corporate governance. As a starting point, it also established a shared definition of corporate governance. Corporate governance is understood as a system and a set of protocols through which a company or organisation is controlled. This also entails structures and role players and the interplay with the systems and processes.

Corporate governance is also about the delineation of roles and responsibilities between various role players including shareholders, managers, board, employees and their representatives, investors and financiers and regulators.

Effective governance is driven by people and prescripts such as the enabling or founding legislation (in the case of the public sector), a memorandum of incorporation, board charter, codes of ethics, terms of reference of various board and executive committees, shareholder's compact, the Companies Act and the King Code of Good Corporate Governance. In the case of the public sector or the SOC sector, there is the additional requirement to comply with the Public Finance Management Act.

While the laws and statutes are clear and binding and can be viewed as hard corporate governance, codes like the various versions of the King Code of Good Corporate Governance were not meant to be binding and can be viewed as soft. Increasingly, however, they have been widely embraced and adopted including by the SOCs. Over time, the language of the codes has become more directional than guiding.

The study also surveyed corporate governance in South Africa and the African continent. With the general context set, it then zoomed in on its subject matter: namely, corporate governance at the SABC and barriers to effective corporate governance at the public broadcaster. Primarily, the SABC is governed by the Broadcasting Act. Still, as above-referenced, it is also subject to the Companies Act and the Public Finance Management Act, the government-inspired Protocol on Corporate Governance in the Public Sector, Licence Conditions as well as and its Memorandum of Incorporation. Together these shape the SABC's corporate governance environment and they are meant to promote effective and good corporate governance. and its Memorandum of Incorporation, shareholder's compact and board charter.

Uniquely, its board is appointed through a system of public nominations, interviews by members of parliament, recommendations to the president of the country and the president appoints the board. In the private sector, directors are appointed through structured processes that are run by Nominations Committees. The SABC's board appointment differs from other SOCs where boards are appointed with cabinet's approval either by the shareholder representative minister or directly by cabinet at the shareholder representative's recommendation.

It would be a mistake, however, to conclude that the ruling party, the ANC, only appoints its members or people with views biased towards it. Instead a nuanced analysis is required. Independent-minded people have been appointed to the SABC board. For example, Phatiswa Magopeni, formerly head of news, was appointed to the SABC board after being fired by the broadcaster. Ben Ngubane (now deceased), formerly an Inkatha Freedom Party leader, was appointed and chaired the SABC board for a while.

It is fair to say that there is no uniform method of recruiting SOC board members in South Africa. This opens the process to political interference and manipulation. The governing ANC has not denied that its "deployment committee" recommends people for appointment to key strategic positions including boards of SOCs.

Commendably, the SABC's GCEO is appointed by the board. However, both the CFO and COO are appointed by the GCEO. In private sector companies the appointment of the CEO and CFO – both executive directors – is the province of the board.

Most of these factors – including the involvement of politicians in the boards' appointment at the SABC – conspire to create fertile ground for political interference and leadership (both board and executive level) instability.

At the time of completing this research study the SABC (2022-2023) was experiencing a rare period of leadership stability. A GCEO completed a full-term contract.

As shown in the study political interference manifests in different forms. From subtle forms to more obvious forms such as attempts by ministers to change the Mol to centralise power. Failed attempts were also made to stop board-approved retrenchments of employees.

The study used a qualitative data gathering benefited a great deal from the generosity of the 17 interviewees who added flavour and proof points to hypotheses of this researcher. The tool of anonymity enriched both the interactions and the outcome of the interviews.

The interviewees, selected from different eras, gave useful insights into the corporate governance situation at the SABC as well as barriers to effective corporate governance. Insights included confirmation of instances of political interference, lack of clarity in the roles of the board in relation to the shareholder, poor skills sets on the board, noncompliance with governance protocols and lack of consequence management for governance breaches.

It is important to acknowledge the varying views of interviewees. Some felt they had sufficient space and leeway to do their jobs, while others felt otherwise. More concerning is the observation that some interviewees mentioned lack of appropriate skills on the board.

Other barriers identified include lack of board commitment to fulfil its oversight role, abuse of shareholder's power, lack of adherence to the regulatory framework, appointment of unqualified and unskilled board members, lack of transparency and disclosure, and the SABC's funding weaknesses.

It is also worth noting the acknowledgment of the existence of governance protocols and the need to strengthen them and address gaps. They were also generous with recommendations on how governance could be strengthened.

As a current employee of the SABC, the researcher has taken due care to ensure highest standards of ethics are adhered to during the study. In this regard, the permission by the SABC and clearance by the university's ethics have been helpful in ensuring professionalism and ethical conduct.

The findings of this study should not be generalised to other state owned companies as they operate differently from the SABC. In addition, the findings cannot be extended to other public broadcasters in other countries due to cultural, political and legal differences. The implementation of the recommendations, however, need to be closely monitored and modified as required to accommodate the fast changing broadcasting industry.

Finally, the hope is that other researchers will be inspired to canvass further some of the issues raised in this paper.

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3. What are the main barriers that hinder the effective corporate governance at the SABC? What could be the source of these barriers?

4. Could you please comment on the adequacy or otherwise of the corporate governance systems, structures and processes at the SABC?

5. Did you feel sufficiently independent and empowered to fulfil your role as an SABC board member (or stakeholder)?

6. How would you define the role of the shareholder (or regulator)?

7. How would you characterise the relationship between these role players - SABC's shareholder ministry, regulators, Board and Executive management? Were the roles clearly defined?

8. Why has good corporate governance eluded the SABC?

9. Do you have anything else to add?

Thank you for your participation

APPENDIX B: Participant Information Memo

Participant Information Memo



Dear Sir / Madam,

My name is Wendy Loliwe and I am a Masters student in the School of Governance at the University of Witwatersrand, Johannesburg. As part of my studies, I have to undertake a research study, and I am investigating the main barriers to effective corporate governance rules and practices within the South African Broadcasting Corporation (SABC or the public broadcaster).

The purpose of the study is to uncover and analyse the main barriers to effective corporate governance at the SABC, as well as to provide an understanding of these issues. The contraventions of the applicable SABC's corporate governance frameworks are referenced. Whilst the focus of the research is to identify barriers to corporate governance, it is hoped this research will contribute to better understanding of the issues.

As part of this project, I would like to invite you to take part in an individual face-to-face interview. This activity will involve 9 questions and will take around 45 minutes. With your permission, I would also like to record the audio interview using Dictaphone.

There will be no personal costs to you if you participate in this study, and you will not receive any direct benefits from participation but there are no disadvantages or penalties if you do not choose to participate or if you withdraw from the study. You may withdraw at any time or not answer any question if you do not want to, as some questions can cause discomfort. The interview will be completely confidential and the information you give to me will be held securely and not disclosed to anyone else. I will be using a pseudonym (participant A) to represent your participation in my final research report. If you experience any distress or discomfort at any point in this process, we will stop the interview or resume another time or organize a distress protocol i.e. link participants to counselling if they get distressed.

If you have any questions during or afterward about this research, feel free to contact me on the details listed below. This study will be written up as a research report which will be available at your request. The data collected from this research project will be stored in a secured password-protected computer and will be kept for 5 years.

With your permission, the data collected from this research project may be used by other researchers and will be shared with the SABC based on the recommendations. If you have any concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (Non-Medical), telephone +27(0) 11 717 1408, email hrec-medical.researchoffice@wits.ac.za or my supervisor, Prof. Pundy Pillay, email pundy.pillay@wits.ac.za

Yours sincerely,
Wendy Loliwe

Researcher: Ms. Wendy Loliwe, 886878@students.wits.ac.za, +27 82 806 5262

APPENDIX C: Consent Form

Consent Form

Title:

AN ANALYSIS OF THE MAIN BARRIERS TO EFFECTIVE CORPORATE GOVERNANCE AT THE SABC

Name of researcher: Wendy Loliwe

I,, agree to participate in this research study. The research has been explained to me and I understand what my participation will involve.

I agree to the following:

I agree that my participation will remain anonymous YES NO

I agree that the researcher may use anonymous quotes in his / her research report YES NO

I agree that the interview may be audio/video recorded, and where permission will be asked informally. YES NO

I agree that the information I provide may be used anonymously after this project has ended, for academic purposes by other researchers and as a recommendation to improve the sharing of information at SABC, subject to their own ethics clearance being obtained. YES NO

Name of participant:

Permission received via face-to-face meeting: YES NO

Date and time:

Name of person seeking consent: Wendy Loliwe

Date and time: