

29 May 2014

## MEDIA STATEMENT

This statement is issued in response to the complaints/allegations made by the Lawyers for Human Rights (LHR) against the Commission and published in various newspapers today, 29<sup>th</sup> of May 2014. It also serves to address the pertinent questions directed to the Commission. The complaints arise from the proceedings of the 26<sup>th</sup> and 27<sup>th</sup> May 2014 when Mr J E G Kamerman testified before the Commission. Mr Kamerman's testimony dealt in part with the allegations made against him by, inter-alia, the LHR's client namely Messrs Feinstein and Holden in their books and their submissions to this Commission.

1. The statement of Mr Kamerman was signed the day before he was due to testify and it thus became available to both the Commissioners and interested parties only on the morning of the 26<sup>th</sup> May 2014, when a copy thereof and all the supporting documents were given to LHR. This often happens and Mr Kamerman's case is not an exception. This is a logistical problem over which the Commissioners have no control. But the party wanting to cross-examine a witness and who needs more time to prepare for that is at liberty to request an adjournment to do so. The LHR know this and have often requested, and were given, time to prepare for the cross-examination. In this case they did not ask for an adjournment but said that they decline to cross-examine and may request to do so at a later stage. The documents involved comprise 655 pages and not 800 pages.
2. The LHR's Counsel did address the Commission on the reasons why she was unable to cross-examine. What the Commission did not allow was for her to read a pre-prepared document that has turned out to be a media statement released to the media. It became clear to the Commission that a prior decision had been taken not to cross-examine and to come up with an excuse for not doing so. It is an approach that the LHR has adopted in the past.
3. The parties are always free to ask for more time to prepare for cross-examination and each request is treated on its own merits. Besides, the Commission has made it clear that a witness may be recalled for cross examination at a later stage if the circumstances justify it. That is why the LHR indicated that they may apply for Mr Kamerman to be recalled for cross-examination at a later stage.
4. The problem is that the LHR and others seemed to think that the Commission is bound to make available to them each and every document in its possession irrespective of its

relevance to the issues to be canvassed by any particular witness. The case of Mr Kamerman is a typical example. All the documents that he relied on and were relevant to his evidence were made available to the LHR. Their Counsel was in attendance throughout and heard all his evidence, yet she said that she could not cross-examine him because she needed some or other document that had no bearing whatsoever on the witnesses' evidence.

It must be borne in mind that in respect of classified documents this can only be made available to interested parties once declassified. A number of the documents requested by LHR have been declassified and referred to by witnesses who have appeared before the Commission and are now public documents, for example audit reports, affordability report and minutes of committees that were involved in the processes leading up to the conclusion of the SDPP contracts. As interested parties, they are invariably provided with and are in possession of the documents of all witnesses who have testified to date. The LHR is yet to advise the Commission that it and their clients have perused all these documents and they are inadequate. The assertion that documents are withheld from them is not true. Regarding the umbrella contracts forming part of the SDPP, these contain terms that require that all the parties thereto should consent to their being made available to interested parties and unfortunately not all the contractants have responded to our request for them to give the necessary consent. However, if needs be, the Executive will be approached for them to exercise the discretion vested in them in terms of the contracts to make such available. But we hastened to add that most, if not all, of the testimony led so far has had no bearing on such contracts and their unavailability has therefore not adversely affected the work of the Commission.

5. Finally, the LHRs complaint is that Mr Kamerman was given preferential treatment because he had been given copies of the submissions made by their client to the Commission. This complaint is rather disingenuous. Firstly, the LHR had been given copies of the statement of this witness and the question is why should the submissions of their clients not be made available to him. Secondly, the submissions made by their clients contain serious allegations levelled at Mr Kamerman and it is only logical that he had to be made aware of these so that he could respond thereto.

**W Baloyi**  
**Spokesperson**