



5 August 2009

Attention: Speaker of the House of Assembly

The Honorable Lovemore Moyo MP.

Parliament of Zimbabwe

Nelson Mandela Avenue

Harare,

Dear Sir

RE: CONCERN OVER THE DECISION TO CONSIDER APPLICATIONS FOR THE BROADCASTING AUTHORITY OF ZIMBABWE BOARD DURING INTERVIEWS FOR THE ZIMBABWE MEDIA COMMISSION.

1. The Media Institute of Southern Africa Zimbabwe Chapter (MISA Zimbabwe), by copy of this letter, humbly seeks to draw your respected attention to our concern on the above referenced issue.

MISA Zimbabwe humbly draws your attention to the advertisement placed in *The Herald* of 5 June 2009 by the Standing Rules and Orders Committee (SROC) in terms of section 100N of the Constitution of Zimbabwe as amended through Constitutional Amendment No.19. In the said advertisement, the SROC called for applications to the Zimbabwe Media Commission, as well as the three other commissions, namely the Human Rights Commission, Electoral Commission and the Anti-Corruption Commission.

1.1 Nothing in the wording of the advertisement suggested that this would in any way include interviews for prospective candidates to the Broadcasting Authority of Zimbabwe. Our

reasonable assumption was that the call for applications was largely for constitutionally established Commissions and not necessarily statutory boards.

1.2 In a story carried by the *Sunday Mail* of 2 August 2009, it came to public attention that candidates scheduled to be interviewed on Monday 3 August 2009 would also be considered for the Broadcasting Authority of Zimbabwe Board. Subsequent media reports thereafter indicated that indeed candidates were considered for the Broadcasting Authority of Zimbabwe.

1.3 If this is truly the case, we respectfully would like to point out to your good office that the Broadcasting Authority of Zimbabwe is not a constitutionally established Commission neither is it defined as a Commission in terms of the Broadcasting Services Act. In terms of Section 4 of the enabling act (the Broadcasting Services Act as amended in January 2008); the Broadcasting Authority of Zimbabwe is a board to be established in terms of the Act and not in terms of the constitution of Zimbabwe. For the purposes of clarity, we outline the contents of Section 4 of the Act below:

4 Establishment and composition of Broadcasting Authority of Zimbabwe Board

(1) The operations of the Authority shall, subject to this Act, be controlled and managed by a board to be known as the Broadcasting Authority of Zimbabwe Board.

(2) Subject to subsection (3), the Board shall consist of twelve members, of whom—

(a) the following nine members shall be appointed by the President after consultation with the Minister and the Committee on Standing Rules and Orders—

- (i) two shall be persons chosen for their experience or professional qualifications in the field of broadcasting technology and broadcasting content respectively; and*
- (ii) one shall be a Chief as defined in the Traditional Leaders Act [Chapter 29:17] and nominated by the Council of Chiefs referred to in that Act; and*
- (iii) one shall be a legal practitioner of not less than five years' standing registered in terms of the law in force relating to the registration of legal practitioners; and*
- (iv) one shall be a public accountant of not less than five years' standing registered in terms of the law in force relating to the registration of public accountants; and*
- (v) one shall be a representative of churches or other religious bodies chosen from a list of nominees submitted by groups considered by the Minister to be representative of churches or other religious bodies; and*

(vi) three other members;

(b) three members shall be appointed by the President from a list of six nominees submitted by the Committee on Standing Rules and Orders.

(3) At least three of the members referred to in subsection 2(a) shall be women and at least one of the members referred to in subsection 2(b) shall be a woman.

(4) The Third Schedule shall apply to the qualifications of members of the Board, their terms and conditions of office, vacation of office, suspension and dismissal, and the procedure to be followed by the Board at its meetings.

(5) If any council or group or the Committee on Standing Rules and Orders referred to in subsection (2), fails or refuses to submit any nomination within thirty days of being requested to do so by the Minister in writing, the President may appoint any person to hold office as a member of the Board in all respects as if he or she had been duly nominated and appointed in terms of subsection (2).”.

1.5 In view of the above, it is trite to note that the procedures relating to the Broadcasting Authority of Zimbabwe and those relating to the Zimbabwe Media Commission are different primarily because of the establishing laws i.e. Broadcasting Services Act and the Constitution of Zimbabwe respectively.

While the major similarity is that the Standing Rules and Orders Committee has a role to play in the appointment of both, the criteria for selection of commissioners and members of the broadcasting authority differs significantly. As outlined in Section 4 of the enabling act, the Broadcasting Authority of Zimbabwe has key requirements for acceptance into the regulatory board which include specifics such as ensuring that persons considered must have ‘experience or professional qualifications in the field of broadcasting technology and broadcasting content’. This, among other requirements, was not cited in the advertisement placed in the media for applications to the Zimbabwe Media Commission.

1.6 Within the context of the contents of this letter to your good office, it is MISA Zimbabwe’s well considered view that the Parliamentary Standing Rules and Orders Committee erred in considering applications for the Broadcasting Authority of Zimbabwe.

1.7 It is also our considered view that Zimbabweans with an interest in serving on the Broadcasting Authority of Zimbabwe would hitherto not have submitted the requisite applications as no such specifications for the particular regulatory body in question had been indicated in the media advertisements for the Zimbabwe Media Commission. We therefore find it arbitrary and unfortunate that those who applied to be considered as commissioners for the

Zimbabwe Media Commission would in the same vein be considered for purposes of constituting the Broadcasting Authority of Zimbabwe.

1.8 To conclude, MISA Zimbabwe is still of the firm view that the Broadcasting Services Act should be repealed and replaced by an Independent Telecommunications Authority Act as well as an Independent Public Service Broadcasting Act. This letter was written in the spirit and letter of ensuring that if the Parliament of Zimbabwe is to play its democratically assigned role in reforming Zimbabwe's media landscape, it must do so in a participatory, transparent and accountable manner.

1.9 Further, it is our humble submission that the decision to combine applications for a constitutional body such as the Zimbabwe Media Commission with those for a statutory body such as the Broadcasting Authority of Zimbabwe was not stipulated in the advertisements placed in the media and was not in terms of the Broadcasting Services Act. It is our honest view that the interviewing process for the Broadcasting Authority of Zimbabwe be undertaken in terms of the enabling act as well as with broader public participation given the national importance of Zimbabwe's airwaves.

Yours sincerely

Loughy Dube

National Chairperson

cc. President of the Senate

cc. Deputy Speaker of Parliament

cc. Clerk of Parliament

cc. Minister of Media, Information and Publicity

cc Deputy Minister of, Media Information and Publicity

cc. Minister of Information and Communication Technologies