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For purposes of reference, all Proclamations, Government Notices, General Notices and Board Notices published are included in the following table of contents which thus forms a weekly index. Let yourself be guided by the gazette numbers in the righthand column:

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THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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The closing time is 15:00 sharp on the following days:

- **27 December 2018**, Thursday for the issue of Friday **04 January 2019**
- **04 January**, Friday for the issue of Friday **11 January 2019**
- **11 January**, Friday for the issue of Friday **18 January 2019**
- **18 January**, Friday for the issue of Friday **25 January 2019**
- **25 January**, Friday for the issue of Friday **01 February 2019**
- **01 February**, Friday for the issue of Friday **08 February 2019**
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- **15 February**, Friday for the issue of Friday **22 February 2019**
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- **01 March**, Friday for the issue of Friday **08 March 2019**
- **08 March**, Friday for the issue of Friday **15 March 2019**
- **14 March**, Thursday for the issue of Friday **22 March 2019**
- **22 March**, Friday for the issue of Friday **29 March 2019**
- **29 March**, Friday for the issue of Friday **05 April 2019**
- **05 April**, Friday for the issue of Friday **12 April 2019**
- **11 April**, Thursday for the issue of Thursday **18 April 2019**
- **17 April**, Wednesday for the issue of Friday **26 April 2019**
- **25 April**, Thursday for the issue of Friday **03 May 2019**
- **03 May**, Friday for the issue of Friday **10 May 2019**
- **10 May**, Friday for the issue of Friday **17 May 2019**
- **17 May**, Friday for the issue of Friday **24 May 2019**
- **24 May**, Friday for the issue of Friday **31 May 2019**
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- **07 June**, Friday for the issue of Friday **14 June 2019**
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LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe* Forms. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
 - 8.1.5. Any additional notice information if applicable.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by “walk-in” customers on electronic media can only be submitted in *Adobe* electronic form format. All “walk-in” customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

QUOTATIONS

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** **GPW**'s annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF ARTS AND CULTURE

NO. 566

12 APRIL 2019

MINISTRY OF ARTS AND CULTURE
REPUBLIC OF SOUTH AFRICA

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IN TERMS OF SECTION 4(2) OF THE CULTURAL INSTITUTIONS ACT, 1998 (ACT 119 OF 1998) – RE-NAMING OF THE NATIONAL ENGLISH LITERARY MUSEUM, A DECLARED CULTURAL INSTITUTION

By virtue of powers vested in me by section 4(2) of the Cultural Institution Act, 1998 (Act No.119 of 1998), I, Nathi Mthethwa, Minister of Arts and Culture hereby re-name the National English Literary Museum to be known henceforth as **Amazwi - South African Museum of Literature**, subject to the Act as from the date indicated below

A handwritten signature in black ink, appearing to read 'Nathi Mthethwa'.

MR NATHI MTHETHWA, MP**MINISTER OF ARTS AND CULTURE**

DATE: 19/03/2019

DEPARTMENT OF DEFENCE AND MILITARY VETERANS

NO. 567

12 APRIL 2019

**CODES OF GOOD PRACTICE ON BROAD BASED BLACK
ECONOMIC EMPOWERMENT**

I, Dr Rob Davies, Minister of Trade and Industry, hereby:

- a) Issue the Defence Sector Code in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, (Act No. 53 of 2003) as amended by the B-BBEE Act 46 of 2013.
- b) Confirm that this is a replacement of Government Gazette No.42021, General Notice 1223 published on 9 November 2018.
- c) Determine that these Codes come into effect on the date of this publication.



Dr Rob Davies, MP
Minister of Trade and Industry
13 February 2019

**BROAD-BASED BLACK ECONOMIC EMPOWERMENT DEFENCE
SECTOR CODE OF GOOD PRACTICE IN TERMS OF SECTION 9 (1)
OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT
NO. 53 OF 2003 AS AMENDED BY ACT NO. 46 OF 2013**

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1. PREAMBLE

Colonialist and apartheid policies and practices in South Africa excluded Black People from the economy and deprived them of equal educational opportunities and equal access to the economy of the country. This resulted in a myriad of socio-economic problems which have resulted in high levels of poverty and inequality, significant shortage of skills, the reliance of the economy on a small number of people and the continued exclusion of Black People from the South African economy, resulting in an economy that performs below its potential.

To help deal with the inherited problems, South Africa adopted a Constitution which aimed to establish a society based on democratic values, social justice and fundamental human rights, improve the quality of life of all citizens and free the potential of each person, build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations; and to promote the achievement of equality through legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination.

Section 9 of the Bill of Rights as set out in Chapter 2 of the Constitution states: ***“Equality includes the full and equal enjoyment of all rights and freedoms.”*** This right to equality includes the right of all South Africans to participate fully in the economy of the country. The Broad – Based Black Economic Empowerment Act no 53 of 2003 and the amended Codes of Good Practice seek to give effect to this right. The South African Defence Industry, like other industries in South Africa, is negatively affected by problems of the past and needs a framework which finds solutions that will address the negative impact of past racially skewed rule and development and which will grow the Defence Industry in order for it to make a sustainable and meaningful contribution to the economy. A strong economy in which all citizens have an equal opportunity to participate, will contribute towards the strengthening of South Africa as a democratic developmental state. In this regard, the need for effective and significant economic transformation is essential. Such transformation must include access to economic opportunities and productive resources for previously excluded groups, the

promotion of local businesses and entrepreneurship, manufacturing, the development of skills for a knowledge-based economy and the development of innovative indigenous technology and Intellectual Property.

The Defence Sector Code aims, within the South African Defence Industry, to give effect to the constitutionally enshrined right to equality by addressing the effects of systemic past exclusion of Black people from participating in the economy, which remain firmly in place.

2. VISION

A fully transformed, revitalized Defence Industry with effective and sustainable economic participation by Black people as employees, managers, entrepreneurs, industrialists, developers, and shareholders.

3. MISSION

To create a framework for the meaningful and sustainable transformation and growth of the South African Defence Industry through ownership, management, skills development, and enterprise and supplier development programmes.

4. INTERPRETATIONS AND DEFINITIONS

- 4.1. **"The Act"** means the Broad-Based Black Economic Empowerment Act No. 53 of 2003 as amended from time to time;
- 4.2. **"Armcor"** means the Armaments Corporation of South Africa Limited established by the Armaments Corporation of South Africa Act No. 51 of 2003;
- 4.3. **"B-BBEE Enterprises"** means enterprises whose B-BBEE score, in terms of a sector scorecard which has been issued as a sector code of good practice or in terms of **the dti's** Generic Scorecard, has been verified by an accredited B-BBEE verification agency or in the case of Exempt Micro Enterprises or Qualifying Small Enterprise that are at least 51% Black Owned, produced an affidavit verifying their status;
- 4.4. **"B-BBEE Facilitator Status"** means Organs of State or Public Entities or State-Owned Enterprises that have been designated as B-BBEE Facilitators by the Minister of Trade and Industry by notice in the Government Gazette. In calculating their Ownership score, Measured Entities must treat B-BBEE Facilitators as having rights of Ownership held:
- 4.4.1. 100% by Black people;
- 4.4.2. 40% by Black women;
- 4.4.3. 20% by Black Designated Groups;
- 4.4.4. without any acquisition of debts; and
- 4.4.5. without any third party rights;
- 4.5. **"Black Designated Groups"** means:

-
- 4.5.1. Unemployed Black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;
- 4.5.2. Black people who are youth as defined in the National Youth Commission Act of 1996;
- 4.5.3. Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;
- 4.5.4. Black people living in rural and under developed areas;
- 4.6. "**Black Military Veterans**" means for the purpose of this Sector Code, any Black South African citizen who:
- 4.6.1. rendered military service to any of the Non-Statutory Military Organizations, which were involved in South Africa's Liberation War from 1960 to 1994;
- 4.6.2. served in the Union Defence Force before 1961;
- 4.6.3. became a member of the new South African National Defence Force after 1994; and
- 4.6.4. has completed his or her military training and no longer performs military service, and has not been dishonourably discharged from that military organization or force, provided that this definition does not exclude any person referred to in paragraph 4.5.1 or 4.5.2 who could not complete his or her military training due to an injury sustained during military training or a disease contracted or associated with military training;
- 4.7. "**Black Owned Entity Company** " means a juristic person, having shareholding or similar members' interest, that is Black controlled, in which

Black Participants enjoy a right to an Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle;

- 4.8. **“Black Controlled Entity”** means a juristic person, having shareholding or similar members interest, that is Black controlled, in which Black Participants enjoy a right to Exercisable Voting Rights that is at least 51% of the total such rights measured using the Flow Through Principle;
- 4.9. **“B-BBEE Recognition Level”** means the percentage B-BBEE Recognition Levels as determined:
- 4.9.1. for Entities that are neither Qualifying Small Enterprises nor Exempted Micro-Enterprises, using statement 000 of the Codes;
- 4.9.2. for Qualifying Small Enterprises, using statement 000 of the Codes; and
- 4.9.3. for Exempted Micro-Enterprises, the applicable deemed B-BBEE Recognition under statement 000 of the Codes.
- 4.10. **“Black People”** is a generic word which means Africans, Coloured and Indians:
- 4.10.1. who are citizens of the Republic of South Africa by birth or descent; or
- 4.10.2. who became citizens of the Republic of South Africa by naturalisation:
- 4.10.2.1. before 27 April 1994; or
- 4.10.2.2. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date.
- 4.11. **“Broad-Based Black Economic Empowerment”** means the viable economic empowerment of all Black people, in particular women, workers, youth, people with disabilities, and people living in rural and underdeveloped areas, through

diverse but integrated socio-economic strategies that include, but are not limited to:

- 4.11.1. increasing the number of Black people that manage, own and control enterprises and productive assets;
- 4.11.2. facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
- 4.11.3. human resources and skills development;
- 4.11.4. achieving equitable representation in all occupational categories and levels in the workforce; and
- 4.11.5. preferential procurement from enterprises that are owned or managed by Black people;
- 4.11.6. investment in enterprises that are owned or managed by Black people.
- 4.12. **"Broad-Based Ownership Scheme"** means an ownership scheme which meets the rules set out in Annexure 100(B) of the Codes;
- 4.13. **"Charter Council"** means the Defence Sector Charter Council established in terms of paragraph 17 of this Sector Code;
- 4.14. **"Codes"** means the Codes of Good Practice as amended from time to time including all the statements issued under Section 9 of the Act;
- 4.15. **"Defence Industrial Participation" (DIP)** means a government-initiated process whereby defence acquisitions and purchases are used as a leverage to oblige a foreign seller of Category 1 Matériel to reciprocate defence-related business in South Africa on a reciprocal basis in order to advance military strategic and defence-related industrial participation imperatives;
- 4.16. **"51% Black Owned"** means an Entity in which:

- 4.16.1. Black people hold at least 51% of the exercisable voting rights as determined under Code series 100;
- 4.16.2. Black people hold at least 51% of the economic interest as determined under Code series 100;
- 4.16.3. It has earned all the points for Net Value under statement 100;
- 4.17. **“51% Black Women Owned”** means an Entity in which:
- 4.17.1. Black women hold at least 51% of the exercisable voting rights as determined under Code series 100;
- 4.17.2. Black women hold at least 51% of the economic interest as determined under Code series 100; and
- 4.17.3. It has earned all the points for Net Value under statement 100.
- 4.18. **“30% Black Women Owned”** means an Entity in which:
- 4.18.1. Black women hold more that 30% of the exercisable voting rights as determined under Code series 100;
- 4.18.2. Black people hold at least 30% of the economic interest as determined under Code series 100;
- 4.18.3. It has earned all the points for Net Value under statement 100.
- 4.19. **“Defence Matériel”** means any Matériel whether raw or processed, including equipment, facilities, weapons, munitions, pyrotechnics, systems and services used principally for military purposes;
- 4.20. **“DoD”** means the Department of Defence and Military Veterans;
- 4.21. **“the dti”** means the Department of Trade and Industry;

- 4.22. **“EAP”** means Economically Active Population as determined and published by Statistics South Africa. The operative EAP for the purposes of any calculation under the Codes will be the most recently published EAP;
- 4.23. **“Economic Interest”** means a claim against the Entity representing a return on ownership of the Entity, similar in nature to a dividend right, measured using the Flow-Through and where applicable, the Modified Flow-Through principles;
- 4.24. **“Elements”** means the measurable quantitative or qualitative elements of B-BBEE compliance in the Codes;
- 4.25. **“Empowering Supplier”** means subject to any Notices that may be issued by the **“the dti”**, within the context of B-BBEE, is a B-BBEE compliant entity, which is a good South African corporate citizen, complying with all material regulatory requirements of the country such as employment equity and taxation and should meet at least 3 (three) if it is a Large Enterprise or 1 (one) if it is a Qualifying Small Enterprise on the following criteria:
- 4.25.1. at least 25% of cost of sales excluding labour cost and depreciation must be procured from local producers or local suppliers in SA. For the service industry, labour costs are included but capped at 15%;
- 4.25.2. job creation – 50% of jobs created are for Black people provided that the number of Black employees since the immediate period prior verified B-BBEE measurement is maintained;
- 4.25.3. at least 25% transformation of raw material/beneficiation which include local manufacturing, production and/or assembly, and/or packaging;
- 4.25.4. skills transfer – at least spend 12 days per annum of productivity deployed in assisting Black Owned EMEs and QSEs to increase their operation or financial capacity;

- 4.25.5. labour costs – at least 85% of labour costs are paid to South African employees of Entities in the service industry;

Exempted Micro Enterprises and Start-Ups are automatically recognized as Empowering Suppliers;

- 4.26. **“Entity”** means a legal entity or a natural or a juristic person conducting a business, trade or profession in the Republic of South Africa;

- 4.27. **“Enterprise Development Contributions”** means monetary or non-monetary contributions to Exempted Micro Enterprises or Qualifying Small Enterprises which are at least 51% Black Owned or at least 51% Black Women Owned with the objective of contributing to the development, sustainability and financial and operational independence of those beneficiaries;

- 4.28. **“Equity Equivalent Investment Programme”** means a public programme or scheme of any government department, provincial or local government in the Republic of South Africa or any other programme approved by the Minister of Trade and Industry as an Equity Equivalent Investment Programme;

- 4.29. **“Exempted Micro-Enterprise”** means an entity with an annual turnover of R5,000,000 (five million Rand) or less;

- 4.30. **“Flow-through Principle”** means as a general principle when measuring the rights of ownership of any category of Black People in a Measured Entity, only rights held by natural persons are relevant. If the rights of ownership of Black People pass through a juristic person then the rights of ownership of Black People in that juristic person is measurable. These principles apply through every tier of ownership in a multi-tiered chain of ownership until that chain ends with a natural Black person holding rights of ownership;

- 4.30.1. The method of applying the Flow Through Principle across one or more intervening juristic persons is as follows:

- 4.30.1.1. Multiply the percentage of the Participants' rights in the juristic persons through which those rights pass, by the percentage rights of ownership of each of those juristic persons successively to the Measured Entity; and
- 4.30.1.2. The result of this calculation represents the percentage of rights of ownership held by the Participant.
- 4.31. **"Foreign Enterprise"** means an Entity that is incorporated outside the borders of South Africa whether or not it carries on business in South Africa;
- 4.32. **"Fronting practice"** means a transaction, arrangement, or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the Act or the implementation of any of the provisions of the Act, including but not limited to practices in connection with a B-BBEE initiative:
- 4.32.1. in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;
- 4.32.2. in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to Black people in the ratio specified in the relevant legal documentation;
- 4.32.3. involving the conclusion of a legal relationship with a Black person for the purpose of that enterprise achieving a certain level of B-BBEE compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that Black person; or involving the conclusion of an agreement with another enterprise in order to achieve or enhance B-BBEE status in circumstances in which:

- 4.32.3.1. there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
- 4.32.3.2. the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
- 4.32.3.3. the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis;
- 4.33. "**Generic Scorecard**" means the balanced B-BBEE scorecard as contained in statement 000 of the Codes;
- 4.34. "**Global Practice**" means a globally and uniformly applied practice of a Multinational, restricting alienation of equity in or the sale of business in its regional operations. The practice must have existed before the promulgation of the Act;
- 4.35. "**Local Enterprise**" means an enterprise with 51% or more equity ownership by South African citizens, registered in the Republic of South Africa and paying tax to South African Revenue Service;
- 4.36. "**Large Enterprise**" means an entity that qualifies for measurement under the Generic Scorecard, with an annual turnover of more than R50,000,000 (fifty million Rand);
- 4.37. "**Local content**" means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
- 4.38. "**Management**" means:
- 4.38.1. Executive management, which includes the Chief Executive Officer, Managing Director, Chief Financial Officer, Executive Directors and those managers who have a significant leadership role in the enterprise, have control over the day to day operations, have decision-making powers and

report directly to the Chief Executive Officer, Managing Director and/or the Board of Directors;

- 4.38.2. Senior management means an employee who is a member of the occupational category of "Senior Management" as determined using the Employment Equity regulations, issued by the Department of Labour in terms of the Employment Equity Act 55 of 1998, as amended;
- 4.38.3. Middle management means an employee of the Measured Entity who is a member of the occupational category of "Middle Management" as determined using the Employment Equity regulations, issued by the Department of Labour in terms of the Employment Equity Act 55 of 1998, as amended; and
- 4.38.4. Junior management means an employee of the "Measured Entity" who is a member of the occupational category of "Junior Management" as determined using the Employment Equity regulations, issued by the Department of Labour in terms of the Employment Equity Act 55 of 1998, as amended.
- 4.39. **"Measured Entity"** means an Entity or Enterprise as well as an organ of state or public entity subject to measurement under the Codes;
- 4.40. **"Minister"** means the Minister of Trade and Industry;
- 4.41. **"Multinational Enterprise"** means a Measured Entity with a business in the Republic of South Africa and elsewhere which maintains its international headquarters outside the Republic;
- 4.42. **"National Development Plan"** "The National Development Plan (NDP) is an economic policy framework that aims to eliminate poverty and reduce inequality by 2030 through strategies that draw on the energies of its people, growing an inclusive economy, building capabilities, enhancing the capacity of the state, and promoting leadership and partnerships throughout society;

- 4.43. **"Net Profit after Tax"** means the operating profit of a Measured Entity after tax. It incorporates both profit / loss figures and abnormal items, but excludes extraordinary items as determined by (International Financial Reporting Standards (IFRS);
- 4.44. **"NDIC"** means The National Defence Industry Council;
- 4.45. **"Non-Statutory Military Organisations"** means the Azanian People's Liberation Army (APLA), Azanian National Liberation Army (Azanla) and Umkhonto we Sizwe (Umkhonto);
- 4.46. **"Ownership"** means ownership of an Economic Interest in an enterprise;
- 4.47. **"Organs of State"** means:
- 4.47.1. A national or provincial department as defined in the Public Finance Management Act No. 1 of 1999;
- 4.47.2. a municipality contemplated in the Constitution;
- 4.47.3. a provincial legislature; and
- 4.47.4. a constitutional institution listed in Schedule 1 of the Public Finance Management Act 1999 (Act No. 1 of 1999);
- 4.48. **"Participant"** means a natural person holding rights of ownership in a Measured Entity;
- 4.49. **"Procurement"** means all expenditure for goods, products, equipment and services, including capital expenditure and excluding where the expenditure is on municipal rates and taxes or part of payroll as well as in the context of procurement in the SADI, the complete process of acquiring or obtaining personnel, matériel, services, or property from outside the Defence Force (by means authorized in pertinent directives) in support of operational requirements and includes negotiating, contracting and purchasing;

- 4.50. **“Qualifying Small Enterprise”** means an Entity that qualifies for measurement under the Qualifying Small Enterprise Scorecard with a turnover of R5,000,000 (five million Rand) or more but less than R50,000,000(fifty million Rand);
- 4.51. **“SADI”** means the South African Defence Industry which is a collective term for South African Defence Related Industries and means those Entities in the public and private sector, including commercial companies and business units of such Entities, which are directly or indirectly active in the design, research, development, manufacture and marketing of Defence Matériel;
- 4.52. **“Scarce Skills”** means skills required in the SADI which shall contribute towards establishment or maintenance of Sovereign Capability;
- 4.53. **“SMME”** means small, medium and micro enterprises namely Exempted Micro Enterprises and Qualifying Small Enterprises;
- 4.54. **“Sovereign Capability”** means the ability to ensure, full national control, without reliance on any direct foreign assistance, of certain capabilities identified as vital to national security, including but not limited to, command and control, secure communications, aspects of precision-guided munitions, elements of electronic warfare, relevant algorithms and relevant software;
- 4.55. **“Stakeholders”** means Measured Entities, Organs of state, Public Entities, State-Owned Enterprises and suppliers who are involved in the SADI;
- 4.56. **“Start-Up Enterprise”** means a recently formed or incorporated Entity that has been in operation for less than 1 year. A start-up enterprise does not include any newly constituted enterprise with merely a continuation of a pre-existing enterprise;
- 4.57. **“Public Entity”** means an enterprise that is listed as a public entity in Schedule 2 or 3 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

- 4.58. **"Supplier"** means any supplier or service provider to a Measured Entity if any portion of the supply or service provision falls within the definition of Total Measured Procurement Spend;
- 4.59. **"Supplier Development Contributions"** means monetary or non-monetary contributions carried out for the benefit of value adding Suppliers to the Measured Entity that are Exempted Micro-Enterprises or Qualifying Small Enterprises which are at least 51% Black owned or at least 51% Black Women Owned, with the objective of contributing to the development, sustainability and financial and operational independence of such suppliers;
- 4.60. **"Strategic Enterprise"** means a public or private South African owned company which provides one or more of the capabilities identified as vital to national security and deemed sovereign;
- 4.61. **"Targeted-Procurement"** means a policy or programme of an Entity that reserves a percentage of procurement exclusively for certain categories of enterprises;
- 4.62. **"Voting Right"** means a voting right attached to an Entity Instrument owned by or held for a participant measured using the Flow Through Principle or the Control Principle, provided that:
- 4.62.1. to the extent that the provisions of the Codes of Good Practice Issued by **"the dti"** on 11 October 2013 and as amended from time to time provide further definition as to the nature of voting rights in an enterprise other than a company having share capital, those provisions should be read in conjunction with this definition in relation to such enterprises; and
- 4.62.2. voting rights exercised on behalf of a Black participant, by another natural person who acts in a fiduciary capacity or in terms of specific mandate or proxy, shall be deemed to be exercised by that participant;
- 4.63. **"Weighting"** means the weightings applied to the various Elements in the Sector Code Scorecards.

5. OBJECTIVES

- 5.1. The Objectives of the Defence Sector Code are to provide the SADI with a framework within which to implement B-BBEE and to give practical effect to national policy imperatives as set out in The National Development Plan, the Defence Industrial Participation Programme, the National Industrial Policy Framework, the Industrial Policy Action Plan, the Black Industrialists Policy and the South African Defence Review 2015;
- 5.2. More specifically, the Defence Sector Code aims to achieve the following objectives:
 - 5.2.1. to implement measures that will ensure the effective participation of Black people in the SADI and in the broader economy;
 - 5.2.2. to encourage the participation of and growth of SMME's in the SADI;
 - 5.2.3. to promote the growth of technical innovation within the SADI;
 - 5.2.4. to promote the growth of the SADI as a profitable, sustainable industry;
 - 5.2.5. to promote local manufacturing capability in the SADI for local and export purposes;
 - 5.2.6. to advance the acquisition, retention and transfer of critical, technical and Scarce Skills in the SADI;
 - 5.2.7. to protect South Africa's Sovereign Capability in the SADI;
 - 5.2.8. to actively promote entrepreneurship especially among the Black Designated Groups;
 - 5.2.9. to promote entrepreneurship and new enterprises in the SADI; and

5.2.10. to contribute to job creation.

6. CHALLENGES FACING THE SADI

- 6.1. Declining local spending;
- 6.2. A South African economy that is growing at a slow rate;
- 6.3. The rising threat of socio-political instability as a result of economic exclusion, and income inequality;
- 6.4. The exclusion of Black Military Veterans from the economy;
- 6.5. The inability of South African businesses in the SADI to meaningfully expand into the rest of the African continent's defence industry;
- 6.6. Continued over-reliance of the SADI on monopolies, oligopolies and Foreign-Enterprises;
- 6.7. Lack of adequate protection and preferential access for local Defence manufacturers over international competition; and
- 6.8. Regulatory constraints.

7. COMMITMENT

- 7.1. The Stakeholders acknowledge that the SADI is vital for the maintenance of South Africa's strategic capability and it plays a critical role in the country's economic growth, through manufacturing and technological innovation.
- 7.2. The Stakeholders further acknowledge that B-BBEE is a business imperative which is essential for the sustainability and growth of the industry.
- 7.3. The Stakeholders therefore commit themselves fully:

- 7.3.1. to implementing the provisions of this Sector Code and the provisions of the Act in both substance and in form;
- 7.3.2. to creating an enabling environment for the proper implementation of the measures in this Sector Code;
- 7.3.3. to displaying the highest degree of good faith in all matters relating to the implementation of the Defence Sector Code and neither do anything nor refrain from doing anything that has the effect either directly or indirectly of hampering the implementation of this Sector Code; and
- 7.3.4. to complying fully with the provisions of the Act especially and without limitation to avoid practices that frustrate the implementation of the Act and Defence Sector Code including fronting.

8. APPLICATION

- 8.1. This Sector Code is legally binding on all Entities in the SADI, in its entirety, including national or provincial departments, Organs of State, Public Entities, private enterprises providing Defence Matériel and/or any other supplies, products and services to the DoD or its agencies – whether they are procured from Local or Foreign Enterprises, as well as any role-player and stakeholder that might opt in.
- 8.2. Notwithstanding any other Sector Code that the Entities in paragraph 8.1. may be subject to at the date of the gazetting of this Sector Code, such Entities shall be obliged, to be measured in terms of this Sector Code if they derive more than 50% (fifty) per cent of their annual turnover from the SADI.

9. KEY PRINCIPLES

- 9.1. The fundamental principle for measuring B-BBEE compliance is that substance takes precedence over legal form.
- 9.2. In interpreting the provisions of this Sector Code, any reasonable interpretation consistent with the objectives of the Act as amended must take precedence.
- 9.3. In the event of this Sector Code of Good Practice not providing specifically for a particular aspect relating to its applicability or any other related matter or in the event of a lack of clarity, such aspects or matters must be dealt with in accordance with the Codes as amended from time to time. In addition, the interpretation of the provisions of this Sector Code shall be made having regard to the Preamble, the Objectives, Key Principles and Commitments as the case may be.
- 9.4. The basis for measuring B-BBEE initiatives under this Sector Code is the B-BBEE compliance of the Measured Entity at the date of Measurement.
- 9.5. Any misrepresentation or attempt to misrepresent a Measured Entity's true B-BBEE status will be dealt with in accordance with the provisions as set out in the Act as amended, and they may lead to the disqualification of the entire scorecard of the Entity concerned.
- 9.6. The optimization of local intellectual property, research and development, as well as manufacturing capacity must be encouraged.
- 9.7. All measures taken in terms of this Sector Code shall be implemented in a manner that promotes local manufacturing and the stimulation of indigenous technology and products and must be underpinned by a firm commitment to promote South Africa, its interests and its economy.

10. PRIORITY ELEMENTS, SUB- MINIMUM AND DISCOUNTING PRINCIPLE

- 10.1. The Priority Elements are as follows –

10.1.1. **OWNERSHIP**

The Sub-minimum requirement for Ownership is 40% of net value points.

10.1.2. **SKILLS DEVELOPMENT**

The sub-minimum requirement for Skills Development is 40% of the total weighting points for Skills Development.

10.1.3. **ENTERPRISE AND SUPPLIER DEVELOPMENT**

The sub-minimum requirement for Enterprise and Supplier Development is 40% for each of the three categories, within the Enterprise and Supplier Development element, namely Preferential Procurement; Supplier and Enterprise Development.

10.2. **COMPLIANCE WITH PRIORITY ELEMENTS**

10.2.1. A Large Enterprise is required to comply with all the Priority Elements;

10.2.2. A QSE is required to comply with Ownership as a compulsory element and either Skills Development or Enterprise and Supplier Development.

10.3. **DISCOUNTING PRINCIPLE EFFECT**

- 10.3.1. Non-compliance with the 40% sub-minimum requirements of any of the priority elements, as per paragraphs 10.2.1 and 10.2.2. above, will result in the following outcomes for both Large Enterprises and QSEs;
- 10.3.2. The actual points scored by the Measured Entity and the consequent level that the Measured Entity would have achieved were it not for non-compliance with 40% sub-minimum requirements will be recognized by the Verification Agency (“the Recognition Level”);
- 10.3.3. Notwithstanding the recognition in 10.3.2. above, the Measured Entity’s B-BBEE status level will be discounted by one level down until the next applicable verification period in which the Measured Entity can demonstrate compliance with the 40% sub-minimum requirements, at which point the Recorded Level will become the applicable ratings level for that Measured Entity in that verification period; and
- 10.3.4. The requirement to submit data to the Department of Labour under the Employment Equity Act 55 of 1998 is only applicable to ‘designated employers’ who employ 50 or more employees. However, for the purpose of measurement in terms of this Sector Code, both Large Enterprises and QSEs that employ less than 50 employees are required to submit sufficient evidence for verification purposes.

11. ELIGIBILITY AS AN EXEMPTED MICRO-ENTERPRISE

- 11.1. Any Enterprise with an annual Total Revenue of R5, 000.000 (five million Rand) or less qualifies as an Exempted Micro-Enterprise.

- 11.2. An Exempted Micro-Enterprise is deemed to have a B-BBEE Status of “Level Four Contributor” having a B-BBEE recognition level of 100%.
- 11.3. Enhanced B-BBEE recognition level for an Exempted Micro-Enterprise:
- 11.3.1. despite paragraph 11.2 an EME which is 100% Black Owned qualifies for elevation to “Level One Contributor” having a B-BBEE recognition level of 135%;
- 11.3.2. despite paragraphs 11.2 and 11.3.1, an EME which is at least 51% Black owned qualifies for elevation to “Level Two Contributor” having a B-BBEE recognition level of 125%; and
- 11.3.3. despite paragraphs 11.2 and 11.3, an EME is allowed to be measured in terms of the QSE scorecard should they wish to maximize their points and move to a higher B-BBEE recognition level.
- 11.4. An EME is only required to obtain a sworn affidavit or Companies and Intellectual Property Commission (CIPC) issued certificate confirming the following:
- 11.4.1. annual total Revenue/Allocated Budget/Gross Receipts of R5,000,000 (five million Rand) or less; and
- 11.4.2. level of Black Ownership.
- 11.5. Any misrepresentation in terms of Paragraph 11.3 above constitutes a criminal offence as set out in the Act as amended from time to time.

12. ELIGIBILITY AS A QUALIFYING SMALL ENTERPRISE

- 12.1. Any Measured Entity with a Total Annual Revenue of between R5,000,000 (five million Rand) and R50,000,000 (fifty million Rand) qualifies as a QSE

provided its qualification does not arise as a result of circumvention of the relevant Scorecard;

- 12.2. Entities that are QSEs must use the Qualifying Small Enterprises Scorecard in this Sector Code;
- 12.3. Enhanced B-BBEE recognition level for QSE:
 - 12.3.1. A Qualifying Small Enterprise which is 100% Black owned qualifies for a Level One B-BBEE recognition;
 - 12.3.2. Despite paragraph 12.2, a Qualifying Small Enterprise which is at least 51% Black owned qualifies for a Level Two B-BBEE recognition level of 125%; and
 - 12.3.3. Despite paragraph 12.2, a Qualifying Small Enterprise that is at least 51% Black owned is only required to obtain a sworn affidavit of CIPC issued certificate on an annual basis, confirming the following: -
 - 12.3.3.1. Annual Total Revenue/Allocated Budget/Gross Receipts of R50,000,000 (fifty million Rand) or less, but not less than R5,000,000; and
 - 12.3.3.2. Level of Black Ownership.
- 12.4. Any misrepresentation in terms of paragraph 12.3 above constitutes a criminal offence as set out in the B-BBEE Act, as amended.
- 12.5. Any matter concerning the application of the Qualifying Small Enterprise Scorecard that is not dealt with explicitly in this Sector Code must be dealt with in terms of Codes 100-500 of the Codes.

13. START-UP ENTERPRISES

- 13.1. A Start-up Enterprise must be measured as an EME under this statement for the first year following its formation or incorporation. This provision applies regardless of the expected annual total revenue of the Start-up enterprise.
- 13.2. A Start-up Enterprise is deemed to have the qualifying B-BBEE status in accordance with the principles of paragraph 11 of this Sector Code.
- 13.3. In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status.
- 13.4. Despite paragraphs 13.1 and 13.2, a Start-Up Enterprise must submit a QSE scorecard when tendering for any contract or seeking any other economic activity covered by Section 10 of the Act, with a value higher than R5,000,000 (five million Rand) but less than R50,000,000 (fifty million Rand). For contracts or any other economic activity referred to in this paragraph 13.4, of R50,000,000 (fifty million Rand) or more, they should submit a Defence Sector Scorecard. The preparation of such scorecards must use annualized data.

14. THE DEFENCE SECTOR SCORECARD

- 14.1. The Ownership Element, measures effective ownership of Entities by Black people.
- 14.2. The Management Control Element measures the effective control of Entities by Black people.
- 14.3. The Skills Development Element measures the extent to which employers carry initiatives designed to develop the competencies of Black employees and Black people internally and externally.
- 14.4. The Enterprise and Supplier Development Element, measures the extent to which Entity buys goods and services from Empowering Suppliers preferably

between level 1 and level 4 B-BBEE recognition levels. This element also measures the extent to which Enterprises carry out supplier development and enterprise development initiatives intended to assist and accelerate the growth and sustainability of Black enterprises.

- 14.5. The Socio-Economic Development and Sector Specific Contributions Element, measures the extent to which Entities carry out initiatives that contribute towards Socio-Economic Development or Sector Specific initiatives that promote access to the economy for Black people.
- 14.6. The Localisation Element measures the extent to which Entities procure Defence Matériel from Local Enterprises that contribute to the development of manufacturing and new locally developed technology.
- 14.7. Organs of State and State-Owned Enterprises shall be measured using the Specialised Defence Scorecard but shall otherwise comply with all the provisions of this Sector Code unless expressly excluded there from.

THE DEFENCE SCORECARD

ELEMENT	WEIGHTING	SECTOR CODE REFERENCE
Ownership	25 Points	Paragraph 16.1
Management Control	15 Points	Paragraph 16.2
Skills Development	20 Points	Paragraph 16.3
Enterprise and Supplier Development	40 Points	Paragraph 16.4

Localisation	10 Points	Paragraph 16.5
Socio-Economic Development	5 Points	Paragraph 16.6
Total	115	

15. B-BBEE RECOGNITION LEVELS

Based on the overall performance of a Measured Entity using the Defence Sector Scorecard the Measured Entity will receive one of the following B-BBEE Status level with the corresponding B-BBEE recognition level.

B-BBEE Status	Qualification	B-BBEE recognition level
Level One Contributor	≥100 points on the Defence Sector Scorecard	135%
Level Two Contributor	≥95 but <100 points on the Defence Sector Scorecard	125%
Level Three Contributor	≥90 but <95 points on the Defence Sector Scorecard	110%
Level Four Contributor	≥80 but <90 points of the Defence Sector Scorecard	100%
Level Five Contributor	≥75 but <80 points on the Defence Sector Scorecard	80%
Level Six Contributor	≥70 but <75 points on the Defence Sector Scorecard	60%
Level Seven Contributor	≥55 but <70 points on the Defence Sector Scorecard	50%
Level Eight Contributor	≥40 but <55 points on the Defence Sector Scorecard	10%

Non-Compliant Contributor	<40 points on the Defence Sector Scorecard	0%
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16. ELEMENTS OF THE DEFENCE SECTOR CODE: LARGE ENTITIES SCORECARD

16.1. OWNERSHIP

16.1.1. One of the most effective tools for promoting sustainable economic transformation and growth in the SADI is meaningful ownership by Black people of an Economic Interest in Enterprises. Stakeholders therefore commit to achieving the following ownership targets within a period of 3 (three) years from the date of the promulgation of this Sector Code: -

16.1.1.1. a minimum target of 25% (twenty-five per cent) of Economic Interests held by Black people in Enterprises in the SADI in the first year after promulgation of this Sector Code, 30% (thirty per cent) in the second year and in the third year 35% (thirty-five per cent);

16.1.1.2. a minimum of 10% (ten) per cent of an Economic Interest held by Black women in Enterprises in the SADI in the first year and 15% (fifteen) per cent in the second and third year; and

16.1.1.3. any ownership target, as with other elements of this Sector Code, shall include a minimum threshold for Black Designated Groups.

16.1.2. Black people who have an Economic Interest in an Enterprise must have exercisable Voting Rights and be entitled to receive economic benefits arising from such Economic Interest subject to any liabilities they may have incurred in the course of acquiring an economic interest.

- 16.1.3. All Measured Entities are bound by the ownership targets set out herein except where specifically exempted in this Sector Code.
- 16.1.4. Multinational Enterprises shall comply with the ownership element of the Sector Code unless they are subject to a Global Practice prohibiting such enterprises from selling shares outside their country.
- 16.1.5. In the event paragraph 16.1.4 applies, the Multinational Enterprise shall: -
- 16.1.5.1. produce satisfactory evidence of the such Global Practice; and
 - 16.1.5.2. evidence of an Equity Equivalent Programme approved by the Minister.
- 16.1.6. Black People holding rights of ownership in a Measured Entity through Employee Share Ownership Schemes may contribute a maximum of 40% of the total points on the ownership scorecard provided that such Employee Share Ownership Scheme meet the following qualification criteria: –
- 16.1.6.1. the constitution of the scheme must define the participants and the proportion of their claim to receive distributions;
 - 16.1.6.2. not less than 85% of the value of benefits allocated by the scheme must accrue to Black people;
 - 16.1.6.3. not less than 50% of the fiduciaries of the Scheme must be Black people and at least 25% must be Black women;
 - 16.1.6.4. participants may be named or referred to as a defined class of natural persons and their claim to receive distributions may be in fixed percentages or determined in terms of a formula and the fiduciaries of the scheme have no discretion in this regard;
 - 16.1.6.5. the constitution of the Scheme and any other information affecting the scheme including such information of the Measured Entity that a shareholder in a company having shareholding

- would be entitled to be available on request to any participant in an official language in which that person is familiar;
- 16.1.6.6. the fiduciaries of the Scheme must present the financial reports of the scheme to participants yearly at an annual general meeting of the scheme;
- 16.1.6.7. the participants must take part in appointing at least 50% of the fiduciaries and must have a role in the management of the scheme similar to the role of a shareholder in a company having shareholding;
- 16.1.6.8. all accumulated Economic Interest in the scheme is payable to the participants at the earlier of a date specified in the constitution or on termination or winding up of the scheme;
- 16.1.6.9. no onerous or punitive measures exist in the constitution or management of the Scheme that in any manner whatsoever deprive the participants of any rights to the benefits of the scheme including when they cease to be employees of the Measured Entities;
- 16.1.6.10. the chairperson of the scheme must be independent; and
- 16.1.6.11. the Scheme should have representation on the board of directors of the Measured Entity.
- 16.1.7. Black Participants in a Trust holding rights of ownership in a Measured Entity may contribute a maximum of 40% of the total points on the Ownership Scorecard of the Measured Entity if the Trust meets the qualification criteria for Trusts set out in paragraphs 16.1.8 and 16.1.9 herein.
- 16.1.8. The qualification criteria for the recognition of Trusts are as follows:

- 16.1.8.1. the trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;
 - 16.1.8.2. a written record of the names of the beneficiaries or the use of defined or natural person satisfies the requirement for identification;
 - 16.1.8.3. a written record or fixed percentage of entitlement or the use of a formula for calculation entitlement satisfies the need for defining proportion of benefit;
 - 16.1.8.4. the trustees must have no discretion on the above-mentioned terms;
 - 16.1.8.5. on winding-up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries;
 - 16.1.8.6. the trust must have been established for legitimate commercial purposes which must be fully disclosed and its objects must reflect;
 - 16.1.8.7. the Trust must be entitled to nominate and appoint persons on the board of directors of the Measured Entity commensurate with its shareholding in such Measured Entity; and
 - 16.1.8.8. the terms of the Trust do not directly or indirectly seek to circumvent the provisions of the Defence Sector Code and the Act.
- 16.1.9. The qualification criteria for the recognition of Family Trusts are as follows:
- 16.1.9.1. the trust deed must define the beneficiaries and the proportion of their entitlement to receive distributions;

- 16.1.9.2. a written record of the names of the beneficiaries or the use of a defined class of natural persons satisfies the requirement of defining beneficiaries;
- 16.1.9.3. a use of a formula for calculating entitlement satisfies the need for defining proportion of benefit and only the trustee must have discretion on the above-mentioned terms; and
- 16.1.9.4. on winding-up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries.
- 16.1.10. The provisions relating to Trusts do not apply to any Trusts registered prior to the gazetting of the Defence Sector Code.
- 16.1.11. The decisions of Black owners of equity interests to sell, transfer, alienate or otherwise dispose of their Equity Interest in any Enterprise shall not affect the obligation of such Enterprise to at all times fully comply with the ownership targets in this Sector Code.
- 16.1.12. When determining ownership in a Measured Entity, ownership held by Organs of State or State-Owned Enterprises must be excluded.
- 16.1.13. Exclusion of Ownership held by the Organs of the State or State-Owned Enterprises is to be effected before any other Ownership discounting methods are to be applied.
- 16.1.14. In calculating the Ownership score, Measured Entities must apply the Exclusion Principle to any portion of their Ownership held by Organs of State or State-Owned Entities.
- 16.1.15. The provisions of paragraphs 16.1.8 to 16.1.10 shall not apply to Organs of State or State-Owned Entities that are B-BBEE Facilitators during the relevant period of measurement. Such exemption applies only to the Ownership Element and such Organs of State and Public Entities who are

B-BBEE Facilitators must comply with all other provisions of this Sector Code.

16.1.16. Notwithstanding any other provision in this Sector Code, Organs of State and Public Entities may, taking into consideration the objectives of this Sector Code, introduce restrictions on or exclude Measured Entities from tendering or doing business with them if they do not comply with the ownership targets set out in paragraph 16.1.1 hereof.

16.1.17. **EQUITY EQUIVALENTS**

16.1.17.1. Examples of Equity Equivalents shall include, but not be limited to: –

16.1.17.1.1. skills transfer programmes aimed at building the capacity of Black people to participate in the defence industry;

16.1.17.1.2. technology transfer programmes intended to increase the participation of Black people in the defence industry;

16.1.17.1.3. programmes that promote economic growth and employment creation through the development of technological innovation beyond the Multinational's core business activities;

16.1.17.1.4. supplier-development and any other interventions targeted at reducing the overreliance of the South African defence industry on Foreign Enterprises;

16.1.17.1.5. programmes in line with applicable programmes in South Africa that were initiated to increase the manufacturing capacity of the economy;

16.1.17.1.6. programmes of the defence industry that are in place to facilitate the skills and technology transfer to South African

enterprises in general and black-owned enterprises in particular; and

- 16.1.17.1.7. programmes aimed at building the capacity of Black Designated Groups to participate meaningfully in the SADI value chain.

OWNERSHIP SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target			
				Year 1	Year 2	Year 3	
Ownership	1. Voting Rights	1.1 Exercisable Voting Rights in the measured Entity in the hands of Black people.	4	25%	30%	35%	
		1.2 Exercisable Voting Rights in the Measured Entity in the hands of Black Women.	2	10%	15%	15%	
	2. Economic Interest	2.1 Economic Interest in the Measured Entity to which Black people are entitled.	4	25%	30%	35%	
		2.2 Economic Interest in the Measured Entity to which Black women are entitled.	2	10%	15%	15%	
		Economic Interest of any of the following Black natural people in the Measured Entity					
		2.3.1 Black Military Veterans.	4	3%			
		2.3.2 Black people in Broad-based Ownership					

		2.3.3 Black New Entrants	1	2%		
	3. Realisation Points	Net Value	8			
		TOTAL	25 points			

16.2. MANAGEMENT CONTROL

16.2.1. The objective of Management Control is that Black people should be actively involved in making strategic decisions, proportionate to their Economic Interest in the board of directors of the Measured Entity and in the various levels of management. This means participation at the following levels:

16.2.1.1. Proportional representation at the non-executive and executive board level that is geared to give strategic direction to the Measured Entity, without restrictions that may be linked to the indebtedness of the shareholders they represent, even if this indebtedness arises out of financing the acquisition of the shareholding that necessitated their board participation; and

16.2.1.2. Executive management – including key strategic positions that could include Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer among others, that is accompanied with the requisite executive powers to make decisions, including budget allocation and deployment, staff appointment and such powers as are ordinarily exercised within corporations by persons occupying such positions.

16.2.2. These positions should not be subject to any restrictions that are out of the ordinary nor token positions specifically created for Black executives.

16.2.3. The gazettement of the Defence Sector Code shall not affect the obligation of a designated employer's obligation to comply with the Employment Equity Act and Regulations as amended from time to time.

16.2.4. **BOARDS**

16.2.4.1. Large Measured Entities commit to achieve the following targets on their boards of directors: –

16.2.4.1.1. 50% Black representation within the first year of the promulgation of the Sector Code increasing to 60% (sixty) per cent by the third anniversary of the promulgation; and

16.2.4.1.2. 25% Black female within the first year of the promulgation of the Sector Code increasing to 30% (thirty) per cent by the third anniversary of the promulgation and after the promulgation of the Sector Code.

16.2.5. **EXECUTIVE MANAGEMENT**

16.2.5.1. Measured Entities commit to achieve the following targets:

16.2.5.1.1. 60% Black executive directors; and

16.2.5.1.2. 30% Black female executive directors.

16.2.6. The compliance target for senior, middle and junior management in the Management Control Scorecard are based on the national and regional demographic representation of Black people as defined in the Regulations of the Employment Equity Act No. 55 of 1998 as amended from time to time.

- 16.2.7. In determining a Measured Entity's Score, the targets should be further broken down into specific criteria according to the different race sub - groups within the definition of Black in accordance with the Employment Equity Act on an equitable representation and weighted accordingly.

MANAGEMENT CONTROL SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target	
				Year 1 - 2	Year 3
Management Control	1. Board Participation	1.1. Exercisable voting rights of Black board members as a percentage of all board members	2	50%	60%
		1.2. Exercisable voting rights of Black Military Veterans board members as a percentage of all board members	1	30%	30%
		1.3. Exercisable voting rights of Black female board members as a percentage of all board members	1	25%	30%
		1.4. Black Executive directors as a percentage of all executive directors	1	50%	60%
		1.5. Black female Executive directors as a percentage of all executive directors	1	25%	30%
		2.1. Black Executive Management as a	2	60%	60%

2. Other Executive Management	percentage of all executive management			
	2.2. Black female Executive Management as a percentage of all executive management	1	30%	30%
3. Senior Management	3.1. Black employees in Senior Management as a percentage of all senior Management	2	60%	60%
	3.2. Black female employees in Senior Management	1	30%	30%
4. Middle Management	4.1. Black employees in Middle Management as a percentage of all Middle Management	2	75%	80%
	4.2. Black female employees in Middle Management as a percentage of all Middle Management	1	38%	40%
5. Junior Management	5.1. Black employees in Junior Management as a percentage of all Junior Management	1	88%	90%
	5.2. Black female employees in Junior Management as a percentage of all junior management	1	44%	45%

	6. Employees with disabilities	Black employees with disabilities as a percentage of all employees	2	2%	3%
		TOTAL	15 points		

16.3. SKILLS DEVELOPMENT

- 16.3.1. The shortage of technical and critical skills is one of the major challenges in the SADI which negatively impacts on the ability of the industry to grow. This shortage is a direct result of the historical exclusion of Black people from acquiring such skills. If the SADI is to play its vital role in the re-industrialization of the South African economy, structured and strategic interventions are needed for the acquiring of critical and Scarce Skills. Skills Development initiatives must focus on Scarce Skills including those related to the generation and development of new knowledge that could be deployed to increase the participation of black persons in the expansion and operation of Strategic Enterprises and retention of Sovereign Capabilities in the SADI.
- 16.3.2. Every Measured Entity therefore commits to spend 6% (six) per cent of their annual payroll on skills development programmes for Black persons.
- 16.3.3. Measured Entities must not count the same Black persons under more than one category as contained in paragraphs 2.1, 2.2 and 2.3 of the Skills Development Scorecard respectively, for the purpose of skills development.

SKILLS DEVELOPMENT SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Skills Development	1. Skills Development Expenditure on any programme specified in the Learning Programme Matrix for Black people as a percentage of the Leviale Amount	1.1. Skills Development expenditure on Learning Programmes for Black people as a percentage of Leviale Amount	5	6%
		1.2. Skills Development Expenditure on Learning Programmes for Black employees with disabilities	2	0,3%
		1.3. Skills Development Expenditure on Learning Programmes for Black Military Veterans	3	1%
	2. Learnerships, Apprenticeships and Internships	2.1. Number of people from Black Designated Groups participating in Learnerships, Apprenticeships and Internships as a percentage of number of employees	3	3%
		2.2. Number of Black people participating in Learnerships, Apprenticeships and Internships as a percentage of number of employees	3	2.5%

		2.3. Number of Black unemployed people or students participating in Learnerships, Internships and Apprenticeships participating in training as a percentage of number of employees	4	2.5 %
	3. Bonus Points	Number of previously unemployed Black people absorbed by the Entity at the end of the Learnerships, Internships and Apprenticeships programme	5	100%
		TOTAL	20 Points	

16.4. ENTERPRISE AND SUPPLIER DEVELOPMENT

16.4.1. The South African government focus areas for B-BBEE in the next 10 years links to key government economic development strategies such as the Defence Industry Strategy, Industrial Policy Action Plan (IPAP), the Defence Industrial Participation Programme (DIPP), the National Industrial Policy Framework (NIPF), the National Development Plan (NDP) and the Black Industrialist Policy. Key aspects of all these strategies are the promotion of entrepreneurship, focusing on businesses that result in job creation, expanding business horizons by venturing into new fields, operational excellence and risk taking. **the dti's** Black Industrialists Policy is also important in this regard. This emphasis is carried through to the Generic Scorecard in which Enterprise and Supplier Development is a priority element carrying the highest weighting. Most Black businesses are SMME's. Empowerment policies and practices should not only support Exempted Micro Enterprises and Qualifying Small Enterprises but also assist them to grow into Large Enterprises.

- 16.4.2. The SADI is in a unique position to stimulate this growth and create new businesses. Public Entities should take the lead in driving such changes. The promotion of local content and stimulation of local manufacturing is also to be encouraged through this Sector Code.
- 16.4.3. The aim of Enterprise and Supplier Development programmes is:
- 16.4.3.1. to strengthen local procurement in order to help build South Africa's industrial base in critical sectors of production and value adding manufacturing, which are largely labour-intensive industries;
 - 16.4.3.2. to increase local procurement through capacity building achieved by incentivising appropriate local supplier development programmes by businesses supplying imported goods and services; and
 - 16.4.3.3. to actively support procurement from Black Owned QSEs and EMEs by identifying opportunities to increase procurement from local suppliers in order to support employment creation.
- 16.4.4. Stakeholders therefore commit themselves to the following:
- 16.4.4.1. **ORGANS OF STATE AND PUBLIC ENTITIES**
- 16.4.4.1.1. Public Entities and Organs of State shall be entitled to implement Targeted Procurement for Black Owned Enterprises.
 - 16.4.4.1.2. Public Entities and Organs of State shall be entitled to require that Measured Entities doing business with it, sub-contract a minimum of 30 % (thirty) per cent of a contract to the following entities that are at least 51% Black owned: –

- Exempted Micro Enterprises or Qualifying Small Enterprises owned by Black females;
- Exempted Micro Enterprises or Qualifying Small Enterprises owned by Black people;
- Exempted Micro Enterprises or Qualifying Small Enterprises owned by Black Military Veterans;
- Exempted Micro Enterprises or Qualifying Small Enterprises owned by Black youth; and
- Exempted Micro Enterprises or Qualifying Small Enterprises by black people with disabilities.

16.4.4.1.3. Any Targeted Procurement shall not exceed 30% (thirty) per cent of the total procurement budget of the Organ of State or the Public Entity implementing such procurement in the first year after the promulgation of the Defence Sector Code, 35% (thirty-five) per cent in the second year and 40% (forty) per cent in the third year.

16.4.4.2. PRIVATE SECTOR ENTERPRISES

16.4.4.2.1. Private sector enterprises must, in instances where it is feasible or where it is required, sub-contract not less than 30% (thirty) per cent of any contract exceeding an amount of R30,000,000 (thirty million Rand) to: –

- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black females;

- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black people; and
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by Black Military Veterans;
- Exempted Micro - Enterprises or Qualifying Small Enterprises owned by young Black people.

All stakeholders undertake to use as a guide, the non-exhaustive list of Enterprise Development and Supplier Development Contributions in Schedule 1 of this Sector Code to meet the Enterprise and Supplier Development targets.

16.4.4.3. **DEFENCE INDUSTRY ENTERPRISE AND SUPPLIER DEVELOPMENT FUND**

16.4.4.3.1. Stakeholders hereby agree to set up a Defence Industry Enterprise and Supplier Development Fund. Such a Fund will be administered by the Charter Council which may outsource the management of the Fund to any entity with the requisite skills, experience and capacity subject to such entity complying with the Charter Council's directives and the aims and objectives of this Sector Code.

16.4.4.3.2. The Defence Industry Enterprise and Supplier Development Fund shall be utilised for Enterprise and Supplier Development Initiatives including the following:

- To fund Black owned entities in the SADI;
- To engage in initiatives that promote manufacturing in the SADI;
- To fund innovative Black owned technology entities within the SADI or whose products or services can be utilized by the SADI;

- To promote the development of intellectual property and exploitation in the SADI by and in collaboration with Black people;
- To promote and fund the development and transfer of Sovereign and Strategic capability and investing to ensure sustainability of such capabilities in the SADI; and
- Through funding and other measures support the growth of Black businesses within the SADI to compete internationally and promote exports.

- 16.4.4.3.3. The Charter Council shall determine the method of operation of the Enterprise and Supplier Development Fund and identify any additional Enterprise and Supplier Development Initiatives to be funded by it.
- 16.4.4.3.4. All funding by the Enterprise and Supplier Development Fund shall be by way of grants and related mechanisms.
- 16.4.4.3.5. The Charter Council shall ensure that costs for the administration and management of the Enterprise and Supplier Development Fund does not exceed 3% (three) per cent of the total income of the Fund in any financial year.
- 16.4.4.3.6. All Measured Entities with the exception of Exempted Micro Enterprises must contribute 1% (one) per cent of their Net Profit After Tax (NPAT) to the Enterprise and Supplier Development Fund.
- 16.4.4.3.7. The Charter Council shall ensure that the Enterprise and Supplier Development Fund shall be established not later than 12 (twelve) months after the gazetting of this Sector Code.
- 16.4.4.3.8. Notwithstanding any provision to the contrary contained in this Sector Code, no stakeholder shall be required to contribute to the Enterprise and Supplier Development Fund in terms of paragraph 16.4.4.3.6 herein

prior to the establishment of the Enterprise and Supplier Development Fund.

- 16.4.4.3.9. Notwithstanding any provision to the contrary contained in this Sector Code, in the period between the gazetting of this Sector Code and the establishment of the Enterprise and Supplier Development Fund, the annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity shall be 2% (two) per cent of NPAT. After the establishment of the Enterprise and Supplier Development Fund, paragraph 4 of the Enterprise and Supplier Development Scorecard dealing with contributions to the Enterprise and Supplier Development Fund, shall be applicable.

16.4.4.4. FOREIGN ENTERPRISES

Foreign Enterprises shall place DIP contracts equivalent to seventy-five percent (75%) of the total DIP obligation with local (South African) B-BBEE compliant suppliers (Enterprises that are at least 25,1% owned by Black people and at least 25,1% controlled by Black people) while at least twenty-five percent (25%) of this value shall be placed with Enterprise and Supplier Development (ESD) beneficiaries.

ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Enterprise and Supplier Development	1. Preferential procurement	1.1. B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement	5	80%

		Recognition Levels as a percentage of Total Measured Procurement Spend.		
		1.2. B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable BBEE Procurement Recognition Levels as percentage of Total Measured Procurement Spend	3	8%
		1.3. B-B-BEE Procurement Spend from all Exempted Micro Enterprises based on the applicable BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%

		based on the Total Measured Procurement Spend		
		1.4. B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based on the applicable BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	9	40%
		1.5. B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	12%

	2. Bonus Points	B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% Black owned.	2	6%
	3. Supplier Development	Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target	6	1% NPAT
	4. Enterprise Development	Annual value of Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of the target	4	1% NPAT
	5. Enterprise & Supplier Development Fund	Annual Contributions to the Enterprise and Supplier Development Fund	5	1% NPAT
	6. Bonus Points	6.1 Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level	1	
		6.2 Bonus point for creating one or more jobs directly as a result of Supplier Development	1	

		and Enterprise Development initiatives by the Measured Entity.		
		6.3 Bonus points for discharging DIP obligations for benefit of South African Entities that are 25.1% Black owned and managed.	2	75%
		TOTAL	40 Points	

16.5. LOCALISATION

16.5.1. One of the most important mechanisms for growing a sustainable defence industry is the stimulation and expansion of South African enterprises and improving their global competitiveness.

16.5.2. Stakeholders therefore commit to:

16.5.2.1. procure at least 60% of Defence Matériel from Local Enterprises;

16.5.2.2. provide support for and procurement from Local Enterprises that manufacture Defence Matériel in South Africa; and

16.5.2.3. provide support for Local Enterprises that introduce new locally developed technology that is not older than 24 (twenty-four) months in the SADI.

16.5.3. In the event that it is not practically achievable to procure 60% of Defence Matériel from Local Enterprises, Measured Entities doing business with Organs of State and Public Entities must submit a written request for exemption to Armscor or the Department of Defence as may be applicable

which may at their sole discretion exempt such Measured Entities from compliance with this provision.

- 16.5.4. All Measured Entities that are granted an exemption must develop and implement an Enterprise and Supplier Development plan in addition to any other contributions in terms of the Enterprise and Supplier Scorecard in this Sector Code.
- 16.5.5. Measured Entities that do not do business with Organs of State or Public Entities may request such exemption from **the dti** which may at its sole discretion exempt such Measured Entities from compliance with this provision.
- 16.5.6. Any written request by a Measured Entity for exemption from compliance with the provisions of paragraph 16.5.2.1 must be accompanied by the following:
- 16.5.6.1. verifiable evidence that there is no existing local production of such Defense Matériel;
- 16.5.6.2. evidence that importing Defense Matériel will further promote value-added production within South Africa;
- 16.5.7. All Measured Entities that are granted an exemption must develop and implement an Enterprise and Supplier Development plan in addition to any other contributions in terms of the Enterprise and Supplier Scorecard in this Sector Code.
- 16.5.8. Any Enterprise and Supplier Development plan that an exempted Measured Entity develop in terms of paragraph 16.5.7, should include:
- Clear objectives
 - Priority interventions
 - Key performance indicators; and

- A concise implementation plan with clearly articulated annual milestones.

16.5.9. Measured Entities that are exempted in terms of this paragraph 16.5 and are fully compliant with the Enterprise and Supplier Plan in terms of paragraph 16.5.8 are deemed to have complied with the relevant provision of the Localisation Scorecard and are therefore entitled to the 6 Weighting Points.

LOCALISATION SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Localisation		1. Procurement of Defence Matériel produced and/or manufactured in South Africa by Local Enterprises.	6	60%
		2. Procurement from Local Enterprises that introduced new locally developed technology in the SADI that is not older than 24 months.	2	60%
		3. Procurement of technologies that are developed in South Africa by Local Enterprises from intellectual property owned by such Local Enterprises or technologies that are developed in South Africa by Local Enterprises from intellectual property	2	60%

		licensed thereto by Local or Foreign Enterprises.		
		TOTAL	10 Points	

16.6. SOCIO-ECONOMIC DEVELOPMENT

- 16.6.1. Measured Entities receive recognition for any Socio-Economic Development Contributions that are quantifiable as a monetary value using a Standard Valuation Method.
- 16.6.2. Socio-Economic Development Contributions of any Measured Entity are recognizable annually.
- 16.6.3. No portion of the value of any Socio-Economic Development contribution that is payable to the beneficiary after the date of measurement can form part of any calculation under this statement.
- 16.6.4. Socio-Economic Development Contributions consist of monetary or non-monetary contributions actually initiated and implemented in favour of beneficiaries by a Measured Entity with the specific objective of facilitating income generating activities for targeted beneficiaries.
- 16.6.5. The full value of Socio-Economic Development Contributions made to beneficiaries is recognisable if at least 75% of the value directly benefits Black people.
- 16.6.6. If less than 75% (seventy) per cent of the full value of Socio-Economic Development Contributions directly benefits Black people, the value of

the contribution made multiplied by the percentage that benefits people are recognisable.

- 16.6.7. The following is a non-exhaustive list of Socio-Economic Development Contributions:
- 16.6.7.1. grant contributions to beneficiaries of Socio-Economic Development Contributions;
 - 16.6.7.2. guarantees given or security provided for beneficiaries;
 - 16.6.7.3. direct costs incurred by a Measured Entity in assisting beneficiaries;
 - 16.6.7.4. overhead costs of a Measured Entity directly attributable to Socio Economic Development Contributions; developmental capital advanced to beneficiary communities;
 - 16.6.7.5. preferential terms granted by a Measured Entity for its supply of goods or services to beneficiary communities;
 - 16.6.7.6. payments made by the Measured Entity to third parties to perform socio-economic development on the Measured Entity's behalf;
 - 16.6.7.7. subject to paragraph 16.6.7.6. the maintenance by the Measured Entity of a Socio-Economic development unit which focuses only on support of beneficiaries and beneficiary communities;
 - 16.6.7.8. providing training or mentoring of beneficiary communities by a Measured Entity. Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A clear justification must support any claim costs incurred, commensurate with the seniority and expertise of the trainer; and
 - 16.6.7.9. maintaining a socio-economic development unit by the Measured Entity. Only that portion of salaries and wage attributable to time spent

by the staff in, and the other expenses related to, promoting and implementing socio-economic development constitute contributions.

SOCIO-ECONOMIC DEVELOPMENT SCORECARD

Criteria	Weighting Points	Compliance Target
1. Annual Value of all Socio-Economic Contributions by the Measured Entity as a percentage of the target	3	0.5% NPAT
2. Annual Value of all Socio-Economic Contributions to Black Military/Veterans by the Measured Entity as a percentage of the target	2	0.5% NPAT
Total	5 points	

16.6.8. MEASUREMENT OF SOCIO-ECONOMIC DEVELOPMENT CONTRIBUTIONS

Socio- Economic Development Contributions are measured using the formula in the Benefit Factor Matrix set out below.

BENEFIT FACTOR MATRIX

Qualifying Contribution type	Contribution Amount	Benefit Factor
Grant and Related Contributions		
Grant Contribution	Full Grant Amount	100%
Direct Cost incurred in supporting socio-economic development, sector specific initiative or Qualifying Socio-Economic Development Contributions	Verifiable Cost (including both monetary and non-monetary)	100%

Discounts in addition to normal business practice supporting socio-economic development, sector specific initiative or Qualifying Socio-Economic Development Contributions	Discount Amount (in addition to normal business discount)	100%
Overhead Costs incurred in supporting socio-economic development, sector specific initiative or Qualifying Socio-Economic Contributions	Verifiable Cost (including both monetary and non-monetary)	80%
Contributions made in the form of human resource capacity		
Professionals services rendered at no cost supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Development Contributions	Commercial hourly rate of professional	80%
Professional Services rendered at a discount supporting socio-economic development, sector specific initiatives or Qualifying Socio-Economic Development Contributions	Value of discount based on commercial hourly rate of professional	80%
Time of employees of Measured Entity productively deployed in assisting beneficiaries and supporting socio-economic development, sector specific or Qualifying Socio-Economic Development Contributions	Monthly Salary divided by 160	80%

17. ELEMENTS OF THE DEFENCE SECTOR CODE: SPECIALISED DEFENCE SECTOR SCORECARD FOR ORGANS OF STATE, PUBLIC ENTITIES AND NOT FOR PROFIT COMPANIES

17.1. SPECIALISED SCORECARD

ELEMENT	WEIGHTING	CODE SERIES REFERENCE
Management Control	20 points	200
Skills development	25 points	300
Enterprise and Supplier Development	50 points	400
Socio-Economic Development	5 points	500
Localisation	10 points	Paragraph 16.5 of this Code
TOTAL	110 Points	

17.2. MANAGEMENT CONTROL SPECIALISED SCORECARD

Measurement Category and Criteria	Weighting Points	Compliance targets		
		Year 1	Year 2	Year 3
Board Participation				
Exercisable voting rights of black board members as a percentage of all board members	2	50%	60%	70%
Exercisable voting rights of black female board members as a percentage of all board members	1	25%	30%	40%
Black Executive Directors as a percentage of all executive directors	2	50%	60%	70%
Black female Executive directors as a percentage of all executive directors	1	25%	30%	40%

Other Executive Management				
Black executive management as a percentage of all executive management	2	60%	65%	70%
Black female executive management as a percentage of all executive management	1	30%	40%	40%
Senior Management				
Black employees in senior management as a percentage of all senior management	2	60%	65%	70%
Black female employees in senior management as a percentage of all senior management	1	30%	40%	40%
Middle Management				
Black employees in middle management as a percentage of all middle management	2	75%	80%	85%
Black female employees in senior management as a percentage of all middle management	1	38%	40%	45%
Junior Management				
Black employees in junior management as a percentage of all junior management	2	88%	90%	90%
Black female employees in junior management as a percentage of all junior management	1	44%	50%	55%
Employees with Disabilities				
Black employees with disabilities as a percentage of all employees	2	2%	3%	5%
TOTAL	20 Points			

17.3. SKILLS DEVELOPMENT SPECIALISED SCORECARD

Category	Skills Development Element	Weighting points	Compliance Target		
			Year 1	Year 2	Year 3
Skills Development Expenditure on any programme specified in the Learning Programme Matrix for Black people as a percentage of the Leivable Amount					
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for Black people as a percentage of Leivable Amount	7	6%	6%	6%	
Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for black employees with disabilities as a percentage of Leivable Amount	3	0.3%	0.3%	0.3%	
Skills Development Expenditure on Learning Programmes for Black Military Veterans	2	2%	2%	3%	
Learnerships, apprenticeships and internships					
Number of Black people participating in learnerships, apprenticeships and internships as a percentage of total employees	6	2.5%	2.5%	2.5%	
Number of Black unemployed people or students participating in training specified in the learning programme matrix as a percentage of number of employees.	7	2.5%	2.5%	2.5%	
Bonus Points					
Number of Black people absorbed by the Measured Entity and Industry at the end of	5	100%	100%	100%	

the learnership/apprenticeship or internship programme				
TOTAL	25 Points			

**17.4. ENTERPRISE AND SUPPLIER DEVELOPMENT SPECIALISED
SCORECARD**

Criteria	Weighting points	Compliance targets		
		Year 1	Year 2	Year 3
PREFERENTIAL PROCUREMENT				
B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Level as a percentage of Total Measured Procurement Spend	5	80%	80%	85%
B-BBEE Procurement Spend from all Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	4	15%	15%	20%
B-BBEE Procurement Spend from all Exempted Micro-Enterprise based on the applicable B-BBEE procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	15%	15%	20%
B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black owned based on the applicable B-BBEE Procurement	11	40%	40%	45%

Recognition Levels as a percentage of Total Measured Procurement Spend				
B-BBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	5	12%	12%	12%
Bonus Points				
B-BBEE Procurement Spend from Designated Group Suppliers that are at least 51% black owned	2	2%	2%	2%
SUPPLIER DEVELOPMENT				
Annual value of all Supplier Development Contribution made by the Measured Entity as a percentage target	15	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/ Allocated budget/ Gross receipts/Discretionary spend	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/Gross receipts/Discretionary spend	2% of Net Profit After Tax (NPAT) or 0,2% Annual Revenue/Gross receipts/Discretionary spend
ENTERPRISE DEVELOPMENT				
Annual value of Enterprise Development Contributions and Sector Programmes made by Measured Entity as a percentage of the target	5	1% of NPAT or 0.1% Annual revenue/Allocated budget/ Gross receipts/ Discretionary spend	1% of NPAT or 0.1% Annual revenue/Allocated budget/ Gross receipts/ Discretionary spend	1% of NPAT or 0.1% Annual revenue/Allocated budget/ Gross receipts/ Discretionary spend
Bonus Points				
Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the	1			

Supplier Development level.				
Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity	1			
TOTAL	50 Points			

17.5. SOCIO-ECONOMIC DEVELOPMENT SPECIALISED SCORECARD

	Weighting Points	Compliance Target		
		Year 1	Year2	Year3
Annual value of all Socio-Economic Development contributions by the Measured Entity as a percentage of the target	5	1% of NPAT OR 0,1% Annual Revenue/ Allocated budget/ Gross receipts/ Discretionary spend	1% of NPAT OR 0,1% Annual Revenue/ Allocated budget/ Gross receipts/ Discretionary spend	1% of NPAT OR 0,1% Annual Revenue/ Allocated budget/ Gross receipts/ Discretionary spend
TOTAL	5 Points			

17.6. LOCALISATION SPECIALISED SCORECARD

B-BBEE Element	Description	Weighting Points	Compliance Target		
			Year 1	Year 2	Year 3
Localisation	Procurement of Defence Matériel produced and/or manufactured in South Africa by Local Enterprises.	6	60%	60%	60%
	Procurement from local enterprises that introduce new locally developed technology in the SADI that is not older than 24 months.	2	60%	60%	60%
	Procurement of technologies that are developed in South Africa by Local Enterprises from intellectual property owned by such Local Enterprises or technologies that are developed in South Africa by Local Enterprises from intellectual property licensed thereto by Local or Foreign Enterprises.	2	60%	60%	60%
	TOTAL	10 points			

18. ELEMENTS OF THE DEFENCE SECTOR CODE: THE QUALIFYING SMALL ENTERPRISES DEFENCE SCORECARD

18.1. QSE SCORECARD

The following table represents and contains the Elements of the scorecard and the weighting for each element:

ELEMENT	WEIGHTING
Ownership	25 points
Management Control	15 points
Skills Development	25 points
Enterprise and Supplier Development	30 points
Localisation	10 points
Socio-Economic Development	5 points
TOTAL	110 Points

The Weighting in respect of any elements in the scorecard represents the maximum number of points possible for each of the criteria

Any matter concerning the application of the QSE Scorecard that is not dealt with explicitly in this Sector code must be dealt with in terms of the Codes.

18.2. THE QUALIFYING SMALL ENTERPRISES OWNERSHIP SCORECARD

Category and Ownership Indicator	Weighting Points	Compliance Table		
		Year 1	Year 2	Year 3
Voting rights				
Exercisable Voting Rights in the Enterprise in the hands of Black people	5	25%	30%	35%
Exercisable Voting Rights in the Enterprise in the hands black women	2	10%	15%	15%
Economic Interest				
Economic Interest of Black people in the Enterprise	5	25%	30%	35%

Economic Interest of black women in the Enterprise	2	10%	15%	15%
New Entrants or Black Designated Groups	3	2%	3%	5%
Realisation Points				
Net Value	8	Refer to Annexure 100 (E) of the Generic Scorecard		
TOTAL	25 Points			

18.3. THE QUALIFYING SMALL ENTERPRISE MANAGEMENT CONTROL SCORECARD

Criteria	Weighting points	Compliance Target		
		Year 1	Year 2	Year 3
Executive Management				
Black representation at Executive Management	5	50%	50%	60%
Black female representation at Executive Management	2	25%	25%	30%
Senior, Middle and Junior Management				
Black representation at Senior, Middle and Junior Management	6	60%	60%	70%
Black female representation at Senior, Middle and Junior Management	2	30%	30%	30%
TOTAL	15 Points			

18.4. THE QUALIFYING SMALL ENTERPRISE SKILLS DEVELOPMENT SCORECARD

Skills Development Element	Weighting points	Compliance Target		
		Year 1	Year 2	Year 3
Skills development expenditure on learning programs specified in the learning programme matrix for Black people as a percentage of leviab amount	16	3%	3%	4%
Skills development expenditure on learning programmes specified in the learning programme matrix for Black females as a percentage of leviab amount	10	1%	1%	2%
Skills development expenditure on learning programmes specified in the learning programme matrix for Black people with disabilities as a percentage of leviab amount.	4	0.15%	0.15%	0.30%
Bonus Points				
Number of Black people absorbed by the measured entity and industry at the end of the learning	5	100%	100%	100%
TOTAL	30 Points			

18.5 THE QUALIFYING SMALL ENTERPRISE AND SUPPLIER DEVELOPMENT SCORECARD

Criteria	Weighting points	Compliance targets		
		Year 1	Year 2	Year 3
Preferential Procurement				
B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Recognition Levels as a percentage of Total Procurement Spend	15	60%	60%	70%
B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned based applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement	4	15%	20%	30%
Bonus Points				
B-BBEE Procurement Spend from Designated Group suppliers that are at least 51% black owned based on the B-BBEE Recognition Level	1	1%	1%	1%
Supplier Development				
Annual value of all Supplier Development Contributions made by the Measured Entity as a percentage of the target.	4	1% of Net Profit After Tax		
Enterprise development				
Annual value of Enterprise Development Contribution and Sector Specific Programmes made by the Measured Entity as a percentage of the target	4	1%NPAT		
Annual Contributions to the Enterprise and Development Fund	3	1%NPAT		
Bonus Points				

Bonus point for graduation of one or more Enterprise Development beneficiaries to graduate to the Supplier Development level	1			
Bonus point for creating one or more jobs directly as a result of Supplier Development and Enterprise Development initiatives by the Measured Entity	1			
TOTAL	30 Points			

18.6 THE QUALIFYING SMALL ENTERPRISE LOCALISATION SCORECARD

B-BBEE Element	Indicator	Description	Weighting Points	Compliance Target
Localisation		Defence Matériel products and services manufactured by procured from local enterprises	6	60%
		Procurement from local enterprises that introduce new locally developed technology in the SADI that is not older than 24 months	2	60%
		Procurement of technologies that are developed in South Africa by Local Enterprises from intellectual property owned by such Local Enterprises or technologies that are developed in South Africa by Local Enterprises from intellectual property licensed thereto by	2	60%

		Local or Foreign Enterprises.		
		TOTAL	10 Points	

18.7. THE QUALIFYING SMALL ENTERPRISE SOCIO-ECONOMIC DEVELOPMENT SCORECARD

Criteria	Weighting Points	Compliance Target		
		Year 1	Year 2	Year 3
Annual value of all Socio-Economic Development Contributions and Qualifying Socio-Economic Development Contributions made by the Measured Entity as a percentage of the target	5	1% NPAT	1% NPAT	1% NPAT
TOTAL	5 Points			

19. DEFENCE SECTOR CHARTER COUNCIL

19.1. A Charter Council shall be established to oversee and monitor the implementation of this Sector Code. The Charter Council shall be a representative body comprising of stakeholders in the SADI and shall comprise of not less than 5 members.

19.2. The Minister of Defence shall appoint the Charter Council after consulting with the SADI Stakeholders.

19.3. The functions of the Charter Council shall include:

- 19.3.1. providing guidance, clarification, support and assistance with interpretation of this Sector Code;
 - 19.3.2. liaising with all government departments, agencies and other relevant Stakeholders for the purpose of facilitating the implementation of this Sector Code and promote the SADI's interests;
 - 19.3.3. compiling an annual report on overall progress by the SADI with the Defence Sector Code and submitting such report to any relevant stakeholders including the Minister, the Minister of Defence, the B-BBEE Commission and NDIC;
 - 19.3.4. issuing implementation guidelines; and
 - 19.3.5. initiating and supervising any revisions to this Sector Code.
- 19.4. The Charter Council shall have executive authority and shall be supported by administrative staff.
- 19.5. The DOD shall be responsible for funding the operational expenses of the Charter Council.

20. MONITORING AND EVALUATION

- 20.1. In order to ensure compliance with this Sector Code, all Measured Entities shall annually provide a report to the Charter Council. The report must contain a scorecard audited by an accredited verification agency where applicable and a detailed report on progress with complying with the provisions of this Sector Code.
- 20.2. The first annual report shall be filed not later than the first anniversary of the promulgation of this Sector Code. The date for subsequent annual reports shall be determined by the Charter Council.

21. REVIEW OF THE SECTOR CODE

This Sector Code may be reviewed in order to align it with any amendment to the Act or the Codes or after the expiry of the 3rd anniversary of the promulgation of this Sector Code or as when necessary.

22. EFFECTIVE DATE

The Sector Code shall come into effect on the date on which it is gazetted.

SCHEDULE 1

1. LEGITIMATE ENTERPRISE AND SUPPLIER DEVELOPMENT CONTRIBUTIONS

- 1.1. The following is a non-exhaustive list of Enterprise Development and Supplier Development Contributions –
- 1.1.1. investment in beneficiary Entities;
 - 1.1.2. loans made to beneficiary Entities; - guarantees given or security provided on behalf beneficiaries; credit facilities made available to beneficiary Entities grant Contributions to beneficiary Entities; direct costs incurred by a measured Entity in assisting and hastening development of beneficiary Entities; overhead costs of a Measured Entity directly attributable to Enterprise Development and Supplier Development Contributions preferential credit terms granted by a Measured Entity to beneficiary Entities;
 - 1.1.3. preferential terms granted by a Measured Entity in respect of its supply of goods to beneficiary Entities;
 - 1.1.4. contributions made to beneficiary to settling service costs relating to the supply of goods or services to beneficiary Entities;
 - 1.1.5. discounts given to beneficiary Entities in relation to the acquisition and maintenance costs associated with the grant to those beneficiary Entities of franchise, license, Agency, distribution or other similar business rights;
 - 1.1.6. the creation or development of capacity and expertise for beneficiary Entities needed to manufacture or produce goods or services previously not manufactured, produces or provided in the Republic of South Africa is provide for in Government's economic growth and local supplier development policies and initiatives ; facilitating access to credit for beneficiary Entities without access to similar credit facilities through

- traditional means owing to a lack of credit history, high-risk or lack of collateral;
- 1.1.7. provision of training or mentoring by suitably qualified Entities or individuals to beneficiary Entities which will assist the beneficiary Entities to increase their operational or financial capacity;
 - 1.1.8. the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of beneficiary Entities or candidate beneficiary Entities;
 - 1.1.9. provision of preferential credit facilities to a beneficiary by a Measured entity may constitute an Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation;
 - 1.1.10. provision of finance to beneficiary Entities at lower than commercial rates of interest relaxed security requirement or absence of security requirements for beneficiary Entities unable to provide security for loans; and settlement of accounts with beneficiary Entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided the shorter period is no longer than 15 days.
 - 1.1.11. providing training or mentoring to beneficiary communities by a Measured Entity. Such contributions are measurable by quantifying the cost of time (excluding travel or commuting time) spent by staff or management of the Measured Entity in carrying out such initiatives. A clear justification, commensurate with the seniority and expertise of the trainer or mentor, must support any claim for time costs incurred). By the Measured Entity. (only that portion of salaries and wages attributable to time spent by the staff in, and the other expenses related to. Promoting or implementing Enterprise Development and Supplier Development constitute contributions; or
 - 1.1.12. payments made by the Measured Entity to suitably qualified and experienced third parties to perform Enterprise Development and Supplier Development on the Measured Entity's behalf.

2. MONETARY AND NON-MONETARY CONTRIBUTIONS

- 2.1. Subject always to the definitions of qualifying Enterprise Development and Supplier Development Contributions, the following monetary/non-monetary contributions will, without limitation, be considered:
- 2.1.1. the provision of seed or development capital;
 - 2.1.2. contributions made towards the settlement of the cost of services relating to the operational or financial capacity and/or efficiency levels of a Qualifying Enterprise Development and Supplier Development Beneficiary including, without limitation;
 - 2.1.3. professional and consulting services;
 - 2.1.4. licensing and/or registration fees;
 - 2.1.5. industry specific levies and/or other such fees;
 - 2.1.6. IT services;
 - 2.1.7. creation or development of capacity and expertise for Beneficiary Entities to manufacture or produce goods and/or services previously not manufactured, produced or provided in the Republic of South Africa;
 - 2.1.8. facilitation of access to credit for Beneficiary Entities unable to access similar credit facilities through traditional means owing to a lack of credit history, high risk and/or lack of collateral;
 - 2.1.9. provision of training and/or mentoring to Beneficiary Entities which will assist the Beneficiary Entities to increase their operational and/or financial capacity; and
 - 2.1.10. the maintenance by the Measured Entity of an Enterprise Development and Supplier Development unit which focuses exclusively on support of Beneficiary Entities or candidate Beneficiary Entities or candidate beneficiary Entities.

- 2.2. The creation and/or development of the capacity of Beneficiary Entities which will enable them to manufacture and produce goods and/or provide services previously not available in the Republic of South Africa, may constitute a Qualifying Enterprise development and Supplier Development contribution, and will be measured as the rand value of monetary contributions made as well as investments into, loans made to or guarantees given for a Beneficiary Entity.
- 2.3. Provision of preferential credit facilities to a beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Examples of such contributions include without limitation—
- 2.3.1. provision of finance to Beneficiary Entities at rates of interest below the applicable rate. Such contributions will be measured as the value of the differential between the actual interest rate provided to the Beneficiary Entity and the applicable rate;
- 2.3.2. relaxed security requirements or absence of security requirements for Beneficiary Entities unable to provide security for loans. Such contributions shall be measured as being 3% (three percent) of any positive differential between the initial capital value of the loan and the value of security taken; and
- 2.3.3. settlement of accounts with Beneficiary Entities over a shorter period of time in relation to the Measured Entity's normal payment period, provided that the shorter period is no longer than 15 days. Preferential payment terms which extend beyond 15 days will not qualify as Qualifying Enterprise Development and Supplier Development Contributions. Provision of training and/or mentoring to a Beneficiary Entity by a Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Such contributions will be measured by quantifying the cost of time spent by their staff or management of the Measured Entity in carrying out such initiatives. Any travel or commuting time may not be included in this cost. Furthermore, a clear justification must be supplied with respect to the calculation of such time costs incurred, commensurate with

the level of seniority and expertise of the trainer or mentor. Common forms of such contribution include without limitation:

- 2.3.3.1. professional and consulting services;
- 2.3.3.2. IT services; and
- 2.3.3.3. any other services which help to increase the entity's financial and/or operational capacity and which have not also been accounted for under skills development. The maintenance of an Enterprise Development and Supplier Development unit by the Measured Entity may constitute a Qualifying Enterprise Development and Supplier Development Contribution. Common examples of such contributions include without limitation the salaries and wages of staff and other expenses involved in the operation of such Enterprise Development and Supplier Development unit. Notwithstanding the foregoing, only that portion of salaries and wages which relate to time spent by the staff in the other expenses related to the promotion and implementation of Enterprise Development and Supplier Development in respect of Beneficiary Entities or candidate Beneficiary Entities should be taken into consideration under Enterprise Development and Supplier Development contributions.

DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 568

12 APRIL 2019

COMPETITION COMMISSION

NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED): SOUTH AFRICAN PETROLEUM INDUSTRY ASSOCIATION GRANTED CONDITIONAL EXEMPTION

On 22 December 2015, the South African Petroleum Industry Association ("SAPIA") and its members applied to the Competition Commission of South Africa ("Commission") in terms of Section 10(1)(b) of the Competition Act No 89 of 1998, as amended (the "Act") to be exempted from certain provisions of Section 4 of the Act. The exemption was sought for a period of 5 (five) years from 1 January 2016 ending on 31 December 2020.

Notice is hereby given in terms of Section 10(7) of the Act that the Commission has extended the SAPIA exemption for a period of 3 (three) months starting from 01 April 2019 ending 30 June 2019 on the same terms and conditions as published in Government Gazette No.34651 of 7 October 2011.

The exemption granted by the Commission covers a wide range of agreements and practices which, according to SAPIA, are required to ensure the continuity and stability of liquid fuels supply to various sectors and geographic locations of the South African economy. In particular, the exemption covers agreements and practices in the petroleum and refinery industry which are considered by the Commission to be in contravention of Sections 4(1)(a) and (b) of the Act.

The Commission has previously, in response to the above mentioned application, granted SAPIA a conditional exemption in terms of Section 10(2)(a) of the Act for a period of 6 (six) months starting from 01 January 2016 and ending on 30 June 2016. Following the expiry of the conditional exemption, the Commission extended such exemption several times with the last one ending on 31 March 2019. SAPIA based its application on the premise that the aforesaid agreements and

practices are required to obtain the objective set out under Section 10(3)(b)(iv) of the Act. This is after the Minister of Economic Development Department designated the petroleum and refinery industry for a period of 6 (six) months starting from 01 January 2016 ending on 30 June 2016, which was extended to 31 December 2016, 31 December 2017; 31 March 2018; 30 September 2018 and then further to 31 March 2019.

In anticipation of the expiry of the industry designation and exemption on 31 March 2019, the Minister of Economic Development Department granted SAPIA a 3 (three) months industry designation ending on 30 June 2019.

The Commission is satisfied that SAPIA's exemption will contribute towards maintaining the economic stability of the petroleum and refinery industry for the period starting on 01 April 2019 and ending on 30 June 2019.

SAPIA or any other person with substantial financial interest affected by this decision may appeal it to the Competition Tribunal in the prescribed manner in terms of Section 10(8) of the Act.

Further queries should be directed to either:

Mr Mulalo Shandukani
Competition Commission of SA
Enforcement and Exemptions Division,
Private Bag X23,
Lynnwood Ridge, 0040

Email: MulaloS@compcom.co.za

In correspondence kindly refer to the following case number: 2015Dec0741

DEPARTMENT OF HOME AFFAIRS

NO. 569

12 APRIL 2019

ALTERATION OF FORENAMES IN TERMS OF SECTION 24 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)

The Director-General has authorized the following persons to assume the Forenames printed in *italics*:

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2. Shauné Ashley Collins - 960806 0351 088 - 11 Crassula Road, Bloubergrant, TABLEVIEW, 7441 - *Tyler-Lee Theodore*
3. Freddy Pheneas Mpfu - 910528 5568 083 - 991 Cradock Street, JOHANNESBURG, 1868 - *Freddy*
4. Kenneth Lekgau - 890625 5276 081 - Nkotokeane, GA MPAHLELE, 0736 - *Kenneth Mohuswane*
5. Chagaripe Sinky Mphahlele - 801023 5494 086 - Marulaneng, GA MPAHLELE, 0736 - *Titinki Sinky*
6. Karabo Mampuru - 980802 0701 089 - Mohlaletse, SEKHUKUNE, 1124 - *Maijakgwale Karabo*
7. Sizimbi Joseph Thabethe - 890125 5630 080 - Tsimanyane, MARBLE HALL, 0450 - *Samuel Joseph*
8. Lindiwe Thafeni - 891101 1040 086 - 103 Nqadu Road, Northcrest, MTHATHA, 5099 - *Lindiwe Theona*
9. Nomawethu Alicia Liba - 741026 1221 083 - 24 Marula Crescent, Winchesterhills, JOHANNESBURG, 2000 - *Isabella Alicia*
10. Nongaziwa Ella Ngeyakhe - 771022 0883 083 - 12 Kruger Street, PETRUSBURG, 9932 - *Nini*
11. Naseemah James - 810305 0191 083 - 9194 Joliba Avenue, Extension 10, LENASIA, 1820 - *Marcia Tamsyn*
12. Maria Mngomezulu - 671202 0428 086 - 2969 B Moswe Street, Emdeni, SOWETO, 1861 - *Maria Sissy*
13. Tshotlego Philemon Moabi - 820807 5560 087 - 242 Phase3, Tshepisoong, KRUGERSDORP, 1754 - *Tshetlego Philemon*
14. Zoë Philander - 980829 0569 083 - 36 Daniel Avenue, OTTERY, 7800 - *Zayaan*
15. Mmaphuti Jaqueline Malehodi - 961018 0824 085 - House 20014, Kopanong, SELEKA, 0609 - *Mosima Josphinah*
16. Thapelo Molapi Molaba - 920828 5915 088 - 20408 Phomolong Section, Shongoane 1, LEPHALALE, 0555 - *Thapelo*
17. Hawu Bulelani Zulu - 931001 5391 083 - Z A Aberfedy Road, WESTVILLE, 3429 - *Bulelani*
18. Nthabiseng Rachel Tsotetsi - 940924 0315 089 - 66 Makhudu Street, Molapo, KWAXUMA, 1868 - *Palesa*
19. Mmatlala Deborah Nong - 881202 0815 080 - 16 3rd Avenue, ALEXANDRA, 2090 - *Mmatlala Portia Deborah*
20. Reheilwe Nelly Moloantoa - 911208 0189 081 - 21 Tsutsube Street, KWA THEMA, 1575 - *Reneilwe Nelly Rekilwe*
21. Dithuto Kuuu Chuene Sedibeng - 941031 5294 084 - 2462 Gompies, GEDROOGTE, 2462 - *Dithuto Carlton*
22. Dikeledi Hilda Tselane - 910408 0752 083 - 33 Amaranth Crescent, LOTUS GARDEN, 0008 - *Nompumelelo Dikeledi Hilda*
23. Ntladi Surprise Shokoane - 000310 5800 084 - Hlalanikahle, NEBO, 1057 - *Temosho Surprise*
24. Neziswa Jiholo - 990405 0286 081 - P O Box 398, QUMBU, 5180 - *Neziswa Anako*
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26. John Sekgape Tabane - 840804 5391 080 - 698 Zone 5, LEBOWAKGOMO, 0737 - *Caleb Mametse*
27. Mpho Sfiso Magakoe - 990604 5967 089 - 5399 Katlehong, FICKSBURG, 9730 - *Isaac*
28. Thembelami Sthulisile Ngubane - 970930 0064 083 - 1202 Agulhus Street, Blouboosland, RANDBURG, 1955 - *Thembelami Sthulisile*
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30. Nduvho Mukwevho - 940920 5657 087 - C237 Unit C, THOHOYANDOU, 0950 - *Nduvho Divine*
31. Emmanuel Nhlanhla Nxumalo - 820204 5873 084 - 1597 Dlamini Street, EVERTON NORTH, 1984 - *Nhlanhla Emmanuel*

32. Martha Ketshabang - 740503 0907 087 - A87 Maswana, GANYESA, 8617 - *Naledi Martha*
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40. Shantin Mbiphi - 000706 5311 081 - 14483 Extension 11, MOHLAKENG, 1759 - *Xolani Shantin*
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42. Negretta Naidoo - 940902 0245 084 - 51 Seagull Road, Newhaven, UMKOMAAS, 4170 - *Nazeera*
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45. Noti Dladla - 990601 5749 087 - Esinyameni Area, GREYTOWN, 3250 - *Voti Bongumenzi*
46. Slindile Ngubane - 920322 0626 080 - Maqonqo Area, PIETERMARITZBURG, 3201 - *Slindile Cynthia*
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48. Nomqebelo Maria Radebe - 820227 0519 089 - 4748 New Location, MAILBRON, 9650 - *Maria*
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50. Norman Charles Roberts - 850909 5375 087 - 153 Lawrence Road, ATHLONE, 7764 - *Nur*
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53. Thabiso Sylvester Mahloko - 860830 5759 088 - 2112 Section J, BPTSJABEP, 9781 - *Nthabeleng Thabisa Nelly*
54. Chenay Jacobs - 920225 0324 087 - 13 Natterhorn Crescent, Tafelsig, MITCHELLS PLAIN, 7785 - *Nazeerah*
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58. Nontsuselo Skelenge - 821213 0585 089 - 48 Saffha Street, ASHTON, 6715 - *Zitha*
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60. Sebetelala Calvin Motagane - 860730 5393 088 - Madisha-Leolo, GROOTHOEK, 0628 - *Sepitsi Calvin*
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68. Phulushi Victor Monnye - 721113 5399 083 - 12 Rossouw Street, LYDENBURG, 1120 - *Mdhluli Phulushi Victor*
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74. Keitheng Charlotte Lekaba - 890321 0462 088 - 1465 Mmaba Street, Boikhutso, LICHTENBURG, 2740 - *Keitheng Mpho*
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90. Fanny Mokoena - 750614 5514 088 - 4534 Fourie Street, BOHLOKONG, 9702 - *Fanie*
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92. Bonqeka Vundisa - 990306 0716 087 - 1641 Ilowe Street, Extension 5, Ramaphosa, BOKSBURG, 1400 - *Bongeka*
93. Mokibelo Brilliant Lebang - 000610 5430 083 - 214 Ikhaya Lami, GERMISTON, 1401 - *Lesego Brilliant*
94. Stuart Roderick Malouw - 940316 5157 089 - Flat 306 Willowdene Village, Overbaakens, PORT ELIZABETH, 6070 - *Stuawie Shaheed*
95. Simoni Qakana - 960621 5212 080 - Elukhanyweni, KEISKAMMAHOEK, 5670 - *Simoni Siphelo*
96. Jimmy-Girl Nothando Sikhakhane - 001124 0195 088 - P1227 No 20 Mpa Cele Road, UMLAZI, 4031 - *Nothando Zonqoba*
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104. Gloris Zanele Baloyi - 830606 0447 086 - 5 Royston Road, Westville, DURBAN, 3629 - *Samantha Nomcebo Zanele Glories*
105. Zoe Thwala - 931213 0397 086 - 5 Allam Ford Close, Lincoln Meade, PIETERMARITZBURG, 3201 - *Phumla Zandile Zoe*
106. Joyce Masemene - 820617 0802 081 - 179-5th Angola Street, Tsutsumang, ALEXANDRA, 2090 - *Joyce Nthabiseng*
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119. Ndivhuwo Muravha - 911001 5966 086 - Ha Mavhunga, NZHELELE, 0993 - *Liam*
120. Monica Maxhaka-Mandlake - 871012 0807 082 - 2633 Msenge Street, PHILLIPI, 7785 - *Siphosethu Monica*
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123. Thato Mkhize - 930402 5320 083 - 640 Lilac Street, Dobsonville, SOWETO, 1863 - *Andile Blessing*
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127. Maite Neriah Msibi - 700612 0994 082 - 320 Frank Road, No 35 Csa Celtis, DIE WLGERS, 0184 - *Michael Daniel Beautify*
128. Mabatho Precious Tshehla - 871030 0369 085 - No 139 Linden Street, SANDTON, 2196 - *Natasha Mabatho Precious*
129. Zwifana Mphephu - 830127 5639 080 - 29-12 Street, ORANGE GROVE, 2090 - *Ramabulana Covenant*
130. Arabang Gomba - 930512 5495 089 - 497 Ramogodi, MMAKAU, 0194 - *Arabang Nkateko*

131. Raisibe Julia Makhubele - 810829 0442 089 - 35 Diana Circle, The Reeds, Extensopm 2, CENTURION, 0157 - *Lebogang Raisibe Julia*
132. Kwobetikalima Mazive - 850311 0736 084 - 864 Rosy Barab, Extension 1, KAALFONTEIN, 1685 - *Kalma Kwobeti*
133. Paige Chrystal Becker - 970730 0131 084 - 9 Anarkali Street, Azaadville, KRUGERSDORP, 1854 - *Laila Chrystal*
134. Gomolemo Sadolk Lesejane - 960411 5534 083 - 16874 Kareeberee, Extension 12, KAGISO, 1754 - *Gomolemo*
135. Masonwabe Kedama - 860926 5545 087 - Tudhopeand Hillbrow Street, Berea No 10, JOHANNESBURG, 2198 - *Masonwabe Calvin*
136. Lindiwe Magaret Nyawo - 680808 1877 086 - 47 Westpointlogge, Hermitage, DURBAN, 4000 - *Lulu Lindiwe*
137. Musa Mazibuko - 830105 0963 085 - 71 Tucker Street, JULLIES, 2094 - *Musa Msawakhe*
138. Hlulekile Michael-Lynn Mabunda - 960318 0283 089 - 2234 Sunrise Street, Doornkop, Extension 1, SOWETO, 1723 - *Hosikati Michaellynn Nombulelo*
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140. Mapule Nthabeleng Kgalapa - 980129 0463 084 - 4881 Block 1, DOORONKOP, 1863 - *Mapule Nthabeleng Bontle*
141. Millicent Phamela Palela Tshalalala - 880823 0309 088 - 1583 Malebog Street, BOIPATONG, 1901 - *Millicent Phamela Palesa*
142. Kabelo Mahlokoane - 990531 5800 087 - Stand No 261, Senzele, DENNILTON, 1030 - *Mateane Kabelo*
143. Kenneth Motuba - 780325 5700 080 - 1015 Moletsane, Koma Road, JOHANNESBURG, 1868 - *Kenneth Thabo*
144. Innocent Ayanda Khumalo - 810115 5335 084 - 757 Austell Crescent, The Grange, PIETERMARITZBURG, 3201 - *Ayanda*
145. Mthokozisi Zuma - 990508 5227 081 - Cinderellar Park, PIETERMARITZBURG, 3207 - *Manqoba Francis*
146. Advocate Mabunda - 971113 5873 084 - 17853 Kingfisher Street, Extension 14, PROTEA GLEN, 1818 - *Advocate Kulani*
147. Mahlomola Ubisi - 000802 0336 080 - Stand No 649, Leokama, MOLETJIE, 0709 - *Queen Nare*
148. Loyett Maseko - 750513 5817 089 - 3754 Hlakula Street, Orlando East, ORLANDO, 1804 - *Lloyd Loyett*
149. Promise Jacky Mnisi - 950707 5533 088 - Joppie Village, RITAVI, 0875 - *Musa Jacky*
150. Courtney Anne Morris - 911211 0032 087 - 56 Kenridge Avenue, Durbanville, CAPE TOWN, 7550 - *Courtney Cosmina*
151. Nazeer Niaaz May - 920813 5196 087 - 5 Kidwell Road, PIETERMARITZBURG, 3201 - *Nazeer*
152. Gidi Michael Maggy Maunatlala - 000712 0322 081 - Jerusalem, NEBO, 1057 - *Michelle Namgidi*
153. Yasmeen Sewnarain - 931109 0067 085 - 1011 New Chum Street, Little Falls, ROODEPOORT, 1724 - *Yasmeen Osman*
154. Tallman Fatman - 961207 5543 085 - 806425 Phase 2, BRAAMFISCHER, 1725 - *Thulani Andre*
155. Matrick Jayiya - 810807 5375 082 - M343 Gqadu Cres, Site B, KHAYELITSHA, 7784 - *Kwanele Matrick*
156. Mabuza Buhlebuyabukwa Ndwandwe - 811207 5679 089 - Phola Location, Extension 1, Zone 3468, WITBANK, 2233 - *Mabuza Sfiso*
157. Ayanda Ndlovu - 010306 0534 080 - Tshobho, MAPHUMULO, 4470 - *Zesuliwe Ayanda*
158. Mahlatse Matseke - 981023 5768 085 - Stand R47, Rthabakhubedu, DENNILTON, 1030 - *Mahlatse Fortune*
159. Kegomoditswe Patience Hiine - 851121 0513 089 - P O Box 47, PAMPIERSTAD, 8566 - *Kegomoditswe Kgomotso Patience*
160. Lena Pierce - 920924 0475 085 - P O Box 435, FRANSCHHOEK, 7690 - *Leonique Thembakazi*
161. Eulenda Boitumelo Mohlala - 950611 0181 085 - 20 Wildepruim Street, KEMPTON PARK, 1619 - *Boitumelo*
162. Mduduzi Poswayo - 950715 5337 087 - Unit G15 Mbv House, Corner Hancock And Quartz Streets, JOHANNESBURG, 2001 - *Mduduzi Brian*
163. Titus Sydwele Mabelane - 810304 5746 082 - Stand J99 Old Coronation, WITBANK, 1035 - *Shakwane Sydwele*

164. Ela Nqina - 880625 0835 081 - P O Box 244, MATATIELE, 4730 - *Ela Sindiswa*
165. Militia Samantha Pillay - 911222 0041 085 - Unit 16 Bichane Gardens, 21 Papawer Street, WILRO PARK, 1724 - *Milan Ashokan*
166. Nozipho Zodwa Sithole - 900602 0368 088 - Emakhwatheni Area, VRYHEID, 3100 - *Nozipho Zodwa*
167. Zahné Aaicke Francke - 951222 0121 086 - 405 Piet-My-Vrou Street, Amstlhof Park, PAARL, 7646 - *Thaakirah*
168. Abednego Mashego - 710828 5865 089 - 606 Mashemo Section, THEMBISA, 1632 - *Sekgaile Abednego Nico*
169. Guanele Ignatius Maluleke - 000224 5813 080 - 7574 Extension 3, WINTERVELDT, 0198 - *Kwanele Ignatius*
170. Siyambonga Mnyazana - 970806 0504 080 - Umuzimhle, Married Quarters D13, KLERKSDORP, 2619 - *Siyambonga Bukelwa*
171. Justin Millard - 921018 5040 082 - T23 Bosberrie Street, RAYTON, 1001 - *Justine Caitlyn*
172. Makunutu Margaret Madise - 780828 0952 085 - 74978 New Village, SEBOKENG, 1983 - *Margaret*
173. Nyikelo Mongwe - 991109 0697 086 - No 227, MBHEKWANA, 0871 - *Nyikelo Dineo*
174. Maruping Moshoagotlhe - 960418 5839 081 - 6216 Tshakuna Street, Zone 4, MEADOWLANDS, 1852 - *Maruping Lucky*
175. Pooja Sayed - 940813 0066 083 - Plot 38, Cyfret Crescent, TEDDERFIELD, 1872 - *Zakirah Pooja*
176. Patience Kgotlelelo Mpanyana - 981015 0710 088 - 3 Holly Street, Die Heuwel, WITBANK, 1034 - *Zoe Kgotlelelo*
177. Reneile Losiya Mameitja - 930710 0783 083 - Sekororo, NAPHUNO, 0890 - *Reneilwe Lucia*
178. Mahlatse Moraswi Phahlamohlaka - 980903 1055 085 - 3022 Phola Street, OGIES, 3122 - *Nhlanhla Michelle*
179. Caylin Mohammed - 960828 0324 089 - 34 Wiener Street, Goodwood, CAPE TOWN, 7460 - *Saadiqah*
180. Melikhaya Ndzwayiba - 000307 5865 083 - Upper Ngqwara Area, MQANDULI, 5080 - *Melikhaya Baxolele*
181. Malefu Josephina Padi - 680616 1049 089 - 11684 Extension 7, ORANGE FARM, 9460 - *Mabophelo Josephina*
182. Fundo Mnyangani Mbhuti Makwakwa - 001022 5487 080 - 8116 Section B, EKANGAL, 1021 - *Mfundo*
183. Cynthia Mathena Sigudhla - 890111 0400 083 - P O Box 1247, MSOGWABA, 1215 - *Cynthia*
184. Setswakae Hellen Walters - 911027 0416 082 - 2115 Cura Avenue, Unit 32, Longeberg, EQUESTRIA, 0081 - *Hellen Setswakae*
185. Nokukhala Hewana - 920316 0407 087 - 1124 Zone 10, SEBOKENG, 1983 - *Nokukhala Keitumetse Precious*
186. Hester Cornelia Gesina Strijdom - 420725 0395 081 - 48 George Puff Street, VANDERBIJLPARK, 1938 - *Cornelia Hester Gesina*
187. Patricia Du Plessis - 451016 0190 082 - 20 Orange Street, Leidin, DELFT, 7100 - *Fatiema*
188. Queen Fortress Mabaso - 930607 0745 080 - 4864 Extensio 7, Striker Street, ALEXANDRA, 2090 - *Mibzar Queen Fortress*
189. Noasi Lengs - 540126 5293 089 - Old Location, MACLEAR, 5180 - *Ntobeko*
190. Alwyn Petrus Matshaka Masebe - 550321 5774 082 - 541 Lady Gray Avenue, NELLMAPIUS, 0162 - *Alwyn Stanford*
191. Nkele Ephenia Mogaladi - 551225 0327 086 - 204 Ga Maria, MARAPYANE, 0431 - *Nkele Daisy*
192. Magrieta Annalina Cloete - 570516 0121 082 - 12 Dwars Street, STEINKOFF, 8244 - *Mavis Annalina*
193. Deacon Elaia Rasethapa - 800406 5514 089 - 2317 Phatudi Street, Mapetla Extension, CHIAWELO, 1818 - *Deacon Eliah*
194. Stoffel Swartz - 580215 5095 080 - 13 Alba-Bouwer Crescent, Overbaakens, PORT ELIZABETH, 6070 - *Stoffel Albertus*
195. Sesona Mathandanako - 991215 0998 083 - Cafutweni, WILLOWVALE, 5040 - *Sesona Sesethu*
196. Lovemor Tshimbudzi - 960511 5794 080 - Stand No 18, Khubui, MAKONDE, 0984 - *Lufuno*
197. Phindile Helen Mgidi - 001231 0430 082 - 2189 Section E, MAMELODI WEST, 0122 - *Phindile Duduzile*

198. Teruen Cheledi Madiseng - 000702 5391 082 - Stand No 54, MULOTI, 0459 - *Tervin Lekgale*
199. Francis Tumelo - 980316 5429 083 - A43 Reatshaba Street, Kagung Vill, KURUMAN, 8460 - *Poloko Francesc*
200. Nomadlozi Madalene Magagula - 920111 0277 089 - 2623 Tambo Street, Buegum View, Duduza, NIGEL, 1496 - *Nomadlozi Magdaline Rose*
201. Dimakatso Betty Nkomo - 850707 0822 081 - 2082 Garankuwa View, GA RANKUWA, 0208 - *Dimakatso*
202. Ramaisela Ingrid Aphane - 800919 0469 083 - Stand No 152, Slovo Park, MOTETI, 0477 - *Moshiane Ingrid*
203. Funwayini Funangikwenzeleni Ndimande - 990227 0395 088 - Kwazwelibomvu Location, 472327 Ntando Road, PINETOWN, 3600 - *Sfundokuhle*
204. Anaki Masimula - 911120 0363 089 - Stand No 19, Grootvalley, STOFFELBURG, 1065 - *Anaki Nompumelelo*
205. Herman Kopano Mafora - 930924 5597 089 - 15 Fleurhof Fever Street, ROODEPOORT, 1709 - *Samuel Kopano*
206. Vhulondo Mpumelelo Fortunate Luvhengo - 951214 0320 081 - 47 Quarry Street, PROTEAA SOUTH, 1818 - *Mpumelelo Primrose Vhulondo*
207. Kenneth Tshimomola - 880514 5805 085 - 789(1) Thornfield Estate, CENTURION, 0157 - *Gumani*
208. Ofentse Hlubilodidi Philip Noah - 810203 5640 081 - A16-08 Hill Of Good Hope 2, Looper Street, MIDRAND, 1685 - *Ofentse Philip*
209. Kenneth Rantate Ramphisa - 890402 5356 085 - 111 W F Nkom Street, 926 City Place, PRETORIA, 0001 - *John Keith Sekodi*
210. Kebakae Lucas Lekgoale - 800519 5384 087 - 33 Anise Street, Bardale Complex, MFULENI, 1100 - *Cyrus Lucas*
211. Deena Moodley - 801229 5376 088 - 60 Gold Fern, Brackenaam, RICHARDS BAY, 3900 - *Peter*
212. Lahliwe Beauty Makubo - 871220 0250 084 - 127 Extension 1, Azalia, STANDERTON, 2431 - *Lahliwe Busisiwe Beauty*
213. Londeka Biyela - 000923 0618 085 - Mkhahlweini Reserve, EMPANGENI, 3880 - *Londeka Sinethemba*
214. Sannah Makou - 001028 0392 084 - 693 Mapetla, GA RANKUWA, 0108 - *Sannah Bokamoso Vanessa*
215. Chelsea Leaner - 971220 0285 089 - 15 Keyser Street, EERSTERIVER, 7100 - *Aalia*
216. Kholofelo Lovey Mokgoshi - 920813 0397 086 - Stand No 135, Leeufontein, MOGANYAKA, 0459 - *Mahlengoe Lovey*
217. Charlton Lethogonolo Van Wyk - 961018 5190 086 - 25 Paravreder Street, KATHU, 8446 - *Charlton*
218. Chairmain Ditshego Moraba - 950119 0095 081 - 38 Maxwell Street, KEMPTON PARK, 1620 - *Charmaine Ditshego*
219. Mohammed Moosa - 910616 5291 085 - Unit 14, 10 Melrose Street, MELROSE ESTATE, 2196 - *Mikhael*
220. Ntombizodwa Nomathamsanqa Zulu - 980424 0610 085 - 578 Twonview, MOOIRIVER, 3300 - *Zenande Nomathamsanqa*
221. Kim Rene Groenewald - 911120 0224 083 - 17 John Dykman, New Woodlds, MITCHELLS PLAIN, 7785 - *Kauthar*
222. Monique Van Der Fort - 930126 0214 088 - 165 Kilimanjaro Street, Tafelsig, MITCHELLS PLAIN, 7785 - *Tasneem*
223. Celester Maggy Mawela - 941106 0051 083 - 68 Bennie Liebenberg Street, Kookrus, MEYERTON, 1962 - *Celesté Maggy*
224. Kagiso Tlaka - 980410 5673 087 - Stand No 21 B 762, Tafelkop, BOLEU, 0474 - *Kagiso Karabo*
225. Zwivhuya Magwara - 940721 5675 081 - No 3634 Kaalfontein, Cowfish Street, MIDRAND, 1685 - *Zwivhuya Zeb Sylvestar*
226. Fortune Nkanyiso Nzama - 000709 5741 083 - 52-7th Avenue, ALEXANDRA, 2090 - *Eden Nkanyiso*
227. Pendula Mazule - 620215 6254 084 - Mangwaneni Area, NGQELEN, 5140 - *Pendula Hamilton*
228. Nombisa Lande - 900528 0354 085 - 17516 Road 42, Phillipi, CAPE TOWN, 7750 - *Hombisa*
229. Sizwe Progress Xaba - 950825 5233 085 - 12 Lynette Street, WELKOM, 9469 - *Sizwe Presly*
230. Nduduzo Mkhize - 990923 5248 088 - P O Box 10, NKANSLA, 3855 - *Nduduzo Njabulo Perfect*

231. Kooti Paulos Makua - 920205 5705 084 - 918 Sephaku Villat, NEBO, 1059 - *Paulos*
232. Mhloti Sympathy Chauke - 930319 0087 089 - 630/109 Temong Extension, TEMBISA, 1632 - *Michelle Ntshuxeko*
233. Rosemary Mmametsa Thema - 930103 0517 083 - 373 Block U U, Rantsue Street, SOSHANGUVE, 0152 - *Rose*
234. Ofentse Moloto - 980525 5527 080 - 162 Eldo Lokes, East Estate, Campbell Road, CENTURION, 0185 - *Ofentse Michael*
235. Angeline Mpomelelo Ndala - 990602 0594 080 - 35930 Molahlegi Street, Extension 22, Lusaka, MAMELODI EAST, 0122 - *Angeline Nompumelelo*
236. Sokolo Sebatane Moeng - 960317 5414 087 - Private Bag X9040, BURGERSFORT, 1150 - *Roggerd Sebatane*
237. Siboniso Malibongwe Mhlongo - 981020 0273 087 - 156 Kenvile Road Kenvile, DURBAN, 4051 - *Siboniso Namhla*
238. Millin Christophe Pietersen - 950302 5214 085 - Correctional Service, ROBERTSON, 6705 - *Millin Christophe Mhogamad*
239. Thabo Gregory Moabi - 880622 5420 084 - House No 658, MONAKATO, 0331 - *Thabo Gregory Jordan*
240. Evidence Mashabela - 990805 0857 080 - Stand No 1054, Unit B, Monsterlus, MPUDULLE, 1057 - *Evidence Ngwananoka*
241. Bongisiwe Thobile Mngadi - 840617 0346 085 - 30525 Wauo, Amane Location, Mbaava Area, WARTBURG, 3233 - *Bongisile*
242. Llywellyn Del Piccolo - 900411 5150 081 - 80 Bloem Street, GOODWOOD, 7460 - *Llywellyn Luciano Martino*
243. Miemie Selaelo Mukwevho - 790710 0587 087 - P O Box 6180, THOHOYANDOU, 0950 - *Annetta*
244. Casper Nicolaas Mc Donald - 911027 5253 084 - Plaas Dyton, Gedeelte 20, THEUNISSEN, 9414 - *Zuaq*
245. Thato Friek Maphakela - 000204 5165 087 - Clayville Extension 27, Tungsten Street, OLIFANTSFONTEIN, 1666 - *Thato Frank*
246. Keitumetse Gomba - 961208 5299 082 - 497 Ramogodi, MMAKAU, 0194 - *Keitumetse Musa*
247. Nosiviwe Jonas - 010211 0791 088 - Colosa Area, DUTYWA, 5000 - *Mbali Nosiviwe*
248. Candice Chelsea Swanepoel - 931012 0224 088 - 25 Waringer Street, PAROW, 7500 - *Zakiyyah*
249. Mary-Ann Simoné Daniels - 940830 0161 086 - 16 B Ouderhout Street, Netreg, BONTEHEUWEL, 7764 - *Masnoena*
250. Velile Mchunu - 981209 5738 083 - C-40 Egqumeni Area, HAMMARSDALE, 3700 - *Nhlakanipho Velile*
251. Willem Lombaard - 921104 5198 086 - Massie Street 2, LADISMITH, 6655 - *William*
252. Sifiso Ndlovu - 940726 5431 088 - 9 Dumbarton Road, WESTVILLE NORTH, 3629 - *Simangaliso Sifiso*
253. Nicole Carter - 920129 0062 087 - 76 Reyger Street, BOTHASIG, 7441 - *Aaron Dk*
254. Moses Moshe Mabotsa - 991004 5678 084 - Stand No 251, Block C, GA THOKA, 0727 - *Jan Moshe*
255. Olebogeng Ezekiel Mokhai - 810517 5362 085 - 513 Oliver Thamo Street, KURUMAN, 8460 - *Olebogeng Ezy*
256. Archibald Mathule Mafokoane - 980910 5203 082 - Stand No 421, GA-THOKA, 0727 - *Meso*
257. Mistrust Mbombi - 911113 1044 089 - Palmridge Area, Extension 9, PALMRIDGE, 1458 - *Trust*
258. Khanyisa Manganyi - 000503 0322 084 - Waterval Location, ELIM, 0960 - *Kuhlula Bernice*
259. Keenan Aden Raymond Jansen - 841219 5762 082 - 18D Viljoen Walk, PARKWOOD ESTATE, 7941 - *Kieyaam*
260. Craig Johan De Lange - 940105 5104 088 - 13 Crestview Road, BEACON BAY, 5241 - *Ilse*
261. Amahle Baba Getyengana - 971118 5514 083 - Zimbane Valley, MTHATHA, 5099 - *Amahle Kevin*
262. Thabile Edward Mtebeni - 980916 5090 080 - Mpindweni Area, LIBODE, 5160 - *Thabile Lukho*
263. Boniwe Tshakatshela - 980714 0509 083 - Machibi Area, PORT ST JOHNS, 5120 - *Vuyeka Boniwe*

264. Msizibonginkosi Morris Dladla - 980728 5974 084 - 619 Inanda Road, MOLWENI, 3600 - *Msizi Bonginkosi Morris*
265. Clefford Matidi Matjie - 960301 5952 080 - Malegale Village, SEKHUKHUNE, 1085 - *Clifford Magapeletse*
266. Xolile Chris Ndaba Tlakani - 930109 5246 081 - 13410 Oppenheimer, Thabong, WELKOM, 9465 - *Chris Vukaphantsi*
267. James Mohlouoaa Sefali - 871106 5633 087 - 44 Flamingo Height, WELKOM, 9465 - *James*
268. Mamokete Priscilia Mokoena - 950428 0241 086 - 353J Elite, PHUTHADITJHABA, 9866 - *Priscilla*
269. Mosidi Kotu - 910129 0677 084 - P O Box 334, TSITSING, 0333 - *Karabo Charlotte*
270. Molohlanye Ruben Phala - 821005 5723 081 - 4334 Unit D, Extension 6, TEMBA, 0407 - *Mphela Reuben*
271. Shadrack Khame - 790316 5554 088 - House No 101, Extension 12, BOITEKONG, 0320 - *Gwebani Shadrack*
272. Jason Lee Horn - 910920 5013 089 - 52 Polo Road, Observatory, CAPE TOWN, 7925 - *Jay Lee*
273. Tlakale Mogebeisa - 940630 0556 081 - Room 7012, Obz Aquare, Observatory, CAPE TOWN, 7925 - *Tlakale Onela*
274. Siyanda Mnamata - 840223 5553 088 - 9487 Ngada Road, Lower Cross Road, PHILLIPI EAST, 7750 - *Siyanda Reginald*
275. Selina Mafanato Seolela - 911216 0651 083 - 49 Acacia Street, Proclamation Hill, PRETORIA WEST, 0183 - *Dolly Selina Mafanato*
276. Nomvula Mudenda - 931001 0341 083 - 22398 Santa Centre, Galeshewe, KIMBERLEY, 8345 - *Rachael Nomvula*
277. Patience Bongisile Mxubela - 680621 0858 084 - AE09 Tau Road, Ashdown, PIETERMARITZBURG, 3201 - *Nothobinceba*
278. Bakhe Buhle Gaqa - 961124 5164 087 - 4 Schalk Opperman Street, CRADOCK, 5880 - *Bakhi'abantu Buhlebemvelo*
279. Congratulation Manzini - 850627 5686 085 - 350 Thulamahashe, THULAMAHASHE, 1365 - *Congress Tlangelani*
280. Xithanyi Oscar Baloyi - 820809 5532 082 - 318 Mogomomo Street, Extension 3, Chiawelo, SOWETO, 1818 - *Xivono Oscar*
281. Nkhensani Tryphinah Ndhlovu - 820414 0966 086 - 21188 Cucumber Street, Extension 29, PROTEA GLEN, 1868 - *Nkhensani Precious*
282. Gloria Chatfield - 980928 0954 087 - 564 Section G, EKANGALA, 1021 - *Reney Gloria*
283. Sinethemba Mkhonza - 001103 5769 089 - No 155 Area, ANKOM, 2337 - *Sinethemba Courage*
284. Nthabiseng Gloria Molathegi - 940427 0228 088 - 1230E Mokgareng, TAUNG, 8580 - *Gabriel Nthabiseng*
285. Yuvonne Nongxenge - 891002 1053 089 - 1530 Mzamo Street, New Crossroads, NYANGA, 7255 - *Mampho Yuvonne*
286. Mary Antoinet Disethe - 950508 0309 080 - 357 Motswaledi Street, Ikhutseng Location, WARRENTON, 8530 - *Mary- Antoinet Mphonyane*
287. Mdodile Patrick Ndlovu - 820130 5348 084 - 267 Khabe Road, Slangspruit 1, PIETERMARITZBURG, 3201 - *Andile Patrick*
288. Sithembele Jara - 950127 5966 081 - 5287 Hlubi Street, DAVEYTON, 1520 - *Lihle Sithembele*
289. Mary-Jane Nozipho Zimema - 790204 0839 086 - 4150 Phase 2, Kliptown Golf Couse, Pimville, SOWETO, 1868 - *Sithembele Mary- Jane Nozipho*
290. Tsumbedzo Ramothibedi - 870123 0729 084 - House No 611, Rathidili Village, SINTHUMULE, 0921 - *Tsumbedzo Charmaine*
291. Phedishi Mahlatse Mpogeng - 000619 5631 087 - Strydkraal Village, APEL, 0739 - *Tsebagae Mahlatse*
292. Dorah Maphanda - 981102 0700 085 - Halambani Village, VHEMBE, 0970 - *Zanele*
293. Jane Mashaba Ntombizodwa Molefe - 770801 0859 081 - House No 353, ATAMELANG, 2732 - *Jane*
294. Ndivhuwo Luruli - 940103 5541 086 - 781 Khubvi Village, THOHYANDOU, 0984 - *Ndivhuwo Makwetu*
295. Tamzyn Anastacia Shai - 920429 0077 089 - 18 Eden Crescent, RAVENSMEAD, 7493 - *Na-Eelah*
296. Siphosethu Tyabule - 960703 5712 085 - 14 Crampton Street, Ce2, VANDERBIJLPARK, 1911 - *Siphosethu Kevin*

297. Mason October - 940225 5107 087 - 120 Agapanthus Street, Lentegeur, MITCHEL PLAIN, 7785 - *Abdul-Muiz*
298. Makwela Pertunia Rapholo - 980323 0794 081 - House No 240, Thoka, RAMOKGOPA, 0811 - *Makwena Pertunia*
299. Buyiswa Muhammad - 810116 0411 086 - 21 Athlone Gorden, KING WILLIAMS TOWN, 5600 - *Asiyaah*
300. Ameer Clark - 960303 5370 081 - 28 Manatoka, Thornton, GOODWOOD, 7760 - *Alexander James*
301. Palesa Cynthia Ndandani - 771012 0766 081 - 59 Restom Avenue, Extension 6, BUTTERWORTH, 4990 - *Palesa*
302. Patience Boitumelo Kodisang - 880516 0628 081 - 489 Malateng Section, JERICHO, 0189 - *Michael Gabriel*
303. Keemenao Mooketsi - 980911 0748 089 - 1133 Libya Road, Phase 1, BRAAMFISCHERVILLE, 1724 - *Keemenao Atlegang*
304. Maledi Mbili - 990709 0261 089 - Mayyisa Street, KHAYELITSHA, 7784 - *Naledi Diketso*
305. Tshepo James Magolego - 891005 5507 083 - Stand No 960, Waalkraal B, DENNILTON, 1030 - *Tshepo Josiah*
306. Andisiwe Ndodana - 890927 0320 082 - 1655 Riemvasmaak, KLAWER, 8145 - *Antlahla*
307. Hlopekile Rose Khumalo - 860222 0234 087 - 2047 Block B, Extension 2, LETLHABILE, 0264 - *Rose*
308. Kelebohile Mary Makoti - 960624 0265 087 - 371 Block B, LETLHABILE, 0264 - *Kelebogile*
309. Elizabeth Lindiwe Mahlangu - 770228 1128 086 - 64 Enkanini, Vlaklaagte No 2, BUHLEBESIZWE, 0458 - *Elizabeth Lindiwe Ndrayindrayi*
310. Matsemane Gloria Morekhure - 730504 0839 082 - 335 Zone 7, GA-RANKUWA, 0208 - *Thapelo Gloria*

DEPARTMENT OF HOME AFFAIRS

NO. 570

12 APRIL 2019

ALTERATION OF SURNAMES IN TERMS OF SECTION 26 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)

The Director-General has authorized the following persons to assume the surnames printed in *italics*:

1. Jeffrey Senzangakhona Ndlovu - 920527 6320 088 - Stand No 332, KWAGGA A, 0458 - *Maseko*
2. Gift Ndlovu - 950902 6112 087 - Stand No 332, KWAGGA A, 0458 - *Mkhwanazi*
3. Wiseman Khulekani Sithole - 650808 5699 086 - 27 Lewis Byron Road, HILLARY, 4094 - *Shusha*
4. Mvelo Msomi - 960925 5805 086 - Ward 19, Turton Location, MTHWALUME, 4220 - *Mpisane*
5. Golfred Thokozani Xulu - 710321 5482 089 - 924 Ntininiza Road, BOTHAS HILL, 3660 - *Blose*
6. Ben Vusi Skosana - 730110 5638 089 - Stand 1640, Homelands, MOTETI, 0477 - *Masombuka*
7. Ntsikayomzi Dzila - 970712 5722 083 - Sinqumeni Area, NGCOBO, 5050 - *Muteyi*
8. Thembinkosi Lucas Miya - 711209 5645 087 - F73 Umlazi Township, Magwanyana Crescent, UMLAZI, 4031 - *Dlamini*
9. Thandekile Gladys Khumalo - 591102 0701 085 - 77 Hemsley Grove, MAYVILLE, 4091 - *Sithole*
10. Vuyisile Gwevela - 420118 5404 084 - Lower Sitholeni Area, NGCOBO, 5050 - *Dyonase*
11. Kwatana Johannes Mahlakoana - 420627 5442 084 - P O Box 66, DRIEKOP, 1129 - *Matsie*
12. Matuma Eric Moloto - 450312 5509 082 - P O Box 330, MAARIBANA, 0778 - *Boloko*
13. Moabelo Junior Modjadji - 960212 5543 086 - P O Box 903, GA KGAPANE, 0838 - *Mabulana*
14. Benedict Maake - 970821 5776 088 - Stand 370, Block C, GA SEKGOPO, 0802 - *Rasebotsa*
15. Thembelani Khulani Dladla - 960327 6042 084 - 1358 Old Dunbar Road, Mayville, DURBAN, 4091 - *Ndlovu*
16. Njabulo Goodman Dlamini - 970206 5432 082 - 62 Willilams Road, DURBAN, 4001 - *Msomi*
17. Yandani Noncebo Zulu - 900608 0821 083 - L37 Mafukuzela Road, KWAMASHU, 4360 - *Maphumulo*
18. Lucky Relas Cebekhulu - 941023 5406 081 - 5695 Thomas Mahlangu Street, Extension 10, WITBANK, 1039 - *Seoke*
19. Morongwa Kgomo - 970917 5720 082 - Makhurung, GA MPHABLELE, 0736 - *Maja*
20. Sebolaishi Maggie Moselakgomo - 970715 0387 083 - Ga Ledwaba, LEBOWAKGOMO, 0737 - *Manyama*
21. Dzimeni Tungani - 620311 5699 088 - Quzini Location, KING WILLIAMS TOWN, 5600 - *Feya*
22. Sikhumbuzo Lucky Buthelezi - 791003 5481 087 - 59 Ramnadic Road, Springfield, DURBAN, 4091 - *Masondo*
23. Mlungisi Nxumalo - 990420 5627 080 - Amahlongwa Mission, UMKOMAAS, 4170 - *Ngcobo*
24. Sifiso Sydney Mahlangu - 921002 5671 088 - 385 The West End, Carlswald, MIDRAND, 1684 - *Masina*
25. Ascentia Mokgadi Tloubatla - 970516 0649 088 - R33 Phomolong Section, ATTERIDGEVILLE, 0008 - *Moila*
26. Josua Kabuya Kanyinda - 990511 5436 082 - 55453 Mkhombe Street, Kuyasa, KHAYELITSHA, 7784 - *Penxa*
27. Thabang Adam Mashishi - 900814 5746 081 - House No 40364 , Ramaga Section, MORULENG, 0318 - *Motlhabane*
28. Tshiamo Lement Ramahumo Seshabela - 920802 5606 088 - 7557 Sun Valley, MABOPANE, 0190 - *Moema*
29. Jacob Lekgotla - 760510 6248 080 - 246 Tokologo , MHLUZI, 1053 - *Mahlangu*
30. Solly Thebogo Marokoane - 790822 5485 082 - 984 Kutlano , Extension 2, Langa Ville, TSAKANE, 1540 - *Thamaga*

31. Richard Magwaza - 770410 6172 083 - Msunduze Rea, NDWEDWE, 4342 - *Ngcobo*
32. Tlhaku Joseph Hlangoane - 750304 5716 087 - 10876 Ga Molekane, MOKOPANE, 0626 - *Makhubela*
33. Jack Morongoa Lapane - 750508 5743 087 - Makgodu, Stand No 123, MOLETJIE, 0709 - *Mopogole*
34. Nontlahla Mayeza - 740409 0875 086 - No 8 Wild Sea Cabanas, Ramsey Avenue, PORT EDWARD, 4295 - *Mbonisweni*
35. Linda Sibusiso Thango - 000914 5793 080 - 4206 Mathaba Street, TSAKANE, 1550 - *Motshoeni*
36. Zintoziyefana Maku - 000611 5771 088 - Samungu Res, ESHOWE, 3815 - *Shandu*
37. Sydney Mmatshela Selomo - 001117 5655 080 - P O Box 662, BOCHUM, 0790 - *Mokobodi*
38. Nhlakanipho Wiseman Ngcobo - 000318 5438 086 - 1888 38 Emachobeni, INANDA, 4310 - *Ngobese*
39. Silindile Xaba - 000119 0657 088 - N211 Mapanya Road, UMLAZI, 4031 - *Mtungwa*
40. Christian Sifiso Dubazane - 901026 5425 082 - Block D417milkyway Road, Dassenhoek, PINETOWN, 3610 - *Shabane*
41. Refentse Monageng - 991201 5383 083 - B73 Rooiwal, TAUNG, 8584 - *Malepe*
42. Godfrey Mduduzi Madlala - 530717 5354 087 - 941-27th Avenue, CLERMONT, 3602 - *Mbatha*
43. Nokuthula Mtolo - 880318 0682 089 - C1829 Saganga Road, HAMMARSDALE, 3706 - *Khanyezi*
44. Betty Mahlangu - 870620 0584 088 - 3065 Nkumbane Street, TSAKANE, 1850 - *Ramadiela*
45. Mokete Eric Mofokeng - 830212 5309 080 - R-120 A, Extension 4, Sicelo, MEYERTON, 1941 - *Lebakeng*
46. Comet Thabo Chauke - 840921 5576 088 - 947 Justice Mohammed, BROOKLYN, 0187 - *Mafalle*
47. Vincent Linda Maimela - 900509 5747 085 - Neethling Street, Number 11, LYDENBURF, 1120 - *Zitha*
48. Fabana Jefri Shabalala - 801016 5647 083 - 3087 Jikeleza Street, Phomolong, TEMBISA, 1632 - *Thela*
49. Thabang Silvester Motitsoe - 940115 5073 084 - 1227 Sinqobile Malapane Street, KRUGERSDORP, 1754 - *Tsupane*
50. Karabo Nelly Tailor Motiso - 900403 0341 088 - 1227 Sinqobile Malapane Street, KRUGERSDORP, 1754 - *Tsupane*
51. Africa Motseleng - 930119 5767 085 - 796 Kurhula, LULEKANI, 1392 - *Mogebisa*
52. Thandeka Hinana - 780317 0489 082 - Kwa Ngquba Area, STERKSPRUIT, 9762 - *Duba*
53. Bongane Stephane Msimango - 920126 5531 082 - 5804 Shongwe Street, Extension 23, HEIDELBERG, 1441 - *Maseko*
54. Charles Thabo Hlatshwayo - 990625 5249 087 - Colitta , ESTCOURT, 3310 - *Mofokeng*
55. Sihle Ziyane - 940924 6088 086 - 37 Noodward Street, NEWCASTLE, 2940 - *Dhlamini*
56. Desiree Sephaphi Mafokwane - 990913 0690 087 - Kwaaidraai, TZANEEN, 0850 - *Raletsemo*
57. Mthokozisi Alpheus Monene - 950801 5946 083 - 728 Luthili, KWAMHLANGA, 1022 - *Skosana*
58. Mangaliso Allen Cele - 920410 5306 087 - A A 141 Kekana Avenue, UMLAZI, 4066 - *Gwamanda*
59. Frans Malema - 991019 5813 085 - House No A12, RATSKA, 0810 - *Tshivhenga*
60. Noziphiwo Bacela - 911025 1173 082 - Chafutweni Area, WILLOWVALE, 5040 - *Mkhanywa*
61. Mojalefa Tshelo Phahle - 960603 5094 080 - 756 Extension 1, BETHLEHEM, 9701 - *Finger*
62. Cyril Khensani Mathebula - 990527 5895 085 - 2172 Zone 2, Mountain View, KWAMHLANGA, 1022 - *Masivhege*
63. Sicelo Thuso Moris Molefe - 970210 5650 081 - Nyanyadu, DANNHAUSER, 3080 - *Nsibande*
64. Lebogang Makhubela - 920512 0989 088 - 29518 Nku Street, Extension 4, MAMELODI EAST, 0122 - *Nkadimeng*

65. Thina Tom - 990220 0679 080 - Miya Area, NQAMAKWE, 5490 - *Ganjana*
66. Mampuru Andries Tshizane - 000120 5500 083 - 4959 Rammolutsi, VILJOENSKROON, 9520 - *Mampa*
67. Joseph Azwihangwisi Netshikulle – 800908 6004 085 - Ngudza, THOHOYANDOU, 0950 - *Netshikulwe*
68. Joseph Kgotlaetsile Makgetha - 800104 5438 082 - 5934 Magogoe Village, MAFIKENG, 2745 - *Kingdom*
69. Retshedisitsoe Isaac Mafisa - 800114 5530 085 - No 13 Geelvis Laan, Bloemside, BLOEMFONTEIN, 9326 - *Khumalo*
70. Lesego Beverly Mosesane - 970617 0366 085 - 51730 Masimo Section, GANYESA, 8613 - *Itumeleng*
71. Thabane Nelson Njapha - 790912 6187 082 - Kwa Nzimakwe Location, MUNSTER, 4278 - *Ndlovu*
72. Sibongile Fortunate Masibi - 950912 0390 084 - 616 Poto Street, Mofolo South, SOWETO, 1800 - *Mwelase*
73. Sekhwedi Thomas Mokganyetsi - 790207 5774 083 - 21 Mimosa Street, PULLEN SHOPE, 1096 - *Tshabalala*
74. Mluleki Rodwell Jantjies - 760117 5572 088 - 1 Memani Street, ASHTON, 6715 - *Dudumashe*
75. Nolitha Noluvuyo Mdikane - 980703 0612 088 - 41 Sessions Street, UMTATHA, 5090 - *Matu*
76. Steven Ngakana Mothwa - 781007 5233 085 - 3069 16th Street, REFILWE, 1003 - *Mavundla*
77. Lesego Maria Moleko - 870603 0653 087 - 77 The Arch, Sebenza, EDENVALE, 1610 - *Mooketsi*
78. Diahlan Dimakatso Thobakgale - 690312 0390 082 - P O Box 376, MAILA, 0948 - *Malanga*
79. Violet Tabea Msiza - 810405 0335 084 - 13 Kumo Street, ATTERIDGEVILLE, 0008 - *Tsie*
80. Ezile Gamo - 980310 0654 084 - Mkhholombe Location, PORT SHEPSTONE, 4240 - *Gama*
81. Mbalenhle Cele - 991103 0848 088 - Kaqwabe Location, UMZUMBE, 4225 - *Hadebe*
82. Solomon Jempe Matlakane - 780108 5537 086 - 167 Zone 2 A, MAJAKANENG, 0474 - *Ngema*
83. Lawrence Siyabonga Hlophe - 811219 5819 086 - 177 Dunbar Road, Mayville, DURBAN, 4091 - *Buthlezi*
84. Mfanafuthi Colin Msomi - 841120 6104 086 - 24 Simunye, Chesterville, DURBAN, 4001 - *Qwabe*
85. Palesa Valentine Johanna Shabalala - 910726 0245 083 - 5531 Ralefumi Street, Extension 23, Ratanda, HEIDELBERG, 1441 - *Olifant*
86. Emmanuel Sedibeng Sebopela - 920506 5710 085 - 3642 Extension 4, REFILWE, 1003 - *Kgosana*
87. Mtsobane Fourie Motsheshela - 770317 5501 081 - Stand No 06, Dichoeung, MARBLE HALL, 0450 - *Mochichila*
88. Solly Sonwabo Phathekile - 770921 5881 086 - 252 Holomisa Section, KATLEHONG, 1431 - *Cakata*
89. Phistus Llobe Kolokoto - 830924 6208 083 - Stand 582, Maboleng Section, Seabe Village, MMAMETLHAKE, 0417 - *Lefifi*
90. Lesego Tshagofatso Motlatsi Mataboge - 810526 0446 082 - E2163 Punodung Section, Phokeng, RUSTENBURG, 0335 - *Mogapi*
91. Cyprian Mandla Mthabini - 830820 5733 081 - 348 Hudula Farm, OSIZWENI, 2952 - *Sithole*
92. Silulami Chako - 751128 6021 083 - Matyeba Area, TSOLO, 5170 - *Rawana*
93. Sinthemba Sibusisiwe Khumalo - 960620 0683 089 - 154 Linkoene Groove, NEWLANDS WEST, 4037 - *Hadebe*
94. Erens Robert Mtshelale - 870430 5936 089 - 954 Cerasin Avenue, Lotus Gardens, PRETORIA WEST, 0183 - *Makhale*
95. Thulani Mkhize - 911211 5883 088 - Dosberg Road, Sakhamakhaya, STANGER, 4450 - *Ntuli*
96. Gladwill Lebogang Qwabe - 820611 5617 081 - 92 Indlwana Street, BOKSBURG, 1475 - *Mokoena*
97. George Alfred Thusi - 770527 5211 081 - 392 Effingham Road, DURBAN, 4001 - *Mhlanga*
98. Godisang Phakedi - 750405 5332 088 - 18 Sesing Street, KIMBERLEY, 8300 - *Mhiko*

99. Arthur Mpumelelo Khoza - 710412 5480 080 - 1743 Block H, SOSHANGUVE, 0152 - *Khoza-Ngwenya*
100. Sibusiso Hendrick Thabethe - 910409 5075 082 - Khobogwaneni Location, PIETERMARITZBURG, 3200 - *Njoko*
101. Nkosinathi Dlamini - 880130 6089 080 - Emazabekeni Location, HIGHFLATS, 3306 - *Mkhize*
102. Nomvelo Bulelwa Shoba - 980803 1171 082 - 043 Nyambose Road, HAMMARSDALE, 3699 - *Shange*
103. Japhta Ofentse Khunwane - 851014 5395 083 - 0410 Radintswa Section, PHOTSANENG, 0292 - *Morolong*
104. Nqobile Lorrain Mbongwa - 830606 1037 084 - P O Box 60, BOTHA'S HILL, 3660 - *Sabela*
105. Alphios Sangweni - 560227 5719 084 - Nseka Area, VRYHEID, 3100 - *Mdlalose*
106. Msawenkosi Bongumusa Victor Shezi - 940815 6406 080 - Hellermann Brother, WARTBURG, 3233 - *Masikane*
107. Tshegofatso Kungoane - 000821 0090 083 - 10587 Mmakgotso Street, Extension 6, KAGISO, 1754 - *Nong*
108. Kagalelo Jansen Radipina - 960210 5529 089 - House No T111, Moseja Section, MOROKWENG, 8614 - *Selebogo*
109. Obakeng Godfrey Motsisi - 950115 5857 087 - 04 Ekstein Street, WES-END, 8420 - *Molema*
110. Mmamodibedi Petunia Ditshego - 910928 0663 089 - Stand No 657, DENNILTON, 1030 - *Makgata*
111. S'boniso Lungelo Cele - 980719 5624 084 - House No 80103, Odidini Area, UMBUMBULU, 4105 - *Vidima*
112. Bongeka Pride Mazibuko - 950528 0512 087 - D402 Inanda, Area 10, AMATIKWE, 4310 - *Luthuli*
113. Nontobeko Zinhle Mtetwa - 990320 0745 087 - Ntsheteka Area, HLABANE, 3145 - *Khumalo*
114. Joseph Fezile Jacisa - 770119 5618 083 - Lubhacweni Location, MOUNT FRERE, 5090 - *Xeketwana*
115. Ngcebo Sihle Mkhize - 980818 5569 081 - 162/33 Sgananda Close, Nazareth, PINETOWN, 3610 - *Kheswa*
116. Mpotseng Modikwa - 900917 5789 082 - 2115 Block C, Eersterus, HAMMANSKRAAL, 0260 - *Moloantoa*
117. Karin Witbooi - 870401 0228 087 - Patruisberg Farm, CITRUSDAL, 7340 - *Baron*
118. Anthony Small - 950918 5062 081 - 5 Gleneryhof, Springfield Crescent, MORNINGSIDE, 4001 - *Nish*
119. Mboniseni Collin Ngcobo - 901229 5295 089 - C411 Etafuleni Area, INANDA, 4309 - *Mngomezulu*
120. Siboniso Barnavenchia Tywabu - 940608 5546 083 - 75 Myhill Road, Kenville, DURBAN, 4051 - *Cele*
121. Thobani Given Mkhize - 901010 5760 086 - 1384 Sunsetrich, NEWLANDS WEST, 4037 - *Mgobhozi*
122. Nhlakanipho Muzikawupheli Mthembu - 911128 5401 085 - B152 Madung Road, KWAMASHU, 4359 - *Ngidi*
123. Fana Elias Mabula - 770623 5437 089 - 1080 Mahala Park, STANDERTON, 2430 - *Tsotetsi*
124. Tshupo Smart Dlamini - 921211 5234 082 - Stand No 692, Elandsdoorn, DENNILTON, 1030 - *Mohlamonyane*
125. Dimpho Shaun Mnisi - 000107 5576 080 - Stand No 316, MASHISHINI, 1123 - *Mahungela*
126. Makena Pove - 530411 0754 083 - 34942 Platfontein, KIMBERLEY, 8301 - *Kazarra*
127. Kgomotso Regina Mokotedi - 880227 0653 083 - 7454 Iris Street, Unit 15, MMABATHO, 2735 - *Shoai*
128. Zakhele Emmanuel Nkwanyana - 980815 5728 089 - Ezinyambe Area, HLOBANE, 3145 - *Buthlelezi*
129. Tshediso Morris Mapheto - 000907 5503 087 - Mahlokoane Area, DRIEKOP, 1129 - *Phala*
130. Yandisa Quvile - 000427 5524 082 - Sabalele Area, COFIMVABA, 5380 - *Matshalimani*
131. Mpho Khumalo - 910928 0403 080 - Toleni Area, MOUNT FRERE, 5090 - *Nonkonela*
132. Promise Mdluli - 900825 0442 088 - Stand No 424, MGANDUNZWENI, 1245 - *Mamisa*

133. Nzuzo Perfect Nyathikazi - 980104 5392 083 - R125 Lungixaba Road, Sub-5, KWADABEKA, 3610 - *Thusi*
134. Ndumiso Ntobeko Manana - 950818 5813 089 - 120330 Dark City Road, MOLWENI, 3650 - *Shange*
135. Nkululeko Dlamini - 941107 5312 082 - 189332 Mzinyathi Area, INANDA, 4309 - *Mdabe*
136. Lungelo Arnold Sithole - 990804 5598 088 - 4310 Esikebheni , INANDA, 4309 - *Kweyama*
137. Solani Andrew Shivonivoni - 810225 5359 081 - 25 Quartz Close, 5 Chamfuti Crescent, Ormonde, JOHANNESBURG, *Manamela*
138. Siphocollin Nene - 780730 5389 083 - 1533 Block 9, Snake Park, ROODEPOORT, 1724 - *Sithole*
139. Thabisile Precious Mkhize - 010105 0908 082 - Dududu Amahwaqa, Ward 3, UMZINTO, 4200 - *Dlamini*
140. Nokubonga Julia Mbuto - 990626 0481 089 - Amandawe Mission, Ward 17, SCOTTBURGH, 4180 - *Cele*
141. Lusanda Ndenza - 940926 1116 085 - Toleni Area, MOUNT FRERE, 5090 - *Shoba*
142. Ayanda Sanele Mkhize - 980426 5401 089 - 1056 Malukazi Area, ISIPINGO, 4110 - *Sishi*
143. Sthembile Slindile Mkhize - 931216 0760 088 - P O Box 826, ULUNDI, 3865 - *Mbambo*
144. Molebogeng Nkwane - 900809 0249 081 - 6813 Mapatane Street, TOKOZA, 1426 - *Mhlanga*
145. Molao Brian Jama - 880214 5568 086 - 2853 Thakwane Street, Phase 1, WINTERVELD, 0198 - *Mahloane*
146. Sanele Gumede - 931103 5945 080 - 379 Glebe, INANDA, 4310 - *Ndlovu*
147. Andile Brandon Mahlaba - 000826 5775 083 - 411 Glebe, INANDA, 4310 - *Mkhize*
148. Lesego Patricia Ntsimane - 820515 0734 082 - 59 Jean's Place, Becksberg Avenue, CENTURION, 0157 - *Itumeleng*
149. Tumelo Ezekiel Kgapula - 860501 5307 083 - 260 Block LI, SOSHANGUVE, 0152 - *Morena*
150. Lebogang Nicolaas Mojela - 910728 5598 086 - 322 Block E, JUNO, 0748 - *Komape*
151. Khutso Jack Mabunela - 920203 6042 086 - P O Box 537, MACHADODORP, 1170 - *Tau*
152. Tshupo Frans Khosa - 860601 5681 089 - 2486 Extension 4 , DIEPSLOOT, 0001 - *Mahladisa*
153. Xolane Marrindze - 830422 5533 080 - Stand No 2807 , STEENBOK, 1347 - *Ngomane*
154. Sihle Matshangane - 960722 0921 087 - 9983 Thabong , Pollar Park, MALMESBURG, 9300 - *Tyesi*
155. Masereng John Belangula - 471028 5229 084 - 937 Block R, SOSHANGUVE, 0152 - *Vilankulu*
156. Ndileka Goeieman - 810213 0313 089 - 2870 Newvale, QUEENSTOWN, 5320 - *Mayezana*
157. Lesedi Modibane - 971208 5568 088 - 1897 Vuka Section, JERICHO, 0189 - *Mamorare*
158. Thamsanqa Pasiwe Sidzumo - 000716 5103 081 - 1285 Block Aa, SOSHANGUVE, 0152 - *Mzamo*
159. Bontle Kamogelo Makeneta - 990723 5054 084 - 988 Thutoboagi Street, SOSHANGUVE, 0152 - *Monyebudi*
160. Noluthando Pertunia Twala - 960704 0242 086 - 6381 Extension 2, Moleleki, KATLEHONG, 1431 - *Mabanga*
161. Thembisile Ntuli - 860530 1139 083 - Jv 3178 , Jeffsville, ATTERIDGEVILLE, 0008 - *Zulu*
162. Mondli Proffessor Mbhele - 810224 5815 085 - 8a Mylah, NEWLANDS EAST, 4037 - *Mkhize*
163. Lerato Nkungu - 980930 0425 084 - Sibi Area, MATATIELE, 4930 - *Moeti*
164. Innocent Ngobeni - 930630 5727 085 - P O Box 96, LETSITELE, 0885 - *Risaba*
165. Wandile Gcwabaza - 960603 5482 087 - 140202 Mantshalini, MPOLWENI, 3226 - *Hlophe*
166. Thando Mcebo Ndhlovu - 000531 5501 089 - 7704 Ivory Park, MIDRAND, 1632 - *Zwane*

167. Sisipho Anombulelo Sinyangana - 970330 0098 084 - 6 Apollo Way, Khwezi Park, KHAYELITSHA, 7784 - *Lingani*
168. Philemon Serobi Selapa - 800212 5528 081 - Mantheding Village, Dikgale, POLOKWANE, 0700 - *Mampa*
169. Thabo Sithole - 990614 5865 084 - B613 Hubo Road, KWAMASHU, 4360 - *Nyandeni*
170. S'thembile Nozipho Khuzwayo - 800424 0587 083 - 68 Wrenway, YELLOWWOOD PARK, 4004 - *Mkhize*
171. Amukelani Mashele - 950515 6053 083 - 26 Avenue, NKOWANKOWA, 0870 - *Vuma*
172. Thabang Godfrey Molapisi - 930421 5299 089 - 6460 Sponono Street, Extension 2, Moleleki, KATLEHONG, 1400 - *Mokoena*
173. Prince Chadlas Sethole - 910328 5930 080 - No 6989 Ivory Park, TEMBISA, 1634 - *Motswi*
174. Nomsa Bridgette Khetshani - 980414 0304 086 - 2105 Sonwabile, Dithake, KOFFIEFONTEIN, 9986 - *Raadt*
175. Katleho Tsotetsi - 000610 5426 081 - 6804 Extension 7, Sakhile, STANDERTON, 2430 - *Vilakazi*
176. Olindi Obango Zwelandile Mzondi Ajulu - 001127 5232 087 - Groote Schuur Presidential Estate, RONDEBOSCH, 7700 - *Sisulu*
177. Vincent Thanyani - 990831 6353 080 - P O Box 647, THAULU, 0987 - *Mabodi*
178. Sibusiso Nelson Skhosana - 990424 5344 084 - Stand No 1370, KWAGGAFONTEIN D, 0458 - *Mahlangu*
179. Tshepo France Mashiloane - 950823 5856 088 - 1374 Extension 1, Rockdale, MIDDELBURG, 1050 - *Moloto*
180. Shadwick Mosimanegape Morwe - 990529 5200 084 - 7-9 New Main Road, KIMBERLEY, 1120 - *Bautlwanyane*
181. Mbongeni Nildisperandum Gumede - 911002 5697 085 - 11153 Extension 2, Dobsonville, JOHANNESBURG, 1863 - *Dlwathi*
182. Kabelo Phatane Molefe - 890226 5261 080 - 567 Flat Crown Street, Ebony Park, MIDRAN, 1610 - *Seabi*
183. Nomusa Ngidi - 971226 0648 085 - Kusakusa J.P School, EZIMBOKODWENI, 4120 - *Xaba*
184. Desmond Paseka Nkhahle - 970326 5389 080 - 581 Gelukwaarts, KROONSTAD, 9500 - *Mahlatsi*
185. Nkosinathi Tebogo Gift Mahlangu - 971219 5386 082 - 1578 Extension 1, Rockdale, MIDDELBURG, 1055 - *Mogano*
186. Jabhile Evelyn Mnguni - 990814 0459 087 - 1195 Selahliwe Section, MEMEL, 2970 - *Moloi*
187. Khegu Annah Nyalunga - 980421 0195 083 - 1495 Block F, SOSHANGUVE, 0152 - *Ndhlovu*
188. Thulani Jonas Mahlangu - 960922 5139 087 - 3139 Dube Street, Extension 3, DELMAS, 1022 - *Mathibela*
189. Themba Vincent Mkhabela - 960827 5881 085 - 1351 Nescom Main Road, KABOKWENI, 1245 - *Mlangeni*
190. Manqoba Thulani Sibande - 941102 5883 083 - Hostel 18B, BARBERTON, 1300 - *Mkhonto*
191. Siphumelele Dlamini - 961217 5652 083 - 6593 Extension 3, Sakhile, STANDERTON, 2430 - *Maseko*
192. Thembinkosi Isaac Mahlobo - 630728 5594 084 - M242 Nyusi Road, KWAMASHU, 4360 - *Nxumalo*
193. Sinethemba Nqungule - 810329 5268 084 - 27 Pope Street, AMALINDA, 5247 - *Jack*
194. Nkotwane David Moshia - 900101 7906 081 - Ga-Ntake Village, SEKHUKHUNE, 1058 - *Makwana*
195. Diamond Samuel Hlazo - 930207 5243 080 - 1586 Tokologo, MHLUZI, 1053 - *Mkhatshwa*
196. Njabulo Leonard Msiya - 900610 5421 083 - 807 Todhope Heights, 2 Avenue, Berea, JOHANNESBURG, 2198 - *Ndlovu*
197. Thato Edgar Motloung - 970504 5636 086 - 2699 Phase 4, Slovo, WINTERVELD, 0198 - *Letsoalo*
198. Bafana Queency Maluleke - 970212 5744 088 - Mbhalati Village, MALAMULELE, 0982 - *Mathebula*
199. Bongani Zolisa Vinjwayo - 980912 5441 084 - 532 Nkobongo, SHAKASKRAAL, 4430 - *Nkontyo*
200. Mbale Julia Sekhoto - 890324 0697 083 - Plot 11, Ken Viljoen, Roostuine, VEREENIGING, 1930 - *Phakathi*

201. Luyanda Dingani - 830824 5293 088 - 104th Avenue, Zwide, PORT ELIZABETH, 6201 - *Dike*
202. Nonkululeko Lekitlane - 901108 0287 087 - 235 Umphathi Street, Extension 3, Mailula, VOSLOORUS, 1475 - *Khumalo*
203. Thulo Shadrack Thibatsi - 980729 5131 089 - 8101 Phala Street, Extension 11, PROTEA GLEN, 1819 - *Mabuka*
204. Siphwe Sibusiso Moloi - 911015 5527 086 - 502 Motsoeneng Street, Nthoroane, GREYLINGSTAD, 2415 - *Mahlangu*
205. Tsepiso Sithembiso Promise Moloi - 941111 5232 084 - 621 Section D, EKANGALA, 1021 - *Shabalala*
206. Jarryd Austin Keel - 910305 5063 088 - 65 Geekie Road, MERRIVALE, 3291 - *Henry*
207. Thobani Sphamandla Mbuyisa - 001212 5867 080 - 1382 Xaba Stand, BLAaubosch, 2952 - *Dhlamini*
208. Epraim Mashitishi Tsoka - 741222 5052 083 - 28711 Thabong, WELKOM, 9463 - *Sekgobela*
209. Caltlin Renee Basthew - 990227 0196 080 - 93 Fernview, Via Davillia, Brackenham, RICHARDS BAY, 3900 - *Stock*
210. Thabiso Edwin Dladla - 910108 5502 083 - Private Bag X 1008, WHITE RIVER, 1245 - *Mgwenya*
211. Enos Ntimba - 890914 6194 083 - Stand No 865, Culcuta-C, WHITE RIVER, 1245 - *Sithole*
212. Thabo Moses Monaheng - 920821 5237 082 - 8727 Tuba Street, Thokoza Gardens, GERMISTON, 1426 - *Nhlapo*
213. Kgaugelo Sibande - 980605 5257 084 - 105 Endayeni, 5th Street, TEMBISA, 1632 - *Dikobe*
214. Bongane Junior Seboko - 980801 5050 088 - 30 Alexander Drive, Winston Park, PINETOWN, 3610 - *Kubheka*
215. Lindokuhle Admus Manyisa - 890712 5957 082 - Stand No 2394, KANYAMAZANE, 1214 - *Manyisa*
216. Palesa Pakula - 010122 0519 082 - 84/8 Sehlong Street, Extension 11, PROTEA GLEN, 1819 - *Moeleso*
217. Mathews Gobuapelo - 891208 5284 089 - 11812 Extension 10, SUNRISE PARK, 0300 - *Gobuapelo*
218. Dotia Mohulatsi - 990906 5168 083 - 9 Vorster Avenue, Pierre Van Ryneveld, CENTURION, 0157 - *Mashele*
219. Lena Neo Sibisi - 890407 0325 084 - 846 Block P, SOSHANGUVE, 0152 - *Shokane*
220. David Thulane Sibeko - 880309 5417 084 - 1440 T Modise Street, DUDUZA, 1496 - *Hadebe*
221. Zamokwakhe Eugene Dlamini - 910812 5789 083 - A128 Rockdale Area, KWANDANGEZI, 3607 - *Khalala*
222. Lungisani Ngcobo - 970401 6009 084 - 448809 Mahlabathini Area, DURBAN, 4105 - *Mdlalose*
223. Alwyn Philani Khanyile - 790125 5531 081 - 510136 Georgetown, EDENDALE, 4505 - *Zondi*
224. Lindela Goodman Khwela - 750621 5610 089 - Zf20 Msimbithi Road, Ashdown, PIETERMARITZBURG, 3216 - *Jili*
225. Siyabonga Kenneth Gambu - 770129 5767 087 - Tehuis, Imbali, PIETERMARITZBURG, 3216 - *Duma*
226. Velaphi Maseko - 990613 5944 089 - House No 61, Phumula, VOLKSRUST, 1470 - *Mbatha*
227. Molefe Soji - 880414 5681 083 - 1178 Block Ww, SOSHANGUVE, 0152 - *Nkosi*
228. Solly Selatole Mokolo - 780930 5353 085 - 10459 Vleeschboom, NEBO, 1059 - *Boshielo*
229. Mutshidzi Precious Ramudzwagi - 980419 0672 085 - Stand No 197, MASHAU, 0920 - *Mukhoro*
230. Mavhungu Terence Matshi - 980913 5423 080 - Stand No 427, Tshikota Location, MAKHADO, 0920 - *Ramabulana*
231. Naledi Ntuthu-Kwa Mhlanga - 980918 5240 087 - 23 Impala Crescent Street, Saligna 4, BRITS, 0250 - *Reed*
232. Mishumo Masakona - 991103 5782 084 - Ha-Budeu Village, THOHOYANDOU, 0950 - *Ramunasi*
233. Phindile Charity Gogo - 880805 0290 087 - 158 Linda Street, DUDUZA, 1496 - *Siwela*
234. Brenda Nomvula Ndlovu - 760831 0649 085 - D28 Ithala Road, Umlazi Township, UMLAZI, 4031 - *Dlamini*

235. Mzilikazi Brian Dlamini - 970130 5556 080 - 200b Bergatillerie, Extension 5, DANVILLE, 0183 - *Khumalo*
236. Thandokuhle Sylvester Billy - 990425 5229 084 - 1639 Lusaka, WITSIESHOEK, 9870 - *Sithole*
237. Kabelo Mofokeng - 010908 5584 083 - 149 Zone 3, FICKSBURG, 9730 - *Thulo*
238. Godfrey Mojalefa Photsane - 920127 5725 088 - 261 Mamahabane, VENTERSBURG, 9500 - *Thetani*
239. Thabiso Dazana - 001115 5857 086 - Ngwetsheni Area, MOUNT FRERE, 5090 - *Langa*
240. Perceverance Mabena - 930806 5055 087 - 11088 Isithame Section, Extension 26, TEMBISA, 1632 - *Tlhotse*
241. Noloyiso Mzileni - 810727 0837 086 - 4281 Coolbreeze, DUDUZA, 1496 - *Ranuga*
242. Mpho Mthembu - 790609 5733 086 - Mohodi Village, BOCHUM, 0090 - *Mphelo*
243. Lutendo Manyuha - 921025 5515 088 - Stand No 2829, Zone 2, MADOMBIDZHA, 0921 - *Bell*
244. Gudani Godwill Mpapele - 820516 5609 089 - Makonde Village, THOHOYANDOU, 0950 - *Ravhuanzwo*
245. Babakhe Solomon Mazibuko - 861122 5554 084 - 75/7 Small Farm, EVATON, 1984 - *Smith*
246. Vincent Sibongile Motau - 741013 5744 088 - 291 Kwaggafontein D, EMPUMALANGA, 0458 - *Msiza*
247. Lehlogonolo Mokomane - 940307 5516 085 - 549 Pelgrimrus Street, NELLMAPIUS, 0162 - *Matlala*
248. Sibahle Percival Nzama - 910927 5597 086 - 704 Missouri Crescent, Extension O, Cosmo City, RANDBURG, 2188 - *Mngoma*
249. Mbulawa Johannes Thwala - 640624 5641 082 - 2854m Extension 1, SOSHANGUVE, 0152 - *Nkosi*
250. Morina Lulama Nokama - 631118 0373 081 - No 3 Mgwali Village, STUTTERHEIM, 4930 - *Salmani*
251. Mandlakayise Mthembeni Mdlalose - 620102 6089 084 - P O Box 229, MELMOTH, 3238 - *Mhlongo*
252. Xolani Nunu Mdletshe - 800225 5985 085 - P O Box 10884, MEERENSEE, 3901 - *Mthethwa*
253. Sebowa Marcus Mantsho - 770131 5381 083 - 215b Moletjie, Makibelo, POLOKWANE, 0753 - *Ndhlovu*
254. Ernest Nyalungu - 781018 5410 086 - 1460 Section 2, Suurman, HAMMANSKRAAL, 0407 - *Mampane*
255. Eldore Edward Adams - 790531 5609 084 - 50 Busby Street, CAPE TOWN, 7490 - *Davids*
256. Mashilo Moses Mpherwane - 791025 5982 087 - 0265 Twelopele, TEMBISA, 1632 - *Ngoepe*
257. Mfundo William Ngwaxaxa - 630126 5398 087 - 11611 Nyamazane Street, Extension 14, Vosburg, BOKSBURG, 1475 - *Nkholi*
258. Stephen Sehulare Mfabo - 640228 5355 089 - 9969 Zone 1, GA-RANKUWA, 0208 - *Modubu*
259. Choene Lucas Mampana - 700716 5576 081 - Flora Village, MOLETJIE, 0709 - *Maleté*
260. James Tsietsi Motsamai - 880924 5311 085 - 5803 Siphamandla Section, Moleleki, KATLEHONG, 1436 - *Marokane*
261. Siphesihle Sibisi - 000208 5958 086 - 58067 Nhlanzatshe, EDENDALE, 3200 - *Mjoli*
262. Kagiso Batsile Ndinisa - 891227 5296 083 - 20 Johann Place, Willow Acres Estate, PRETORIA EAST, 0081 - *Maaga*
263. Mpho Gift Seuoé - 830924 5724 080 - 02 Masakhane Street, Moshoeshoe Section, KATLEHONG, 1431 - *Motaung*
264. Ndotshidzwa Rememberance Salani - 000919 5637 088 - 299 Zakariyya Park, PEPPERCORN, 1821 - *Sibata*
265. Bongani Amos Matsheni - 780817 5537 082 - 500 Mavimbela Section, Gakhamba Street, KATLEHONG, 1431 - *Mabaso*
266. Simphiwe Chiyofela Booí - 940818 5491 087 - 727 Gwili Gwili Section, KING WILLIAMS TOWN, 5600 - *Hackula*
267. Nekita Amelia Herman - 900812 0663 087 - 3 Elizabeth Road, Cambridge, EAST LONDON, 5241 - *Gomes*
268. Nomfundo Patricia Sibiya - 960724 0846 082 - 300 Bhekuzulu Location, VRYHEID, 3100 - *Masondo*

269. Collen Manyaka - 780107 5273 080 - 36 Hlalanikahle, Extension 1, WITBANK, 1035 - *Chego*
270. Kamogelo David Mangwane - 000518 5110 086 - 17727 Extension 08, SOSHANGUVE SOUTH, 0152 - *Sibasa*
271. Legae Aaron Phele - 910703 5307 085 - 585 Difateng Section, TEMBISA, 2632 - *Mathibela*
272. Moses Mabitsha Kgopane - 711226 5854 089 - D110 Senotlelo, SIYABUSWA, 0472 - *Mampuru*
273. Keitumetse Revelation Motsie - 900329 0498 083 - 14390 Zone 11, SEBOKENG, 1983 - *Mokoena*
274. Gladys Ramaesela Shaku - 780513 0419 083 - Sekurung Village, MPHABLELE, 0736 - *Mathabatha*
275. Cebelihle Siphesihle Qwabe - 951124 5538 084 - Ward 05, Kwambonambi, EMPANGENI, 3880 - *Ncube*
276. Thato Godwill Rakoena - 900909 5457 083 - Stand No 220, New Stand Section, Katjibana Village, MAMETLHAKE, 0432 - *Matimbi*
277. Lucky Sithole - 870514 5687 089 - Stand No 187, Block A, NKOMAZI, 1341 - *Nkuna*
278. Tumelo Mokoena - 001115 5365 080 - 9 Chardonnay Street, South Crest, Fairview Village, ALBERTON, 1450 - *Mphuti*
279. Khubedu Tebogo Diale - 940211 5561 085 - 19 Apiesdoring, KRUGERSDORP, 2470 - *Pitjeng*
280. Charles Mavalela - 821228 5393 081 - P O Box 9190, GOMPIES, 0631 - *Ledwaba*
281. Nobuhle Innocentia Mokoena - 891117 0562 086 - Plot 198, Muurstein, VANDERBIJLPARK, 1911 - *Lukhozi*
282. Phindile Princess Mahlangu - 980130 1003 085 - P O Box 3931, KRIEL, 2271 - *Mbele*
283. Surgeon Mahlabe Matseke - 740203 5643 080 - 1635 Beverly Hill, HEBRON, 0192 - *Matibidi*
284. Nondumiso Ntombela - 941002 0757 086 - Nkomaas Area, NKOMAAS, 4170 - *Khathi*
285. Unels Mahlomoza - 010504 0503 085 - P O Box 9314, BUSHBUCKRIDGE, 1280 - *Dibakoane*
286. Sibuyiselo Emmanuel Ngcobo - 860426 5766 080 - 5077 Extension 243, RIETVALLEI, 1754 - *Gumbi*
287. Sylvesta Sandile Mjethu - 831114 5416 080 - 212 Majaba Street, Paballo, UPINGTON, 8801 - *Ntsinga*
288. Goodenough Thembinkosi Dlamini - 780420 5428 087 - J21714 Esikhawini, ESIKHAWINI, 3887 - *Mpanza*
289. Andiswa Zazaza - 960512 0840 084 - P O Box 316, QUMBU, 5180 - *Mabija*
290. Success Madalana - 940116 5877 086 - 3404 Sunrise Drive, Extension 1, ORANGE FARM, 1841 - *Massinga*
291. Nokuzotha Florance Windrey Madolo - 790830 0856 082 - 4135 Succesor, Phomolong, TEMBISA, 1632 - *Cele*
292. Bongekile Brightness Khumalo - 751107 0745 087 - Emphazima Area, BLOODRIVER, 3102 - *Sibisi*
293. Joan Zanele Xakaza - 871125 0720 087 - 9676 Mogwai Street, Extension 3, DOBSONVILLE, 1863 - *Valkant*
294. David Mboro Lebyane - 780810 5512 080 - 248 Extension 2, SOSHANGUVE, 0152 - *Mokebe*
295. Zakheleni Panado Ndwandwe - 891220 5542 085 - Isithebe Area, MANDENI, 4490 - *Mahlobo*
296. Lungiswa Pamela Hope Ndwandwe - 980622 0432 083 - 328 Torteldulf Street, PONGOLA, 3170 - *Zukulu*
297. Romario Jacobs - 980120 5617 089 - Pleinstraat 37, POSTMASBURG, 8420 - *Oor*
298. David Sebashe - 770302 5431 083 - 2938r Makwakwa Street, Ackerville, WITBANK, 1122 - *Mnisi*
299. Bongani Sitowuni - 750713 5485 081 - 2024 Nu14, MDANTSANE, 5219 - *Somke*
300. Mbongeni Armstrong Ncikazi - 730426 5609 080 - A2157 Inanda, NEWTOWN, 4309 - *Ndlovu*
301. Aaron Moleko Miya - 790221 5705 088 - 2957 Extension 4, REFILWE, 1000 - *Moatthodi*
302. Vusumuzi Andreas Mnguni - 700626 5796 086 - Etholeni Area, WASBANK, 2920 - *Mbata*

303. Lindiwe Beauty Moganedi - 640325 0440 088 - 87 Khayalami Estate, Tasbet X, WITBANK, 1035 - *Maseko*
304. Thembani Desmond Ndlazi - 661004 5620 085 - 10 Phakamile Street, Kamvelihle, MOTHERWELL, 6211 - *Mahlangeni*
305. Elvis Eddie Ngwenya - 760110 5669 087 - Stand No 345 , Mahushu Trust, WHITE RIVER, 1245 - *Mokoena*
306. Sandile Sibeko - 901228 6565 086 - 5718 Extension 4, Silobela, CAROLINA, 1185 - *Nkosi*
307. Sekgana Miranda Masiela - 860126 1259 086 - 1555 Khoza, WINTERVELDT, 0198 - *Modiba*
308. Minenhle Dlame - 990814 5777 087 - Mkhuphula Area, MSINGA, 3010 - *Mhlongo*
309. Khomotjo Faith Kekana - 920502 0474 082 - 1163 Zone 7, MAHWELERENG, 0626 - *Mahlabegoana*
310. Katlego Montjane - 910731 5685 085 - P O Box 1133, STEELPOORT, 1783 - *Makgahlela*
311. Njula Ngcamu - 950517 5811 081 - 19 Building, Morning Side, DURBAN, 4001 - *Mkhize*
312. Kholeka Mongezi Nkomo - 970701 5695 084 - Isipolu Road, Ward 11, UMKWALUME, 4186 - *Mnyandu*
313. Nkululeko Quentin Khuboni - 940717 5260 080 - E172 Mnyayiza Road, Kwamashu, DURBAN, 4359 - *Mngadi*
314. Tshepo Vincent Mojobe - 980303 5924 081 - 20 Extension 02, RUSTENBURG, 0300 - *Maake*
315. Simangele Surprise Makhanya - 930517 0925 089 - B252 Illovo, WINKLESPRUIT, 4126 - *Hlongwa*
316. Mosa Hans - 941108 0958 085 - 69 Lagoon Drive, Umhlanga Rocks, DURBAN, 4320 - *Msomi*
317. Msizi Hopewell Myeni - 970509 5094 087 - Berea Area, DURBAN, 4001 - *Tembe*
318. Brainy Lishivha - 000926 5863 085 - Balanganani Village, VUWANI, 0952 - *Maluleke*
319. Daniel Pule - 870628 5459 081 - Kgosing Section, Ntsweletsoku Village, LEHURUTSHE, 2891 - *Merakeng*
320. Tshwarelelo Mokwena - 971019 0669 080 - Ga-Mabintane Village, NEBO, 1029 - *Malope*
321. Thabang Takalo - 841022 5479 081 - 10068 Seleteng, Gamaleka, GA-MPHAHLELE, 0736 - *Latakomo*
322. Desmond Choshi - 961230 5973 086 - 2627 Leesdale, LEOKANENG, 0702 - *Maake*
323. Miyelani Noah Risenga - 920402 5806 083 - Jerome Village, MALAMULELE, 0982 - *Novela*
324. Thanyane Oscar Mokgabuki - 890814 5865 081 - Tshitunitshafhasi Village, DZANANI, 0955 - *Mafunwaini*
325. Sandile Godfrey Nkabinde - 740910 6051 085 - 1556 Mbhelebehe Road, Imbali, PIETERMARITZBURG, 3216 - *Ngubane*
326. Booiki Simon Ramokoatsi - 800620 5385 080 - 4553 Tambo, SENEKAL, 9600 - *Makhasane*
327. Nothando Lairi - 991229 0808 085 - P O Box 5062, NONGOMA, 3950 - *Simelane*
328. Logan Moodey - 960325 0120 088 - 9 Hilda Mentoor Close, Vergenoeg, GRAHAMSTOWN, 6139 - *Moodie*
329. Ngako Erenah Molele - 980613 0743 082 - Ga-Mochemi Village, BOCHUM, 0790 - *Mamasonya*
330. Lebea Phineas Seepa - 950604 5771 083 - Khala Village, REBONE, 0790 - *Ramatswi*
331. Nkosinathi Ngubane - 990325 5417 087 - 610322 Bhulw Area, Willowfontein, PIETERMARITZBURG, 3201 - *Xaba*
332. Luyanda Sosibo - 931013 5555 088 - Mvubukazi Area, UMZIMKHULU, 3297 - *Sicina*
333. Daniel John Taylor - 920311 5348 089 - 16 The Royal Parks, 133 Bryanston Drive, BRYANSTON, 2021 - *Hunt*
334. Qinisela Ncalane - 990608 5659 083 - Gcothoyi Area, KRANSKOP, 3268 - *Dladla*
335. Philani Ntombela - 970710 5955 083 - Amatimatolo Area, GREYTOWN, 3250 - *Ndlovu*
336. Silindokuhle Batyi - 000309 5502 088 - 69 Kotana Street, Joe Slovo, PORT ELIZABETH, 6001 - *Tambo*

337. Mcebo Mondli Khanyile - 000319 5529 080 - P O Box 37, VRYHEID, 3100 - *Zulu*
338. Nobuhle Immaculate Buthelezi - 860127 0378 083 - 781 Chief Owen Street, ULUNDI, 3838 - *Khumalo*
339. Mnikelo Nicky Kilani - 770202 5950 084 - Ae10 Bosasa, MFULENI, 7100 - *Nelsana*
340. Lwandiso Mbewu - 920603 5962 087 - 8417/20 Palm Street, Phumula , GERMISTON, 2012 - *Sitshoni*
341. Pretty Peter Masemula - 620303 6059 081 - 1011 Gogo Kate Vilakazi Street, Vuka Section, Mhluzi, MIDDELBURG, 1050 *Thubane*
342. Elizabeth Nurse Manana - 830818 0705 088 - 7229 Extension 5, Bethal, EMZINONI, 2310 - *Dladla*
343. Mesuli Mgodlwa - 990919 5793 081 - P O Box 261, MTHATHA, 5099 - *Bango*
344. Mandla Ephraim Sebiloane - 770511 5426 089 - 2560 Mathobela Street, Thembalihle, VREDE, 9835 - *Nkutha*
345. Mpiyakhe Abram Moloi - 841105 5351 085 - 2545 Nkomo Street, Thembalihle, VREDE, 9835 - *Nkutha*
346. Polly Joseph Mngoma - 521001 5448 087 - Dududu Area, Ward 3, UMTATA, 4200 - *Ngcobo*
347. Jerry Rasellane Ramatlakana - 530202 5714 085 - 009 Block C, LEKGOLO, 0189 - *Ranaka*
348. Monica Dyani - 820710 0699 084 - A570 Vuyani Street , KHAYELITSHA, 7784 - *Maliwa*
349. Gavin Nzwandile Moroka - 930721 5308 081 - 7-9 New Main Road, KIMBERLEY, 8345 - *Mpokwane*
350. Buti Phillip Modau - 540508 5592 083 - 2963 Phase 3, Tshepisong, ROODEPOORT, 1724 - *Mpye*
351. Liyema Renquest Minnie - 000715 0709 082 - 2214 Madolo Street, OLD CROSS ROAD, 7755 - *Singama*
352. Tlhologelo Lindi Molefe - 861023 5700 083 - 1513 Mabolepu Street, TLADI, 1868 - *Mathews*
353. Maite Tebogo Maponya - 010425 0307 089 - 2016 Bukhara Street, Ivy Park, POLOKWANE, 0699 - *Letsoalo*
354. Octavia Maropeng Mannya - 000212 0529 082 - 242 Ga-Polatia, BOTLOKWA, 0812 - *Mosima*
355. Jan Mahlangu - 830623 5357 087 - 2671 Mountain View, Zone 3, KWAMHLANGA, 1022 - *Mabena*
356. Sipiwe Ndaba - 930330 5564 089 - Mr S Nkosi, 1187 Dingane Street, Mofolo North, DUBE, 1801 - *Nkosi*
357. Theophilus Lindani Nxhonzhota - 760620 6096 080 - Lower Nenga Area, MQANDULI, 5080 - *Masiphula*
358. John Seakalale Maila - 410107 5452 088 - Mr J S Ratseke, Mmalegale Village, SEKHUKHUNE, 1124 - *Ratseke*
359. Ellion Fanisile Sitole - 520315 5863 082 - Gcinisa Location, PEDDIE, 5640 - *Hola*
360. Katlego Prince Mapoga - 980703 5732 089 - Pv 8510 Vergenoeg, ATTERIDGEVILLE, 0008 - *Masipa*
361. Thapelo Andile Rodney Msiza - 940404 5296 089 - 10904 Mphela Street, Rethabile, MAMELODI EAST, 0122 - *Matlala*
362. Corbin Taaibosch - 910317 5222 085 - 99 Kruger Street, GRIEKWASTAD, 8365 - *Waterboer*
363. Elphas Funeyakhe Ngema - 531010 5990 087 - Mthandeni Area, MAPHUMULO, 4470 - *Ndimande*
364. Jonas Shikoane - 981107 5446 089 - Stand No 0213, Zone 2, Ngobi Village, MORETELE, 0411 - *Moloto*
365. Theresa Mashangane Mohlaloga - 970927 0891 085 - 789 Zone 3, SESHEGO, 0742 - *Bopape*
366. Pabala Neo Lloyd Nedohe - 760123 5663 083 - Denpad Flats, Erasmus Street, LOUIS TRICHARDT, 0920 - *Masekela*
367. Melton Maputi Mamaila - 000821 5722 086 - Stand No 01583, MONSTERLUS, 1057 - *Makwana*
368. Zolisa Maxwell Jim - 800715 5852 087 - C18 Redhill, SIMON TOWN, 7995 - *Dyantyi*
369. Gift Proper Moroe - 900215 5304 089 - 131 Violet Street, Bluegum View, Extension 1, NIGEL, 1496 - *Mohwaduba*
370. Lwazi Martin Zulu - 940623 5505 088 - 142 Hamilton Avenue, BRAKPAN, 1540 - *Sikhakhane*

371. Makgalane Kefilwe Magoma - 991122 5283 083 - 669 Zone F, LEBOWAKGOMO, 0737 - *Leshabane*
372. Keketso Claude Sekgabi - 900203 5174 082 - 3rd Road, Unit 89, Urban Ridge South, MIDRAND, 1685 - *Nakana*
373. Sifiso Gift Ngwenya - 870306 5391 089 - 835 J George Street, John Dube, DUDUZA, 1496 - *Mthabela*
374. Thamsanqa Cornelius Maseko - 790908 5343 080 - 20820 Uhlaza Lane, Mfundo Park, VOSLOORUS, 1475 - *Kumalo*
375. Wandile Percival Mhlongo - 950308 5631 087 - Ophondweni Area, MTUBATUBA, 3935 - *Mtabela*
376. Sibusiso Danca - 770126 5763 082 - 3098 Clermont Road, CLERMONT, 3602 - *Mteki*
377. Brian Simphiwe Shabane - 890210 5575 087 - A118 Kwadabeka, CLERMONT, 3610 - *Cele*
378. Sanelisiwe Hlongwa - 990110 0207 083 - D8311 Kk Flats, CLERMONT, 3602 - *Gumede*
379. Sibusiso Mathe - 901024 5488 085 - 5593 Extension 10, WILTBANK, 1039 - *Masina*
380. Cornish Limnandi Vavana - 990220 5715 087 - 1058 Whocantell Mcbride Area, QUEENSTOWN, 5320 - *Kopo*
381. Sicelo Duncan Mabaso - 780708 5527 084 - E7465 Section 5, EMADADENI, 2940 - *Khumalo*
382. Bonisa Hlatshwayo - 990929 5585 080 - 9079 Section 5, MADADENI, 2951 - *Dube*

DEPARTMENT OF HOME AFFAIRS

NO. 571

12 APRIL 2019

ALTERATION OF FORENAMES IN TERMS OF SECTION 24 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)

The following entry published in the Government Gazette No. **37783** Government Gazette Notice No. **518** Entry No. **70** dated **04 July 2014** is hereby withdrawn.

1. Sherri-Leigh Sharnelle Camfer - 940127 0230 080 - 107 Dabchick Road, GRASSY PARK, 7941 - *Rayzaun Leah*

The following entry published in the Government Gazette No. **38458** Government Gazette Notice No. **88** Entry No. **87** dated **13 February 2015** is hereby withdrawn.

1. Liesl Marie Robbins - 660811 0042 086 - 5 Melkhout Crescent, HOUT BAY, 7806 - *Jembi Jewel*

The following entry published in the Government Gazette No. **39172** Government Gazette Notice No. **800** Entry No. **128** dated **04 September 2015** is hereby withdrawn.

1. Mmahoene Hetty Thopola - 730601 0501 082 - Stand 263, Flora Village, POLOKWANE, 0710 - *Tumelo Sebata*

The following entry published in the Government Gazette No. **39003** Government Gazette Notice No. **615** Entry No. **86** dated **17 July 2015** is hereby withdrawn.

1. Sbongile Victoria Sekgobela - 780726 0389 086 - Stand No 819, Boikhutso, BUSHBUCKRIDDGE, 1280 - *Excellent Reason*

The following entry published in the Government Gazette No. **39003** Government Gazette Notice No. **615** Entry No. **163** dated **17 July 2015** is hereby withdrawn.

1. Moganeng Luchia Mogano - 800511 0386 084 - Flat no 1116, Ethiopia Avenue, ALEXANDRA, 2012 - *Karabo Makhudu Theophilus*

The following entry published in the Government Gazette No. **39025** Government Gazette Notice No. **639** Entry No. **14** dated **24 July 2015** is hereby withdrawn.

1. Carol Ann Adams - 630926 0194 088 - 29 Sharon Street, LOST CITY, 7785 - *Mogamat Saudiq*

The following entry published in the Government Gazette No. **39324** Government Gazette Notice No. **1011** Entry No. **131** dated **23 October 2015** is hereby withdrawn

1. Hlengiwe Eunice Mazibuko - 770207 0337 088 - Kwagodi, LADYSMITH, 3370 - *Phindile Amahle Olga*

The following entry published in the Government Gazette No. **40793** Government Gazette Notice No. **363** Entry No. **174** dated **21 April 2017** is hereby withdrawn.

1. Vincent Sandile Hendile - 691005 5369 080 - 1318 Olive Tree Street, Phase 6, TSHEPISONG, 1754 - *Zwelakhe*

The following entry published in the Government Gazette No. **41047** Government Gazette Notice No. **837** Entry No. **118** dated **18 August 2017** is hereby withdrawn

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DEPARTMENT OF HOME AFFAIRS

NO. 572

12 APRIL 2019

ALTERATION OF FORENAMES IN TERMS OF SECTION 24 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1992 (ACT NO. 51 OF 1992)

The Director-General has authorized the following persons to assume the forename printed in *italics*:

Notice is hereby given of Government Gazette No. **42304** which, was published in Government Notice No. **383** dated **15 March 2019**, is hereby rectified to read as follow

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INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 573

12 APRIL 2019



**NOTICE TO PUBLISH THE DRAFT FINDINGS DOCUMENT ON
"INQUIRY INTO SUBSCRIPTION TELEVISION BROADCASTING
SERVICES"**

1. On 11 July 2016 the Authority published a notice of its intention to conduct an inquiry into the state of competition in subscription television broadcasting services in terms of section 4B of the ICASA Act¹ ("**the Inquiry**"). The Inquiry commenced in earnest on 13 July 2016, with a preliminary information gathering exercise on a voluntary basis through the publication of a questionnaire for interested stakeholders to complete.
2. Following the responses to the Questionnaire and internal research, the Authority published a Discussion Document on 25 August 2017, inviting stakeholders to respond thereto. Public hearings were held on 7 to 11 May 2018, following the receipt of written comments in response to the Discussion Document.

¹ The Initial Notice was corrected by an erratum published under GN 552 in *Government Gazette* 40256 of 7 September 2016.

3. The Authority requested supplementary information from some stakeholders during the hearings and such information was submitted at various times during the course of 2018.
4. The final supplementary information was received in November 2018 and the Authority then set out to develop this Draft Findings Document.
5. This Draft Findings Document is published in terms of section 4B of the ICASA Act, read with section 67(4) of the ECA, pursuant to an inquiry conducted by the Authority into the state of competition in subscription television broadcasting services in South Africa. The publication of this Draft Findings Document, follows a period of public consultations through clarification questions from stakeholders and responses to the Questionnaire, including written responses to the Discussion Document and public hearings. The Findings Document expresses the Authority's view and position on the issues raised, before a Final Findings Document is published.
6. During the course of the Inquiry, the Authority received various requests in terms of section 4D of the ICASA Act for treatment of specific information submitted by certain stakeholders as confidential.
7. The Authority considered the motivations advanced in support of such confidentiality requests and made determinations of confidential status in relation to those pieces of information.
8. Accordingly, where this Draft Findings Document refers to or relies upon such confidential information, the Authority has redacted or not disclosed the details of such information herein.
9. A copy of the Draft Finding Document will be made available on the Authority's website at <http://www.icasa.org.za> and in the Authority's

Library at No. 350 Witch-Hazel Avenue, Eco Point Office Park, Centurion between 09h00 and 16h00 Monday to Friday.

10. Written representations must be submitted to the Authority by no later than 16h00, 45 working days from date of publication and marked for attention: Ms Violet Molete.

11. Delivery Address: Block B, 350 Witch-Hazel Avenue Eco Point Office Park Centurion or email at vmolete@icasa.org.za or subscriptioninquiry@icasa.org.za Telephonic inquiries should be directed to 012 568 3715.



Dr. Keabetswe Modimoeng

Acting Chairperson

Date: 2 April 2019

CONTINUES ON PAGE 130 - PART 2



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DRAFT FINDINGS DOCUMENT:

**Inquiry into Subscription Television Broadcasting
Services**

April 2019

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Abbreviations

Authority	The Independent Communications Authority of South Africa
BT	British Telecommunications
CPE	Customer Premises Equipment
DEOD	Digital Entertainment on Demand
DSAT	Digital Satellite
DTH	Direct to Home satellite service
DTT	Digital Terrestrial Transmission
DVB-H	Digital Video Broadcasting- Handheld
EC	European Commission
ECA	Electronic Communications Act, 36 of 2005
EPG	Electronic Programme Guide
EU	European Union
FSPTW	First Subscription Pay TV Window
IBA	Independent Broadcasting Authority
ICASA	Independent Communication Authority of South Africa
ICASA Act	Independent Communication Authority of South Africa Act, 13 of 2000
ICT	Information and Communication Technology
IPTV	Internet Protocol Television
ITA	Invitation to Apply
NAB	National Association of Broadcasters
NCC	National Consumer Commission
ODM	On Digital Media

OECD	Organization for Economic Cooperation and Development
Ofcom	Office of Communications
OTT	Over The Top
OVHD	Open View HD
PSL	Premier Soccer League
Questionnaire	The questionnaire distributed by the Authority and among interested parties and stakeholders on or about 13 July 2016
SABC	South African Broadcasting Corporation SOC Limited
SACF	South African Communications Forum
SEM	Socio-Economic Measure (a market segmentation tool)
SMP	Significant Market Power
SSNIP	Small but Significant Non-Transitory Increase in Price
TNT	Television Numerique Terrestre
UEFA	Union of European Football Associations
USAASA	Universal Service and Access Agency

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1. EXECUTIVE SUMMARY

1.1 Introduction

- 1.1.1 On 11 July 2016 the Independent Communications Authority of South Africa (“the Authority”) published a notice of its intention to conduct an inquiry into the state of competition in subscription television broadcasting services (“the Inquiry”) in terms of section 4B¹ of the Independent Communication Authority of South Africa Act, 13 of 2000 (“the ICASA Act”). The Inquiry commenced in earnest on 13 July 2016, with a preliminary information gathering exercise on a voluntary basis through the publication of a questionnaire for interested stakeholders to complete.
- 1.1.2 This Draft Findings Document is published in terms of section 4B of the ICASA Act, read with section 67(4) of the Electronic Communications Act, 36 of 2005 (“the ECA”), pursuant to an inquiry conducted by the Authority into the state of competition in subscription television broadcasting services in South Africa. The publication of this Draft Findings Document, follows a period of public consultations through clarification questions from stakeholders and responses to the Questionnaire, including written responses to the Discussion Document and public hearings. The Draft Findings Document expresses the Authority’s view and position on the issues raised, before a Final Findings Document is published.
- 1.1.3 Should it be necessary or warranted, flowing from the Final Findings Document, to publish draft regulations, a separate process with its own public consultation schedule will be followed in terms of sections 4(4) to 4(6) read with 67 of the ECA. All interested and affected stakeholders will have an opportunity to participate fully in this process.
- 1.1.4 Following the responses to the Questionnaire and internal research, the Authority published a Discussion Document on 25 August 2017, inviting stakeholders to respond thereto. Public hearings were held on 7 to 11 May 2018, following the receipt of written comments in response to the Discussion

¹ The Initial Notice was corrected by an erratum published under GN 552 in *Government Gazette* 40256 of 7 September 2016.

Document. The Authority requested supplementary information from some stakeholders during the hearings and such information was submitted at various times during the course of 2018.

- 1.1.5 The last piece of information was received in November 2018 and the Authority then set out to develop this Draft Findings Document.
- 1.1.6 In furtherance of the above undertaking, the Authority commissioned an independent consumer survey in order to understand consumer behaviour with respect to television broadcasting and video-on-demand services, the results of which survey have been considered in defining the relevant markets.
- 1.1.7 During the course of the Inquiry, the Authority received various requests in terms of section 4D of the ICASA Act for treatment of specific information submitted by certain stakeholders as confidential.
- 1.1.8 The Authority considered the motivations advanced in support of such confidentiality requests and made determinations of confidential status in relation to those pieces of information.
- 1.1.9 Accordingly, where this Draft Findings Document refers to or relies upon such confidential information, the Authority has redacted or not disclosed the details of such information herein.

1.2 Recent and future developments that have an impact on broadcasting services

- 1.2.1 The Authority considered the advent of Overt the Top ("OTT") service providers, inclusive of various types of video-on-demand services and their impact on television broadcasting services.
- 1.2.2 The Authority found that OTTs are expanding in terms of the number of new entrants and the scale of operations, especially international video-on-demand service providers. It is important to recognize that there are a number of OTT service providers who have exited the market in the past 4 years or so, owing to sustainability challenges. What is undeniable though is that the entry of OTTs is changing the manner in which viewers consume content. Whilst the

majority of consumers still rely on the television set to watch content, there is a growing number of younger consumers who prefer to view online content, using mobile phones, tablets and laptops.

1.2.3 Despite this phenomenon, the Authority found that the impact of OTTs is still muted, given the relatively limited level of internet access, the high cost of data and low average internet speeds. The lack of access to local content and sports content also limits the rapid growth of OTTs in South Africa. As a result, OTTs are seen as an out of market constraint² on subscription television services.

1.2.4 Another development that is likely to impact on broadcasting services is the imminent full migration to digital broadcasting. There have been delays in the digital migration agenda. This has implications for competition in the sector, in the sense that incumbents are shielded from competition as the entry of new players gets delayed. The current policy of non-encryption means that digital terrestrial television services will have a minimal impact on satellite-based subscription television services.

1.3 Market definition

1.3.1 The Authority used the theoretical framework contained in the Guidelines on the Conduct of Market Enquiries as a basis for its market definition analysis. As will be set out in more detail below, most stakeholders agreed with the Authority's theoretical framework for market definition. Primary to the market definition theoretical framework is the use of the Small but Significant Non-Transitory Increase in Price ("SSNIP") test.

1.3.2 The Authority also considered, among other things, chains of substitution and the two-sided nature of broadcasting services. Where the Authority holds a different view to a stakeholder, the Authority has explained its position supported by relevant evidence subject to any confidentiality constraints in terms of section 4D of the ICASA Act.

² An out of market constraint is a product or service that does not belong in the relevant market but may be considered in a competition assessment.

- 1.3.3 In defining the relevant markets, over and above the use of the Small but Significant Non-Transitory Increase in Price ("SSNIP") test, the Authority took the following information and/or documents into account:
- Stakeholder responses to the Discussion Document and the Questionnaire that preceded it;
 - International and domestic case precedent, where relevant;
 - Research reports and articles;
 - Product characteristics;
 - Pricing behaviour and business models; and
 - The results of the consumer survey.
- 1.3.4 Central to market definition in the broadcasting and video-on-demand sectors is whether all types of content are substitutable. MultiChoice argues that the concept of premium content is obsolete and that given market developments there is no longer a distinction between premium content and other content.
- 1.3.5 Other stakeholders agree with the Authority that differences can be observed across different types of content. The Authority finds that viewers still attach particular value to different types of content. The Authority also finds that the windowing model in terms of which movies are released has the effect of reducing the value attached to movies that are released later in the window. By the same token, the Authority finds that certain live sporting events attract a lot of viewers. Therefore, the Authority makes a distinction between premium and non-premium content.
- 1.3.6 Market definition at the retail level is first assessed from the viewer's perspective and then from a supply-side perspective. Since the Authority's focal product for purposes of this inquiry is subscription television, this is the product on which the SSNIP test is applied. The Authority first considered substitution between subscription television services and free-to-air television services and found that there is asymmetric substitution from analogue-based free-to-air television services to basic-tier subscription television services but not the other way around.

1.3.7 This phenomenon is compounded by the Must Carry Regulations in terms of which subscription television viewers have access to free-to-air television services. The Authority is in the process of reviewing the Must Carry Regulations. On this basis, basic-tier subscription television services would belong in a different market to analogue-based free-to-air television services.

1.3.8 However, when consideration is given to satellite based free-to-air services, the Authority found that there is substitution in either direction. As a result, the Authority delineated a market comprising satellite-based free-to-air television services and basic tier subscription television services.

1.3.9 The Authority then considered substitution between subscription television services and OTT services. Owing to limited internet access, and relatively high data costs, differences in the windowing model and the limited availability of live sports content, the Authority found that OTTs and subscription television services belong in separate markets.

1.3.10 In the end the Authority defined the following relevant markets at the retail level:

- a market for the retail distribution of analogue based free-to-air television services in South Africa;
- a market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa;
- a market for the retail distribution of premium subscription television services in South Africa; and
- a market for the retail distribution of video-on-demand services in South Africa.
- The Authority did not deem it necessary to define a wholesale market for channel acquisition since the segmentation of the relevant markets for premium and basic tier channels is a function of content aggregation higher up the value chain.
- The Authority then analysed the wholesale market for content acquisition. The Authority's analysis starts off by asking what a television broadcaster

or video-on-demand service provider would do if the price of a particular set of content increases by a margin of 5%-10%.

- 1.3.11** The Authority maintains its position that not all content is substitutable, and that there is not a single market for content. The Authority finds that there is a difference between premium and non-premium content. However, the Authority agrees that premium content is a fluid concept that is dependent on the circumstances prevailing at a particular point in time in a market and is specific to a geographical area, given the culture and preferences of the population at a specific point in time.
- 1.3.12** Therefore, rather than defining the concept, the Authority opted to identify what it considers to be premium content on the basis of the characteristics of premium content.
- 1.3.13** For purposes of this inquiry the Authority considers the following to be premium content: (a) Hollywood premium FSPTW movies and series; (b) major live soccer matches including Bafana Bafana, FIFA World Cup, PSL, EPL, UEFA, La Liga, Bundesliga, Ligue 1 and Serie A live soccer matches; (c) live rugby matches, including Rugby Championships, Super Rugby, World Rugby Sevens Series and the Currie Cup Premier Division and the Super 14; and (d) live cricket matches, including the IPL, T20 and test matches involving the Proteas. The Authority is satisfied that over the market review period of three years, the identified premium content will remain unchanged.
- 1.3.14** Therefore, taking into account (a) the SSNIP test, (b) characteristics of premium and non-premium content (c) responses to the Discussion Document; (d) internal research; and (e) case precedent, the Authority defined upstream markets (1) for the supply and acquisition of premium content for distribution in South Africa and (2) for the supply and acquisition of non-premium content for distribution in South Africa.

1.4 Assessing the effectiveness of competition

1.4.1 In assessing the effectiveness of competition section 67(4A) of the ECA is instructive in terms of what factors the Authority must consider. It states that the Authority must consider among other things (a) the non-transitory (structural, legal, and regulatory) entry barriers to the applicable markets or market segments and (b) the dynamic character and functioning of the markets or market segments, including (i) an assessment of relative market shares of the various licensees or providers of exempt services in the markets or market segments, and (ii) a forward looking assessment of the relative market power of the licensees in the markets or market segments.

1.4.2 The Authority used the guidance of section 67(4A) of the ECA and subjected each identified relevant market to an assessment. The Authority found ineffective competition in the following markets:

1.4.2.1 the market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa;

1.4.2.2 the market for the retail distribution of premium subscription television services in South Africa; and

1.4.2.3 the market for the wholesale acquisition of premium content for distribution in South Africa.

1.5 Identifying licensees with significant market power

1.5.1 Once an assessment of competition is done and where there is ineffective competition, the Authority is enjoined to identify players with significant market power upon whom licence terms and conditions may be imposed to remedy the ineffectiveness of competition.

1.5.2 In all the identified markets where there is ineffective competition the Authority found that MultiChoice possesses significant market power on the basis of high market shares and the nature of its vertical integration which the Authority considers to harm competition.

1.6 Imposition of licence terms and conditions

1.6.1 The Authority considers the following licence terms and conditions as appropriate to deal with the ineffective competition in the relevant markets:

1.6.1.1 Reducing contract duration and prohibiting automatic renewal of contracts – the Authority finds that competition becomes ineffective when a licensee with significant market power enters into exclusive contracts with a duration of five or more years. The Authority proposes to limit the duration of exclusive contracts entered into by a licensee with significant market power to three years.

1.6.1.2 The Authority further found instances where long term exclusive contracts were renewed without the rights owner going back to the market. In order to deal with this challenge, the Authority proposes to prohibit the automatic renewal of contracts entered into by a licensee with significant market power.

1.6.1.3 Rights splitting – this involves splitting content rights into packages and selling them to more than one distributor – The Authority finds that the current practice of allowing a ‘winner-takes-all’ outcome only serves to limit entry into the market.

1.6.1.4 Unbundling – Similar to rights splitting, unbundling allows rights to be held by more than a single distributor. The focus of unbundling is on the modes of distribution, that is, allowing rights to be held simultaneously by subscription, free-to-air or OTT service providers. Currently, MultiChoice holds the rights to all distribution platforms, thus limiting entry by other distributors. The Authority finds this to result in ineffective competition in the identified markets.

1.6.1.5 Wholesale must-offer – wholesale must-offer allows or obliges a licensee with significant market power that wins rights to offer them to downstream distributors on terms and conditions imposed by the Authority. The details of a wholesale-must-offer condition will be contained in Regulations, should the Authority choose to go ahead with the remedy.

Limiting access to the number of Hollywood movie studios – The Authority finds that FSPTW Hollywood movies are premium content. Therefore, in order

to stimulate competition, it is necessary that players have access to such movies. As a result, a licensee with significant market power should have access to or only be able to enter into agreements with half of the movie studios at a time. This frees up the other half to competitors.

- 1.6.1.6 Set-top box interoperability – The Authority finds that switching from one service provider to another can be limited by the lack of set-top box interoperability. However, should the Authority go ahead with this remedy, it will embark on a separate and standalone consultation and public participation process.

1.7 Conclusion

- 1.7.1 The Authority publishes this Draft Findings Document to solicit comments and responses from stakeholders. Thereafter a Final Findings Document will be published. If necessary in terms of the conclusions reached in the Final Findings Document, the Authority will then embark upon a regulation making process in terms of section 67(4) of the ECA.

2. INTRODUCTION

2.1 Legal framework within which this inquiry is conducted

2.1.1 The Independent Communications of South Africa ("the Authority") is an independent regulatory body, which has been established in terms of the ICASA Act. Section 4 of the ICASA Act sets out the functions of the Authority.

2.1.2 Section 4(1) of the ICASA Act provides that the Authority must exercise the powers and perform the duties conferred and imposed upon it by the ICASA Act and the underlying statutes, including the ECA and the Broadcasting Act. In terms of section 4(3)(m) of the ICASA Act, the Authority –

"may undertake inquiries on any matter within its jurisdiction."

2.1.3 To give effect to this function, section 4B of the ICASA Act sets out the scope of inquiries that may be conducted by the Authority and the process to be followed by the Authority in conducting such inquiries.

2.1.4 In terms of section 4B (1) of the ICASA Act –

"The Authority may conduct an inquiry into any matter with regard to –

(a) the achievement of the objects of this Act or the underlying statutes;

(b)...

(c)...

(d)...

(e) the exercise and performance of its powers, functions and duties in terms of this Act or the underlying statutes."

2.1.5 The underlying statutes referred to in the ICASA Act include both the Broadcasting Act and the ECA.

2.1.6 The object of the Broadcasting Act is to establish and develop a broadcasting policy in South Africa in the public interest and for that purpose to, amongst other things, ensure fair competition in the broadcasting sector (section 2(h) of the Broadcasting Act).

2.1.7 The primary object of the ECA is to provide for the regulation of electronic communications in South Africa in the public interest and for that purpose to, amongst other things, (1) promote competition within the ICT sector (in terms of section 2(f) of the ECA), and (2) promote an environment of open, fair and non-discriminatory access to broadcasting services, electronic communication networks and to electronic communications services (in terms of section 2(g) of the ECA).

2.1.8 Competition matters relating to broadcasting and electronic communications are regulated under Chapter 10 of the ECA. In terms of section 67(4) of the ECA, the Authority must –

"...following an inquiry, prescribe regulations defining the relevant markets and market segments and impose appropriate and sufficient pro-competitive licence conditions on licensees where there is ineffective competition, and if any licensee has significant market power in such markets or market segments."

2.1.9 The regulations must, among other things, (1) define relevant wholesale and retail markets or market segments, (2) determine whether there is effective competition in those relevant markets and market segments, (3) determine which, if any, licensees have significant market power in those markets and market segments where there is ineffective competition, (4) impose appropriate pro-competitive licence conditions on those licensees having significant market power to remedy the market failure, (5) set out a schedule in terms of which the Authority will undertake periodic reviews of the markets and market segments; and (6) provide for monitoring and investigation of anti-competitive behaviour in the relevant market and market segments.

2.1.10 In terms of section 67(4A) of the ECA, when determining whether there is effective competition in markets and market segments, the Authority must consider, among other things, (1) the non-transitory (structural, legal and regulatory) entry barriers to the applicable markets or market segments, and (2) the dynamic character and functioning of the markets or market segments, including an assessment of relative market share of the various licensees or providers of exempt services in the markets or market segments, and a forward

looking assessment of the relative market power of the licensees in the markets or market segments.

2.1.11 Further, section 67(5) of the ECA provides that a licensee has significant market power in a market or segment if that licensee is dominant, has control of an essential facility, or has a vertical relationship that the Authority determines could harm competition.

2.1.12 Section 67(4B) of the ECA provides that, subject to section 4D of the ICASA Act, licensees are required to provide to the Authority any information specified by the Authority so that the Authority may carry out its duties in terms of section 67 of the ECA.

2.1.13 Against this background, this inquiry into the state of competition in subscription television broadcasting services is convened in line with the purpose and functions of the Authority set out in the Constitution, the ICASA Act, the ECA and the Broadcasting Act, together with the underlying regulations where applicable.

2.1.14 On 11 July 2016 the Authority gave notice of its intention to conduct an inquiry into the state of competition in subscription television broadcasting services in terms of section 4B of the ICASA Act³.

2.1.15 It commenced an inquiry with preliminary information gathering on a voluntary basis with the publication on 13 July 2016 of a questionnaire for interested stakeholders to complete ("the Questionnaire").

2.1.16 The Discussion Document was published as part of a consultation process with all interested stakeholders in order to obtain their views on the Authority's preliminary views and analysis, and to receive any information that would assist the Authority in making findings.

2.1.17 In the event that the Authority's findings determine that there is ineffective competition, and if any licensee has significant market power in such markets or market segments, the ECA obliges the Authority to impose appropriate and sufficient procompetitive licence conditions on licensees where there is ineffective

³ The Initial Notice was corrected by an erratum Published under GN 552 in *Government Gazette* 40256 of 7 September 2016.

competition and to make regulations in terms of section 67(4(a) to (f) of the ECA, on the following aspects, among others, relevant to subscription broadcasting services –

- 2.1.17.1 define relevant wholesale and retail markets or market segments;
 - 2.1.17.2 determine whether there is effective competition in those relevant markets and market segments;
 - 2.1.17.3 determine which, if any, licensees have significant market power in those markets and market segments where there is ineffective competition;
 - 2.1.17.4 impose appropriate procompetitive licence conditions on those licensees having significant market power to remedy the market failure;
 - 2.1.17.5 set out a schedule in terms of which the Authority will undertake periodic review of the markets and market segments, taking into account subsection (9) and the determination in respect of the effectiveness of competition and application of procompetitive measures in those markets; and
 - 2.1.17.6 provide for monitoring and investigation of anticompetitive behaviour in the relevant market and market segments.
- 2.1.18 The publication of this Draft Findings Document, follows a period of public consultations through clarification questions from stakeholders and responses to the Questionnaire, including written responses to the Discussion Document and public hearings. The Draft Findings Document expresses the Authority's preliminary view and position on the issues raised, before a Final Findings Document is published.
- 2.1.19 Should it be necessary or warranted, flowing from the Final Findings Document, to publish draft regulations, a separate process with its own public consultation schedule will be followed in terms of sections 4(4) to 4(6) of the ECA, and all interested and affected stakeholders will have an opportunity to participate fully in this process.
- 2.1.20 After taking all submissions on the draft regulations into account, the Authority may then publish final regulations under section 67(4) read with section 4 of the

ECA, in which, among other things, (i) the relevant markets or market segments are defined, (ii) the Authority makes a determination as to effective competition in those relevant markets or market segments, (iii) the Authority makes a determination as to which licensees, if any, have significant market power in those markets and market segments where there is ineffective competition, (iv) appropriate pro-competitive licence conditions are imposed on those licensees having significant market power, to remedy the market failure, (v) a schedule is set out in terms of which the Authority will undertake periodic reviews of the markets and market segments, and (vi) provision is made for monitoring and investigation of anti-competitive behaviour in the relevant markets and market segments.

2.1.21 It is important to note that the above list is not immutable and may be modified depending on the contents of the Final Findings Document.

2.2 Process

2.2.1 In terms of its mandate to promote competition in the Information and Communication Technology ("ICT ") sector and to ensure fair competition in the broadcasting sector⁴, the Authority has been collecting evidence and carrying out analysis to understand the operation of subscription television broadcasting services in South Africa. Much of this has been achieved through engaging with stakeholders, and by conducting market and desktop research.

2.2.2 On 11 July 2016, the Authority published a notice in the *Government Gazette* giving notice of its intention to conduct an inquiry into subscription television broadcasting services in terms of section 4B of the ICASA Act (the "Notice").

2.2.3 In the Notice, the Authority noted that despite having issued five subscription broadcasting service licences in 2007 and a further two subscription broadcasting service licences in 2015, only three licensees⁵ are operational. One of the licensees⁶ faced sustainability challenges and had to go through a business rescue

4 Section 2(1)(f) of the ECA.

5 Multichoice, StarSat and Deukom

6 StarSat

process. The remaining subscription broadcasting service licensees who were issued with licences in 2015 and 2007, respectively, have not yet started operations. As such, the Authority noted in the Notice that, due to its commitment and mandate to ensure that markets are effectively competitive, it was commencing an inquiry into subscription television broadcasting services.

2.2.4 The Notice outlined the process to be followed by the Authority during the course of the inquiry:

First, an information gathering stage would be conducted in accordance with "section 4C of the ICASA Act" (which, as discussed below, was an erratum later corrected by the Authority), which would consist of a questionnaire and one-on-one engagements with relevant stakeholders, where necessary. Stakeholders were given 10 business days to review the questionnaire and send any clarification questions to the Authority. This deadline was indicated to be 22 July 2016. The Authority noted that it would respond to all stakeholder questions and publish responses in the form of a Frequently Asked Questions ("FAQs") document on the Authority's website. The submission deadline for responses to the questionnaire was 12 August 2016.

2.2.4.1 Second, the information gathered during the information gathering stage would be used to develop a Discussion Document that would be published in terms of section 4B of the ICASA Act for public comment for a period of 45 days. The Authority noted that it might also hold public hearings.

2.2.4.2 Third, following public consultation on the Discussion Document, the Authority would publish a Findings Document.

2.2.4.3 Fourth, depending on the outcome of the Findings Document, the Authority may publish regulations in terms of section 67(4) of the ECA.

2.2.5 This approach accords with the process outlined in the 'Guideline for Conducting Market Reviews' (the "Guideline") published by the Authority on 8 March 2010. The Guideline was published in the context of the Authority's powers under section 67 prior to the amendment of this section by the Electronic Communications Amendment Act 1 of 2014, which came into effect in 2014. In the Authority's view,

the amendments to section 67 did not materially change the Authority's power or the process to be followed in terms of section 67 and, as such, the Guideline can still be used to guide the process as the amendments to section 67 in 2014 have not necessitated a change to the Authority's approach. The Authority notes that the Guideline is merely a guide not legislation and is therefore not binding on the Authority, but the Authority has decided to follow this approach, as it is the process that has been communicated to stakeholders.

2.2.6 The purpose of the Guideline is to provide clarity to stakeholders and licensees regarding the conduct of market reviews⁷, including the public consultation process, the relevant powers of the Authority when gathering information, and the types of information which may be requested by the Authority.

2.2.7 In terms of the Guideline, the Authority will inform licensees of the Authority's intention to conduct an inquiry into a specific market and release a request for information to licensees.

2.2.8 In this regard, the Guideline notes that the Authority may use questionnaires and one-on-one meetings with licensees to gather market information and make up-to-date evidence-based decisions. The Authority will then release a discussion paper on market definition, effectiveness of competition, declaration of significant market power and relevant remedies, conduct public hearings on the discussion paper, release a findings document accompanied with draft regulations under section 67(4) of the ECA, conduct public hearings on the draft regulations, and then release the final regulations for implementation (if required).

2.2.9 On 13 July 2016, and in line with this process, the Questionnaire was duly published on the Authority's website. The Questionnaire solicited information from subscription, free-to-air and community television broadcasters, as well as from video-on-demand, streaming and over-the-top ("OTT") service providers. A guideline for completing the Questionnaire was also published by the Authority on its website on 13 July 2016.

⁷ Market reviews in this context refer to market inquiries and not a market review in terms of section 67(4)(e) of the ECA.

2.2.10 The Questionnaire was divided into various sections targeted at different stakeholders such as content rights holders, channel operators, subscription television broadcasters, free-to-air television broadcasters, broadcasting associations and OTT service providers, purely for ease of responding. However, stakeholders were advised to respond to any other matter not falling within their relevant "group", and to submit any comments regarding the subject matter. Similarly, interested parties not falling within any of the identified groups were also able to respond to the Questionnaire.

2.2.11 A number of stakeholders raised clarification questions which were submitted to the Authority by 27 July 2016. This included clarification submissions from Vodacom (Pty) Limited ("Vodacom"), Siyaya Free to Air (Pty) Limited ("Siyaya") (which submitted responses on 22 July 2016 and on 27 July 2016), MultiChoice South Africa (Pty) Ltd ("MultiChoice"), and e.tv (Pty) Limited ("e.tv").

2.2.12 On 7 September 2016, the Authority issued an Erratum Notice as well as a list of responses to Frequently Asked Questions, in response to the clarification questions raised by various stakeholders.

2.2.13 The extended submission deadline for responses to the Questionnaire was 15 September 2016, which effectively provided for a period of at least 45 days for interested persons to submit responses to the Questionnaire from the date of publication of the 11 July Notice.

2.2.14 The following stakeholders submitted responses to the Questionnaire by the closing date:

- The South African Broadcasting Corporation SOC Limited (SABC)
- e.tv
- Siyaya
- Multichoice
- Telkom SA SOC Limited ("Telkom")
- The National Association of Broadcasters ("NAB")
- The South African Communications Forum ("SACF")

2.2.15 After analysing the responses to the questionnaire, the Authority identified a need to set up meetings with some stakeholders in order to obtain further clarity and information. Letters of invitation were then sent to the relevant stakeholders with a list of questions to facilitate the one-on-one meetings. The information received through these meetings was used to supplement responses to the questionnaire and consequently to assist in framing this discussion document.

2.2.16 One-on-one meetings were conducted with the SABC, Telkom and e.tv.

2.2.17 Following the information gathering process including stakeholders' responses to the Questionnaire, the information obtained during the voluntary one-on-one meetings held with certain stakeholders, and the Authority's own market and desktop research, the Authority developed a Discussion Document and published it on 25 August 2017, inviting written responses from stakeholders.

2.2.18 The Discussion Document set out the Authority's preliminary understanding, analysis and views of subscription television broadcasting services in South Africa, including in respect of its proposed theoretical approach to the definition of markets and market segments, the effectiveness of competition in the relevant markets, the determination of licensees with significant market power, and possible appropriate pro-competitive licence conditions that may be imposed. It also provided an explanatory and contextual discussion to the relevant issues as determined by the Authority in respect of subscription television broadcasting services in South Africa.

2.2.19 The Discussion Document sought stakeholders' views on this initial analysis, and on the implications for the subscription television broadcasting services in South Africa.

2.2.20 A total of nineteen (19) written submissions were received by the closing date of 4 December 2017. The following stakeholders submitted written responses to the Discussion Document:

- Competition Commission;
- SABC;
- e.tv;

- Deukom;
- Capricorn Community Concepts;
- Cape Town TV;
- Cell C;
- Vodacom;
- MTN;
- Liquid Telecom;
- Telkom;
- Econet Media (Kwesé);
- MultiChoice;
- PSL;
- Cricket SA;
- SA Rugby;
- SOS/ Media Monitoring Africa;
- Act-SA; and
- Mr. H. Whoolf.

2.2.21 Following the above submissions, the Authority published a notice of public hearings on 27 March 2018. In terms of the notice, public hearings were scheduled for 7 to 11 May 2018. Due to withdrawal notices received from various entities, the timetables for presentations were amended and published on 3 May 2018. The dates of 7 to 11 May 2018 remained unchanged.

2.2.22 The following eleven (11) stakeholders made oral presentations at the public hearings:

- Mr. H. Whoolf;
- ACT-SA;
- SABC;
- Cape Town TV
- MMA and SOS;
- Cell C;
- Econet Media/Kwesé;
- e.tv;
- MultiChoice;

- SA Rugby;
- PSL; and
- Cricket SA.

2.2.23 The purpose of the public hearings was to afford those stakeholders who made written submissions an opportunity to present their views orally, to clarify and respond to questions posed by the panel constituted by the Authority ("the panel") as well as provide additional information as requested by the Authority.

2.2.24 After the public hearings the Authority also commissioned an independent consumer survey to gauge consumer behaviour with regards to television broadcasting and audio-visual viewership patterns and test for substitutability between services.

2.2.25 The results of the consumer survey will form part of the analysis on market definition.

2.2.26 The analysis in this Draft Findings Document takes into account the following sources of information:

- written submissions in response to the information gathering Questionnaire
- written submissions in response to the Discussion Document;
- oral presentations made during the public hearings;
- additional information as requested by the Authority during the public hearings;
- further research; and
- the results of the consumer survey commissioned by the Authority.

2.3 Clarification

2.3.1 On or about 14 December 2018, the Authority published in Government Gazette 42115 notice of its intention to amend the existing 2010 Sports Broadcasting Services regulations⁸.

⁸ As published in Government Gazette 33079 of 7 April 2010.

- 2.3.2 The amendment contemplated is in terms of the powers conferred upon the Authority by the provisions of the ECA (in particular, sections 4 and 60) read with section 4(3)(j) of ICASA Act.
- 2.3.3 The above provisions prescribe that the Authority is required, save for the instances set out in section 4(7) of the ECA, to publish in the Government Gazette notice of its intention to amend or issue regulations and to invite representations in that respect.
- 2.3.4 In this instance, the Authority prescribed a deadline of 4 February 2019 for provision of comments.
- 2.3.5 Section 4(6) further provides that the Authority may call public hearings in relation to a draft regulation.
- 2.3.6 The above process is wholly distinct to the Inquiry and has no bearing on the preliminary findings reached herein.

2.4 Confidentiality

- 2.4.1 Paragraph 1.5 of the Notice provided for confidentiality requests in terms of section 4D of the ICASA Act in respect of the stakeholders' submissions pursuant to the Inquiry.
- 2.4.2 The Authority received requests for confidentiality from various stakeholders, in respect of certain information contained in their responses to the Discussion Document.
- 2.4.3 In this regard, section 4D of the ICASA Act provides that, when a person submits information to the Authority, that person may request that the information be treated as confidential information. The request for confidentiality should be accompanied by a written statement explaining why the specific information should be treated as confidential. The Authority is then required to, within 14 days of receiving the information, make a determination as to whether or not confidentiality will be granted and provide reasons to the person concerned in relation to its determination. Where the Authority determines that a request for

confidentiality cannot be acceded to, the person who submitted the information must be given an opportunity to withdraw it.

2.4.4 The Authority considered all requests for confidentiality that were made in respect of information provided in response to the Discussion Document as well as the additional information submitted after the public hearings at the request of the panel.

2.4.5 Where information that has been determined as confidential by the Authority in terms of section 4D is used in the Draft Findings Document, it will be redacted to protect its confidentiality.

2.5 Concurrent jurisdiction

2.5.1 The Authority is responsible for the regulation of the electronic communications, broadcasting and postal service sectors in South Africa in the public interest. The Authority's role includes, among other things, the issuing of licences, monitoring compliance with the licence conditions, developing and implementing regulations, undertaking enquiries on matters within its jurisdiction, investigating complaints in the sector and managing radio frequency spectrum.

2.5.2 The Competition Commission (the "Commission") regulates competition in the South African economy in general and is responsible for *inter alia*, investigating, controlling and evaluating restrictive practices, abuses of dominance, mergers and granting or refusing exemptions in terms of Chapter 2 of the Competition Act 89 of 1998 ("Competition Act").

2.5.3 Areas of overlap in responsibilities between the Authority and the Commission are managed through specific sections in the Competition Act, the ECA and the ICASA Act.

2.5.4 The Commission and the Authority also signed a memorandum of agreement, effective from 16 September 2002, defining their respective areas of jurisdiction and regulating interaction between them ("Memorandum of Agreement"). For example, the Memorandum of Agreement provides that the Commission will deal with mergers and acquisitions as well as complaints concerning restrictive

practices and the abuse of dominance, whilst ICASA will deal with contraventions of electronic communications services and broadcasting services licence conditions and legislation.

- 2.5.5 As discussed above, competition matters are regulated under Chapter 10 of the ECA. In terms of section 67(4) of the ECA, the Authority must, following an inquiry, prescribe regulations defining the relevant markets and market segments and impose appropriate and sufficient pro-competitive licence conditions on licensees where there is ineffective competition, and if any licensee has significant market power in such markets or market segments.
- 2.5.6 The regulations must, among other things, (1) define relevant wholesale and retail markets or market segments, (2) determine whether there is effective competition in those relevant markets and market segments, (3) determine which, if any, licensees have significant market power in those markets and market segments where there is ineffective competition, (4) impose appropriate pro-competitive licence conditions on those licensees having significant market power to remedy the market failure, (5) set out a schedule in terms of which the Authority will undertake periodic review of the markets and market segments; and (6) provide for monitoring and investigation of anti-competitive behaviour in the relevant market and market segments.
- 2.5.7 Section 67(9) of the ECA provides that, subject to the provisions of the ECA, the Competition Act applies to competition matters in the electronic communications industry. Further, section 67(11) of the ECA provides that the Authority may ask for and receive from the Commission, assistance or advice on relevant proceedings of the Authority, including proceedings under Chapter 10. (Similarly, in terms of section 67(12) of the ECA, the Commission may ask for and receive from the Authority, assistance or advice on relevant proceedings of the Commission.)
- 2.5.8 Section 4B of the ICASA Act provides further clarity on concurrent jurisdiction by providing that –

“(8) Before the exercise and performance of any of its powers and duties in terms of this section, the Authority must –

(a) consider whether or not, in terms of any concurrent jurisdiction agreement concluded between the Authority and any other authority or institution, it would be appropriate to refer an inquiry to such authority or institution; or

(b) subject to section 67 of the Electronic Communications Act and the terms and conditions of any concurrent jurisdiction agreement concluded between the Authority and the Competition Commission, bear in mind that the Competition Commission has primary authority to detect and investigate past or current commissions of alleged prohibited practices within any industry or sector and to review mergers within any industry or sector in terms of the Competition Act.

(9) Subject to the terms and conditions of the concurrent jurisdiction agreement or unless otherwise agreed to by the Authority and the other authority or institution in question, the Authority may not take any action where a matter has already been brought to the attention of and is being dealt with by that other authority or institution."

2.5.9 The Authority has considered the above sections and is aware that the Commission has not referred the various complaints into allegations of abuse of dominance by Multichoice, on the basis that the conduct complained of did not raise significant competition concerns. This notwithstanding, the Commission points to signs of potential market failure in the subscription television market, including –

- highly concentrated nature of the subscription television market;
- high barriers to effectively enter the market and inability of other existing firms to expand in the market;
- lack of credible alternative buyers for premium sports rights other than the incumbent;
- overly long and exclusive contracts between the incumbent and some content suppliers; and
- lack of credible alternatives to which individual consumers can turn to should they wish to switch away from the incumbent⁹.

⁹ Competition Commission. Media statement. Commission decides not to prosecute MultiChoice and Supersport. 5 February 2019 <http://www.compcom.co.za/wp-content/uploads/2019/01/COMMISSION-DECIDES-NOT-TO-PROSECUTE-MULTICHOICE-003.pdf>

2.5.10 The Authority reiterates that this Inquiry is a distinct process from the investigation into specific conduct undertaken by the Commission. Moreover, this Inquiry does not allege any wrong doing by any market participant but is a process, aimed at assessing and dealing with impediments to fair and effective competition, if any, in the relevant markets on an *ex ante* basis.

2.5.11 The Commission submitted a written response to the Discussion Document, which has been taken into account in compiling this draft Findings Document. The Authority will consult with the Commission as and when necessary during the course of this Inquiry in the spirit of the Memorandum of Agreement between the two institutions.

2.5.12 The Authority also signed a Memorandum of Agreement¹⁰ with the National Consumer Commission ("NCC") to coordinate the exercise of jurisdiction on consumer protection matters in the electronic communications and broadcasting sectors. The Authority will also consult with the NCC as and when necessary during the course of the Inquiry.

2.6 Consumer Survey

2.6.1 In September 2018 the Authority commissioned a consumer survey¹¹ with specific research objectives, including:

- To assist the Authority to understand consumer behaviour to perform a systematic assessment of the retail market of television subscription broadcasting services;
- To establish baseline television and video-on-demand viewing patterns among South Africans;
- To identify the key factors that influence these patterns;
- To assess the key content sought from television viewing;
- To identify the barriers to switching to alternative television broadcasting products or services;

¹⁰ http://www.gov.za/sites/www.gov.za/files/38982_gon596.pdf

¹¹ <https://www.icasa.org.za/legislation-and-regulations/tv-viewing-attitudes-habits-and-practices>

- To measure households' ability and willingness to switch television broadcasting products or services upon payment of a fee; and
- To determine the cross-price demand elasticities between alternative television broadcasting products / services, including free-to-air television and OTT services

2.6.2 The survey was conducted among 1 002 participants, comprising Free to Air (FTA) viewers, subscription television subscribers, and Over the Top (OTT) subscribers and viewers in order to understand the prevailing usage and attitudes amongst viewers.

2.6.3 The project adopted a phased approach during which several expert interviews were conducted followed by a series of consumer focus groups. The results of these phases were presented separately.

2.6.4 Some of the relevant findings uncovered by the consumer survey are set out below:

- The level of TV subscription services rises with income and full time employment
- Movies are the most watched content, followed by drama series, news and sport
- Movies are the most popular content amongst all subscriber groups, except FTA viewers, who watch news most frequently
- The incidence of watching movies generally increases with household income whereas incidence of watching news decreases with household income;
- Sport is strongest amongst upper income households
- Movies, sport and drama series are mentioned most frequently when personal preference is addressed;
- Preference for locally produced programming declines with the increase in the price of subscription TV package
- Soccer from all sources is the most preferred category amongst the sport audience;
- There is a male bias in the soccer viewing audience;

- Interest in cricket and rugby is strongest amongst Coloureds, Asians and Whites, and also amongst females;
- The majority of OTT viewers both stream and download content for later viewing
- The higher incidence of downloading programmes to watch later relative to location is possibly linked to bandwidth availability;
- Cellular data is the most frequently used bandwidth source, followed by an ADSL line;
- The incidence of watching free content on YouTube is high;
- Watching free content on YouTube occurs equally across all age groups and household income levels;
- More movie options and updated drama series are the most desired content;
- Overall, it appears that movies, sport and drama series drive audience size;
- FTA viewers would like more movies and more local sport programming, all other consumer groups would like more movies and more drama series;
- The desire for more movies, drama series and sitcoms increases as household income increases;
- The lowest and highest income households have a desire for more sport;
- The importance of live sport programming increases in line with the increasing cost of the TV subscription service;
- Concern regarding the subscription cost, or indifference to the offering, are the main reasons why FTA viewers have not purchased a TV subscription service;
- Cost is the main reason why Basic DStv subscribers do not upgrade to Compact or Compact Plus;
- Familiarity and value perception are the main reasons for choosing Mid-Range DStv packages over the Basic packages; and
- Budget constraints and value perspectives are the reasons why DStv Mid-range subscribers do not upgrade to DStv Premium.

2.6.5 In performing its functions in terms of section 67(4) of the ECA to examine competition issues, the Authority must have regard also to the regulatory objectives in section 2 of the ECA.

2.6.6 In the present context these regulatory objectives include:

- promoting competition within the ICT sector;
- ensure the provision of a variety of quality electronic communications services at reasonable prices;
- promote the interests of consumers with regard to the price, quality and the variety of electronic communications services;
- promote the development of public, commercial and community broadcasting services which are responsive to the needs of the public;
- ensure that broadcasting services, viewed collectively promote and provide public interest programming such as news, actuality programmes, programmes on political issues of public interest, and programmes on matters of international, national, regional and local significance; and cater for a broad range of services and specifically for the programming needs of children, women, the youth and the disabled.

3. THE SCOPE AND PURPOSE OF THE INQUIRY

3.1 Overview

3.1.1 The Authority is conducting an inquiry into subscription television broadcasting services because it has reason to believe that there are features of this sector that may result in ineffective competition. The Authority further believes that conducting this Inquiry will assist in understanding how it may promote competition in the context of subscription television broadcasting services, in furtherance of the purposes of the ECA.

3.1.2 In the Notice (as read with the Erratum Notice) the Authority set out a preliminary outline of the purpose of the inquiry into subscription television broadcasting services for the purposes of the Authority's initial information-gathering stage, as follows:

"1.1...

1.2 The Authority has noted that despite having issued five (5) licences in 2007 and a further two (2) licences in 2015 in the subscription television broadcasting services market, three (3) licensees have commenced operations. The Authority has also noted that one (1) of these licensees faced sustainability challenges while the others have not yet launched services.

1.3 The Authority has the responsibility to ensure that all communications and broadcasting services are open, competitive and sustainable. The purpose of this inquiry is to establish the factors that have contributed to new subscription broadcasting service licensees not being able to successfully launch their services and/or attract a fair number of new subscribers.

1.4 It is important for the Authority to understand the challenges faced by these licensees so that it can address the regulatory impediments, and create an enabling environment for the introduction of competition, if any."

3.1.3 The Authority noted that, in terms of section 4B (2) of the ICASA Act, a notice of the Authority's intention to conduct an inquiry must indicate the purpose of the inquiry. While section 4B (2) of the ICASA Act does not specify the detail required to be given by the Authority regarding the purpose of the inquiry, the Authority appreciated that sufficient information must be provided so as to

enable interested stakeholders to contribute meaningfully to the process and, in particular, to assess what information is required by the Authority.

- 3.1.4 The Authority is satisfied that all stakeholders have been provided an opportunity to comment and participate meaningfully in the inquiry.

3.2 Scope and purpose of the inquiry

- 3.2.1 This Inquiry sought to examine the subscription television broadcasting sector, which encompasses a number of interrelated services, including free-to-air and OTT services.

- 3.2.2 Due to the interrelated aspects of the various services that comprise the value chain of subscription television broadcasting services, it is generally accepted that competition in one level or segment is capable of influencing or affecting competition in another level or segment in relatively minor to major ways. This implies that the nature and dynamics of competition and associated matters can only be properly understood by evaluating the dynamics within and relationships between the various services that comprise the value chain of subscription television broadcasting services in South Africa. The achievement of the inquiry's objectives thus required the Authority to consider a range of markets along the value chain of subscription television broadcasting services, including at the upstream level, the wholesale level, the downstream level, and the technical services level. As set out above, the Authority has noted that despite having issued five subscription television broadcasting services licences in 2007 and a further two subscription television broadcasting services licences in 2015, only three subscription television broadcasting service licensees remain operational. The Authority has accordingly identified a need for an inquiry into whether there are any competition concerns in the subscription television broadcasting sector which have contributed to new subscription television broadcasting service licensees not being able to successfully launch their services and/or attract a fair number of new subscribers or which impact more generally on competition in the broadcasting sector, including the ability of other broadcasters to compete and expand.

- 3.2.3 The inquiry into subscription television broadcasting services evaluated the challenges and factors that may have contributed to new subscription television broadcasting service licensees not being able to successfully launch their services and/or to attract a critical mass of new subscribers, and has identified competitive dynamics at play. Through this analysis, the Inquiry aims to identify all factors that prevent, distort or restrict effective competition, including any evidence of market failure, regulatory failure or competition concerns. This Inquiry provides a factual basis upon which the Authority can make evidence-based recommendations that serve to address any regulatory impediments and promote competition in respect of subscription television broadcasting services in South Africa.
- 3.2.4 The Draft Findings Document results from an extensive public consultation process. It contains the Authority's views and findings on various aspects canvassed with stakeholders through various stages of public consultations.
- 3.2.5 As discussed, the Authority is responsible for ensuring fair competition in broadcasting services, and for promoting competition in the ICT sector. Against this background, the purpose of the inquiry was to (1) establish the factors and understand the challenges that have contributed to new subscription television broadcasting service licensees not being able to successfully launch their services and/or attract a fair number of new subscribers; (2) assess the regulatory impediments (if any) faced by new subscription television broadcasting service licensees; (3) assess the state of competition in the context of subscription television broadcasting services; and (4) investigate possible interventions in the context of subscription television broadcasting services.
- 3.2.6 For the purposes of section 67(4) of the ECA, this Inquiry further enabled the Authority to:
- define/identify particular markets or market segments (and conduct an analysis of the interrelationship between various markets or market segments in subscription television broadcasting services, including

examining relevant contractual relationships and interactions between participants within subscription television broadcasting services);

- determine whether there is effective competition in those particular markets or market segments (taking section 67(4A) of the ECA into consideration);
- assess whether any licensees have significant market power in those particular markets or market segments (taking section 67(5) of the ECA into consideration); and
- consider and develop a position as to whether pro-competitive licence conditions should be imposed on those licensees having significant market power to remedy the market failure, if any.

3.2.7 In performing its functions in terms of section 67(4) of the ECA to examine competition issues, the Authority must have regard also to the regulatory objectives in section 2 of the ECA.

3.2.8 In the present context these regulatory objectives include:

- promoting competition within the ICT sector;
- ensure the provision of a variety of quality electronic communications services at reasonable prices;
- promote the interests of consumers with regard to the price, quality and the variety of electronic communications services;
- promote the development of public, commercial and community broadcasting services which are responsive to the needs of the public;
- ensure that broadcasting services, viewed collectively promote and provide public interest programming such as news, actuality programmes, programmes on political issues of public interest, and programmes on matters of international, national, regional and local significance; and cater for a broad range of services and specifically for the programming needs of children, women, the youth and the disabled.

4. RECENT AND FUTURE DEVELOPMENTS THAT HAVE OR MAY HAVE AN IMPACT ON BROADCASTING SERVICES

4.1 Overview

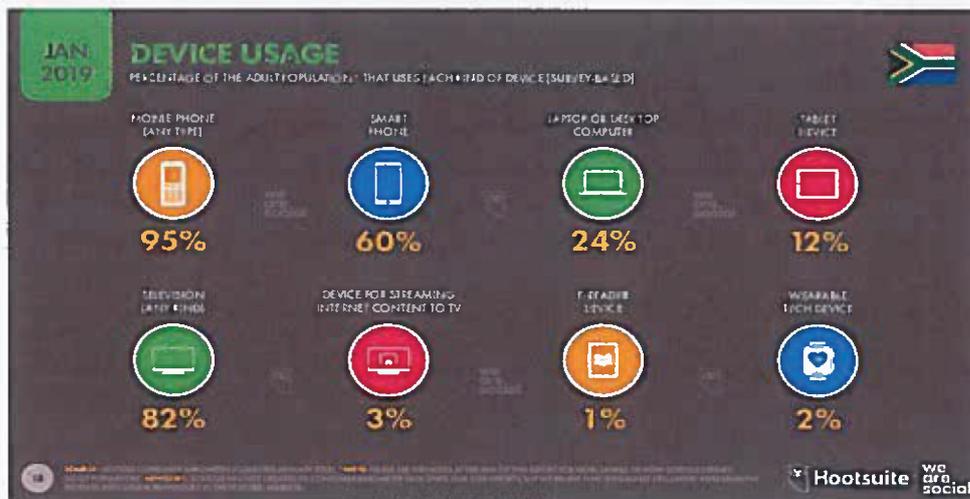
- 4.1.1 Section 4 of the Discussion Document provided an overview of the broader television broadcasting sector in South Africa, in order to contextualize the discussion on subscription television broadcasting services. It dealt with the policy, legislative and regulatory framework governing the television broadcasting services sector in general, as well as in respect of subscription television broadcasting services in particular. It also provided an overview of the television broadcasting services sector dynamics and the structure of the television broadcasting services sector.
- 4.1.2 The policy, legislative and regulatory framework as outlined in the Discussion Document largely remains unchanged.
- 4.1.3 Moreover, there were no questions posed in this section of the Discussion Document, although the Authority received comments from stakeholders. The Authority does not deem it necessary to repeat these issues. What is important for purposes of this Draft Findings Document is consideration of the recent and future developments that have a bearing on television broadcasting services.
- 4.1.4 The Discussion Document identified the advent of over-the-top services and digital migration as two critical developments that are likely to impact on television broadcasting services in South Africa. These are considered below against the background of recent developments and the evidence presented during the public hearings.

4.2 Over-the-Top Services

4.2.1 South Africa has 30.81 million internet users and a 54%¹² mobile broadband penetration level with an average internet speed of 6.38 Mbps¹³. The global average broadband penetration rate is 57%¹⁴. Certain audio-visual content can be accessed through mobile and fixed broadband internet. Over-the-top ("OTT") content as well as Internet Protocol Television (IPTV) have been growing in recent years. A number of OTT providers have launched in South Africa recently, including Showmax (part of Multichoice), Netflix, DEOD, Vodacom VideoPlay, Google Play, Amazon Prime, Kwesé Play, Telkom LIT, Cell C's Black and iflix.

4.2.2 Figure 1 below shows that about 95% of the adult population use a mobile phone and 82% make use of a television set. A very small percentage (3%) use a device for streaming internet content onto a television set¹⁵.

Figure 1 Percentage of adult population that use each kind of device



Source: We are social

12 Please note that in terms of the Icasa 2018 State of ICT Report this rate is at 57.8%. <https://www.icasa.org.za/uploads/files/State-of-ICT-Sector-Report-March-2018.pdf>

13 Statistics South Africa. General Household Survey, 2017. June 2018. Available at <http://www.statssa.gov.za/publications/P0318/P03182017.pdf>

14 International Telecommunications Union. The state of broadband 2018: Broadband catalyzing sustainable development. September 2018. Available at https://www.itu.int/dms_pub/itu-s/opb/pol/S-PDL-BROADBAND.19-2018-PDF-E.pdf

15 We Are Social Digital 2019 – South Africa. <https://datareportal.com/reports/digital-2019-south-africa>

- 4.2.3 OTT proliferation in South Africa is leveraging growth on internet penetration, especially mobile broadband.
- 4.2.4 In the Discussion Document, the Authority had concluded that given the low penetration levels of good quality broadband services coupled with relatively high data costs there was a slow take up of OTT services. Consequently, the Authority expected the impact of OTT services to remain small but noticeable in the foreseeable future.
- 4.2.5 This conclusion was also informed by the fact that at the time of developing the Discussion Document, a number of local OTT services had been launched but faced sustainability challenges and a number of them have since been discontinued. These include:
- Vidi by media group Times Media Limited;
 - FrontRow by mobile network operator MTN;
 - Node by technology conglomerate Altech; and
 - OnTapTV by PCCW Global, the international wing of Hong Kong based telecommunications operator KHT.
- 4.2.6 Stakeholders commented on the impact and implications of OTT growth on television broadcasting services in general. We set out below summaries of their comments.
- 4.2.7 With respect to the rapid disruption brought about by technological innovation in electronic communications e.tv agrees with MultiChoice that there are changes that will bring about segmentation which will impact on business models in the future. Customers will be able to choose which content they want; advertising income will become more fragmented while content will be a key determinant of success. Viewers will migrate to the best content of their own choice and viewer loyalty will decrease.
- 4.2.8 However, e.tv states that although the OTT challenge may be formidable in name and in the future, its impact is currently not felt in the industry. e.tv does not consider OTTs to be a huge challenge in South Africa. Moreover,

other local platforms that had been launched in the recent past had failed. e.tv concludes by stating that

whilst OTT service providers may be viewed as monsters, they are on the horizon and the 'gorilla' in the room affecting competition in television broadcasting is actually MultiChoice¹⁶.

4.2.9 According to Cell C, OTT players are not a substitute at this time and are unlikely to constitute a substantial competitive threat to subscription television for the majority of viewers in the near term.

4.2.10 Cape Town TV submits that whereas much has been made in some submissions of the impact of OTT platforms on subscription TV as a disruptive technology in the broadcasting space, television audience viewing patterns indicate that a higher percentage of viewers watch live TV while the minority of them watches it online. These observations suggest that the claim that OTT service providers are a major threat to subscription TV is overstated.

4.2.11 According to Econet Media, data indicates that South Africa does not have sufficient internet penetration, internet speeds are too slow and data is too expensive for consumers to be able to afford and easily switch from subscription-TV to OTT services. Econet media expects this situation to remain this way in the short to medium term.

4.2.12 Econet Media further indicates that about 98% of South Africans watch television in their own homes. A much larger proportion of households have a television set than internet access at home, a computer or fixed telephone. Compared to other countries with OTT content, SA has a much lower proportion of households with internet access at home, therefore only fewer households are able to watch OTT content at home. For those South African households with internet access, the speed is slow. A comparison data shows that SA 's internet is much slower than in other countries and the global average.

¹⁶ Page 35 of the transcripts of the e.tv (E-Media) presentation on 10 May 2018.

- 4.2.13 Furthermore, according to Econet Media, for both fixed-broadband and mobile-broadband South Africa prices are higher than other countries when expressed as a proportion of gross national product per capita.
- 4.2.14 Econet Media recognizes that the distinction between television broadcasting and OTT services is becoming blurred through convergence. As such, regulation must be forward looking and must use past trends to inform the forward looking regulation, re-evaluating the market at regular and set intervals. Therefore, ICASA should re-evaluate subscription television broadcasting regulation at regular intervals to assess whether the market failure has been addressed.
- 4.2.15 According to MultiChoice, there were only 4 national broadcasters in the past, mainly the SABC, DStv, Mnet and e.tv. These are regarded as the traditional TV services. However, broadcasting services have grown rapidly. Currently there are many audio-visual platforms, devices and service providers such as:
- Netflix
 - Black
 - Kwesé
 - OpenView
 - YouTube
 - Apple TV
 - Showmax
 - StarSat
- 4.2.16 MultiChoice is of the view that the audio-visual landscape is under intense pressure. New players have entered the market; broadband services are increasing; there is widespread adoption of services and consumer viewing habits are changing. All these factors have brought a dramatic change in the market.
- 4.2.17 MultiChoice further submits that statistics show an upward trend in data consumption. The rate of customers consuming data increased by 14% between 30 June 2016 and 31 December 2017. This is due to more customers preferring the use of data over voice. Data is now the biggest revenue

generator in South Africa. The data revenue has immensely grown while voice revenue has decreased on average compared to the previous periods.

4.2.18 According to MultiChoice, the average price per MB of data has also decreased and continues to do so. There is a 24.2% decline in effective data prices for the year 2018 and a 43.9% data traffic growth.

4.2.19 Data for smart phone subscriptions, as at 30 September 2017 shows the rapid adoption of connected devices and broadband subscriptions are also doubling.

4.2.20 Audio-visual services are increasingly viewed on other devices, not TV sets. Other devices such as smartphones, tablets, laptops and desktops are particularly prevalent amongst younger people while the age group between 35 and 59 use TV sets to watch content.

4.2.21 MultiChoice points to the global collapse of television viewership, in particular among younger people. The rate of change occurs far more quickly in South Africa and is characterized by:

- Cord-shaving (Consumers downgrade to lower-priced Pay TV services, and combine with other audio-visual services (OTT, FTA)).
- Cord-cutting (Consumers terminate traditional Pay TV services altogether, in favour of other electronic audio-visual services).
- Cord-Nevers (Individuals who have never subscribed to traditional Pay TV services, rather choosing OTT).

4.2.22 OTT services, according to MultiChoice, have several advantages including the advantage of being able to leverage existing broadband infrastructure and the public internet. They are able to offer consumers triple and quadruple play (telco OTTs) and are subject to little or no regulatory oversight. Creating a TV network is now easy as creating an app.

4.2.23 The visible impact of OTTs is the competition with local broadcasters whereas the hidden impact is that "national goals are undermined". The hidden impact includes:

- no local content quotas

- no tax, profits flow offshore
- no local job creation or skills development
- no license fees

4.2.24 Having outlined the above, MultiChoice contends that the Discussion Document does not pay sufficient attention to this hidden impact.

4.2.25 MultiChoice further contends that there is plethora of short-form audio-visual content available which are often viewed through social media platforms such as:

- WhatsApp
- Facebook
- Twitter
- Snapchat

4.2.26 Given the above, MultiChoice submits that access to content is not a problem. There is a wide range of content which is neither scarce nor costly. Audio-visual service providers need to be able to select content which will appeal to their target markets and astutely package and promote their content.

4.2.27 Mr Whoolf¹⁷ also lamented the high costs of data, especially for a pensioner like him, and indicated that he is *"going to make it my mission to find out the closest places to me that will be convenient for me so as to not have to buy data every month. It's absurdly expensive"*.¹⁸

4.3 The Authority's findings

Over-the-top services

4.3.1 The Authority recognizes the growth of OTT services in the last four years or so and the impact they are likely to have on television broadcasting viewership patterns in South Africa. It is imperative that this impact be analysed. Therefore, the Draft Findings Document will analyse the competition impact of

¹⁷ A private consumer who made a written submission and presented at the public hearings

¹⁸ Public hearing transcript, p14-15

OTTs in the context of both market definition and the assessment of the effectiveness of competition in the relevant markets.

4.3.2 Figure 2 below depicts examples of various OTT services that are found in the electronic communications, music as well as television and video services sectors.

Figure 2. Examples of OTT service providers



Source: <http://ottsource.com/ott-blog>

Digital Terrestrial Transmission

4.3.3 South Africa is still at the early stages of transitioning its terrestrial television transmission technology from analogue to digital. Although the country missed the June 2015 deadline set by the International Telecommunications Union (ITU) for switching off of analogue television broadcasting, the regulatory framework is in place in preparation for the migration.

4.3.4 The country's digital migration policy¹⁹ currently provides as follows:

5.1.2(A) In keeping with the objectives of ensuring universal access to broadcasting services in South Africa and protecting government investment in subsidised STB market, STB control system in the free-to-air DTT will be non-mandatory.

"5.1.2(B) The STB control system for the free-to-air DTT STBs shall (a) not have capabilities to encrypt broadcast signals for the subsidised STBs; and (b) be used to protect government investment in subsidised STB market thus supporting the local electronic manufacturing sector.

"5.1.2(C) Depending on the kind of broadcasting services broadcasters may want to provide to their customers, individual broadcasters may at their own cost make decisions regarding encryption of content."

4.3.5 As the Authority noted in the Discussion Document, the impact of DTT on subscription television broadcasting services is varied in countries that have undergone full digital migration.

4.3.6 The Authority returns to the analysis of DTT and its likely impact on subscription television broadcasting services in sections 6.5.27 to 6.5.44 below.

¹⁹ Amendment of Broadcasting Digital Migration Policy 2015. Government Gazette No. 38583, 18 March 2015

5. MARKET DEFINITION

5.1 Overview

5.1.1 Section 5 of the Discussion Document considered the theoretical approach to market definition, presented relevant case law, as well as research undertaken in the area of television broadcasting and analysed the responses received by the Authority to the information gathering Questionnaire. On these bases the Authority formulated its preliminary views on market definition and posed questions to stakeholders.

5.1.2 It is worth repeating a point made in the Discussion Document and emphasized at the public hearings, that is, the fact that market definition is not an end in and of itself but rather is a means to an end. In this context, the end is determining whether there are any impediments to competition in the relevant markets. Thus, market definition allows the analysis to be confined to the relevant goods or services that pose a competitive constraint on each other within a defined geographical area.

5.1.3 The Authority presented an approach to market definition as detailed in paragraph 3.2 of the Guideline for Conducting Market Reviews²⁰. The following questions were then posed to stakeholders:

1. *Do you agree with the theoretical approach to defining relevant markets and market segments?*
2. *Are there aspects of this market definition theoretical framework that would not apply to subscription television broadcasting services?*

5.2 Stakeholder comments

5.2.1 The SABC agrees in general with the Authority's theoretical approach to defining relevant markets and market segments. However, it indicates that using product substitutability as an approach for market definition could potentially result in failure to deal with the impact of ineffective competition

²⁰ ICASA. Guideline for Conducting Market Reviews, March 2010

in the subscription television market upon the whole South African television industry.

- 5.2.2 e.tv also agrees with the theoretical basis and value chain approach to market definition. However, it notes that the Discussion Document did not go into detail as to the regulatory measures the Authority will prescribe in order to address failures in each segment of the value chain²¹.
- 5.2.3 Econet Media broadly agrees with the Authority's theoretical overview of the purpose and methodology of market definition. However, it submits that the SSNIP test should be applied with caution in the broadcasting market given its specific characteristics.
- 5.2.4 This is so because, rapid technological development (enabling consumption of content across various devices and platforms – thus providing for converged product offerings) has implications for this Inquiry, as the regulation of television broadcasting must keep up with changes in the sector. The incumbent's ability to extend its services across multiple platforms and devices increases barriers to entry for competitors in subscription television broadcasting.
- 5.2.5 Telkom agrees with the use of the SSNIP test in defining markets but recommends that variables specific to the audio-visual market need to be considered in the market analysis.
- 5.2.6 According to MultiChoice, whilst the theoretical approach to defining markets set out by the Authority reflects to some extent the central market definition question of competitive constraints, it does not fully explore the implications of an approach based on understanding such competitive constraints.
- 5.2.7 MultiChoice submits that market definition should be conducted with reference to constraints. Moreover, these constraints should be assessed in aggregate; the focus should be on responses of marginal consumers; and chains of substitution should be taken into account.

²¹ Paragraph 37.3 of e. tv's submissions.

5.2.8 MultiChoice expresses its concern that the theoretical principles laid out in the Discussion Document were not sufficiently explored later in the Discussion Document and the analysis that followed did not heed these central and fundamental principles of assessing competitive constraints. In summary MultiChoice raises the following main concerns with the Authority's approach to market definition in the Discussion Document:

5.2.8.1 The need for a rigorous and evidence based assessment of the current characteristics in South Africa of the sector in question;

5.2.8.2 Constraints need to be considered in aggregate, not individually;

5.2.8.3 What matters are marginal not average consumers;

5.2.8.4 Constraints may operate through a chain of substitution;

5.2.8.5 Two-sided markets require consideration of both sides of the market;

5.2.8.6 Differences in product characteristics do not necessarily imply products belong in separate markets; and

5.2.8.7 Outdated case conclusions from other jurisdictions are not informative.

5.2.9 Furthermore, according to MultiChoice, the Discussion Document limits its perspective to "*subscription television broadcasting services*". Market definition should not be circumscribed in any way, other than by reference to competitive constraints and should allow for a market which is far broader than subscription television broadcasting services.

5.2.10 The Commission submits that the differentiated nature of the subscription television service offering renders the process of defining relevant antitrust markets to be quite complex. In most cases, the nature of economic evidence considered for such purposes, *inter alia*, includes product characteristics, survey evidence, and trends in prices and subscriber numbers. In terms of survey evidence, the key question relates to the customers' (stated) preference to switch to potential substitute products such as general entertainment alternatives like movies. However, such survey evidence is

complicated by the fact that customers may potentially overstate or understate their willingness to switch, owing to a number of factors

5.2.11 Nonetheless, the Commission argues that in defining the relevant upstream market(s), the following factors are instructive:

5.2.11.1 International case precedents, where relevant;

5.2.11.2 The valuation of rights by broadcasters;

5.2.11.3 Product characteristics; and

5.2.11.4 Consumer preferences and/or popularity based on viewership and subscription numbers.

5.2.12 In the end, the Commission states that the theoretical approach to market definition as set out in the Discussion Document accords with globally accepted principles insofar as it relates to the consideration of both demand and supply-side factors.

5.3 The Authority's findings

5.3.1 The theory of market definition featured prominently during the course of this Inquiry, and for good reason. The Authority understands that whilst market definition is not undertaken for its own sake, it has far reaching implications since the rest of the analysis hinges on a properly defined market. For this reason, the Authority finds it prudent to recap some of the principles and state the Authority's findings in this regard.

5.3.2 The Authority is satisfied that most stakeholders agreed with the theoretical principles of market definition outlined in the Discussion Document and will not repeat these in this Draft Findings Document except insofar as it is necessary to clarify or amplify certain aspects.

5.3.3 The Authority heeds the caution given by Econet Media that the SSNIP test should be applied with caution in the broadcasting services sector given its peculiar nature. A similar rider was given by Telkom that variables specific to the audio-visual market need to be considered in the market analysis, in addition to the theoretical framework.

- 5.3.4 The Authority notes the concerns expressed by MultiChoice regarding the analysis of competitive constraints. It is the Authority's view that any competition analysis, including market definition, is about consideration of competitive constraints. This can be done in a number of ways, including the approach taken in the Discussion Document of, *inter alia*, analysing product characteristics, price comparisons, or business models, in addition to the SSNIP test. These are analysed with a view to determining whether two or more products/services pose a competitive constraint on each other. Where the link between such analysis and competitive constraints was not apparent in the Discussion Document, it will be clarified further in the analysis that follows below.
- 5.3.5 The Authority does not agree that reference to "subscription television broadcasting services" as done in the Discussion Document, purely for purposes of describing or naming a service, limits the Authority's perspective and circumscribes the market definition exercise. Merely naming a service and defining a relevant market for purposes of a section 67 inquiry should not be conflated.
- 5.3.6 With respect to the question of marginal and average consumers, the Authority wishes to state it clearly that its analysis in the Discussion Document did not make reference to nor did it consider average consumers. The test that has to be met in defining a relevant market is whether enough consumers would consider switching to the next best alternative when faced with a SSNIP. The Authority has considered the contention by MultiChoice that the analysis should be limited to marginal consumers without consideration of whether enough of such marginal consumers are likely to switch to render the SSNIP unprofitable and it is not persuasive.
- 5.3.7 Moreover, it is also improper to ignore what are called 'core', 'committed' or 'infra-marginal' customers. There are instances where such core customers can be regarded as central to market definition.
- 5.3.8 The question of the quantum or degree of the switch is well established in competition economics. Conventionally, the critical loss analysis has been

utilized particularly in merger investigations. Recently, many competition authorities employ diversion ratios inherent in the Upward Pricing Pressure model and its variant the Gross Upward Pricing Pressure Index in order to measure the magnitude of the substitution. The Authority states this to make the point that market definition concerns itself with not just the concept of marginal or core consumers, but their number and behaviour to determine whether enough such consumers would consider switching in the face of a SSNIP.

5.3.9 That being the case, the Authority's analysis will continue to consider whether enough consumers are likely to switch in the event of a SSNIP.

5.3.10 The Authority agrees with Multichoice's view that chains of substitution should form part of the market definition exercise, although in the Authority's view this is not a strict requirement of market definition. Moreover, chains of substitution should be applied with caution. Jurisdictions that include chains of substitution in their market definition guidelines also offer a proviso in the application of chains of substitution²² as they can lead to absurdities. What matters is the competitive constraint exerted.

5.3.11 Taking into account the theoretical principles of market definition in the Discussion Document, which are not under dispute, the Authority wishes to emphasise the following:

5.3.11.1 The starting point in the market definition exercise is the identification of a focal product or service, which is usually the product under investigation, within a focal geographical location. The SSNIP test is then applied on the focal product taking into account both demand-side and supply-side competitive constraints.

5.3.11.2 Thus, in this case, when instituting the Inquiry, the Authority identified challenges in the subscription television broadcasting services. Therefore, logically, when applying the SSNIP test, the Authority considered the

²² See for example the UK, EU and Australian market definition guidelines. As well as EU Commission "Notice on the definition of relevant market for the purposes of Community competition law" (97/C 372/03): par. 58

hypothetical monopolist of subscription television broadcasting services (the focal product) in South Africa (the focal geographical area). This is only the starting point. It does not imply that the relevant market should therefore be confined or restricted to subscription television broadcasting services in South Africa. Depending on the evidence and analysis, the market can either be narrower or broader than subscription television broadcasting services in South Africa.

5.3.11.3 In the end the Discussion Document defined a number of relevant markets, taking the above principles into account. The market definition exercise will be re-visited in section 5.6 below.

5.3.12 It is also worth emphasising that there are mainly three sources of competition that have an impact on the relevant market. The two sources, traversing demand-side and supply-side competitive constraints, are considered to have an immediate impact. The third source of competition, referred to as potential competition is considered at the stage of competition assessment, due to its time limitations. Whilst market definition and the assessment of competition are intricately linked, standard practice is to start with the former, followed by the latter. This sequence is also confirmed in section 67 of the ECA.

5.3.13 When considering demand-side substitution the following elements are usually taken into account:

- 5.3.13.1 Barriers and costs associated with switching demand to potential substitutes;
- 5.3.13.2 Product characteristics and intended use;
- 5.3.13.3 Evidence of substitution in the recent past;
- 5.3.13.4 Views of customers and competitors;
- 5.3.13.5 Consumer preferences; and
- 5.3.13.6 Patterns in price changes.

- 5.3.14 In the Discussion Document, the Authority stated that it is common practice that (in the absence of relevant data) to test for substitution an analysis of the product features as well as business models can be used. The Authority wishes to re-iterate this point. It is an established approach in competition economics that following the application of the intuitive SSNIP test the analysis often proceeds to consider evidence of substitution. From the demand side such evidence could include product characteristics and intended use, price-related evidence, consumer purchase behaviour, habits and preferences as well as switching costs. Evidence on product characteristics may provide useful information on whether customer substitution patterns are likely to be influenced significantly by those characteristics. For instance, where the objective characteristics of products are very similar and their intended uses are the same, this could be an indicator that the products are close substitutes. However, the following caveats apply:
- 5.3.15 even where products apparently have very similar characteristics and intended use, they may still not be substitutable in the presence of high switching costs and entrenched brand loyalty;
- 5.3.16 consumers may not necessarily view products that have similar characteristics, as close substitutes; and
- 5.3.17 products with very different characteristics may be close substitutes if, from a customer's point of view, they have a very similar use²³.
- 5.3.18 This principle dates back to the seminal *Brown Shoe*²⁴ case where the US District Court found that in determining the relevant market it had to go to the facts of the case and make its determination guided by the "*practices in the industry, the characteristics and uses of the products, their interchangeability, price, quality and style*". This approach was upheld on appeal by the US Supreme Court which listed '**practical indicia**' to consider in market definition, as being –

23 Botswana Competition Commission. Market definition guidelines

24 *Brown Shoe* 370 US 294; 82.C.T. 1502

- industry or public recognition of the submarket as a separate economic entity;
- peculiar characteristics and uses of the products;
- uniqueness of production facilities;
- existence of distinct customers;
- existence of distinct prices;
- customer sensitivity to price changes; and
- existence of specialised vendors.

5.3.19 It is also important to note the injunction by the South African Competition Tribunal in *Massmart v Moresport*²⁵, in this context, that –

*“Practical indicia are considered by competition authorities not simply to determine that one business is different from another, but for the purpose of determining the **market in which companies (businesses) strive for profit or where in fact competition exists.***²⁶ *Indeed the “determination of a relevant product market is a matter of business reality ...of how a market is perceived by those who strive for profit in it.”*²⁷ *It is not an exercise whereby the practical indicia are simply enumerated in an exhaustive manner in order to highlight the similarities or differences between businesses but is rather an exercise in which competition authorities endeavour to identify from whom and from where a business faces competitive constraints or effective competition.”*

5.3.20 As indicated above, the Commission in its submission stated that in most cases, the nature of economic evidence considered for such purposes, *inter alia*, includes product characteristics, survey evidence, and trends in prices and subscriber numbers²⁸.

5.3.21 There are a number of sources that can be relied upon for demand side evidence, such as consumer surveys, industry studies, journals and

25 Competition Tribunal of South Africa. *Massmart Holdings Limited and Moresport*. Case No: 62/LM/Jul05

26 *Federal Trade Commission v. Staples Inc. and Office Depot Inc.* 970 F. Supp. 1066.

27 *Federal C Trade Commission v. Swedish Match et al*, 131 F. Supp.2d 151 (D.D.C. 2000)

28 Competition Commission Comments on the Discussion Document for the Inquiry into Subscription Television Broadcasting Services. 17 December 2017

publications, previous agency investigations and court cases, international precedent as well as internal company strategic documents. This inquiry also relies on submissions from stakeholders in response to both the information gathering Questionnaire and the Discussion Document as well as questions posed during the public hearings and followed up with written communication with some stakeholders, and the consumer survey commissioned by the Authority.

- 5.3.22 As such, the Authority does not agree with Multichoice's contention that consideration of product characteristics and other factors is a short-cut to market definition, relies on value judgment and is impressionist. In the Authority's view, product characteristics, price levels, business models and other factors are critical in the context of analysing competitive constraints. This view is supported by a number of competition authorities and sector regulators around the world, as reflected in their guidelines for market definition and has been considered in numerous merger and anticompetitive conduct investigations. Indeed, the UKCC's Movies on Pay TV Market Investigation that MultiChoice has extensively relied upon in its submission, does consider product characteristics in defining relevant markets and states that –

*"In the light of the above, we judged that a hypothetical monopolist retailer of pay-TV would be able profitably to increase prices compared with competitive levels. For this reason, **and on the basis of evidence on product characteristics** (see paragraph 4.76) **and rivalry more generally**²⁹, we found that the appropriate retail market definition for our inquiry did not need to be widened beyond pay TV."*

- 5.3.23 Paragraph 4.76 of the report states that –

"As a general observation, we noted that pay-TV products were quite different from other products. Pay-TV products (a) require a monthly subscription (for most traditional pay-TV subscribers this is substantial,

²⁹ Own emphasis

often more than £200 per year); and (b) offer the ability to choose from a large range of content by viewing linear channels and/or on-demand content immediately on TV...”

- 5.3.24 The fact that in the end the UKCC defined a retail market wider than Sky movies is beside the point. The fact of the matter is that product characteristics and other factors were considered as an established principle of market definition. Indeed, it is to be expected that based on the evidence provided overall, an authority may arrive at a conclusion that includes or does not include products with different characteristics. What cannot be done is to exclude certain principles *a priori* from the analysis without good reason.
- 5.3.25 That being the case, the Authority has not found any compelling reason not to analyse product characteristics, price levels, business models and other factors or practical indicia, in addition to the SSNIP test to arrive at a definition of the relevant market.
- 5.3.26 The Discussion Document discussed the two-sided nature of broadcasting markets and applied the principle in determining the retail markets. The Authority will in this Draft Findings Document consider, again, the two-sided nature of the broadcasting services.
- 5.3.27 The Authority agrees with MultiChoice that chains of substitution can be taken into account in market definition. However, it is important to point out that chains of substitution are not a substitute for the SSNIP test but are considered like any other factor that would assist in arriving at a properly defined relevant market.
- 5.3.28 In brief, the chains of substitution recognize that it is possible for a focal product to be part of a long chain of substitutes. An example often given³⁰ to illustrate chains of substitution is where five products are labelled A to E,

30 Office of Fair Trading. Market Definition Guidelines

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284423/of403.pdf

University of Roma. Practical Guideline to Market Definition.

http://economia.uniroma2.it/public/ppm/files/lecture%20content/Guidelines_on_Relevant_Market_Definition.pdf

where the closer two products are in the alphabet, the more substitutable they are from the point of view of customers. These products may be differentiated in terms of product quality and other characteristics. Thus, consumers whose favourite product is C consider B and D to be very good substitutes for C but consider A and E to be poorer substitutes for C. This way, whereas C, B and D may be defined to belong in the same relevant market, due to their proximity (from a substitutability perspective), products A and B are also close substitutes, and so are products D and E. Thus, through this chain of substitution, products A and E, which do not directly constrain each other, may belong in the same relevant market.

5.3.29 However, it is important to recognise that even though all products in the chain may be substitutes, this may not mean that the whole chain is the relevant market, under certain conditions. For instance, a chain of substitution would not hold where there is a break in the chain or in the presence of price discrimination.

5.3.30 Thus, the mere existence of a chain of substitution is not sufficient to conclude that products that do not directly constrain each other belong in the same relevant market. Furthermore, a chain of substitution is not a substitute for the application of the SSNIP test, properly applied, which should still result in the inclusion in the relevant market of firms exerting indirect constraints on each other.

5.3.31 With respect to what MultiChoice terms 'outdated case conclusions from other jurisdictions' the Authority notes that this was addressed at the hearings and MultiChoice conceded that there is no time limit to referencing an economic principle³¹. This is especially, in circumstances where the relevant principles are still relevant and applicable to the subject matter. In its submission, MultiChoice lists 8 cases spanning between 1998 and 2010 cited in the Discussion Document, which it considers outdated. Notwithstanding the above, MultiChoice also relies on two of these cases³² in its submission.

31 Transcription of the ICASA Inquiry Into Subscription Television: MultiChoice (Session 1 & 2), p104-105

32 MultiChoice M-Net's presentation: Icasa Subscription Television Inquiry. 11 May 2018

5.3.32 For instance, it quotes the 1999 British Broadcasting Group plc and Manchester United LPC case where the UKCC stated that –

"We agree that there is a degree of price constraint [from FTA television] – people have to be persuaded that pay TV is worth buying at all."

5.3.33 It also quotes the 2007 BSkyB and ITV³³ case where the UKCC stated that –

"Our view, based on the evidence [...] is that FTA and pay services compete with one another within a market for 'all-TV', which includes VoD"

5.3.34 Furthermore, MultiChoice relies heavily on the 2012 UKCC Movies on Pay TV Market Investigation throughout its submission.

5.3.35 While the Authority does not repeat in this Draft Findings Document, the case law cited in the Discussion Document, except where necessary for purposes of emphasis, the Authority maintains its position that consideration of relevant local and international case precedent, regardless of date, is an integral part of a prudent decision making process. Therefore, the Authority is not persuaded by the approach proposed by MultiChoice.

5.4 Value chain and market definition

5.4.1 Having provided the theoretical basis for market definition in the Discussion Document, the Authority then discussed the television broadcasting value chain in order to assist in understanding the various stages involved in the process of providing a television broadcasting service and to contextualize the market definition exercise. The relevant markets need not necessarily correspond with the stages of the value chain. The Authority wishes to emphasise that the approach of using a value chain to assist in framing market definition has precedent³⁴. As recent as in 2018, the European Commission took into account the television broadcasting value chain in its analysis of the market³⁵. Similarly, MultiChoice has also relied on the broadcasting value

³³ UKCC. Acquisition by British Sky Broadcasting Group pl of 17.9 per cent of the shares in ITV plc, Report, 14 December 2007, para 4.30

³⁴ See for example the News Corp/ BskyB case - Case No COMP/M.5932.

³⁵ European Commission. Liberty Global / Ziggo. Case No M.7000

chain in recent court proceedings³⁶. In the end what matters is whether the market definition analysis is based on evidence.

5.4.2 The Authority then posed the following two questions:

3. Do you agree with the approach of using the value chain to identify functional markets?

4. If not how would you go about defining the relevant market/s in subscription broadcasting?

5.4.3 The SABC views itself as playing across the entire broadcasting value chain, except for transmission networks, however, it is of the view that the Authority's market definition should be across the entire broadcasting market.

5.4.4 e.tv proposes that technical services be added in the value chain to address access restrictions imposed by the need to encrypt signals for access by paying customers only.

5.4.5 e.tv also agrees with the Authority that an accurate representation of the subscription television broadcasting value chain is helpful to identify functional markets.

5.4.6 Cell C agrees with the value chain approach to identifying functional markets, however, it proposes that the wholesale market and content producers should not be conflated with acquisition and commissioning of content. Therefore, a separate layer should be introduced in the value chain that specifically deals with content acquisition and commissioning.

5.4.7 It states that acquisition and commissioning of content is carried out at channel provision and content aggregation level. Thus, in the value chain diagram, the top level should refer to content production, with the level below consisting of acquisition, commissioning, aggregation and channel packaging.

³⁶ Competition Appeal Court. *Caxton and CTP Publishers and Printers Limited and Others v MultiChoice Proprietary Limited and Others* (140/CAC/MAR16) [2016]

- 5.4.8 Telkom agrees with the use of the value chain to identify functional markets. Telkom suggests that technical services, as described in section 5.10 of the Discussion Document, be included in the value chain. Telkom further contends that limiting the inquiry to pay-tv only could undermine the impact of dominance across the whole broadcasting sector.
- 5.4.9 MultiChoice does not agree with the approach of using the value chain to identify functional markets. Instead, the relevant market definition question requires an assessment of competitive constraints. Merely identifying the activities at different levels of a supply chain ignores the fundamental question.
- 5.4.10 The relevant vertical markets must be defined having regard to the constraints on a hypothetical monopolist of any particular activity in the supply chain. If a hypothetical monopolist of that activity would be unable to profitably impose a SSNIP then there would not be a relevant market defined around that activity alone.

5.5 The Authority's findings

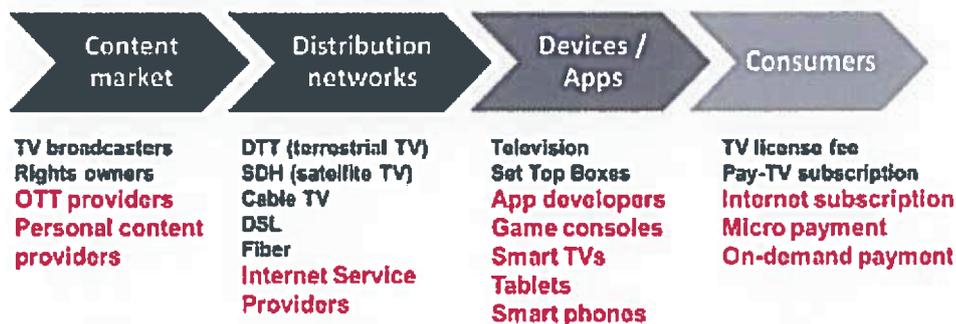
- 5.5.1 Most stakeholders agree with the use of a broadcasting value chain in order to contextualise the market definition exercise. Whilst there have been instances where relevant markets have been defined to correspond with such a value chain³⁷, the Authority does not take such an approach. Instead, the market definition follows the standard approach of using the SSNIP test and other evidence. Where relevant markets correspond with the value chain, this is not by design but rather a result of the appropriate analysis.
- 5.5.2 Therefore, the Authority considers the value chain as an important aspect in gaining an understanding of the various activities involved in the supply of a service. In the Discussion Document the Authority had provided a typical broadcasting value chain comprising of three vertical layers; the production of content and licensing of rights by content rights holders; the wholesale

³⁷ See for example: *Caxton and CTP Publishers and Printers Limited and Others v MultiChoice Proprietary Limited and Others* (140/CAC/MAR16) [2016]

channel provision by channel providers; and retail broadcast service provision to consumers.

5.5.3 Given the input received, the Authority wishes to present an amended version of the value chain that clearly depicts both television broadcasting and OTT activities, as follows:

Figure 3. Broadcasting Television and OTT value chain



5.6 Defining the relevant retail markets

5.6.1 The next section in the Discussion Document delved into the actual market definition analysis.

5.6.2 The Authority considered the following factors in defining the relevant markets:

- Use of the SSNIP test;
- Product characteristics, price levels, business models and other differentiators;
- Consideration of evidence provided by stakeholders in response to the information gathering Questionnaire;
- Case precedent, both local and international; and
- Findings from research papers, studies and reports.

5.6.3 In defining the relevant markets in the Discussion Document, it became apparent that content is a differentiator when it comes to FTA and subscription offerings. The Authority then discussed the concept of 'premium content' and proposed a definition of premium content as "valuable content that is

acquired on an exclusive basis and made available on high end premium bouquets"

5.6.4 The Authority then posed the following two questions:

5. Do you agree with the Authority's definition of what constitutes premium content?

6. What other content would you classify as premium in the South African context and why?

5.7 Stakeholder comments: Premium content

5.7.1 Whilst Telkom agrees with the Authority's definition of premium content it points to the fact that there is no exact definition for premium content, and this was made clear by the various definitions provided in the responses to the Authority's information gathering Questionnaire by the SABC, NAB, MultiChoice, Siyaya, SACF, e.tv and Telkom.

5.7.2 From Telkom's perspective therefore, emphasis is placed on high audience ratings, high audience appeal and the definition implies that there is also a time-sensitive component. As such, it implies that premium content is linked to consumer demand for content and can be described as content which viewers find desirable and are willing to pay a subscription fee for. However, it should be noted that in the South African context, premium does not necessarily imply that it is content that is available on the highest available subscription package/bouquet. It may also refer to content which will draw the most viewers.

5.7.3 According to Econet Media, premium content can be seen as content that has wide appeal, has no substitutes and is time critical. Local and international series satisfy these conditions. Local content especially has become important in the South African context. Econet Media further submits that while it agrees with the Authority's definition of premium content, some types of content such as kids content, comedy content, reality television or genre specific channels are also important drivers of subscription services. If this type of content starts generating higher viewership numbers and hence more revenue for

broadcasters, it is likely that in future it may also satisfy the definition of premium content.

5.7.4 The Commission's view is that it is generally accepted that the attractiveness of any particular television broadcaster to potential subscribers or viewers depends heavily on its ability to acquire content, particularly premium content. Broadly defined, premium content, *inter alia*, includes sports, movies and series. With respect to movies, they derive their premium element from the 'release window' structure whereby consumers value movies more the closer they are to the theatrical release date. When it comes to sports, for it to be regarded as premium the Commission is of the view that it must have the following five features: (i) be of a high quality production; (ii) must be broadcast live; (iii) with sufficient regularity; (iv) popularity; and (v) costs of acquiring the content rights should be relatively higher.

5.7.5 While Cell C agrees that there should be a distinction between premium and non-premium content, it further notes that there is no one way of defining premium content. Nevertheless, Cell C proposes to define premium content as follows:

"Content determined to be valuable [either by a financial or public interest standard]; and/or that is made available on bouquets that are priced above the price of the majority of content, or subject to a retail buy-through, or both³⁸.

5.7.6 According to Cell C, the MultiChoice conclusion that *"there is no relevant distinction between content traditionally considered to be "premium" and other content"* is not supported by evidence.

5.7.7 SOS agrees with the Authority's definition of premium content and the list in table 17 of the Discussion Document.

5.7.8 MultiChoice submits that so called 'premium' content as a must-have is well understood to be obsolete. Content such as FSPTW and football was deemed a driver for subscriptions and a potential bottleneck to competition in the past,

38Cell C written submission to ICASA on the Subscription Television Broadcasting Inquiry

elsewhere. There is now no single piece of content that is a 'must have' due to the proliferation of content that can be used to build substantial audiences.

5.7.9 Furthermore, it is well understood today that audiences are diverse and fragmented, and a broad array of content is capable of building a customer base. The lack of scarcity and ability to invest in producing popular content means that there is no longer any basis or utility in distinguishing between premium and basic content.

5.7.10 e.tv argues that traditionally first window rights have mainly been available to and taken up by Pay TV because of the exorbitant cost. Free to Air broadcasters dependent only on advertising income cannot afford to bid for first window rights. The first window rights are globally accepted to be Pay TV rights. The revenue potential of any content, be it movies or series in the first window compared to the second or third window, is incomparable. With the increase in social media usage and audiences commenting about movies and programmes the ability to generate new interest in such programmes is difficult and curtails the potential of income for FTA broadcasters in the second or third window.

5.7.11 e.tv disagrees with MultiChoice that content is evolving and the terms 'premium', 'must have' and 'essential' do not provide a basis for relevant market definitions. To support its view e.tv uses the examples of WWE and UEFA Champions League. e.tv states that both WWE and UEFA Champions League are premium content and since losing the bids for their rights to MultiChoice it has not been able to find similar programmes to recover the viewership lost.

5.8 The Authority's findings

5.8.1 Content has been a driving force behind changes in the television and video-on-demand industry. This has manifested in the way content is captured (first on film, then videotape, and later, digital media) to the way it is delivered (via live broadcasts, then cable, satellite, and online platforms) to the way it is consumed (via television sets, computers, tablets, and mobile phones). These changes have brought new players with new business models to the

landscape. However, there is no denying that despite these changes, the strategic nature of different types of content remains relatively constant.

5.8.2 Content can be categorised into three main broad areas: news; sport; and entertainment.

- **Sport** has the strongest reputation for delivering large audiences and/or numbers of subscribers for broadcasters and pay TV providers. It remains a premium product for which viewers are willing to pay a higher amount and in return for paying that higher amount, they expect a premium experience. Operators and channels have shown a willingness to spend substantial amounts on this proven customer-acquisition tool and ARPU driver. This translates into significant revenue generation, of both advertising and subscription. Global sports programming spend has been increasing over time, totalling \$26.5 billion in 2016, a 60% increase on spend of \$16.6 billion in 2007³⁹. Although sports accounts for only 15 percent of all viewing, it accounts for some 65 percent of the direct revenues earned by content creators⁴⁰. It is a significant differentiator among broadcast networks and distributors in most markets.
- **News** is regarded as having a more strategic than economic value for broadcasters and content producers. It accounts for only about 2 percent of direct payments to producers and rarely creates sustainable profits for networks⁴¹. However, news can help channels offer a full range of programming and, while it can take varying forms, some more premium (for example, investigative journalism) than others, it is generally not as expensive as sports and entertainment.
- **Entertainment** can either be scripted, such as films, series, comedy and drama or it can consist of reality shows and live events. This type of programming drives the lion's share of network profitability⁴².

³⁹ IHS Markit. *New Frontiers for Distribution of Sports Content*. December 2017

⁴⁰ Boston Consulting Group. *The value of content*.

⁴¹ Ibid

⁴² Ibid

- 5.8.3 In the Discussion Document the Authority referred to a number of cases and research where premium content was defined and examples of premium content given⁴³. The Authority does not repeat the case precedent here, suffice it to indicate that the Authority maintains its position that there is a distinction between premium and non-premium content.
- 5.8.4 The Authority agrees with Cell C's contention that the MultiChoice conclusion that "*there is no relevant distinction between content traditionally considered to be "premium" and other content*" is not underpinned by evidence.
- 5.8.5 The Authority returns to this issue in sections 5.15 and 5.16 below, where it provides reasons why it believes that there is a difference between premium content and other content. Amongst other reasons, the Authority reaches the above conclusion in light of the contradiction between what MultiChoice states in its public pronouncements on the issue of "premium content" and what is contained in its business plans (which statements, for reason of their confidential status in terms of section 4D of the ICASA Act, are not set out herein).
- 5.8.6 Having defined premium content, the Authority then proceeded to define the relevant retail markets and posed the following question:
- 7. Do you agree with the Authority's characterisation of the retail market and the market definition as outlined above? If not, how would you define the relevant market/s in this regard?*

5.9 Stakeholder comments: Free-To-Air and subscription services

- 5.9.1 Cell C agrees with the Authority's definition of the market but notes that there is no determination of a time horizon for a forward-looking review of competition in the market. Cell C proposes a time horizon of at least 3 years. Cell C disagrees with the conclusion that a two-sided market exists when a licensee does not make a majority of its revenue from subscription and

⁴³See for example IV/36.539 - British Interactive Broadcasting/Open

OECD. 2013. Competition Issues in television and broadcasting. Policy Roundtables

Nicita. A and Ramello. G.B. 2005. Exclusivity and Antitrust in Media Markets: The case of Pay-TV in Europe. Available at [www.http://poseidon01.ssrn.com/delivery.php](http://poseidon01.ssrn.com/delivery.php)

sponsorship. Cell C is of the view that drawing a distinction between pay-TV and Free-to-Air on the basis of subscriptions and advertising revenue distorts the focus from content, which it considers a key component of this inquiry. Cell C proposes that the market definition be narrowed down to the pay-TV market. Cell C also does not consider the technical aspects of pay-TV to be particularly relevant to market definition.

5.9.2 In its presentation Cell C argues that whereas MultiChoice refers frequently to the UK as a source of its arguments, specifically that *"the UKCC referred to FTA as an "out of market constraint to be taken into account in an assessment [of a market]"*, the point is that imposing some kind of constraint on pricing is not the same thing as FTA being in the same market as subscription tv.

5.9.3 Also, the UK is renowned for its exceptionally strong FTA market on any measure. It is an entirely different thing in South Africa where it is arguably *not* competition or innovation or investment that has resulted in the SABC gaining viewers, but availability and affordability of the signal.

5.9.4 Cell C further argues that contrary to the MultiChoice prediction, it is entirely likely that less than 10% of Multichoice's Premium subscribers will leave MultiChoice if the price of their package increases. In any event, MultiChoice does increase prices year on year, but not enough subscribers leave to render the increase unprofitable. Instead, within the MultiChoice stable, consumers "frequently switch" between different bouquets at different price points. Multichoice's evidence of subscriber numbers increasing for FTA broadcasters does not prove that FTA/OTT is materially increasing as a constraint on MultiChoice. If they were to raise prices as they claim, there is no evidence that subscribers would be lost to FTA.

5.9.5 Telkom notes that subscription television is defined as a separate market from audio-visual content and FTA services. However, these markets compete for advertising revenue. This may potentially limit the inquiry from assessing the impact of dominance on the whole broadcasting sector.

- 5.9.6 Telkom recommends a more thorough analysis of substitutability between OTT and subscription TV. Telkom suggests a market for premium channels and one for all other channels
- 5.9.7 Vodacom agrees with the Authority's market definition in general. However, in line with their recommendation of the European Commission's three-criteria approach and recognition of Market No. 18, Vodacom believes the Authority should specifically identify transmission platforms as a market.
- 5.9.8 According to the PSL, the identification of a market for 'the acquisition of premium live soccer matches for retail distribution in South Africa' implies that ICASA considers the PSL as the only supplier of soccer in the broadcasting market, to the exclusion of the English Premier League and UEFA.
- 5.9.9 According to MultiChoice, it competes in a highly competitive and dynamic electronic audio-visual services market that includes services on all distribution technologies, including OTTs and linear as well as non-linear video-on-demand services. It also includes all electronic audio-visual services, free as well as paid-for without distinction by content, genre or price point.
- 5.9.10 MultiChoice submits that the rise of OTT services as compelling alternatives for consumers has brought much change in the electronic audio-visual services sector and substantial disruption to traditional pay-tv broadcasting services. OTT services offer consumers a tremendous variety of content together with considerably greater convenience, allowing them to view what they want, when they want, how they want.
- 5.9.11 Therefore, the relevant market is platform neutral regarding distribution technologies and includes non-linear formats together with linear channels. The market also includes FTA TV broadcast and free online content accessed over OTT platforms (Facebook and Google), including pirated content.
- 5.9.12 There have been seismic shifts in audio-visual content such that FSPTW and sports events traditionally thought of as important for building subscriptions are no longer important in face of explosion of other content of greater quality and attractiveness. A lot of content has been developed by OTTs. Local content

is now sought after by local broadcasters. With respect to sport, new competitions are developing such as the Twenty-20 cricket and local leagues.

5.9.13 MultiChoice notes that there are large proportions of pay tv subscribers who have OTT services over high speed broadband as a substitution option. Consumption of electronic audio-visual services is shifting to a variety of devices rather than just the TV set. There are changes in electronic audio-visual content consumption patterns from linear to non-linear services. DTT is a prospective distribution technology for paid-for electronic audio-visual services.

5.9.14 Therefore, according to MultiChoice, the relevant retail market is the market for electronic audio-visual services.

5.10 The Authority's findings

5.10.1 Market definition at this level is first assessed from the viewer's perspective and then from a supply-side perspective. Since the Authority's focal product for purposes of this inquiry is subscription television, this is the product on which the SSNIP test is applied. The Authority agrees with Telkom that –

"The SSNIP test should start with the narrowest possible market and then consider potential substitutes. In the current case, the relevant question is whether subscription television broadcasting services form a separate market, whether there are separate sub-markets or whether similar services (e.g. video-on-demand) form part of the relevant market⁴⁴.

5.10.2 Therefore, the question to pose is whether a hypothetical monopolist of subscription television services in South Africa, can profitably increase subscription fees by a margin of between 5% and 10%. In order to answer the question, the Authority considers what would be the likely alternatives available to a subscriber faced with such a price increase. The Authority starts by identifying possible alternatives at a broad level and then analysing substitution between subscription television and each identified alternative

⁴⁴ Submission by Telkom SA SOC on the Discussion Document into subscription Television Broadcasting Services, 4 December 2017, para 11.

service. At a basic intuitive level, it would seem that there are alternatives such as other subscription television services, free-to-air television services and video-on-demand services (including transactional, subscription and free video-on-demand services). There are other services that offer video entertainment such as short-form video services available through social media platforms, including Facebook, Instagram, Snapchat and Twitter. In order to arrive at an informed determination on whether the identified services would qualify as alternatives to a hypothetical monopolist of subscription television broadcasting services, the Authority conducts further analysis below.

5.10.3 The Authority starts this analysis by considering whether enough subscribers faced with a 5-10% increase in subscription fees would switch to a free-to-air television service to render such an increase unprofitable to the hypothetical monopolist. In order to properly analyse such substitution, the Authority takes into account the behaviour of a typical subscriber. A subscriber to a subscription television service chooses a bouquet that meets his or her preferences both in terms of content, affordability and accessibility. In the Discussion Document the Authority had identified two tiers of bouquets, basic and premium. In this Draft Findings Document, the Authority adds a third tier, which is the middle-level. This is consistent with the evidence submitted by both MultiChoice and StarSat who adopt models that segment consumers into different target groups based on household income levels, being the low income, middle income and high income. Deukom offers a single bouquet that appears to be targeted at viewers in the high-income bracket. Therefore, the Authority distinguishes between three different bouquets, being (i) basic-tier or entry level bouquets; (ii) middle level bouquets; and (iii) high-end or premium bouquets.

5.10.4 As explained in the Discussion Document, subscription television services in South Africa, as elsewhere, are supplied through a bouquet of channels, usually starting with a basic package of content, like kids' shows, news, music and a couple of general interest factual channels. There is then a buy-through to the middle level bouquets in order for a subscriber to access other content such as selected movies, series and sport. This is followed by another buy-

through to the high-end or premium bouquets, which in addition to channels in the basic tier and middle-level bouquets offer a wide variety of the latest movies and series, a much wider selection of sport channels as well as a host of other general channels. A subscriber to a basic tier bouquet faced with a SSNIP can only churn out of the service. However, free-to-air viewers who want to purchase subscription television services have to invest in a satellite dish and decoder in addition to paying an installation fee as well as committing to a monthly subscription. The investment made by the consumer becomes a sunk cost, since some of the equipment purchased cannot be used elsewhere.

- 5.10.5 During the public hearings, SOS Media gave evidence that viewers in the lower LSMs (now SEMs) move from free-to-air services (using analogue transmission) to subscription television services (using digital satellite transmission) as a form of progression, in order to not only access particular content but to receive better quality transmission as well. When asked to clarify the point about consumers acquiring a satellite service in order to access SABC programmes, SOS stated that –

"With regards to whether or not it's competition vs substitution, I don't think there are polar or exclusive issues, I think it's a progression because there is a fact that you are trying to get a specific type of content what we would find is that the public would say, okay, if I cannot access it the way that I am accustomed to accessing it, then I am going to access it in a different space. But it's still competition in the sense that when I weight up the two pros and cons between doing it the way that I am doing it now through my arial versus paying, even though I don't have money and I just told you now that I don't have money now for the STB box, but I am going to pay for the DStv box tells you that there is a desire on the part of the public, not to substitute it per se, but to have a better media content offering.⁴⁵"

- 5.10.6 This is consistent with the results of the Authority's survey which found that a better quality TV signal is the strongest reason to purchase the Basic DStv

45 Transcript of the public hearings, p89

package over the FTA offering. Other reasons relate to the type of programming content enjoyed⁴⁶.

- 5.10.7 If viewers perceive subscription television services as of better quality than free-to-air services it means that once they upgrade from free-to-air to subscription they are highly unlikely to substitute backwards from subscription services to free-to-air services.
- 5.10.8 In the Discussion Document the Authority stated that given the growth in the viewership of subscription television services over the years, there is no evidence suggesting reverse substitution from subscription to free-to-air services.
- 5.10.9 Therefore, we find that it is highly unlikely that enough viewers would switch from subscription television services to free-to-air television services in the face of a SSNIP⁴⁷.
- 5.10.10 The Authority had further suggested that based on the characteristics of the two services, in terms of significant differences in their price points, content and quality, it is unlikely that free-to-air television viewers would consider subscription television as a substitute, neither would subscription television subscribers substitute for free-to-air television in the event of a small but significant increase in subscription fees.
- 5.10.11 The Authority maintains its view that based on product characteristics and other factors as outlined in the Discussion Document free-to-air services do not constrain subscription television services.
- 5.10.12 According to the pre-listing statement by MultiChoice it competes with several electronic audio-visual services providers in Africa. However, the Group's primary pay-TV competitor is StarTimes. This indicates that MultiChoice

46 Pulse Research (Pty) Ltd. Research Report: Consumer Online Survey. November 2018. p98

47 ICASA. Discussion Document: Inquiry into Subscription Television Broadcasting Services. Government Gazette No No. 41070. 25 August 2017, p.54 para 5.7.4

regards StarTimes as a direct competitor and other services as indirect competitors⁴⁸.

5.10.13 The Authority arrives at this decision also taking into account case precedent. The Authority does not repeat the case law in the Discussion Document but in the following cases the courts found FTA and subscription broadcasting television services to belong in separate relevant markets:

5.10.13.1 NewsCorp/Teleiu (2003, Italy) (COMP/M.2876)

5.10.13.2 SFR/Tele2 (2007, France) (COMP/M.4504)

5.10.13.3 NewsCorp/Premiere (2008, Austria and Germany) (COMP/M.5121)

5.10.13.4 NewsCorp/BSkyB (2010, UK and Ireland) (COMP/M.5932)

5.10.14 In the Newscorp/Telepiu⁴⁹ case it was recognised that there is limited substitution between free-to-air and subscription television services. The European Commission made the same finding in Newscorp/BskyB⁵⁰ that the retail supply of subscription television and free-to-air television constituted separate markets. In addition, the UKCC in the Movies on Pay-TV Market Investigation⁵¹ found that there was a retail market for pay-TV, whilst noting the evidence suggesting that FTA TV imposed some constraint on pay-TV retailers. The UKCC further accounted for FTA as an 'out-of-market' constraint, reflecting that consumers have different preferences for FTA TV and pay-TV but that there are some pay-TV subscribers for whom the next best alternative is FTA TV.

5.10.15 In the 2014 *Liberty Global/Ziggo*⁵² merger decision the European Commission noted that in its previous decisions it had divided the market for the licensing and acquisition of individual content in the following manner: (i) Pay TV versus Free-To-Air ("FTA") TV,¹⁸ (ii) linear versus non-linear broadcast,¹⁹ (iii) by

48 MultiChoice Group Limited. Pre-listing Statement. 21 January 2019

49 COMP/M.2876 – Newscorp/Telepiu

50 COMP/M.5932 Newscorp/BSkyB

51 UKCC, Movies on Pay-TV Market Investigation, para 4.91

52 European Commission. Liberty Global / Ziggo. Case No M.7000

exhibition window, that is to say subscription VOD, transactional VOD, PPV, first Pay TV window, second Pay TV window,²¹ and FTA, (iv) by content type, that is to say films, sports, other content.

- 5.10.16 In the 2018 decision the European Commission's market investigation confirmed the traditional distinction between FTA and Pay TV content. However, since the Dutch market was essentially a pay TV market with only three FTA channels, the European Commission concluded that the distinction between FTA and pay TV was of little relevance and the definition could be left open.
- 5.10.17 Despite the afore-going, the Authority received compelling evidence pointing to substantial competitive pressure exerted by subscription broadcasting services on free-to-air services. The evidence given by e.tv and the SABC is quite instructive in this regard. Both service providers point to fierce competition from MultiChoice, both for viewers and advertisers. The Authority discusses this aspect next.
- 5.10.18 The usual assumption when it comes to substitution is that it is symmetrical such that if consumers are willing to substitute product A for product B then it follows that they will also be willing to substitute product B for product A. However, it is possible for substitution to occur one way and not in reverse, the so called asymmetric substitution. Asymmetric substitution could result from a number of factors, such as consumer preferences, the introduction of new technologies, the potential for price discrimination, quality differences and the position of the product in question in the supply chain (i.e. whether it is an input or a final product sold to consumers)⁵³. In such instances, one or both products can be included in the relevant market.
- 5.10.19 The convention is that if there is substitution from the focal product to the alternative product, but no substitution from the alternative product to the focal product, then the alternative product is included in the relevant market. If on the other hand there is no substitution from the focal product to the

53 OECD. 2014. Defining relevant markets in telecommunications.

https://www.oecd.org/daf/competition/Defining_Relevant_Market_In_Telecommunications_web.pdf

alternative product, but only substitution from the alternative product to the focal product, the alternative product should not be included in the relevant market⁵⁴. The Authority analyses the possibility of asymmetric substitution next.

- 5.10.20 Free to air services in South Africa are normally provided through analogue transmission, with the exception of the new e.tv service, OpenView HD which is satellite based. There are obvious quality differences between analogue and satellite transmission. In terms of value for money, viewers have access to a lot more channels through satellite transmission, including FTA channels, due to the requirements of the Must Carry Regulations.
- 5.10.21 The type of content shown on subscription television and free-to-air also differs. For instance, movies from Hollywood's six major studios⁵⁵ are released in windows based on time of release. Consumers are willing to pay extra for the ability to view first run movies on subscription television channels, hence the higher subscription fees for high end bouquets that show such movies. Free-to-air broadcasters cannot compete with subscription television broadcasters for such movies because of the terms and conditions surrounding their release. Furthermore, a feature film, documentary or series distribution cycle gives subscription television preference over free-to-air television.
- 5.10.22 There is evidence suggesting that FTA viewers have been migrating to subscription television, as evidenced by the fact that FTA television households decreased by 3.5% from 8.4 million in 2012 to 8.1 million in 2016, whilst subscription television households increased by 37% from 3.9 million in 2012 to 6.2 million in 2016⁵⁶. The subscription television households figure has increased about 7 million. As such, it is highly unlikely that enough subscribers would switch back to analogue FTA services in the event of a SSNIP.
- 5.10.23 Whereas MultiChoice's premium bouquets have stagnated over the recent past, phenomenal growth has come from its basic tier and middle tier

54 Berek. Berek report on impact of fixed to mobile substitution in market definition. December 2011

55 20th Century Fox, Warner Bros, Paramount, Sony, Universal and Walt Disney

56 E.tv submission

bouquets. For instance, over the three years to March 2018, basic tier subscribers grew by 1.3 million, a 14% increase while middle tier subscribers increased by 144 000 or 2%. In the same period premium subscribers saw a 5% decline.

- 5.10.24 Further evidence was given by e.tv when responding to the information gathering Questionnaire, by indicating that it regards the SABC as its main competitor for viewership although lately there has been some switching away by viewers from analogue terrestrial broadcasting towards the lower-cost subscription television broadcasting digital satellite bouquets such as DStv's Easyview.
- 5.10.25 From the consumer survey, DStv subscribers cited a number of reasons why they would not be satisfied with a FTA offering, including signal quality (25%), product affinity (15%), and content offering (movies, sport and children's programs). The consumer survey found that a better quality TV signal is the strongest reason to purchase the Basic DStv package over the FTA offering. Other reasons relate to programming content enjoyed⁵⁷. The basic-tier subscription television bouquet subscribers cited reasons for not moving up into mid-tier bouquets as affordability (49%), and cost of service not reflective of value offered.
- 5.10.26 The importance of satellite transmission as determinant for service uptake is also noted in the MultiChoice pre-listing statement, that:

"DTH is television delivered by means of a communications satellite and received by a satellite dish and decoder. This distribution channel is particularly popular in both remote/rural and urban areas to reach where cable and, in some cases, terrestrial television services are limited or non-existent. DTH provides additional functionality combined with high-quality and reliable viewing, as its signals are received directly from satellites."⁵⁸

57 Consumer survey report, p98

58 MultiChoice Group Limited. Pre-listing Statement. 21 January 2019. p22

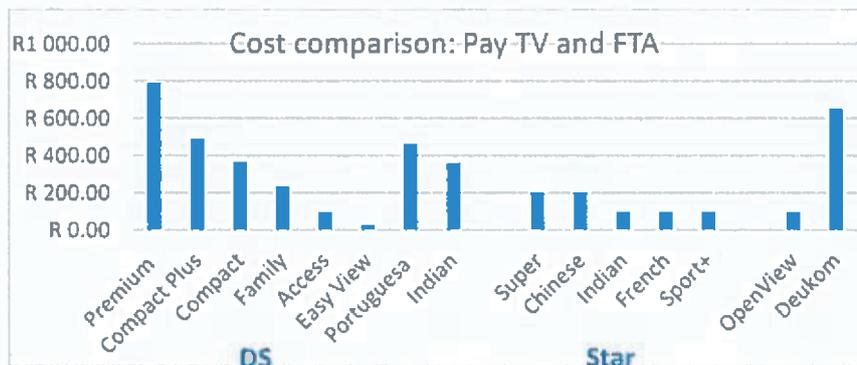
- 5.10.27 In addition, the Must Carry Regulations limit the extent to which FTA television services would constrain basic tier subscription television services given that all FTA offerings are available on subscription television offerings.
- 5.10.28 The preceding analysis points to strong asymmetric substitution from free-to-air television services to basic tier subscription services. This suggests that free-to-air and subscription services belong in separate relevant product markets.

Satellite-based free-to-air television services

- 5.10.29 Therefore, given the argument about the quality of satellite compared to analogue television broadcasting transmission services, the Authority cannot discount reverse substitution from basic tier bouquets to satellite FTA. The Authority understands that e. tv's decoders have dual encryption, allowing them to pick up FTA services that are carried on the satellite platform. The Authority also understands that the OpenView HD service is now capable of using the DStv satellite dishes, thus reducing the transactions and switching costs for viewers.
- 5.10.30 Barring transmission technology, the main distinguishing feature between free-to-air and subscription television services, is content, both in terms of quantity and quality. Viewers are willing to pay a fee to access a wide variety of quality content associated with subscription television. However, in terms of value for money, basic-tier bouquets by their very nature, contain basic channels that justify the payment of a minimum entry-level fee. Thus, in an environment where free-to-air services are available through digital satellite transmission, offering a wide variety of channels, the distinction between satellite based free-to-air television services and satellite based subscription television basic-tier bouquets becomes blurred. Therefore, from a quantity perspective, in terms of the number of channels, and from a quality perspective, satellite based FTA and subscription basic tier television bouquets have a lot in common. The only difference becomes price, where a subscription fee is required in addition to installation and equipment purchase costs.

5.10.31 Yet, in terms of price, Figure 4 below suggests that basic-tier bouquets and satellite FTA channels belong in the same price point⁵⁹.

Figure 4. Cost comparison: FTA and Pay television services



Source: Adapted from Econet Media Presentation⁶⁰

5.10.32 [REDACTED]. Price sensitivity can be an indicator of whether a product has close substitutes or not. [REDACTED]. The information reviewed by the Authority relevant to this aspect underscores the Authority’s finding that there is competition between satellite FTA and basic tier bouquets, although in the Authority’s view substitution from basic tier subscription services to satellite FTA is weak.

5.10.33 Since broadcasting is a two-sided market, the Authority also considers the possible reaction of advertisers when faced with a SSNIP.

5.10.34 Advertisements are often targeted at specific audiences that are segmented according to certain characteristics such as SEM level, gender, age, language and race. Basic-tier bouquet and free-to-air audiences tend to be targeted at

59 Whilst FTA is offered for free, for ease of comparison purposes the OpenView HD price of a decoder, dish and installation is taken as a proxy for subscription and assumed to be paid over 12 months

60 Econet Media presentation to ICASA, 10 May 2018, slide 39

people in the lower level SEMs. Thus, advertisers may easily substitute between basic-tier bouquet channels and free-to-air channels.

- 5.10.35 Econet Media notes that subscription television attracts more advertising revenue which crowds out the primary source of revenue for FTA channels.
- 5.10.36 In both their written and oral submissions, e.tv and the SABC lamented the competition for advertising revenue exerted by subscription broadcasters on free-to-air television. According to e.tv, advertising revenue for FTA declined by 14% between 2012 and 2016, whilst that of subscription television grew by 7% over the same period⁶¹. According to e.tv, MultiChoice accounts for 37.8% of the total television broadcasting advertising revenue⁶². The SABC quotes the Adynamix data which indicates that at 48% market share, MultiChoice had almost half of the total advertising revenue in 2017⁶³. e.tv contends that this tide of subscription services accounting for a bigger share of advertising revenue started to turn when MultiChoice began encroaching on the lower LSMs, i.e., when basic tier bouquets were introduced.
- 5.10.37 Thus, the advertising side of the market also reveals that there has been one-way substitution by advertisers, from FTA to subscription channels.
- 5.10.38 The Authority then considered whether chains of substitution are at play in this regard. In order for the chain of substitution to hold the assumption is that a subscriber to a premium bouquet faced with a SSNIP is likely to churn down to a middle level bouquet, or churn out more to an OTT service, than to a free-to-air television service. Similarly, a subscriber to a middle level bouquet is more likely to churn down to a basic tier bouquet or a similarly priced OTT service than churn out to a free-to-air service in the face of a SSNIP, whereas a subscriber to a basic-tier bouquet is likely to churn out to a free-to-air service.

61 Comments by e.tv on the Discussion Document Into Subscription Television Broadcasting Services. p 5, para 18.

62 E.tv presentation. Inquiry Into Subscription Television Broadcasting Services. 10 May 2018

63 SABC submission on the Icasas Discussion Document: Inquiry Into Subscription Television Broadcasting Services. p. 26 para 3.1.4

5.10.39 Thus, basic tier bouquet services are more likely to face a competitive constraint from satellite-based free-to-air services, than middle level and premium bouquets. Therefore, assuming that this chain exists, the relevant market would appear to be all television and OTT services. Nonetheless, the Authority does not find that this is indeed the case for the reasons set out in detail below and in particular in 5.12.

5.10.40 However, in reality free-to-air viewers are highly unlikely to consider OTT services as an alternative based on affordability. Thus, already there is a break in the chain. According to the European Commission from a practical perspective, the concept of chains of substitution has to be corroborated by actual evidence, for instance related to price interdependence at the extremes of the chains of substitution, in order to lead to an extension of the relevant market in an individual case. Price levels at the extremes of the chains would have to be of the same magnitude. In this case they are not, hence a break in the chain.

5.10.41 Similarly, the quality and amount of content shown on free to air and basic-tier bouquets and premium bouquets differ vastly. The Authority is also able to circumscribe specific boundaries around free-to-air, basic tier, middle-tier, premium and OTT viewers based on SEM levels, which indicates the services offered or targeted at each income level belong in distinct relevant markets.

5.10.42 In the Discussion Document, the Authority had concluded that it is unlikely that viewers of free-to-air channels distributed terrestrially would consider the more expensive subscription television packages as close substitutes, due to significant differences in their price points, unique content proposition and quality. However, the Authority is inclined to consider free-to-air services distributed digitally to be close substitutes to basic-tier subscription services, based on slight differences in price, quality and quantity of channels provided.

5.11 Stakeholder comments: Subscription television and OTT services

5.11.1 Next, the Authority considers substitutability between subscription television services and OTT services. For purposes of this analysis, OTT services include transactional video-on-demand, subscription video-on-demand and free video-on-demand services.

5.11.2 Much has been said about the threat of OTT services to traditional television services, including subscription television.

5.11.3 Econet Media contends that the Authority's finding that subscription television falls in a separate relevant market to FTA and OTT/VOD needs to be more thoroughly supported. It then provides further analysis of the competitive dynamics between subscription and OTT services, quoting various comparative studies and finds the following:

- More households have television sets than the proportion that have the internet access necessary to be able to switch to OTT
- South Africa has low internet penetration: not many households have the internet access necessary to switch to OTT
- For households that do have internet access, the internet speed is generally too slow to watch OTT content with a high video quality
- South Africa's internet data costs are expensive relative to other countries
- Some consumers cannot afford to switch to OTT due to the high internet costs
- When the total cost of OTT (subscription fee + internet) is compared to the cost of subscription-TV (subscription fee), it is higher than most subscription-TV packages, even when using conservative estimates for OTT costs. Even for households that already have internet access, the choice is not only between subscription fees of subscription-TV and OTT because not all current access is fast enough, is enough data for viewing content, or is via the 'ideal' device for viewing for OTT content;
- OTTs are seen as a complementary service to subscription-TV;
- A large proportion of poor households watch television;
- Some of these are subscription-TV subscribers;
- For some of these the total cost of OTT will be too high to switch;

- Not all rich households have the devices necessary to switch to OTT; and
- Some of these households will not want to spend the additional money.

5.11.4 According to Econet Media, the above situation is expected to remain this way in the short to medium term. As a result, not enough consumers will switch to OTT when faced with an increase in subscription fees, causing a price increase in subscription-TV to be profitable.

5.11.5 Therefore, based on the above, Econet Media concludes that subscription-TV and OTT are not in the same product market.

5.11.6 SOS's main concern appears to be the exclusion of OTTs from the regulatory net. It states that despite limitations to access and high data costs, all of the evidence internationally points to the fact that OTT services are fundamentally changing the way audiences consume audio-visual content and that regulators must act to prevent a situation where OTT services cannibalise traditional broadcasting because of the light- or no-touch regulatory approaches adopted. SOS then calls on the Authority to regulate OTTs in the same manner that they are regulated in the European Union.

5.11.7 Act-SA indicates that data costs and internet accessibility remain a hindrance to the take up of OTT services, especially in rural areas. It states that "*...we have not reached to that point yet as South Africa or as even Africa to start talking about OTTs being a significant player in this particular sector. No they've very far (sic).*"

Cricket South Africa states that it is unable to maximise the commercial viability of its content offering in the absence of adequate competition within the broadcasting sector and particularly within Pay TV due to lack of competition. CSA is of the view that the rapid growth of broadband within South Africa in the near future will unlock new opportunities in respect of live streaming and OTT providers that may result in new key revenue streams.

5.11.8 In its presentation, e.tv went into detail to discredit the narrative that OTTs pose a competitive constraint on broadcasting services in South Africa. According to e.tv the OTT challenge may be formidable in name and may well be so in the future, but its current impact is not felt in the industry. It is not

big in South Africa. Moreover, other platforms started have failed. OTT players may be monsters but they are on the horizon.

- 5.11.9 In its response to the Discussion Document, MultiChoice contends that the Discussion Document does not pay sufficient attention to the impact of OTTs.
- 5.11.10 MultiChoice points to a changing audio-visual landscape, driven by the entry of OTT players. In South Africa, the expansion of OTTs is spurred by rapid broadband roll-out, both mobile and fixed; exponential growth in consumer data usage; internet speeds that are sufficient for audio-visual services as well as broadband prices that are continuously decreasing.
- 5.11.11 MultiChoice equates the impact of OTTs on the subscription broadcasting market to how they altered the newspaper and music industry. Besides direct competition with local broadcasters OTTs also have a hidden impact in the sense that they are not regulated, hence do not have to contend with a myriad of obligations placed on local broadcasters such as licence fees, local quota requirements, tax obligations, MDDA and USAASA contributions as well as BBBEE requirements.
- 5.11.12 Apart from OTTs, MultiChoice analyses the impact of other services such as out of home viewing, other regional subscription television services and telecommunications service providers on subscription television and conclude that they exert competitive constraints on its business. In addition to the above, MultiChoice contends that piracy acts as a competitive constraint. At page 5 of its response to the Discussion Document, MultiChoice stated as follows:

“in addition to the emergence of legitimate OTT providers, the piracy of electronic audio-visual content is on the rise and posing a huge threat to traditional Pay TV services. For example, MultiChoice estimates that more than 2 million people view pirated versions of the series and movies available on DStv in SA. Piracy in sports is also pervasive. The reality is that piracy is a further competitive constraint on Pay TV services in SA”.

- 5.11.13 MultiChoice estimates the number of Netflix subscribers to be [REDACTED] as of May 2018⁶⁴, yet in its 2018 business plan MultiChoice provides a conservative estimate in relation to the number of Netflix subscribers compared to its Showmax and DStv Now Subscribers [REDACTED].
- 5.11.14 Econet Media (in its presentation to the Authority dated 10 May 2018) disputes MultiChoice's position by pointing out that the then UK Competition Commission's finding⁶⁵ that there was sufficient rivalry between OTT and traditional subscription TV services does not apply in South Africa due to the fact that⁶⁶;
- 5.11.14.1 this inquiry considers all content, not just movies;
 - 5.11.14.2 the UK's broadband market is much more developed than in South Africa;
 - 5.11.14.3 South Africans cannot subscribe to premium film content only since MultiChoice bundles premium film content, premium series content and non-premium content;
 - 5.11.14.4 content is made available in different release windows in OTT and subscription TV; and
 - 5.11.14.5 there is limited supply side substitutability since a subscription television licence is necessary for such service whilst OTTs are unregulated.

5.12 The Authority's findings

- 5.12.1 There is no doubt that there is rapid global and local expansion of OTT services. Despite a number of OTT players having launched and subsequently discontinued their services, new OTT services have become available to South African viewers in the last 3 years. These include Showmax (part of

64 Page 40 of MultiChoice presentation to the Authority titled "MultiChoice and M-Net's Representations in ICASA's Subscription Television Inquiry" (11 May 2018) available online at <https://www.icasa.org.za/uploads/files/multichoice-Inquiry-into-Subscription-TV-Presentation.pdf>.

65 UK Competition Commission. Movies on pay-tv market investigation. 2012

66 Page 31 of the Presentation.

Multichoice), Netflix, DEOD, Vodacom VideoPlay, Google Play, Amazon Prime, Kwesé Play, Telkom LIT, Cell C's Black and iflix.

- 5.12.2 These services impact on viewing patterns and behaviour, and have implications for traditional television broadcasting, including subscription television. However, there are several factors that mitigate against OTTs constituting a strong constraint on subscription television services in South Africa. We consider these factors next.

Viewing patterns: Live television v video-on-demand

- 5.12.3 In the South African context, out of 14.4 million households with a television set, 8% have an internet enabled TV set with only 3% of them claiming to have used the internet functionality on their TV sets⁶⁷. Despite the growth of OTT services in South Africa, about 96% of households still watch live television content⁶⁸ and only 3% of the population watch online video content⁶⁹. Cape Town TV underscores this observation in its written submission. Therefore, these figures suggest that the claim that OTT distributors is a major threat to subscription TV is overstated.
- 5.12.4 These observed viewing patterns are in line with international trends. For instance, in the UK traditional live broadcast TV is still at the heart of people's viewing experience. In a survey conducted for Ofcom⁷⁰, when asked what they would do first when wanting to watch a TV programme or film, the top response was '*switch on the TV and see what's airing on live broadcast TV*'. This response was chosen by half (50%) of people in the UK. The second-ranked answer, accounting for about 12% of respondents, was '*go straight to Netflix, Amazon Prime, Now TV or other on-demand services that you pay a monthly subscription for*' (12%), followed by '*go straight to recorded TV via DVR*', selected by 11% of people in the UK. Broadcast TV made up 71% of this of all total TV and audio-visual daily viewing, across all devices, in 2017. The

67 Broadcast Research Council. TAMS Update. October 2018. <https://brcsa.org.za/brc-tams-update-october-2018/>

68 Ibid

69 Ibid

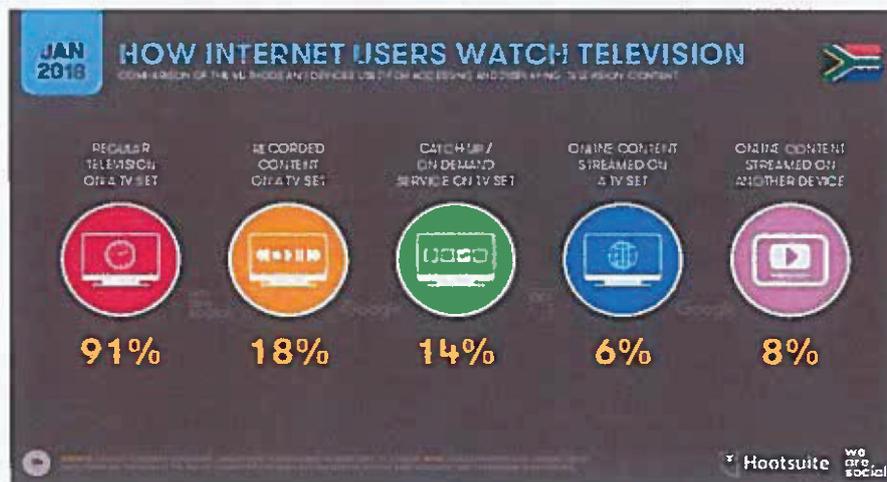
70 Ofcom. Communications Market Report. 3 August 2017 https://www.ofcom.org.uk/data/assets/pdf_file/0022/117256/CMR-2018-narrative-report.pdf

remaining 29% was non-broadcast content such as YouTube and subscription on-demand services such as Netflix and Amazon Prime Video⁷¹.

5.12.5 In 2018, 78% of US households continued to have a subscription television service, down from 88% in 2010. More than 69% of the US households had a subscription video-on-demand service from one of the major players. This was up from 64% in 2017, 59% in 2017 and 52% in 2015⁷². There is prevalence of 'cord stacking', where OTT services tend to complement rather than replace subscription TV services. For instance, about 53% had both a subscription TV service and SVOD service in 2018. One quarter had a subscription TV service but no SVOD and 16% had an SVOD service only with 6% having neither service⁷³.

5.12.6 Figure 5 below depicts a similar trend in South Africa as in the UK and US where live television, at 91% is still the most preferred method of watching content. The live streaming of content via a television set and other devices (including mobile phones) has a low prevalence at 6% and 8%, respectively.

Figure 5. Methods of accessing content



Source: We Are Social⁷⁴

71 Ofcom. Media Nations. https://www.ofcom.org.uk/data/assets/pdf_file/0014/116006/media-nations-2018-uk.pdf. July 2018

72 Marketing Charts. Most TV households report having both a pay-TV and a streaming video service. September 2018

73 Ibid

74 We Are Social Digital 2019 – South Africa. <https://datareportal.com/reports/digital-2019-south-africa>

- 5.12.7 In the past three years, there have been rapid developments including entry of OTT services into the South African market. OTT services and premium subscription television services are targeting similar audience profile in terms of income brackets and broadband reach. In addition, the propositions from both services are similar in terms of content proposition.
- 5.12.8 Given the above background and trends, the question that arises is whether in the event of SSNIP, a subscription television service consumer would switch to OTT services. From the chains of substitution analysis above, the Authority discards switching from a basic tier bouquet to OTT services, on account of substantially different price points. This then confines the analysis to middle-tier and premium bouquets.

Differences in content

- 5.12.9 Traditional broadcasting, including subscription television broadcasting is largely based on professionally produced content. Video-on-demand services on the other hand offer a mixture of content, including professionally produced; semi-professionally produced content and user-generated content⁷⁵. There are a number of content creators in the video-on-demand space who provide unique content which is not available on traditional television.
- 5.12.10 In the South African market, the most significant distinction in terms of offering between linear subscription television and OTTs remains the unavailability of premium live sport content on OTT services. The majority of rights to premium sports are locked up in long term contracts and thus not available for distribution on other platforms. The consumer survey conducted by the Authority revealed that access to sport and latest movie channels is a key driver for premium subscription television uptake, (20% of the respondents cited sport as a key driver while 12% cited latest movies). Value added services available to premium service subscribers such as CatchUp and

⁷⁵ Semi-professionally produced content refers to consumer or user-generated content that has professional or industrial qualities e.g. shot with professional-grade equipment, using professional talent, and which may be produced exclusively for online audiences; User generated content is publicly available and created or produced by consumers, often with little to no brand recognition

DStv Now App were other key drivers. In addition, Cell C submits that linear subscription television consumers that do not switch to OTT services are limited by inability to access live sport.

5.12.11 The Authority considered the advent of piracy and whether it constrains subscription broadcasting as claimed by MultiChoice. The Authority came to the conclusion that since there are various efforts to stem the tide of piracy not only in South Africa but globally, it does not offer a strong competitive constraint on subscription television.

5.12.12 According to IHS Markit, live sports, however it is consumed, is a premium product and viewers paying for such expect a premium experience. The IHS Markit consumer survey revealed that for streaming services this means experiencing seamless streaming, low latency and high quality video with no interruptions. It concludes that achieving all three is more difficult than it seems at the moment⁷⁶.

5.12.13 MultiChoice appears to share this view when it states in its pre-listing statement that –

*"Sports content is a significant feature of pay-TV, and surveys show that it remains an important criterion for subscribers."*⁷⁷

5.12.14 Most OTTs also do not offer news. This is likely to remain a forte for traditional broadcasters, including subscription broadcasters, for some time to come.

5.12.15 The following quote by the Netflix CEO indicates that Netflix has no intention of competing head on with MultiChoice, especially in the area of live sports and news broadcasting in the continent:

"Other firms will do sport and news; we are trying to focus on movies and TV shows. There are a lot of areas that are video that we are not doing: sports, news, video-gaming, user generated content. We don't have live sport....We are not replacing MultiChoice at all. They serve a need that's

⁷⁶ IHS Markit. New Frontiers for Distribution of Sports Content. December 2017

⁷⁷ MultiChoice Group Limited. Pre-listing statement. p22

effective tariff has been decreasing⁸¹. Operators across the board are also offering OTT related price bundles, with lower effective rates per MB. However, despite these initiatives, data prices are still relatively high in South Africa.

5.12.21 For instance, South Africa ranked 50th out of 100 countries, in the 2019 Facebook Inclusive Internet Index. The overall index score is based on the scores of the availability, affordability, relevance and readiness of internet categories⁸².

5.12.22 Research conducted by ICT Research Africa revealed that South African data prices are 134% more expensive than the cheapest data prices in the group of comparator countries. The cost of the cheapest 1GB in South Africa (\$8.28 and R99) is eight times the cost of the cheapest 1GB in Egypt (\$1.13). It was also found that the poorest 20% of South Africans have to spend 19% of their monthly income for just 1GB of data and the top 20% of income earners spend less than 1% of their income for the same 1GB of data. South Africa has the second highest data contract prices among BRICS countries, coming second only to Brazil⁸³.

5.12.23 Mobile operators point to the following as factors impacting data prices in South Africa –

5.12.23.1 lack of radio frequency spectrum;

5.12.23.2 high input costs such as labour, property, energy and company tax;

5.12.23.3 battery theft and vandalism at base station sites;

5.12.23.4 costly, time-consuming applications to municipalities;

5.12.23.5 the cost of rolling out and upgrading the network (network equipment is priced in dollars); and

81 Icasa. BI-Annual Report on the Analysis of Tariff Notifications Submitted to Icasa for the Period 01 July 2018 to 31 December 2018

82 Facebook Inclusive Internet Index: 2019. Available at <https://theinclusiveinternet.eu.com/assets/external/downloads/3i-executive-summary.pdf>

83 Comins, L. SA's data prices most expensive on continent. 24 October 2018. <https://www.pressreader.com/>

- 5.12.23.6 the topology of South Africa, including population density⁸⁴.
- 5.12.24 Thus we agree with Econet Media that when the total cost of OTT (subscription fee + internet) is compared to the cost of subscription-TV (subscription fee) it is higher than most subscription-TV packages, even when using conservative estimates for OTT costs.
- 5.12.25 Despite what MultiChoice states in its written submission about the cost of data decreasing, in its prelisting statement it states that all African countries show a relatively higher cost of mobile data and that it is estimated that mobile data cost will likely decrease over the next five years⁸⁵.
- 5.12.26 Notwithstanding the above, the Authority and the Commission are both currently engaged in processes aimed at reducing data costs. On 30 June 2017, the Authority published a Notice of Intention to Conduct an Inquiry to Identify Priority Markets in the Electronic Communications Sector⁸⁶, as part of a number of initiatives to address the high cost of communication including the cost of data, in South Africa. Around the same time, on 18 August 2017, the Commission initiated a market inquiry into data services in South Africa in terms of Chapter 4A of the Competition Act. On 28 February 2019, the Authority published the End-User and Subscriber Service Charter Second Amendment Regulations, which came into force on 1 March 2019, also aimed at addressing challenges with respect to data services. The Authority expects that through these interventions data prices are likely to decrease gradually over time.

Viewer experience

- 5.12.27 There are differences in viewing experiences from watching traditional tv and streaming or watching video-on-demand services.

84 Fin24. Special Report: Are we being overcharged for data? How SA stacks up against 9 peer countries. 19 January 2019

85 MultiChoice Group Limited. Pre-listing statement. p28

86 Government Gazette No. 40945

- 5.12.28 Out of the 23 million South Africans who have permanent internet access, only a third can only access the internet using their smartphones⁸⁷. This is not the best platform for streaming content. Moreover, very few consumers would have a 10Mbps fibre/ADSL internet package required for good quality, high speed internet connection.
- 5.12.29 Subscription television viewers on the other hand only need a decoder and satellite dish to have a good quality viewing experience.
- 5.12.30 However, traditional television viewers can watch only the content which is being broadcasted, with no control in terms of fast forwarding or changing the program, although catch up features are now common with most subscription television services.
- 5.12.31 Whilst a television viewer has to wait for the program to be broadcast on air at a particular set time, a video-on-demand user chooses to watch any video, movie or clip anywhere, anytime at his or her convenience. With respect to content, a video-on-demand user can find any type of programme of his or her interest.
- 5.12.32 Online viewing also allows consumers to choose a payment plan that suits their viewing habits whether it is weekly, monthly or quarterly subscriptions or flexible charge per download.
- 5.12.33 A standard feature of television services is advertising. From a consumer perspective, adverts interfere with the viewing experience and can be irritating. Online advertising on the other hand targets a specific audience which is actually interested in the product or service.
- 5.12.34 The importance of user experience in market definition featured prominently in the *Facebook/WhatsApp*⁸⁸ case regarding the boundaries between consumer communications applications and social networking services, such as Facebook. Whilst there are undoubtedly some overlaps between these

87 DStv vs Netflix: Which is better for the South African viewer <https://www.thesouthafrican.com/dstv-vs-netflix-which-is-better-for-the-south-african-viewer/>

88 European Commission. 2014. Facebook / Whatsapp. Case No COMP/M.7217

services, for instance in the functionalities offered, as both enable users to exchange text and audio messages, the European Commission's investigation revealed significant differences between them. For instance, social networking services tend to offer a richer social experience compared to consumer communications apps. Users of social networks are able to indicate their interests, activities or life events, create photo albums and express opinions on other users' postings (for example, by commenting or "liking"). Also, in social networks, a user's contact list is by default visible to other users which facilitates adding new contacts. The functionalities of consumer communications apps on the other hand are currently limited and focus on enabling basic communication between users rather than creating a richer experience around their digital identity.

- 5.12.35 Moreover, whilst consumer communications apps facilitate instant real-time communication (with handsets ringing and notifications being pushed to recipients), responses are generally sent promptly allowing a conversation, messages in social networks, such as comments on a posting, are not normally expected to be responded to in real time. Also, social networks tend to enable communication and information sharing with a wider audience than consumer communications apps, which are more personal and targeted.
- 5.12.36 However, due to the fact that these services are constantly evolving the European Commission chose to leave open the question of a possible distinction between consumer communications apps and social networks.
- 5.12.37 Subscription for premium content is dominant among urban dwellers who largely subscribe to OTT services in addition to other television broadcasting services. Some high-end consumers subscribe to OTT services only as they do not see premium subscriptions as value for money and they prefer on-demand viewing. The premium market is saturated, and introduction of new providers will not increase the pool of subscribers but will merely change the market share. The non-premium subscribers are value driven and would only change their packages when something valuable is added to the more expensive packages.
- 5.12.38 The consumer survey indicates that cord shaving occurs when prices change drastically and there is a limited extent of cord cutting. Therefore, when the price of premium subscription television increases drastically, consumers

generally opt for the mid-range subscription options. Insignificant changes in subscription price do not affect premium subscription television, as the price is in-elastic.

- 5.12.39 The significance of live sport content to premium subscription television services subscribers, and the high preference for linear television as a mode of audio-visual content consumption in the South African context limits the current ability of OTTs to be reasonable or credible substitutes.
- 5.12.40 Furthermore, the March 2018 BRCSA's Establishment Survey revealed that a TV set is still the preferred mode of audio-visual consumption for South Africans (98%) with smart phones (5%), laptop/PC (1%), Tablet (1%) and Games console (1%).
- 5.12.41 With respect to mid-range packages, MultiChoice's submissions demonstrated sufficient migration into premium subscription television services and vice versa. The Authority thus believes that midrange subscription television services could be substitutes for premium subscription television services and therefore considers them to constitute the same market.
- 5.12.42 MultiChoice states that whilst broadband speed requirements for live streaming of audio-visual content is relatively low, at 3 Mbps for standard definition and 5 Mbps for high definition, improvements in compression technology mean that the speed requirements will become lower in future, making the provision of audio-visual content via broadband even more widely accessible to South Africans⁸⁹.
- 5.12.43 MultiChoice indicates that OTT services, but especially the entry of Netflix into the South African market poses a competitive threat to MultiChoice. This position is contradicted in its 2016 business plan wherein MultiChoice states, in relation to Netflix, that [REDACTED]
[REDACTED]
[REDACTED].
- 5.12.44 Taken overall, MultiChoice appears to engage in what could be considered a 'threat inflation' tactic that is not underpinned by any hard evidence in the

⁸⁹ MultiChoice submission to Icasa: Inquiry Into Subscription Television Broadcasting Services. Para 89.2

South African market, beyond anecdote. It cites data from other countries and transposes the market dynamics to the South African context. In the Authority's view South Africa exhibits different market dynamics with different market outcomes.

- 5.12.45 In the Authority's view, data shows that MultiChoice is firmly in control of the market and will continue to do so in the foreseeable future, despite the entry of OTTs in South Africa. MultiChoice has pre-empted the impact of OTT entry by adopting new business strategies, [REDACTED] and has launched new services that compete directly with OTT services.

5.13 Substitutes or complements?

- 5.13.1 Perhaps an important point to consider is that to a large extent OTT services are more of a complement than a substitute to traditional television broadcasting services. Whilst a lot of attention has been given to cord-cutting, code-shaving and cord-never-ing, very little is said about the prevalence of 'cord stacking', where OTT services tend to complement rather than replace subscription TV services. According to Ofcom⁹⁰ on-demand and streaming services such as Netflix, Amazon Prime and NOW TV are mainly complementary to, rather than a replacement of, traditional subscription TV services, with 74% of subscribers to on-demand and streaming services also having a subscription TV subscription.
- 5.13.2 In the US, 52% of broadband households have a subscription to both pay TV and one or more OTT video services, compared to 17% who exclusively rely on an OTT subscription only for video entertainment⁹¹. As indicated above, Marketing Charts puts this figure at 53% of households having both a subscription TV service and SVOD service in 2018⁹², compared to about 25% with a subscription TV service but no SVOD and 16% with an SVOD service only and 6% having neither service⁹³.

90 Ofcom. Media Nations. https://www.ofcom.org.uk/data/assets/pdf_file/0014/116006/media-nations-2018-uk.pdf. July 2018

91 Parks Associates. Market Snapshot: OTT and Pay TV – Partnerships and Competition.

<https://www.parksassociates.com/bento/shop/whitepapers/files/ParksAssoc-OTTMarketSnapshot2018.pdf>

92 Marketing Charts. Most TV households report having both a pay-TV and a streaming video service. September 2018

93 ibid

- 5.13.3 Research carried out in Mexico in 2017 revealed that 88.9% of households with pay TV intended to continue their subscription or even considered hiring a premium package (cord-keepers). Among the remaining proportion, 6.0% were thinking of migrating to a lower-cost monthly package (cord-shavers) and only 5.1% considered to cancel their subscription pay TV (cord-cutters). The research concluded that in general, the OTT platforms are not considered an absolute substitute for the consumption of video content through pay television.
- 5.13.4 South African households are no different, also taking up OTT services to complement subscription television services. Key reasons cited by respondents to the consumer survey were that OTTs do not have sport content and therefore would not satisfy their needs. MultiChoice's data shows that [REDACTED]
[REDACTED]
[REDACTED].
- 5.13.5 MultiChoice launched Showmax, a video-on-demand service, in March 2016, just after the launch of Netflix in the country. Showmax is available to both DStv subscribers and non-subscribers. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- 5.13.6 The complementarity between OTT and subscription television services is further illustrated by the fact that MultiChoice has a distribution deal with [REDACTED]⁹⁴.

- 5.13.7 MultiChoice acknowledges the fact that the OTT market is expected to develop in parallel with, and to complement pay-TV in the future, both in terms of subscribers and revenue⁹⁵.
- 5.13.8 According to PWC, while OTTs continue to grab the headlines, in the short term at least, the likes of Netflix and Amazon Prime will, in the short term at least, likely be taken as a complementary service due to their dearth of **premium entertainment content** in the South African market⁹⁶. Moreover, PWC views MultiChoice's access to premium sporting rights as another reason why OTT services will most likely be taken as complimentary, thus leaving subscription TV services little changed.
- 5.13.9 In the *Liberty Global/Ziggo*, case the European Commission defined the relevant markets according to broadcasting windows. It found that, given the different conditions for the acquisition of rights for each exhibition window, and the limited instances in which a window could be replaced by another, there were indications that a different market for each exhibition window could be distinguished. As regards video-on-demand, the market investigation indicated a clear distinction between subscription video-on-demand and transaction video-on-demand, mostly due to the fact that both types of services had different business models, different pricing conditions, and fell into separate and distinct viewing windows.
- 5.13.10 The differences in business models and pricing conditions suggested that SVOD and TVOD could constitute two separate product markets. However, since the transaction did not raise competition concerns, the European Commission left open the question whether licensing and acquisition of broadcasting rights for each exhibition window, belonged to the same markets or not.
- 5.13.11 Next, the Authority considers supply-side substitution.

95 MultiChoice Group Limited. Pre-Listing statement. 21 January 2019. p27

96 PWC. Entertainment and media outlook: 2018-2022. An African perspective. www.pwc.co.za/outlook

- 5.13.12 From a supply-side perspective the question is whether there are alternative suppliers who would switch production to the focal product, in this case subscription television services, in the event of a price increase.
- 5.13.13 First, the Authority considers whether FTA service providers would switch. In the South African context, a subscription television service licence is required in order to provide a service. This means that FTA service providers would not be able to provide certain content, such as FSPTW movies and all the sports programming currently being offered on subscription, until the expiry of the current sports rights. Therefore, switching would not occur immediately nor would it occur at least cost.
- 5.13.14 When it comes to OTT service providers, again they would not be in a position to offer content that is currently found on subscription service such as FSPTW movies, premium sport content and local content. In order to offer FSPTW movies OTT service providers would need a subscription television licence. This is not possible in the short-term, given the fact that the invitations to apply for new licences are done infrequently. It is also highly unlikely that OTT service providers would want to enter the traditional subscription television market. Instead, it is traditional subscription television service providers who are entering the OTT service space. Also given the fact that OTT services rely on good quality, affordable and widely accessible broadband services, any switching would only capture a small portion of the subscription TV audience. Therefore, supply side substitution by OTT service providers would require a lot of time and investment in order for it to be effective in South Africa.
- 5.13.15 Thus taken in aggregate, the Authority does not find evidence pointing to a strong competitive constraint on subscription television broadcasting to render a SSNIP unprofitable.
- 5.13.16 In the *Liberty Global/Ziggo* merger case⁹⁷ the court found that the OTT platform was not yet sufficiently developed in the Netherlands at that time to

97 European Commission. *Liberty Global / Ziggo*. Case No M.7000

allow TV broadcasters to switch their distribution instantly and entirely from the classic fixed networks in favour of the Internet.

- 5.13.17 Given the above, the Authority recognises the competitive constraint posed by OTTs on subscription services. However, it is the Authority's view that such constraint is not strong enough to warrant including OTTs in the same relevant market as subscription services. Thus, the Authority considers subscription broadcasting services as falling in a separate market with OTT services constituting an out of market competitor. When determining the effectiveness of competition in section 7, the Authority will consider whether FTA, OTT and other similar services constitute potential competition to subscription TV services.
- 5.13.18 From a geographic market perspective, whilst all other stakeholders point to a national market confined to South Africa, MultiChoice considers itself to be in competition not only with domestic free-to-air broadcasting services, subscription broadcasting services and electronic communications network service providers but also with regional and international OTT and other video-on-demand service providers.
- 5.13.19 The Authority maintains the view expressed in the Discussion Document that insofar as the geographic market definition is concerned, broadcasters are licensed on a national basis. OTT service providers also tend to configure their service taking into account local viewer preferences, in addition to international content like movies and series. Rights to content are also given for specific geographical areas, usually limited to national boundaries. Thus, it is the Authority's finding that the relevant geographic market is South Africa.
- 5.13.20 Given the above considerations, the Authority has defined the following retail markets:
- 5.13.20.1 a market for the retail distribution of analogue based free-to-air television services in South Africa;
- 5.13.20.2 a market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa;

5.13.20.3 a market for the retail distribution of premium subscription television services in South Africa; and

5.13.20.4 a market for the retail distribution of video-on-demand services in South Africa.

5.14 Upstream wholesale market: *Channel provision*

5.14.1 In the Discussion Document, based on the value chain diagram, the Authority discussed the level of channel provision. Television channel suppliers acquire or produce individual audio visual content and package it into television channels, that are distributed to viewers through different distribution networks, which in South Africa include, analogue terrestrial, digital terrestrial, satellite and Internet.

5.14.2 Traditionally, the distribution of television channels in South Africa occurred either on a FTA basis or on a subscription basis. Channels can also be distributed individually or as part of a bouquet. The supply-side of the market comprises TV channel suppliers. Its demand side comprises providers of retail TV services, which either limit themselves to "carrying" the TV channels and making them available to end users, or also act as channel aggregators, which also "package" TV channels.

5.14.3 Broadcasters can also self-provide channels from content produced through commissioning or in-house production. A question that arises is whether a hypothetical monopolist of a television channel can profitably raise its price by 5%-10%. The Authority considers how broadcasters who purchase wholesale channels would respond to such a price increase.

5.14.4 Following some analysis, the Authority then defined two markets at this level:

(a) a market for the wholesale supply and acquisition of basic-tier subscription-tv channels in South Africa; and

(b) a market for the wholesale supply and acquisition of premium-tier subscription-tv channels in South Africa.

5.14.5 Cell C contends that it may be appropriate to define premium and non-premium content without any sub-markets because in time sub-markets are bound to change, due to changes in viewing preferences and trends. As such,

trying to shoehorn content into narrow categories or any categories at this time would seem premature.

- 5.14.6 In addition, Cell C posits that if one were to apply the SSNIP test, it would have to be applied to the entire bouquet of channels offered by MultiChoice, since the channels are not available on an individual basis.
- 5.14.7 Telkom broadly agrees with the Authority's definition of the wholesale market for channel provision, although it suggests having a market for premium channels and one for all other channels.
- 5.14.8 Whilst e.tv agrees with the Authority's definition of the wholesale supply of television channels, it points out that in reality, both the retail and wholesale markets include FTA channels as part of a bouquet.
- 5.14.9 Act-SA states that the wholesale market as defined does not appear to accord with the way channels are produced, based on a business case. Broadcasters and OTT players use channels based on the choices of their customers. The wholesale market also seems to be artificially limited by referring only to subscription broadcasting, when there are other players in the market such as OTTs and FTA service providers.
- 5.14.10 According to MultiChoice⁹⁸, the market for the wholesale supply of linear channels should be assessed on constraints. There are direct and indirect constraints from non-linear content. Retailers can acquire content directly and use it either in non-linear offerings or in channels they package themselves. Although channel packaging may be identified as an activity distinct from content production, distribution and retailing, this does not necessarily imply that the supply of channels forms a relevant market.
- 5.14.11 When assessing the constraints on a hypothetical monopolist one must consider whether a stand-alone wholesale monopolist supplying television channels to independent audio-visual retailers would be able to impose a SSNIP over the competitive price level. According to MultiChoice, since for consumers linear channels are readily substitutable for non-linear content,

98 MultiChoice submission. Icasa Discussion Document on Subscription Broadcasting Television Services. Para 420-424

retailers would find such substitution at the wholesale level as well. Such a hypothetical monopolist would also be constrained by original content owners who distribute directly to consumers using OTT. Also, retailers do not need to acquire content in aggregated form since they can readily undertake the aggregation themselves.

5.14.12 Therefore, MultiChoice submits that there is no separate upstream market for the wholesale supply of channels or any other aggregation form of content such as VOD libraries.

5.14.13 MultiChoice quotes the UKCC's findings to support its assertions with respect to the wholesale market for channel supply⁹⁹.

5.14.14 Econet Media agrees with the Authority's characterization of the wholesale channel supply market, indicating that it accords with the European Commission's definition in the NewsCorp/BSkyB merger¹⁰⁰, where it was found that premium content channels were not substitutable with basic tier channels because premium content was not broadcast on any other channels. Ofcom came to a similar conclusion in its pay TV market investigation¹⁰¹. Furthermore, the segmentation of the relevant markets for premium and basic tier channels is a function of content aggregation higher up the value chain.

5.15 The Authority's findings

5.15.1 In the Discussion Document, the Authority indicated that the demand for television channels/bouquets at the retail level is driven by the type of content shown in each channel. Similarly, channel providers would supply channels to broadcasters on the basis of whether such channels carry premium content or not. Thus demand-side substitution at the wholesale level is a reflection of demand-side substitution at the retail level. The Authority then considered whether from a demand side substitution perspective, a television broadcaster would, on behalf of its viewers, consider two or more channels as substitutes.

99 UKCC. Movies on Pay TV Market Investigation, 2 August 2012, para 4.126

100 European Commission. NewsCorp/BSkyB notification of 3 November 2010. Case No COMP/M.5932, p7

101 Ofcom. 2007. Pay TV Market Investigation - Consultation Document, p9

The Authority considered that whilst channels in the same genre may compete against each other, for instance, documentary channels such as Nat Geo Wild and Animal Planet competing or lifestyle channels such as E! Entertainment and Spice TV also competing, it is highly unlikely that a SSNIP on a documentary channel, would lead to switching by broadcasters to a movie channel, for instance.

- 5.15.2 What is also important to consider at the wholesale level is demand side substitution by advertisers because channel producers use television content or programmes to produce channels, typically by including advertising, promotional and presentational material alongside the television content. Therefore, channels might be regarded as being in the same relevant market if a rise in the cost of advertising on one would lead advertisers to switch to advertising on the other. Since advertisers chase after audiences that are attracted to a particular channel, the Authority does not believe that channels of different genres would be substitutable from an advertiser's perspective.
- 5.15.3 From the supply side, the test for substitutability is whether an increase in the price of a channel will attract suppliers of other channels. Since channel providers tend to specialize in certain type of content it is still the Authority's view that in the event of a hypothetical monopolist increasing prices it is unlikely that providers of channels in different genres would switch immediately.
- 5.15.4 The Authority's view accords with the findings of the European Commission that –

"The wholesale price of acquiring film and sports channels is also far higher than that of other channels: small permanent increases in relative prices have been profitable. Taking the figures most favourable to BSkyB from BSkyB's wholesale price list (rate card) for the supply of its channels to cable operators, the cost to a cable operator of acquiring a single film or sport channel is at least seven times as much as the most expensive Sky basic channel. This demonstrates that the wholesale supply of film and sports channels forms a separate market."

5.15.5 The Authority does not agree with MultiChoice's submission that there is no separate upstream market for the wholesale supply of channels. In the *Caxton v Multichoice*¹⁰² matter the Group CEO for MultiChoice testified that over the years MultiChoice has concluded channel licensing agreements with a number of channel providers which were also broadcasters in the South African market. He indicated that –

"There is nothing unusual about a channel distribution agreement between a vertically related channel provider and retail broadcaster which happen to compete against one another in the downstream market for retail broadcasting services."

5.15.6 This points to the existence of a wholesale market for the supply of channels.

5.15.7 The Authority also does not agree with MultiChoice that linear channels are readily substitutable for non-linear content. As already submitted, the windowing model for movie release circumscribes service providers according to distribution channels, thereby imposing a form of price discrimination. When it comes to sport, most streaming service providers currently do not offer any sport in their programming. Indeed, there could be general content that is substitutable, but it is a fallacy that linear and non-linear content is currently readily substitutable in South Africa. Perhaps, this would be true sometime in the future but the Authority is not persuaded that this would be the case in the short or medium term.

5.15.8 Thus, on the basis of information at its disposal the Authority is unable to find plausible the argument of a single homogenous global content offering. In our view there is still a distinction between premium and non-premium content and the appeal of content is dependent of a number of factors such as culture, language, geography, live v non-live, first window v other windows.

¹⁰² *Caxton and CTP Publishers and Printers Limited and Others v MultiChoice Proprietary Limited and Others* (140/CAC/MAR16) [2016] ZACAC 3 (24 June 2016)

5.15.9 Thus the Authority maintains its position and finds that there are separate markets for premium and non-premium content, and therefore separate channels.

5.15.10 This notwithstanding, the Authority agrees with Econet Media's submission to the effect that the segmentation of the relevant markets for premium and basic tier channels is a function of content aggregation higher up the value chain. That being the case, the Authority does not deem it necessary to conclude on the wholesale market for channel provision. Rather, the Authority restricts its focus to consideration of the wholesale market for content provision.

5.16 Upstream wholesale market: *Content provision*

5.16.1 The first level of the television broadcasting value chain consists of content acquisition or production. Television content can be produced internally, commissioned through independent producers or purchased from third-party content rights holders locally or internationally, such as sport bodies, movie houses and other television programme content creators. Broadcasters or channel producers compete for the purchase of content acquired from third parties. As such, market definition at the upstream level is approached from the broadcaster's or channel provider's perspective.

5.16.2 Cell C submits that in this, the first such inquiry, too many market subdivisions are unhelpful, or too complex, but that certain subdivisions are critical. The complex approach proposed by ICASA may well obscure the fact that MultiChoice is, as a matter of fact, dominant in the subscription television market and for premium content acquisition and distribution. Cell C agrees that the relevant upstream market for the acquisition of electronic audio-visual content (as MultiChoice describes it) includes rights for distribution using all technologies, and linear and non-linear rights as well, but does not agree that one entity should acquire all of these rights and "squat" on them, that is, buy the rights to offer content across various platforms and then only use one subset of them via satellite distribution. When other platforms try to acquire content, it is sterilised, often for long periods of time. Cell C claims that it has

asked for content and been refused by Multichoice. Cell C requests the Authority to examine every contract concluded by MultiChoice in order to establish whether it is not controlling content in these markets.

5.16.3 The Commission notes that in the upstream wholesale market for the supply of premium content, as defined, the sports federations, as owners and sellers of the sports content rights, may decide (in the context of a bidding process, for example) how and to whom to sell their sports broadcasting rights, the duration and the territory. In the context of private negotiations, these factors are an outcome of the bargaining process that takes place.

5.16.4 Experience has shown that there are a limited number of buyers (i.e. broadcasters) in South Africa to which sports federations can sell their broadcasting rights. In respect of subscription television services, these include SuperSport and ODM while for FTA services, the SABC and e.tv would be contenders. This, in the view of the Commission, significantly limits the sports federations' bargaining power as there is an insignificant number of potential buyers to whom content rights owners could sell. This is further exacerbated by the fact that even on other considerations such as the capacity to broadcast live matches, expertise and production quality standards, subscriber base and the ability to pay the required amounts for rights, there are limitations which rule out other buyers. These limitations include the capacity and technical expertise to broadcast sports events at the required level of quality of production, for example. This effectively narrows down the number of suitable buyers even further, thus limiting the alternatives available to content rights owners.

5.16.5 As a result, it is noteworthy that certain sports federations have repeatedly sold their content rights (on an all-inclusive basis) exclusively to a single broadcaster over a significant period of time. This is illustrative of the limitations faced by content rights owners and indicative of the constraints on their bargaining power given the limited buyer alternatives available¹⁰³.

103 Competition Commission Comments on the Discussion Document for the Inquiry into Subscription Television Broadcasting Services, para 8.3 – 8.5

- 5.16.6 Econet Media by and large supports the Authority's characterisation and definition of the wholesale market for content acquisition. It states that there is a large volume of precedent supporting distinct markets for different types of content at the top-most level of the broadcasting supply chain. Econet Media references findings by the European Commission and Ofcom as supporting the Authority's market definitions¹⁰⁴.
- 5.16.7 Act-SA submits that it is difficult to determine what constitutes premium content. Yet, it could be argued that all content on a subscription television platform is premium on the basis that viewers are prepared to pay to receive it as opposed to remaining on a free platform.
- 5.16.8 Act-SA concludes that there is clearly a market for audio-visual content, both linear and non-linear. Within that market there is some high value content that is desirable to have on an exclusive basis, whether by a subscription, FTA or OTT service provider.
- 5.16.9 e.tv agrees with the Authority's definition of the market for the wholesale supply of content, but points out that in reality, both the retail and wholesale markets include FTA channels as part of a bouquet
- 5.16.10 Telkom agrees broadly with the Authority's definition of the wholesale market for content acquisition. However, it states that the concept of premium content is fluid since channels sometimes successfully make a sporting event premium which was previously not. As such, the definitions should not be cast in stone by the Authority, but be adaptable and flexible to address the fluid market¹⁰⁵.
- 5.16.11 MultiChoice submits that the market for the acquisition of electronic audio-visual content is a broad one. This is based on the fact that there is no relevant distinction to be drawn around rights sold for distribution using different technologies. Also, there is no relevant distinction between premium and non-premium content. Furthermore, the term 'premium' is vague and does not

104 Econet Media. Submission in respect of the Discussion Document: Inquiry into Subscription Television Broadcasting Services. 4 December 2017 para 5.12.1 – 5.12.4

105 Telkom submission to ICASA: Discussion Document on the Inquiry into Subscription Television Broadcasting Services. 4 December 2017, para 36

derive from an analysis of competitive constraints on a hypothetical monopolist, hence it does not provide a reliable basis for definition of the relevant market.

- 5.16.12 MultiChoice argues that when assessing whether there are separate markets for the acquisition of electronic audio-visual content in different genres, regard must be had to the fact that retailers compete for subscriptions, and viewers' subscription decisions depend on the overall programming offered by various electronic audio-visual services., rather than on the availability of a specific content genre within a specific service.
- 5.16.13 Moreover, as upstream demand is derived from retail demand, these characteristics of retail demand imply that when acquiring content rights, a retailer can choose from among a variety of content. Thus, if faced with a SSNIP, retailers may substitute to content in other genres in order to build compelling packages which will attract subscribers¹⁰⁶.
- 5.16.14 MultiChoice further argues that there's no distinction to be drawn around rights sold for distribution using different technologies. From the demand side a hypothetical monopoly supplier of content rights for distribution using a particular technology would be constrained from imposing a SSNIP by competitors supplying the same content for distribution using other technologies. Where rights are sold as a bundle. Retailers who use different technologies are in direct competition for those rights. Therefore, there can be no separate markets.
- 5.16.15 From the supply side, once the content has been created and licensed for distribution using one technology, the barriers to licensing for another technology are very low.
- 5.16.16 There is no distinction between premium and non-premium content, any such distinction is vague since there's no clear means of determining whether any content within a particular genre is premium.

106 MultiChoice submission to Icasa: Inquiry into Subscription Television Broadcasting Services. Para 387 - 396

- 5.16.17 Retailers trade-off what content rights or channels to acquire, by considering whether the additional cost of higher priced content provides a sufficient benefit in terms of subscription and advertising revenues in excess of the amount that must be paid for the content
- 5.16.18 A hypothetical monopolist of aggregated content or channels based on FSPTW Hollywood movies would be constrained by the direct-to-consumer OTT models of many studios such as Disney and HBO which offer not just movies in other windows, but very high quality series content.
- 5.16.19 Viewers' subscription decisions are based on the overall programming offered by various electronic audio-visual services rather than on the availability of a specific content genre within a specific service (this is exactly why people subscribe to a pay-tv. Different content genres do not fall within separate markets

5.17 The Authority's findings

- 5.17.1 The Authority starts its analysis by asking what a television or video-on-demand service provider, would do if the price of a particular set of content increases by a margin of 5%-10%.
- 5.17.2 Intuitively, it is easy to assume that such a distributor has various options given the proliferation of content. Therefore, a hypothetical monopolist would not be able to profitably raise prices. This appears to be the position that Mutichoice takes, that all types of content, linear and non-linear, are substitutable and there is no basis to differentiate among genres or between premium and non-premium content. Such analysis is overly simplistic. The Authority does not believe that all content is substitutable for the following reasons:
- 5.17.2.1 First, as has previously been indicated in this Draft Findings Document, the wholesale demand for content is a derived demand. Broadcasters act to satisfy the preferences of their viewers. For example, it would be a fallacy to assume that lovers of live soccer would all of a sudden be satisfied with watching a movie, drama series, a reality show or news, in the event that

a broadcaster that airs such live matches is faced with a SSNIP and decides to purchase other content. A broadcaster who does that would lose viewers. This explains the high demand for rights to live soccer matches despite the high cost of such rights. There is a lot of evidence from around the world pointing to the rising cost of acquiring sports rights in general over the years. For instance, global sports programming spend has been increasing over time, totalling \$26.5 billion in 2016, a 60% increase on spend of \$16.6 billion in 2007¹⁰⁷. In the South African context, the cost of broadcast rights for the English Premier League soccer is said to have increased thirty-fold over the past 25 years to 2017. According to MultiChoice the cost of acquiring football rights increased [REDACTED] between 2014 and 2018. Over the same period, costs of rugby rights increased [REDACTED] while other sports increased to [REDACTED]¹⁰⁸, while general entertainment costs increased from [REDACTED] to [REDACTED]. [REDACTED] MultiChoice has historically had as part of its strategy to grow and sustain the business the retention of what it calls key sports and content rights. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹⁰⁹. MultiChoice also appears to distinguish itself from OTT content by stating that:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹¹⁰.

107 IHS Markit. *New Frontiers for Distribution of Sports Content*. December 2017

108 MultiChoice presentation of confidential business plan Information to Icasa. 19 November 2018.

109 MultiChoice2016 Business Plan, p6; 2017 Business Plan p3,

110 MultiChoice2016 Business Plan, para 2.4.3, p16

5.17.2.2 This acknowledgement of the difference between OTT content and 'premium' television content is also apparent in MultiChoice's 2019 Business Plan, which in projecting the Showmax business, states that:

" [REDACTED]
[REDACTED]
[REDACTED] .¹¹¹"

5.17.2.3 The Authority does not believe that the difference between premium television content and OTT content is no longer in existence as MultiChoice contends. Certainly, the difference is still acknowledged globally and even in MultiChoice's own internal strategic documents.

5.17.2.4 Whilst MultiChoice argues in its written submission and oral presentation that there has been proliferation in the range and volume of content that is attractive to viewers such that content that may have been regarded as premium in the past, such as FSPTW rights to Hollywood movies and certain sports, has been declining in importance, this is contrary to its actions and strategy [REDACTED].

5.17.2.5 [REDACTED]
[REDACTED]
[REDACTED]. In practice MultiChoice has gone on to acquire the majority of rights to premium or what it calls 'key' live sports matches, including the PSL, the English Premier League, La Liga and UEFA Champions League. These are the most popular competitions in South Africa. [REDACTED]
[REDACTED] the Authority terms 'premium content'. Specifically, in its 2017 integrated annual report¹¹² MultiChoice states that M-Net delivers premium thematic channels and exclusive content, sourced from international content owners or specifically commissioned (the Authority's local productions). This premium entertainment is distributed to DStv customers on selected packages. It

¹¹¹ MultiChoice2019 Business Plan, para 6.3.1, p24

¹¹² Multichoice. Integrated Annual Report, p5 and p 27

further states that its digital video-rental product, BoxOffice, continues to perform well, providing a quality home-video service where customers can access the latest and best premium movies ahead of the pay-TV window.

[REDACTED]
[REDACTED]¹¹³.

Therefore, the Authority does not agree with MultiChoice's contention that premium content ceased to exist in the distant past, when it continues to make strategic plans around premium content and also reports on it in its statutory integrated annual reports.

5.17.2.6 Second, Hollywood movies are sold in windows that clearly delineate different types of distributors, indicating that such movies cannot be equated to any other content. The windowing model ensures that content rights are split across platforms, geographies, and time periods. The idea is that by doing so, content creators and rights holders can maximize the value generated by a single unit of content across multiple buyers. The price discrimination inherent in the windowing model means that content providers are able to segment customers according to their demand elasticities and also prevent re-selling from one group to another. Therefore, price discrimination can point to markets that are separate.

5.17.2.7 MultiChoice has been able to buy most of the premium first run movies from the major movie studios for distribution in South Africa. MultiChoice admits that the cost of premium first pay movies [REDACTED]
[REDACTED]¹¹⁴.

5.17.2.8 Third, research¹¹⁵ indicates that sports programming remains a driver of domestic and global growth for traditional television. In some markets it is lifting otherwise flat or negative trends in spending for traditional tv content. Without sports programming, some markets, such as Italy and France, would be declining in terms of content production spend.

113 MultiChoice2017 Business Plan, p28, 2018 Business Plan 44

114 MultiChoice2016 Business Plan, para 6.5.4

115 BCG. The Future of television: The Impact of OTT on video production around the world.

and wholesale markets for the supply of premium film and sport rights, among other broadcasting markets.

Similarly, in the *Viacom/Channel 5 Broadcasting* decision, the European Commission noted its previous approach of considering (i) sport events, (ii) premium films and (iii) other TV content (such as documentaries, youth programmes, etc.) as separate product markets¹²⁰. In *News Corp/ BskyB*¹²¹ the EC found that a majority of content distributors also consider that a distinction should be drawn between premium and non-premium audio-visual content. A similar distinction between premium and non-premium content is made in *British Interactive Broadcasting/Open*¹²².

The Authority does not agree with MultiChoice that viewers' subscription decisions depend on the overall programming offered by various electronic audio-visual services, rather than on the availability of a specific content genre within a specific service. The results of the Authority's survey clearly indicate that viewers take into account the type of content offered, in their decision making. Specifically, the Authority finds that movies, sport and drama series are mentioned most frequently when personal preference is at play. Such preferences influence the type of service that viewers would ultimately choose, other things being equal.

5.17.5 The Authority also heard evidence during the public hearings that viewers in the lower LSMs move from free-to-air services to subscription television services as a form of progression, in order to access particular content, among other things¹²³.

5.17.6 The European Commission, in the *Liberty Global/Ziggo* case¹²⁴ also assessed the existence of possible separate markets for premium and non-premium content both in sports and in film rights licensing. Its market investigation revealed differences in price and ability to attract viewers (e.g. films with high

120 Case No Comp/M.7288 - Viacom/ Channel 5 Broadcasting

121 Case No COMP/M.5932 - News Corp/ BskyB available at

http://ec.europa.eu/competition/mergers/cases/decisions/m5932_20101221_20310_1600159_EN.pdf

122 Case IV/36.539. *British Interactive Broadcasting/Open*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31999D0781&from=EN>

123 SOS oral presentation

124 European Commission. *Liberty Global / Ziggo*. Case No M.7000, para 54

box office success and popular sports, such as Formula 1, UEFA Champions League and the FIFA World Cup). This suggested the existence of a distinction between the acquisition of rights for premium content and the acquisition of rights for non-premium content. This view was corroborated by the responses of TV retailers to the market investigation who indicated the existence of premium and non-premium content. However, for the purposes of its decision, the question whether broadcasting rights for premium and for non-premium content constituted different markets was left open.

- 5.17.7 According to the European Commission¹²⁵, the qualification of content as premium or not, seems to depend not solely on the nature of the content, but also on contingent circumstances (for instance the emergence of a national champion or talent in the case of sports).
- 5.17.8 Taking the foregoing into account, the Authority maintains its position that there is premium and non-premium content. The Authority agrees that premium content is a fluid concept that is dependent on the circumstances prevailing at a particular point in time in a market and is specific to a geographical area, given the culture and preferences of the population. Therefore, for purposes of this enquiry the Authority considers the following to be premium content: (a) Hollywood premium FSPTW movies and series; (b) major live soccer matches including Bafana Bafana, FIFA World Cup, PSL, EPL, UEFA, La Liga, Bundesliga, Ligue 1 and Serie A live soccer matches; (c) major live rugby matches, including Rugby Championships, Super Rugby, World Rugby Sevens Series and the Currie Cup Premier Division and the Super 14; and (d) live cricket matches, including the IPL, T20, ODI and test matches involving the Proteas.
- 5.17.9 Having established that premium content consists of FSPTW movies, series and live sports the next question is what would a television broadcaster or video-on-demand service provider, do when faced with a SSNIP on say premium movies. According to Multichoice, such a service provider would turn to all other types of content available in the market. The Authority disagrees.

125 Ibid para 74

For instance, live sports are not substitutable for movies in the Authority's view. Neither are series or local content.

5.17.10 The Authority wishes to restate the same arguments proffered in this regard in the Discussion Document in terms of defining this market.

5.17.11 Advertisers also consider the profile of viewers in order to place an advert on a particular channel. A male dominated sport channel is likely to attract adverts targeted at males of a particular age, race and SEM groupings. However, for a gender-neutral advert it may be immaterial in which channel to advertise if the numbers are the same, thus making no distinction between types of channels. Viewers on the other hand would not necessarily regard live sport as a substitute to movies, for instance.

5.17.12 Furthermore, the characteristics of movies, sport and other premium content also differ. For instance, movies have a much longer shelf life and for that reason are sold in specific time-bound windows, whereas live sporting events on the other hand are perishable and lose value much faster once the event is over. Thus, the Authority proposes a further distinction, between types of premium content, distinguishing between feature films and movies; series and live sport, including live rugby, cricket and premium soccer matches.

5.17.13 When it comes to live sport, a nation's culture, tastes and preferences determine what constitutes premium sport. In South Africa live rugby, cricket and PSL soccer matches are regarded as the top three sporting codes with a large following and offered on exclusive basis on television. Therefore, the three sporting codes can be viewed as premium content¹²⁶. However, live soccer, rugby and cricket also differ in terms of characteristics and the profile of followers. Rugby and cricket have traditionally been seen as having a large following from the white community whilst soccer on the other hand has more black followers¹²⁷. Thus, a broadcaster is unlikely to substitute soccer for

126 The "Top Ten" and the "Big 3" of South Africa sports, available at <http://www.south-africa-tours-and-travel.com/south-africa-sports.html>

127 South African sport still divided by race, available at <https://www.theguardian.com/world/2013/jan/21/southafrica-sport-divided-race>

See also 'Sport in South Africa', <https://www.safarinow.com/cms/sport-in-south-africa/lrie.aspx>

rugby or cricket. Despite these differences, the Authority does not deem it necessary to further divide the markets in terms of sporting code.

- 5.17.14 From a supply side substitution perspective, creators of content are specialised entities with a focus on specific areas, such as movies, sports, soaps, lifestyle magazines and others. Substitution from one area of focus to another would come at an added cost and would not happen within a reasonable timeframe, thus confirming separate markets for movies, series, sport other premium content.
- 5.17.15 Non-premium content is usually bundled up with premium content in order to create a bouquet or package for retail offering. For the Authority's purposes it is not necessary to consider whether all non-premium content is substitutable from a demand side.
- 5.17.16 Ofcom¹²⁸ defined the premium movies sector as comprising rights to the output of the six major Hollywood studios, and it found that Sky controlled the UK rights to the first subscription pay TV window of all six studios. Ofcom noted that Sky also acquired subscription video-on-demand rights to first run movies, although it was not at that time heavily utilising these rights.
- 5.17.17 Ofcom concluded that this was evidence that BSkyB had market power in the linear channel distribution of premium movies. And at a time when growing SVOD services were disrupting the pay TV market, Ofcom concluded that Sky's position in the market could also limit competition in on-demand services in the future.
- 5.17.18 The consultation with local stakeholders indicated that this definition of premium content on international content is consistent with OFCOM's definition. Local players believe the first run window of international blockbusters constitutes premium content. They have observed that the agreements entered into by MultiChoice have increased the duration of their first run of the premium content.

128 UKCC. Movies on Pay TV Market Investigation: A report on the supply and acquisition of subscription pay-TV movies rights and services, 2 August 2012

- 5.17.19 Ofcom¹²⁹ also defined the market for premium sports channels as consisting of Sky Sports 1 and Sky Sports 2, which are wholly owned and operated by BSkyB. These channels together carry Sky's coverage of English Premier League football, which is a major driver of premium pay TV in the UK. Ofcom noted that Sky consistently held a 90% share of the premium sports channel market, and that its long-term hold on key rights – of which the English Premier League rights were the most important – were a barrier to entry and expansion for other providers. Finally, Ofcom saw Sky's high profitability as evidence that it was dominant in the wholesale market.
- 5.17.20 Ofcom argued that, while Sky was dominant at retail and wholesale level, it was at wholesale level where Sky had the strongest incentive to exercise market power. Ofcom's key concern was that Sky was able to use its market power in the wholesale market to restrict the wholesale supply of Sky Sports 1 and Sky Sports 2 to other retailers, which was prejudicial to fair and effective competition.
- 5.17.21 Ofcom's finding was based on Sky's behaviour in commercial negotiations with BT, Virgin Media and other pay TV providers. Ofcom took intelligence from competitors about Sky's negotiating practices as evidence that Sky did not engage constructively in negotiations and that it was withholding supply for strategic reasons. For example, Ofcom noted that Sky set high wholesale prices for standard definition channels and did not supply its high definition channels to competitors. Sky was, according to Ofcom, forgoing revenue for strategic reasons – to protect its own retail business in DSAT and to reduce the risk of stronger competition in the bidding for content rights.
- 5.17.22 The results of consultations with stakeholders indicate that certain sport categories constitute premium content in South Africa. The rights to these sports rights are held by MultiChoice and this is considered to be its competitive advantage.
- 5.17.23 MultiChoice has been able to increase prices by more than ■ on average for most of its bouquets and still remained profitable. Figure 6 below shows annual

129 Ibid

price increases between 2014 and 2017. Figure 7 below indicates the profitability trend during the same period but up to 2018.

Figure 6. MultiChoice average % price increase per bouquet: 2014-2017

REDACTED



Figure 7. MultiChoice revenue and trading profit 2014-2018¹³⁰

REDACTED

Source: MultiChoice business plans

- 5.17.24 Insofar as the geographical boundary of the market is concerned, content can be sourced from anywhere in the world. However, in most instances such content rights are acquired and granted for a specific geographical area, usually on a national basis. All respondents indicated that their primary geographical market is South Africa, in line with their licences, although MultiChoice stated that it also competes with international players.
- 5.17.25 Therefore, taking into account (a) the SSNIP test; (b) characteristics of premium and non-premium content; (c) responses to the Discussion Document; (d) internal research; and (e) case precedent, we define at the upstream level –
- 5.17.26 a wholesale market for the supply and acquisition of premium content for distribution in South Africa; and
- 5.17.27 a wholesale market for the supply and acquisition of non-premium content for distribution in South Africa.

¹³⁰ 2018 are forecast figures

6. CONSIDERATION OF THE EFFECTIVENESS OF COMPETITION IN RELEVANT MARKETS

6.1 Overview

6.1.1 Once the relevant markets and market segments have been identified and defined the ECA provides that the Authority must then assess the effectiveness of competition in those markets and market segments.

6.1.2 Section 67(4A) of the ECA provides a guide that should be followed when making a determination regarding the effectiveness of competition in a relevant market. It states that –

*“(4A) When determining whether there is **effective competition**¹³¹ in markets and market segments, the Authority must consider, among other things –*

(a) the non-transitory (structural, legal, and regulatory) entry barriers to the applicable markets or market segments; and

(b) the dynamic character and functioning of the markets or market segments, including an assessment of relative market share of the various licensees or providers of exempt services in the markets or market segments, and a forward looking assessment of the relative market power of the licensees in the markets or market segments.

6.1.3 In the Discussion Document the Authority proposed to consider the following factors or approach in fulfilling the requirements of section 67(4A):

- Non-transitory (structural, legal and regulatory) barriers to entry;
- The dynamic character and functioning of the market (including market power and concentration levels);
- the nature and extent of vertical integration in the market; and
- whether competition law alone will be sufficient to deal with the identified market failure.

6.1.4 In light of the above, the Authority posed the following questions in the Discussion Document:

131 Own emphasis

Q14. Do you agree with the Authority's proposal to use the above factors in determining the effectiveness of competition? Please substantiate your answer

Q15. In your view, are there any competition concerns and is there a need for regulatory intervention in the market for the acquisition of non-premium content?

6.2 Stakeholder comments

6.2.1 Econet Media proposed that the Authority should use the three-criteria test of the European Commission. The Authority's proposed list of factors to consider in assessing the effectiveness of competition did not include the condition that the market does not tend to effective competition in a relevant time horizon, nor did it state that these conditions need to be cumulatively true. A market that passes the three-criteria test should be assessed in more detail to determine whether any firm has significant market power.

6.2.2 Cell C also supports the use of the three-criteria test in addition to other factors stipulated in section 67(4A) of the Act.

6.2.3 According to Econet Media a distinction needs to be made between dominance in terms of high market shares and SMP. While dominance is usually determined through analysing market shares with respect to thresholds stipulated in the Competition Act, determining whether a specific firm exerts market power requires a more detailed and nuanced approach. Thus, although a structural analysis of market shares is a good first step, further analyses are required to make a determination on market power.

6.2.4 Telkom agreed that the four factors listed by ICASA should form part of the determination of the effectiveness of competition. However, Telkom notes that this list of factors to be considered is less exhaustive than the list provided in ICASA's Guideline for Conducting Market Reviews. In addition to evaluating the more complete list provided above, it is recommended that ICASA follow the method set out by the EU Commission with respect to electronic communications markets. This entails a two-phased approach. The first phase

entails conducting a three-criteria test to determine if a specific market should be regulated, where the following steps are evaluated cumulatively: (i) if there exist high and non-transitory barriers to entry of a structural, legal or regulatory nature; (ii) if the market structure does not tend towards effective competition in a relevant time horizon; and (iii) if the application of competition law alone would not adequately address the market failure(s) concerned. If a market passes the first phase (the three-criteria test), it needs to be assessed to determine whether any firm has SMP. Importantly, Telkom stresses that with the assessment of market shares and dominance, it is important to be cognisant of the fact that high market shares do not necessarily equate to SMP.

6.2.5 MultiChoice submits that a crucial step in any inquiry under section 67 of the ECA is to determine whether competition in an identified relevant market is ineffective. This exercise should not simply be a structural analysis of static market shares, but rather a more holistic approach which seeks to identify all the competitive constraints faced by the current operators in the market. MultiChoice put forward the following issues that need to be considered when analysing the effectiveness of competition:

6.2.5.1 Forward looking assessment – According to MultiChoice the assessment of competition has both an existing and forward looking component, given that the purpose is to determine if ex ante regulation is necessary to address any finding of ineffective competition.

6.2.5.2 Assessment must be of market dynamics, not only structure – MultiChoice argues that the economic field of industrial organization and the assessment of competition by economic regulators has progressed considerably from the simplistic Structure-Conduct-Performance paradigm of the 1950s which posited that conduct and performance can be inferred from concentration levels and the nature of entry barriers. MultiChoice then goes on to list other factors that should be considered when assessing the effectiveness of competition, including market characteristics; nature of actual entrants and scope of expansion; threat of potential competitors; as well as technological developments and convergence.

6.2.5.3 Wholesale markets should only be reviewed if competition in the retail market is ineffective.

6.3 The Authority's findings

6.3.1 The Authority wishes to re-iterate that it is a creature of statute and derives its powers from the legislation it administers. Therefore, it can only act in accordance with the powers given to it by the legislature. This is not to say that the Authority is prohibited from utilising good practice and learn from other jurisdictions when undertaking such an inquiry. This is certainly the case when it comes to the factors that need to be considered when assessing the effectiveness of competition.

6.3.2 Section 67(4A) of the ECA is quite clear in terms of what factors the Authority must consider when assessing the effectiveness of competition. It states that the Authority must consider among other things (a) the non-transitory (structural, legal, and regulatory) entry barriers to the applicable markets or market segments and (b) the dynamic character and functioning of the markets or market segments, including (i) an assessment of relative market shares of the various licensees or providers of exempt services in the markets or market segments, and (ii) a forward looking assessment of the relative market power of the licensees in the markets or market segments

6.3.3 In the Discussion Document the Authority elected to use a combination of the factors in section 67(4A) and the three-criteria test. The list in section 67(4A) is non-exhaustive and the Authority can use its discretion to decide on what other factors to use so long as they are relevant to determining the effectiveness of competition. The Authority generally has no difficulty in using our discretion to apply the European Commission's three-criteria test as proposed by Econet Media, Cell C and Telkom.

6.3.4 However, the Authority agrees with MultiChoice that the three-criteria test is a threshold test for establishing whether further analysis of the market is required to determine the effectiveness of competition¹³². The test is applied

132 MultiChoice presentation slide 93

cumulatively such that if one of the three criteria does not hold, the market is excluded from further competition analysis. The three criteria are:

- (a) the presence of high and non-transitory barriers to entry;
- (b) a market structure which does not tend towards effective competition within the relevant time horizon; and
- (c) the insufficiency of competition law alone to adequately address the market failure(s) concerned.

6.3.5 According to the European Regulators Group (ERG) Guideline on the application of the three criteria test¹³³, following indicators may be useful in assessing the magnitude of the barriers to entry.

- Existence of sunk costs
- Control of infrastructure not easily duplicated
- Technological advantages or superiority
- Easy or privileged access to capital or financial resources
- Economies of scale, economies of scope
- Vertical integration
- Barriers to develop distribution and sales network
- Products or services diversification

6.3.5.1 With respect to assessing whether a market tends towards effective competition the ERG recommends the following criteria as possible indicators:

- Market shares
- Price trends and pricing behaviour
- Control of infrastructure not easily duplicated
- Product/services diversification (e.g. bundled products or services)
- Barriers to expansion
- Potential competition

6.3.6 The above factors that are recommended in applying the three-criteria test are similar to the factors stipulated in section 67(4A) of the ECA and the ICASA Guideline for Conducting Market Reviews, that should be considered when

¹³³ European Regulators Group. ERG Report on Guidance on the application of the three criteria test (June 2008)

assessing the effectiveness of competition. Since the three-criteria test is only a filter, where-after an assessment of competition still needs to be conducted, the Authority finds it unnecessary to apply the three-criteria test only to use the same factors to assess the effectiveness of competition. Therefore, for purposes of this Draft Findings Document the Authority has in doing an assessment in terms of the requirements of section 67(4A) also considered the above factors.

6.3.7 MultiChoice and Telkom refer to the twelve (12) factors that are contained in the ICASA Guideline for Conducting Market Reviews. However, the list of factors in the Guideline derive from the old section 67(4) of the Act, which was replaced through the ECA Amendment Act, by section 67(4A). That notwithstanding, the list in the Guideline is also not mandatory but provides guidance to the Authority on what factors it may consider in its analysis. The Authority will exercise its discretion in terms of both the number and the type of factors to consider.

6.3.8 MultiChoice would want us to believe that a structural approach to assessing the effectiveness of competition is neither required nor relevant for this inquiry. Yet, section 67(4A) of the Act specifically requires the Authority to consider the non-transitory entry barriers, which include structural, legal and regulatory entry barriers. The Guideline for Conducting Market Reviews also refers to, among other factors, an assessment of relative market shares; the level, trends in concentration and history of collusion in the market; the overall size of each of the market participant; ease of entry into the market; the nature and extent of vertical integration; and economies of scale and scope, which are all structural factors.

6.3.9 Other local and international sector regulators that are required to assess the effectiveness of competition, also consider structural and dynamic factors. The Authority examines the approach of energy regulators in South Africa and the UK, since the energy sector also faces rapid technological changes.

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Energy sector (South Africa)

6.3.10 For instance, section 21 of the Gas Act, No 48 of 2001 states that –

(1) The Gas Regulator may impose licence conditions within the following framework of requirements and limitations:

(a) ...

(b)...

*(p) maximum prices for distributors, reticulators and all classes of consumers must be approved by the Gas Regulator where there is **inadequate competition** as contemplated in Chapters 2 and 3 of the Competition Act, 1998 (Act No. 89 of 1998).*

6.3.11 Chapter 3 of the Competition Act deals with merger control. Of particular relevance to the assessment of competition is section 12(2) which states that "When determining whether or not a merger is likely to substantially prevent or lessen competition, the Competition Commission or Competition Tribunal must assess the **strength¹³⁴ of competition** in the relevant market, and the probability that the firms in the market after the merger will behave competitively or co-operatively, taking into account any factor that is relevant to competition in that market, including –

- (a) the actual and potential level of import competition in the market;*
- (b) the ease of entry into the market, including tariff and regulatory barriers;*
- (c) the level and trends of concentration, and history of collusion, in the market;*
- (d) the degree of countervailing power in the market;*
- (e) the dynamic characteristics of the market, including growth, innovation, and product differentiation;*
- (f) the nature and extent of vertical integration in the market;*
- (g) whether the business or part of the business of a party to the merger or proposed merger has failed or is likely to fail; and*

134 Ibid

(h) whether the merger will result in the removal of an effective competitor.”

6.3.12 In terms of this section of the Competition Act, an assessment of the strength of competition should be made taking into account the structure of the market and the conduct of firms in that market. This is in line with the assessment contemplated in section 67(4A) of the ECA.

Energy sector (UK)

6.3.13 The United Kingdom’s Office of Gas and Electricity Markets (Ofgem), conducts periodic assessments of the state of competition in the market. In so doing Ofgem considers the following five potential sources of harm:

- consumer engagement and response – including the ease with which consumers are able to access, assess and act on the offers in the market;
- unilateral market power – manifesting in, among other things, the inability of customers to switch suppliers;
- tacit coordination – an assessment of how vigorously suppliers in the market compete with each other;
- barriers to entry and expansion – looking at barriers to entry, exit and expansion, covering levels of entry and growth; and
- vertical integration – the extent to which vertical integration can promote or stifle competition in the market

6.3.14 The second part of section 67(4A) requires the Authority to consider the dynamic character and functioning of the markets or market segments. This would include an assessment of relative market shares of the various licensees or providers of exempt services in the markets or market segments, and a forward looking assessment of the relative market power of the licensees in the markets or market segments.

6.3.15 Again, the Act is clear in terms of what the Authority is expected to do. The Authority is enjoined to undertake an analysis of the dynamic character and functioning of the markets. This considers market dynamics and the interactions of market players. Part of this assessment is to then take into account the relative **market shares** of the various licensees or providers of

exempt services and to conduct a forward looking assessment of the relative **market power** of the licensees in the relevant markets.

- 6.3.16 MultiChoice makes reference to the EC Recommendation on Relevant Markets and the three-criteria test and comes to the conclusion that a discussion of barriers to entry misunderstands their role; a discussion of market power and dynamics is wrong and that vertical integration is not a form of market power nor does it imply foreclosure.
- 6.3.17 Yet, the three-criteria test discussed above considers both a structural and a dynamic approach. Moreover, competition authorities globally, make use of market shares and concentration ratios in determining whether a merger is likely to raise competition challenges or not. Essentially, MultiChoice is proposing that the Authority applies a test that is not consistent with the prescripts of the legislative framework from which it derives its powers.
- 6.3.18 In its submission MultiChoice contends that what constitutes 'ineffective competition' must be a state of competition which results in significant harm to consumers¹³⁵. The Authority disagrees with this contention as it is inconsistent with the legislative prescripts. Consumer harm is what some competition authorities are required to prove, in *ex post* investigations. The ECA provides a clear guideline in terms of what the Authority should consider when assessing the effectiveness of competition.
- 6.3.19 From the above, it is clear that the Authority is enjoined to apply both a structural and dynamic analysis of the market. It cannot do the one and not the other, since both are requirements of the law. Of course, in the end, a decision on whether competition is effective or not will be arrived at based on the conspectus of all factors under consideration. Therefore, to then attempt to elevate one set or type of factor over another is misdirected.
- 6.3.20 The Authority will for purposes of its analysis consider both static and dynamic factors as enjoined by the ECA.

135 MultiChoice written submission, para 465

6.3.21 Having discussed the factors that need to be taken into account when assessing the effectiveness of competition in the Discussion Document, the Authority then applied those factors on the identified markets and posed the following questions:

Q16. Kindly comment on the nature of barriers to entry in the upstream market

Q17. What in your opinion are the premium rights in the South African television sector? Who currently holds them?

Q18. Kindly comment on the Authority's proposal to use the number of rights as a unit of measure for market share calculation purposes. What other factors should be analysed to determine the dynamic character and functioning of the market?

Q19. Do you consider the nature and extent of vertical integration in subscription television likely to harm competition? Kindly elaborate your answer.

Q20. Do you agree with the Authority's preliminary view that competition law alone is not sufficient to deal with possible market failures in the market for the acquisition of premium content?

Q21. Kindly comment on the above analysis of possible barriers to entry at the retail level of the market. What other barriers to entry are prevalent in this market?

6.4 Stakeholder comments

6.4.1 Telkom agrees with the three barriers to entry discussed in the Discussion Document, namely the scarcity and cost of premium content, long-term exclusive contracts, and incumbency of special relationships. These barriers to entry in acquiring premium content play an important role in the viability of a broadcast network. It notes that these barriers to entry are also present in the upstream market for non-premium content, but that it poses less of an

impediment to success for broadcasters than is does in the case of premium content.

6.4.2 Telkom agrees with the Authority's proposal to use the number of rights as a unit of measure for market share calculation purposes as reflected in Table 3 in the Discussion Document. However, Telkom proposes to also include:

1. TV series from the major Hollywood production houses – owned by MultiChoice, or MultiChoice affiliated channels; and

2. Special Events i.e. FIFA World CUP, Olympics Pay-TV rights owned by MultiChoice, noting further that with some of them they have gatekeeper rights.

6.4.3 Telkom does not agree with the Authority's calculation of market shares as provided in Table 1 of the Discussion Document. There is no indication of why the rights are given the same weighting. Aspects that must be considered include the length of time each of the rights is in place, the amount of content (whether in terms of minutes or number of events/movies) each right encompasses, and the popularity of the content, since more popular content will be more valuable in terms of attracting subscribers. These aspects will be more accurately captured by the value of the rights, as indicated by the amount that broadcasters are willing to pay to acquire it.

6.4.4 Additionally, since separate markets have been defined for different types of content, it is unclear why market shares are then calculated for combined content. Telkom recommends that market shares be calculated for each of the identified markets

6.4.5 Since vertical integration can have pro- or anti-competitive effects, Telkom agrees that this should be an area of focus for the inquiry, specifically given MultiChoice's prominent position in the market and its fully vertically integrated structure.

6.4.6 As such, Telkom agrees that there is a likelihood that vertical integration in the subscription TV market may harm competition. However, it notes that the

Discussion Document provides a very limited discussion regarding the nature and extent of vertical integration in the subscription TV industry. A more detailed analysis of the pro- and anti-competitive effects of vertical integration in the subscription TV market needs to be undertaken by the Authority before concluding that vertical integration is *likely* to harm competition. Of particular interest would be the effect of MultiChoice's position in the market.

6.4.7 With respect to the applicability of competition law Telkom agrees with the Authority's view that competition law alone is not enough to deal with challenges in the relevant markets. A market failure is not necessarily the result of anti-competitive behaviour. As such, competition law, which is backward-looking, cannot sufficiently address market failures on its own. Regulatory action is required to address structural problems in the market on an ex ante basis, especially given the rapidly changing landscape of the television broadcasting industry.

6.4.8 Econet Media submits that the market share of a firm can provide an indication of dominance, but needs to be considered in conjunction with factors such as barriers to entry before conclusions about market power can be drawn. Similar to Telkom, Econet Media is concerned that the Authority identified a number of relevant markets yet only calculates aggregate market shares and that the number of rights held by a licensee is not an appropriate measure of market shares.

6.4.9 With respect to vertical integration Econet Media notes that it is in general considered to be pro-competitive and efficiency enhancing, but it may limit effective competition in the subscription broadcasting market. Econet Media cites Ofcom in this regard which stated that –

"We are now at a point in time where new market entry is becoming possible based on new distribution technologies (IPTV, DTT, Internet, mobile TV). We therefore need to be particularly alert to the risks associated with dynamic foreclosure, i.e. the risk that firms already present in the market might exploit or benefit from certain dynamic characteristics of the market to foreclose entry by new providers"

- 6.4.10 Ofcom highlights three factors that may strengthen the position of the incumbent satellite provider (Sky) in this regard: its vertical integration, its firm grasp on attractive content that it acquires on an exclusive basis, and its retail customer base which is larger than those of all other subscription TV operators combined.
- 6.4.11 Econet Media further states that its analysis indicates various potential sources of market failure in the broadcasting sector, such as the limited availability of rights to especially premium content, switching costs that make entry more difficult, and the advantages that MultiChoice's incumbency gives to it by for instance allowing it to commission more content than smaller players. While these market characteristics may not amount to anti-competitive behaviour *per se*, they do increase entry barriers, substantially lessen competition and need to be addressed through *ex ante* regulatory interventions.
- 6.4.12 The Competition Commission is in agreement with the barriers to entry consideration noted in the Discussion Document. The Commission is of the current view that the existence of barriers to entry is a crucial indicator of market power and creates an environment that would be conducive for competitive harm to arise in markets.
- 6.4.13 The Commission is of the current view that barriers to entry in the relevant markets, *inter alia*, include **sunk costs** (such as the cost of acquiring content rights, marketing expenditure, among others), **economies of scale and scope, incumbency advantages** and **brand loyalty, exclusive contracts** and **network effects** as detailed in the Discussion Document.
- 6.4.14 The Commission is in agreement with the proposals to use the number of rights as a unit of measure for market share calculation purposes. Further, the use of revenue figures as well as the number of subscribers as a basis for market share calculation is a well-accepted approach in these markets.
- 6.4.15 In respect of the other factors for consideration, the Commission notes that given the differentiated nature of the products in these markets as well as the fact that these are sometimes bidding markets, it is helpful to consider the strength of both existing and potential competitive constraints. In this regard,

an incumbent firm with a high market share in a market characterised by significant entry barriers is likely to have market power. In the alternative, it is well recognised that the likely constraint from potential competitors is increased when barriers to entry or expansion are lower

- 6.4.16 The Commission notes that, depending on the circumstances, vertical integration can give rise to either pro-competitive efficiencies or anticompetitive outcomes or at times both.
- 6.4.17 The Commission further argues that vertical integration in subscription television broadcasting stifles competition by giving upstream (wholesale) firms an incentive to deny downstream (retail) firms adequate content, leading to the form of market foreclosure associated with an uncompetitive broadcasting environment.
- 6.4.18 According to the Commission, in the context of there being possible suboptimal outcomes in the acquisition of premium content in South Africa, especially with the bulk of premium content vesting on the incumbent firm, it is likely that *ex post* interventions through competition law may have limitations. Instead, a regulatory intervention may be needed to promote favourable conditions for all broadcasting licence holders to compete.
- 6.4.19 Accordingly, the Commission is of the current view that a combination of competition law and *ex ante* regulatory interventions are required to deal with the market failures and potential competition challenges that are observed in these markets.
- 6.4.20 Cell C agrees with the Authority's assessment of the numerous barriers to entry for potential competitors seeking to enter the market for electronic audio-visual content.
- 6.4.21 MultiChoice argues that there are no barriers to entry in the electronic audio-visual services market. Alternatively, the barriers to entry are low and capable of being surmounted by well-resourced and efficient entrants.
- 6.4.22 To this end MultiChoice submits that premium content is not a barrier since the notion of 'premium' has become obsolete; content to build audiences is

not scarce, and readily accessible; the staggering of rights is not a barrier to entry; exclusivity over a period of years is standard; and bundling is the global norm.

6.4.23 According to MultiChoice, OTTs have substantially reduced the cost of entry and opened up opportunities for small players in the market.

6.4.24 When it comes to the calculation of market shares MultiChoice does not believe that subscriber numbers are the appropriate unit of measure for such an exercise. Static market shares reflect the recent nature of entry rather than the strength of competitors.

6.4.25 With respect to vertical integration MultiChoice does not believe that it is a feature of the market that impacts on the effectiveness of competition in the retail market nor does it raise any particular concerns. Broadcasters do not need to have in-house content production capabilities as most content is acquired from third parties and own content development is mostly done through commissioning independent producers.

6.4.26 On the question of the adequacy of competition law MultiChoice submits that there are no competition concerns that need addressing but that competition law should be given primacy over ex ante regulation.

6.5 The Authority's findings

6.5.1 The Authority agrees with MultiChoice that an assessment of the effectiveness of competition should start at the retail level and only proceed to the wholesale markets if there are competition challenges identified.

6.5.2 At the retail level the Authority defined four markets: (a) a market for the retail distribution of analogue free-to-air television services in South Africa; (b) a market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa; (c) a market for the retail distribution of premium subscription television services in South Africa; and (d) a market for the retail distribution of video-on-demand services, (including OTT services) in South Africa.

The market for retail distribution of analogue free-to-air television services in South Africa.

- 6.5.3 There are two national broadcasters currently in this market, the SABC and e.tv and a number of community television broadcasters. The Authority is in the process of considering applications for national free-to-air services who would utilize digital terrestrial transmission technology. Once digital migration is completed, the current incumbents will have capacity to introduce more channels that are of a better quality. This will enable the incumbents and new entrants to compete with basic tier subscription and satellite based FTA services. The Authority is satisfied that since the entry of e.tv in the free-to-air market in 1998 it has managed to gain market share over time.
- 6.5.4 There appear to be no barriers to expansion. Moreover, the Authority is in the process of licensing new FTA players who would compete directly with the SABC and e.tv. The Authority did not receive any evidence suggesting ineffective competition in this market.
- 6.5.5 However, the Authority notes that there appears to be asymmetric competition where MultiChoice is leveraging its market position to exert competitive pressure on FTAs. The Authority notes that e.tv's OVHD service is growing in terms of viewership, although MultiChoice estimates that OVHD will need [REDACTED] [REDACTED] [REDACTED]¹³⁶. By the end of 2018 OVHD had grown beyond 1.1 million viewers¹³⁷ indicating that it is holding its own against competition from basic-tier subscription services. Therefore, the Authority does not have reason to believe that competition is ineffective in this market.
- 6.5.6 Thus, the Authority is of the current view that this market is likely to continue to tend towards effective competition within the time horizon of three years.
- 6.5.7 This notwithstanding, the Authority received concerns from FTA service providers regarding MultiChoice unfairly squeezing them out from what they

¹³⁶ MultiChoice2018 Business Plan, p 18

¹³⁷ Channel 24. E.tv launches first PVR for Openview. July 2018

consider to be the ever shrinking advertising revenue pie. The Authority will consider whether there is need for intervention in this regard.

- 6.5.8 Similarly, free-to-air service providers raised concerns with respect to the competition impact of the Must Carry Regulations. Again, the Authority will consider whether there is reason to intervene to address these concerns.

The market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa

The non-transitory (structural, legal, and regulatory) entry barriers to the applicable markets or market segments

- 6.5.9 Currently there are three players in this market: e.tv, StarSat and Multichoice. e.tv offers the OpenView HD service whilst both StarSat and MultiChoice offer entry level subscription bouquets among, other services.
- 6.5.10 In its application, ODM had indicated that it planned to invest R1.7-billion in offering subscription-tv services and indicated that it would offer an entry-level service of 10 channels costing R150 a month.
- 6.5.11 ODM began broadcasting on 1 May 2010 as TopTV, offering 7 bouquets ranging in price between R99.00 and R249.00. Its target market would consist of middle income consumers in the LSM 5-8¹³⁸. This strategy took into account the fact that MultiChoice had traditionally targeted subscribers in the high income bracket, leaving an untapped sweet-spot of middle and low income households.

Barriers to entry: Switching costs

- 6.5.12 The lack of set-top box interoperability leads to high switching costs. A consumer who has invested in a set-top box and a satellite dish views these as sunk costs that he or she cannot recover when switching to an alternative broadcaster.

138 ODM licence application

- 6.5.13 The added hassle factor associated with switching exacerbates the high switching costs. Whereas OVHD viewers can now utilize MultiChoice dishes when switching, the same cannot be said about StarSat subscribers. Moreover, there still need to purchase a DStv decoder. MultiChoice is also planning to increase [REDACTED] [REDACTED] This has a direct impact on the ability of subscribers to switch services.

Barriers to entry: Brand loyalty

- 6.5.14 Viewers tend to develop brand loyalty, especially in a market such as South Africa where there was a single subscription television broadcaster for a long time. New entrants may find it difficult to break the brand loyalty barrier. In its submission MultiChoice argues that brand loyalty is not regarded as a barrier to entry. The Authority notes this contention and maintains its findings in this regard. The Australian Competition and Consumer Commission for instance, considers brand loyalty and customer loyalty as barriers to entry¹⁴⁰.
- 6.5.15 In its pre-listing statement MultiChoice states that –
- "Our DStv brand, which is a household name in South Africa, has high awareness and consumer support¹⁴¹."*
- 6.5.16 A new entrant has to contend with establishing its brand among consumers and gain their loyalty. This process takes time, thus weakening the competitive constraints exerted by new entrants. The Authority's consumer survey found that lack of awareness and familiarity with StarSat is the main reason for basic-tier DStv subscribers not subscribing to it.

Barriers to entry: Vertical integration

- 6.5.17 The Authority wishes to emphasise a point made in the Discussion Document that whilst vertical integration is a legitimate business model that produces

139 MultiChoice2018 Business Plan, p4

140 Australian Competition and Consumer Commission. Merger Guidelines. November 2008, (amended Nov 2017). European Commission http://ec.europa.eu/competition/mergers/cases/decisions/m5778_2891_2.pdf.

141 MultiChoice Group Limited. Pre-listing Statement. p30

economic benefits, such as internal efficiencies and economies of scope, it can also lead market foreclosure. For instance, in the television broadcasting and video on-demand sector, a vertically integrated incumbent has the incentive to leverage its market position downstream to gain power in an upstream market for content. It would then use its upstream position to exercise additional market power in the downstream market, and consequently, the cycle continues to self-reinforce itself perpetually.

- 6.5.18 MultiChoice is vertically integrated along the supply chain. It has its own in-house content production and channel packaging capabilities. The same cannot be said about its competitors in this market, StarSat and e.tv. Multichoice's vertical integration, whilst legitimate, can weaken the competitive constraint from other subscription and FTA services in this market.
- 6.5.19 In order to be an effective competitor a new entrant would have to enter more than one stage of the value chain, which requires a lot of capital outlay as argued by the SABC.

The dynamic character and functioning of the markets or market segments, including an assessment of relative market share of the various licensees or providers of exempt services in the markets or market segments, and a forward looking assessment of the relative market power of the licensees in the markets

Strategic behaviour by incumbent

- 6.5.20 Strategic behaviour refers to actions taken by a firm in order to improve its competitive position or gain commercial advantage relative to actual or potential competition. Firms can improve their competitive position through innovation or efficiency enhancing investments. However, strategic behaviour can also take the form of inhibiting competition, such as when a firm invests in resources for purposes of limiting rivals' choices.
- 6.5.21 When MultiChoice launched the DStv subscription service in 1995, it was a premium bouquet of 16 channels targeted at consumers in the 8-10 LSM bracket. In 2005, the Authority began a process of licensing new subscription television service providers. From the applications received, most of the

applicants would target lower end and middle income consumers since MultiChoice already catered for the high income consumers. Immediately, MultiChoice introduced DStv Compact, which at the time was an 11-channel bouquet targeted at the middle income consumers in the LSM 5-7, with a price range similar to what new entrants were targeting.

- 6.5.22 This points to possible limit pricing, where an incumbent sets a price just below its profit maximising level in order to make potential entry unprofitable. Since then, MultiChoice has introduced various other packages targeting the lower income consumers, with price points as low as R29 per month. e.tv provides the following list of MultiChoice packages and the corresponding household income levels targeted to show that MultiChoice has covered the entire market in order to prevent new entry:

Premium	LSM 9-10
Compact Plus	LSM 8
Compact	LSM 5-7
Family	LSM 4-7
Select	LSM 4-7
Access	LSM 4-5
EasyView	LSM 4-5

- 6.5.23 From a quantity perspective an incumbent may build extra capacity as a means of reducing pricing and therefore discouraging new entry. By reducing prices or increasing capacity, the incumbent is able to build a much larger customer base, leaving the potential entrant with less of the market, lower prices and lower profits, thus making entry unattractive¹⁴².
- 6.5.24 MultiChoice's move to introduce numerous bouquets at every possible price point leads to product proliferation that crowds out prospective entrants.
- 6.5.25 This kind of strategic behaviour leads to lock-in effects where an incumbent ties up customers, such that switching becomes a less viable or desirable option for them. Although MultiChoice customers do not enter into long term contracts, they nevertheless invest in decoders and satellite dishes that are not inter-operable with those of competitors. This sunk investment, coupled

142 Klemperer P. 1987. Entry Deterrence in Markets with Consumer Switching Costs. *The Economic Journal*. Vol 97: 99-177 available on <http://www.nuff.ox.ac.uk/users/klemperer/entry.PDF>

with strong brand loyalty, makes switching even more difficult and costly for customers. Moreover, MultiChoice also adopted a strategy of locking-in, especially lower end customers into two-year debit order agreements.

- 6.5.26 MultiChoice has [REDACTED] whilst households with e.tv's OVHD are estimated at 1.1 million as at March 2018¹⁴⁵. If an optimistic estimate of 1.2 million viewers for OVHD is considered, with StarSat having about 60 000 subscribers¹⁴⁶, this puts MultiChoice at [REDACTED] of the market. Given its strategic behaviour, it is highly unlikely that MultiChoice will lose its leading market position in terms of subscriber numbers.

Forward looking assessment of relative market power of licensees

Potential competition

- 6.5.27 In the market definition section above, the Authority established that OTTs are neither part of this market nor do they constitute a form of effective potential competition. Perhaps the market power of licensees in this market is likely to be affected by potential competition coming from digital migration.
- 6.5.28 However, there have been challenges with respect to the implementation of the digital migration policy. In 2015 e.tv instituted court action against the Minister of Communications, alleging that the Minister acted outside her powers in amending the digital migration policy to provide for non-encryption of set-top boxes. MultiChoice joined the Department of Communications in opposing the court action. In 2017 the Constitutional court dismissed e.tv's appeal upheld by the Supreme Court of Appeal which had struck out the non-encryption clause from the digital migration policy, thereby confirming government's policy that digital migration will proceed on the basis of non-encryption of set-to boxes. The question of encryption versus non-encryption was central to this case, with e.tv arguing that non-encryption would affect its

143 Annexure E: Information requested in paragraph 6.2 of the Authority's letter sent to MultiChoice on 25 May 2018

144 Total of Family, Access and Easyview subscribers.

145 Channel 24. E.tv launches first PVR for Openview. July 2018

146 Letter from StarSat to Icasa confirming subscriber numbers, 2017

ability to offer high definition television services and acquire premium content to compete with Multichoice.

6.5.29 In another matter, the S.O.S Support Broadcasting Coalition and others brought an appeal to the Constitutional Court against the decision of the Competition Appeal Court regarding the powers of the Competition Commission to investigate whether the channel licensing agreement entered into between the SABC and MultiChoice (the Agreement), constituted a notifiable merger in terms of the Competition Act.

6.5.30 The Constitutional Court held that the Commission has the power under the Competition Act to investigate transactions to determine whether they constitute or give rise to a notifiable merger as defined in the Act. In terms of the channel licensing agreement MultiChoice undertook to pay the SABC fees of more than R500 million over a period of five years, in exchange for which the SABC agreed that the SABC entertainment channels, to *inter alia*, not encrypt any of its free to air channels when the country migrates to digital terrestrial television¹⁴⁷.

6.5.31 At the Competition Appeal Court¹⁴⁸, the appellants had argued that the undertaking made by the SABC to accept non-encryption of its channels would fundamentally affect its ability to compete with MultiChoice. It further ensures that subscribers to MultiChoice's low cost offerings will receive everything that the SABC has to offer *via* MultiChoice's decoders plus its new channel offerings. This would increase MultiChoice's market share and solidify its position to the exclusion of other players or potential competitors in the industry.

"This is so, because encryption is critically important for free-to-air channels in order to compete with Pay-TV broadcasters. It provides a high quality signal and is less susceptible to signal piracy. These advantages make it possible for broadcasters to attract premium high definition content. Non-encryption

147 Constitutional Court of South Africa. S.O.S Support Public Broadcasting Coalition and Others v South African Broadcasting Corporation (SOC) Ltd and Others. Case No. CCT 121/17, 28 September 2018

148 Competition Appeal Court. Caxton and CTP Publishers and Printers and others V MultiChoice(Pty) Ltd and others. Case No 140/CAC/MAR 16

would as a result make it difficult for second respondent and potential new free-to-air entrants to access to premium content. First respondent on the other hand, being the only broadcaster with an established base of encrypted signals would remain as the only broadcaster with the ability to attract premium content and would easily be able to increase its market share.”

6.5.32 The Commission in its submissions to the Competition Appeal Court also argued for encryption as a means to promote competition between subscription and FTA services.

6.5.33 MultiChoice argued that digital migration has occurred around the world with non-encryption of free-to-air decoders.

6.5.34 In September 2018 the Constitutional Court granted the Commission its right to investigate whether or not the agreement concluded between the SABC and MultiChoice in 2013 constitutes a notifiable merger and ordered the Commission to file a report on the matter to the Tribunal within 30 days. On 9 November 2018, the Commission filed a report with the Tribunal where-in it found that MultiChoice, through the Agreement, influenced the SABC's position on the encryption of its free-to-air channels. In the Agreement, the SABC undertook in favour of MultiChoice not to encrypt all its channel signals in respect of its free-to-air channels transmitted on its DTT platform. Critically for purposes of this Inquiry, the Commission found that the encryption of SABC's free-to-air channels including set-top box control would have, *inter alia*, enabled the entry of new entrants into the market and that the Agreement had the effect of protecting MultiChoice's dominance in the subscription television market¹⁴⁹.

6.5.35 Whilst the Tribunal is yet to pronounce on the Commission's findings, it is clear to the Authority that the effect of MultiChoice's position in favour of non-encryption of set-top boxes would have resulted in DTT not having a sufficient

¹⁴⁹ Competition Commission. Media release. Commission finds that the agreement between SABC and MultiChoice enabled MultiChoice to influence the strategic direction of the SABC. 12 November 2018.

competition impact on the relevant subscription television market, in which MultiChoice is dominant

- 6.5.36 Based on the foregoing, the Authority doubts the strength of potential competition on subscription television coming from new DTT entrants given the policy of non-encryption of set-top boxes.
- 6.5.37 PWC predicts that in the longer term some households might look to supplement their digital terrestrial channels with SVOD platforms rather than traditional subscription tv packages¹⁵⁰. Thus, the competition in the digital era will likely be choosing between a subscription video on demand service and a subscription television service as a compliment to DTT.
- 6.5.38 In the Discussion Document the Authority indicated that the impact of DTT on the subscription television broadcasting market has been varied in countries that have undergone full digital migration.
- 6.5.39 For instance, the USA has fully migrated to DTT but it has not developed into a subscription TV platform. Thus, migration to DTT does not necessarily mean that DTT can compete as an alternative platform for subscription TV. It might well result in changed business models, with incumbent players repositioning themselves to take advantage of other platforms such as IPTV to deliver on demand services, with a core network TV offering available through DTT.
- 6.5.40 The Authority also pointed out that there is little subscription DTT across Europe – it accounts for only about 5 per cent of subscription TV subscriptions across the EU. This absence of subscription DTT reflects the technical constraints of the platform itself – with limited spectrum the number of channels is constrained and particularly in high definition, making it a less competitive option compared with cable and satellite.
- 6.5.41 There are also the cultural and policy aspects at work as governments control the spectrum on which DTT distributes and this enables them to influence how the spectrum is used to public service broadcasting ends. However, in Italy, where there is no cable provision, DTT subscription TV service Mediaset Premium accounts for about a quarter of subscription TV subscriptions, and

150 PWC. Entertainment and media outlook: 2018-2022. An African perspective. www.pwc.co/za/outlook

France's TNT (Télévision Numérique Terrestre) has a limited line-up of subscription channels alongside the free TV offering.

- 6.5.42 Kenya's digital switch-over to DTT started in January 2015, firstly with Nairobi (which has 99% TV penetration) and extending to other parts of the country. Kenya is striking in that migration to DTT contributed to the development of the subscription TV market and DTT has a market share of 56% of total subscription TV users.
- 6.5.43 In its market definition in the *Liberty Global/Ziggo* merger case¹⁵¹, the Commission found that satellite and digital terrestrial television appear to be slightly less valid alternatives in the Netherlands, compared to IPTV over DSL, fiber and satellite which were found to be part of the same product market.
- 6.5.44 Noting the above, the Authority does not expect DTT to have a marked competition impact on subscription television broadcasting in South Africa over the next three years or more. The Authority believes that the relative market shares of licensees in this market are likely to remain constant within the review period and beyond.

The market for the retail distribution of premium subscription television services in South Africa

The non-transitory (structural, legal, and regulatory) entry barriers to the applicable markets or market segments

- 6.5.45 There are only two players in this market: MultiChoice and Deukom. Deukom offers a niche service aimed at the German speaking community in South Africa and anyone with an interest in the language. The station has twenty-three channels in a single bouquet that falls within the premium range. By virtue of its target market, Deukom does not pose a competitive constraint on MultiChoice in this market.

¹⁵¹ European Commission. *Liberty Global / Ziggo*. Case No M.7000

Barriers to entry: Switching costs

- 6.5.46 The analysis on switching costs as a barrier to entry in 6.5.12 above also apply in this market. The Authority does not deem it necessary to repeat the analysis here, save to point out that

Barriers to entry: Bundling

- 6.5.47 The Authority stated in the Discussion Document that bundling involves the selling of a primary good or service, in conjunction with one or more secondary goods or services that can be acquired separately. The idea is that the consumer benefits from the convenience and cost saving of purchasing a bundled product than buying the individual elements separately. However, bundling and tying may foreclose the market, by incentivising consumers to purchase from a firm that offers a bundled good or service instead of dealing with other suppliers of the secondary goods or services. In the South African market, the Authority sees an increase in the phenomenon of offering access to discounted data services in addition to subscribing to a television or video-on-demand service.
- 6.5.48 MultiChoice has various products that are available to its premium subscribers, including Showmax, Explora and DStv Now. MultiChoice aims to continue developing and marketing bundled products, that would include DStv Wifi Connectors in order to increase the number of connected Explorers.

Barriers to entry: Brand loyalty

- 6.5.49 The analysis on brand loyalty in 6.5.14 applies in this market and will not be repeated.

Barriers to entry: Vertical integration

- 6.5.50 The analysis on vertical integration in 6.5.17 applies in this market and will not be repeated.

The dynamic character and functioning of the markets or market segments, including an assessment of relative market share of the various licensees or providers of exempt services in the markets or

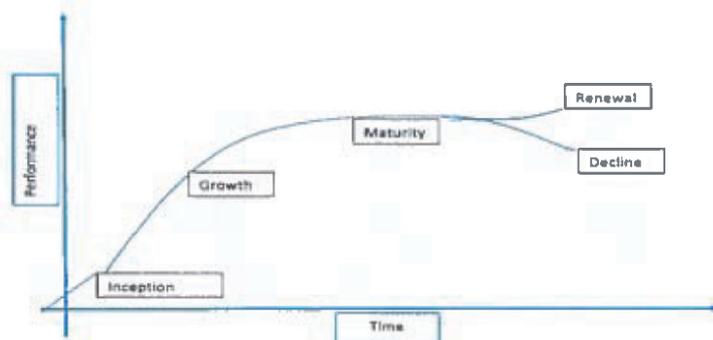
market segments, and a forward looking assessment of the relative market power of the licensees in the markets

- 6.5.51 MultiChoice occupies a leading position in this market. It offers premium content bundled up with other offerings. The MultiChoice premium bouquet constitutes more than 99% of this relevant market, with Deukom playing in the periphery of the market.
- 6.5.52 The Authority does not foresee changes to the relative market shares of players in this market in the short to medium term.

Potential competition

- 6.5.53 MultiChoice claims that OTTs are eroding its premium subscriber base. However, such a claim is not borne out by the evidence at the Authority's disposal. As argued above, as far back as 2014, before the launch of OTTs in South Africa, MultiChoice already expected decline in the premium subscription numbers on the basis that the premium segment of the market was reaching saturation. [REDACTED] [REDACTED]¹⁵². Market saturation and maturity is a natural progression of a typical industry or sector of a market, where it goes through the life cycle stages of inception, growth and maturity after which it can either decline or experience renewal as depicted in a simplified graph in figure 8 below.

Figure 8. Industry life-cycle stages



152 MultiChoice2018 Business Plan, para 4.3 p25

Strategic behaviour by incumbent

6.5.54 Industry or sector renewal can be driven by the re-invention of the business through innovation and the adoption of new technologies. MultiChoice is taking advantage of technological changes happening in the television and video-on-demand sector to try and protect its market position. This, it is doing through the introduction of various service offerings targeted largely at its premium subscribers. In 2016, just before the launch of Netflix in South Africa MultiChoice introduced Showmax, an internet based video-on-demand service that offers a catalogue of TV shows and movies. Showmax is available either as a standalone subscription service or for free as a complementary product to premium subscribers. [REDACTED]

6.5.55 Back in 2014, MultiChoice introduced DStv Now an internet based service that has evolved and now allows DStv Premium, Compact Plus and Compact subscribers to access selected DStv channels and DStv Catch Up content through broadband connections via computers, tablets, smartphones and smart TVs. During the course of 2019 MultiChoice intends to debut a streaming-only version of DStv, in line with what DStv Now currently offers¹⁵³. The new service will be a mirror-image of the DStv offering, less the set-top box.

6.5.56

[REDACTED]

The market for the retail distribution of video-on-demand services in South Africa

6.5.57 The market for retail distribution of video-on-demand services, including OTTs, is still in its nascent stages in South Africa, but showing signs of rapid

¹⁵³ Techcentral. DStv Now apps come to more devices. 15 August 2018.

growth. As already indicated, various local and international players have entered this market. Although some stakeholders pointed to fierce competition from OTTs, the Authority's analysis reveals that by and large, South African viewers tend to take up OTT services to complement rather than substitute subscription television services.

- 6.5.58 There are low barriers to enter this market. This market is technology driven and thus exhibits dynamism. The Authority does not have reason to believe that competition is ineffective in this market at the moment. The Authority will continue to monitor trends and developments. The Authority will intervene to the extent that the legislative framework allows if it finds reason to do so.

The wholesale market for the supply and acquisition of premium content for distribution in South Africa

Barriers to Entry: scarcity and cost of premium content

- 6.5.59 As stated in the Discussion Document, the Authority regards the major barrier to entry into the upstream market for the supply and acquisition of premium content to be the scarcity of premium content. The Authority do not agree with MultiChoice that content is no longer a barrier due to its wide availability. MultiChoice concedes that sport rights have become increasingly expensive and hotly contested¹⁵⁴, having spent R2.3 billion on local sports content and R2.5 billion on local content in 2018¹⁵⁵. As discussed above, the increasing cost of premium content is now beyond the reach of many broadcasters and new smaller local OTT service providers.
- 6.5.60 In 2015 e.tv lost rights to broadcast the UEFA Champions League, citing the prohibitive costs of the rights¹⁵⁶. In 2007, the SABC lost its exclusive rights to the local Premier Soccer League (PSL) to SuperSport, in a deal worth R1.6 billion. Both broadcasters lost viewers as a result of failing to secure these premium sports rights, which MultiChoice has managed to win ever since and leverages on them, among others, to grow its subscriber base. The scarcity

154 Multichoice. Intergrated Annual Report. 2016

155 Multichoice. Abridged Integrated Annual Report. 2018

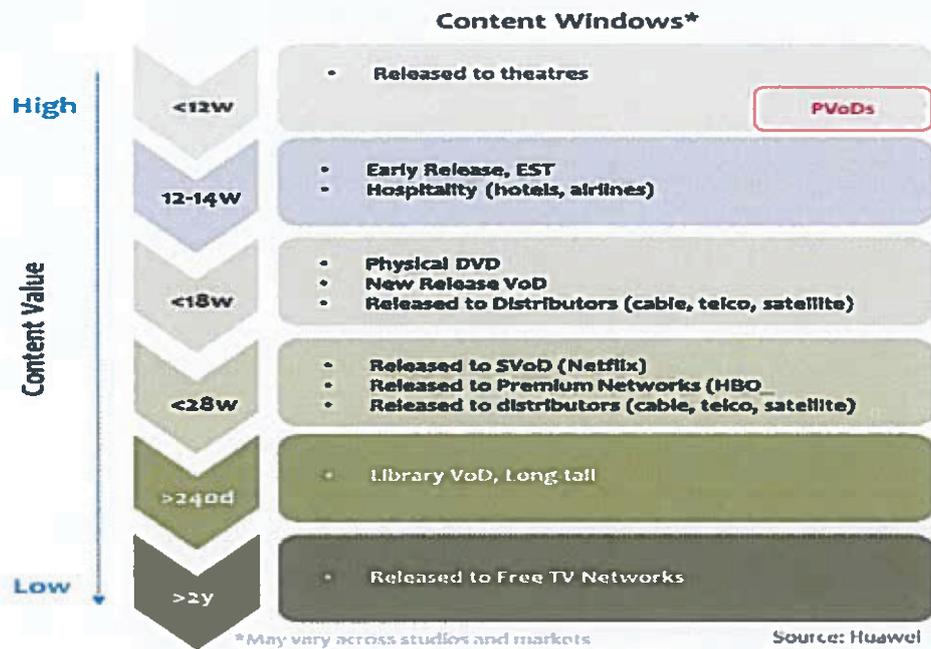
156 TimesLive. e.tv loses Champions League rights to SuperSport <http://www.timeslive.co.za/sport/soccer/2015/05/26/e.tv-loses-Champions-League-rights-to-SuperSport>

and competition for premium sports content is driving up its cost and pushing it out of reach of new entrants.

- 6.5.61 The PSL's 2011 Invitation to Tender document has minimum production requirements with quality and investment specifications that bidders must meet. It is clear from these requirements that it would be difficult for new entrants to break into the market, without deep pockets. These requirements favour the incumbent and only work to reinforce MultiChoice's ability to keep winning the rights perpetually, thus further negatively affecting competition. It is also not clear why the previous agreement was extended for a further two years without going back to market to give other players an opportunity.
- 6.5.62 The current agreement entered into between MultiChoice and the PSL runs for 5 years, covering the 2019/20 season through to the 2023/24 season. The English Premier League agreement has also been renewed until 2022. Effectively no new entrant will have access to these and other rights currently held by MultiChoice.
- 6.5.63 With respect to premium movies and series, as noted in the Discussion Document, Hollywood movies¹⁵⁷ are released in windows with specific times of release. Free-to-air broadcasters and OTT service providers cannot compete with subscription-tv broadcasters for such movies because of the terms and conditions surrounding their release. Moreover, rights are sold for a particular territory, thus precluding other subscription broadcasters in the same geographical area from acquiring the same rights. The competition for premium movies also increases the cost of acquiring them, especially the first window movies.

157 20th Century Fox, Warner Bros, Paramount, Sony, Universal and Walt Disney

Figure 9. Typical feature film release window



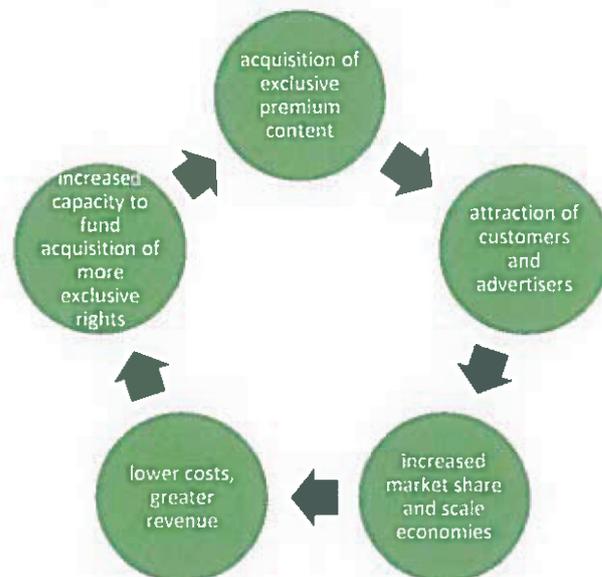
- 6.5.64 According to e.tv, an increase in social media usage and audiences commenting about movies and programmes the ability to generate new interest in such programmes is difficult and curtails the potential of income for FTA broadcasters in the 2nd or 3rd window¹⁵⁸.
- 6.5.65 In its responses to the information gathering Questionnaire, the SABC pointed to high levels of capital investment, high levels of operational investment, market saturation and delays in transitioning to DTT and Siyaya pointed to the cost and scarcity of premium content as major barriers to entry in the subscription television broadcasting market.
- 6.5.66 Furthermore, there are substantial sunk costs involved in setting up a new subscription television broadcasting service and marketing it to potential subscribers.
- 6.5.67 As shown above, new entrants also have to contend with the threat of a strategic competitive response from an incumbent, who can undercut or introduce new offerings that compete with a new entrant.

¹⁵⁸ e.tv presentation to Icasa. Slide 20

Barriers to Entry: long-term exclusive contracts

6.5.68 Apart from the high cost, premium sports content is usually tied up in long term exclusive contracts, meaning that for a new entrant such content would not be readily available until the end of the contract. Even then, there is no guarantee that a new player will outbid an incumbent at the next round of bidding due to the competitive advantage that exclusive content bestows on the holder. The Authority repeats the argument of a vicious cycle depicted in figure 7 below. The cycle begins with the acquisition of premium content on an exclusive basis for a stipulated time frame. Exclusive premium content attracts more viewers thereby increasing the broadcaster's chances of acquiring even more premium content as rights holders would prefer to sell to an established broadcaster with an established and growing subscriber base. More viewers also mean an increase in advertising and subscription revenue that enables the broadcaster not only to outbid its rivals but also acquire even more exclusive content. Consequently, new entrants are foreclosed from the market.

Figure 10. Exclusive premium content and market power vicious cycle



Source: Windsor Place Consulting¹⁵⁹

159 Windsor Place Consulting. 2012. Exploring content related issues: Will exclusive content rights be the new bottleneck in the Australian telecommunications sector? Paper for the competitive carriers' coalition. Available from www.ccc.asn.au/secure/downloadfile.asp?fileid=1001538

6.5.69 MultiChoice disputes the existence of a vicious cycle in the market for content supply and acquisition, on the basis that the vicious cycle requires the following strict conditions to hold:

6.5.69.1 exclusivity over specific content must be capable of attracting a substantial subscriber base; and

6.5.69.2 a larger installed subscriber base must substantially increase future profits

6.5.70 Without delving into the question of whether MultiChoice is correct in its assertion that the vicious cycle theory is dependent on the cited two conditions, it is the Authority's view that in the South African market, MultiChoice has benefited from the first mover advantage, having provided subscription television services over a long period of time with limited competition. This enabled MultiChoice to secure a large subscriber base and build a strong brand that reinforces customer loyalty. MultiChoice has bid and won premium sports rights, which are globally accepted to be crowd pullers. It has also entered into exclusive multi-year first-window movies rights with major Hollywood studios. MultiChoice subscriber numbers have grown exponentially over the years since its launch, as shown in figure 9 below. This growth continues even in the face of OTTs. MultiChoice also continues being profitable on the back of the kind of programming it offers, based on the premium content acquired as depicted in figure 5 above. To the extent that vicious cycle is dependent on the two conditions, the Authority is satisfied that in the South African market these conditions are met. Thus, whilst the vicious cycle may have been found to not exist in some market, as MultiChoice argues, the Authority finds differently in the South African market.

6.5.71 MultiChoice's premium bouquet boasts over [REDACTED], as of March 2018, with access to about 135 channels. Premium subscription services face competition from video-on-demand services as well as middle-tier subscription services. The strength of the competitive constraint needs to be assessed in order to determine the effectiveness of competition.

6.5.72 The PSL in its presentation indicated that it goes out to tender every five years. This is contradicted by information reviewed by the Authority, details of which are not set out in this Draft Findings Document because of their confidential status in terms of section 4D. [REDACTED]

6.5.73 In the USA, Cable companies had exclusive rights to provide services in apartment buildings and other multi-family dwellings. The exclusive contracts were considered a primary factor in the rapid rise of cable prices. The FCC concluded that exclusivity clauses cause significant harm to competition and are a barrier to new entry into the multichannel video market place.

Barriers to entry: incumbency of special relationships

6.5.74 Incumbent operators take advantage of lack of competition to establish strong relationships with suppliers, advertisers and even viewers. Content suppliers and advertisers would want to do business with an established operator than a new entrant. For an advertiser, an established broadcaster usually has a larger base of subscribers than a new entrant and therefore more eyeballs to see the advert. Similarly, for content producers an established broadcaster ensures that there is broader access to their content than a new entrant's subscriber base.

6.5.75 In *Deutsche Telekom* it was recognised that where an incumbent has strong links with certain key constituencies like advertisers these can present barriers to entry and the court held that:

"To have any hope of acquiring broadcasting rights, it is vital to have access to viewers in the form of an established subscriber base since rightholders usually want to see their product distributed widely.... [A] new comer would run a considerable financial risk by concluding output

deals since he would have to guarantee a minimum subscriber base, without knowing whether he could achieve the guaranteed figure¹⁶⁰

- 6.5.76 This phenomenon has been at play in the South African market with some sports bodies loath to do business with service providers that have no track record in the market. Telkom rightly points out that the monopoly position that was enjoyed by MultiChoice for a long time has ensured that it forges long term, exclusive relationships with content suppliers, making it difficult for new entrants to make substantive inroads into the market.

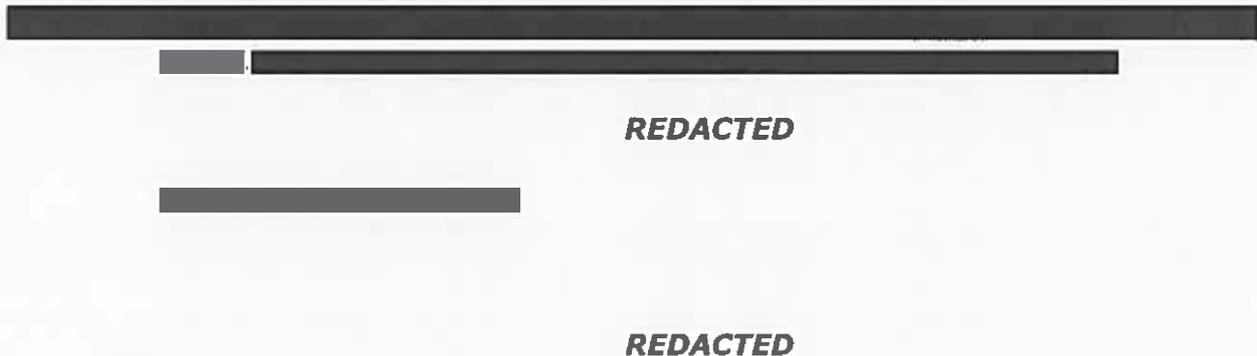
The dynamic character and functioning of the markets or market segments, including an assessment of relative market share of the various licensees or providers of exempt services in the markets or market segments, and a forward looking assessment of the relative market power of the licensees in the markets

- 6.5.77 MultiChoice claims that OTT services constrain subscription television through, cord-shaving, cord-cutting and cord-nevers¹⁶¹.
- 6.5.78 With respect to cord-shaving and cord-cutting, Figure 11 below indicates that the churn-out rate for premium subscribers has been fluctuating between 2014 and 2018, indicating no direct link between the entry of OTT services in the South African market and churn out. If anything, the churn out for premium subscribers has been decreasing since the launch of Netflix in South Africa. The churn down rate for premium subscribers on the other hand shows a downward trend between 2014 and 2018, again proving that there is no direct link between OTTs and cord-shaving in South Africa. In any case, subscribers who churn down, substitute MultiChoice premium bouquets with its middle-tier bouquets.

160 Case IV/M.1027 Deutsche Telekom/BetaResearch

161 MultiChoice presentation, slide 33 and MultiChoice written submission,

Figure 11. MultiChoice subscriber numbers per bouquet 2008 -2018



Source: MultiChoice submission¹⁶³

- 6.5.80 Contrary to what MultiChoice claims in its public statements regarding competition from OTTs, [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] This prediction had very little, if anything to do with OTTs at the time. Yet even in the presence of OTTs [REDACTED]
 [REDACTED]
 [REDACTED]¹⁶⁴. From the documents reviewed during the course of this Inquiry, which includes information provided by stakeholders, there is a view that the premium segment is saturated. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] The factors highlighted by stakeholders in relation to the loss of premium customers by MultiChoice are in line with the Authority's consumer survey which found that budget constraints and value perspectives are the reasons why DStv Mid-range subscribers do not upgrade to DStv Premium. As a result, MultiChoice is developing strategies to relieve these [REDACTED] concerns by premium subscribers.

¹⁶² Post hearing submission by Multichoice; 7 December 2018

¹⁶³ Annexure E: Information requested in paragraph 6.2 of the Authority's letter sent to MultiChoice on 25 May 2018

¹⁶⁴ MultiChoice2018 Business Plan, para 4.3 p25

6.5.81 Therefore, in light of the factors highlighted above, the Authority did not find evidence that OTTs constitute a strong competitive constraint on MultiChoice's premium bouquet.

6.5.82 As a result, MultiChoice is likely to maintain its current market position into the foreseeable future.

The wholesale market for the supply and acquisition of non-premium content for distribution in South Africa

6.5.83 The market for the wholesale acquisition of non-premium content is characterised by low barriers to entry. Content in this market is generally available with no restrictions. It is the Authority's current view that there are no significant competition concerns in this market. As such, there is no need to proceed with the analysis of significant market power in this market.

7. CONSIDERATION OF LICENSEES WITH SIGNIFICANT MARKET POWER

7.1 Overview

7.1.1 This section of the Discussion Document analysed the Authority's initial views regarding the identification of licensees with significant market power in the proposed relevant markets, as guided by section 67 (5) of the ECA, which provides that –

"A licensee has significant market power in a market or market segment if that licensee –

(a) is dominant;

(b) has control of an essential facility; or

(c) has a vertical relationship that the Authority determines could harm competition"

7.1.2 As indicated in the Discussion Document, once a market has been defined, the next step is to identify players in that market, calculate their market shares and identify those players who have significant market power. The concept of significant market power is used specifically in the electronic communications and broadcasting sectors, not only in South Africa, but in other countries as well. This concept is not different from the concept of market power used in general competition law and policy circles.

7.1.3 The Competition Act defines market power as the ability of a firm to control prices, or to exclude competition or to behave to an appreciable extent independently of its competitors, customers or suppliers. A firm is irrefutably presumed to have market power and be dominant in a market if it has 45% or more market share.

7.1.4 A market share of between 35% and less than 45% presumes dominance unless the firm concerned can show that it has no market power. A market share of less than 35% presumes dominance if it can be proven that the firm concerned has market power. In terms of the ECA a licensee has significant

market power if, among other things, it is dominant, within the meaning of the Competition Act.

- 7.1.5 After discussing the concept of significant market power the Authority then posed the following two questions:

Q23. Do you support the Authority's proposed approach in identifying players with significant market power? Kindly elaborate

Q24. Does the nature of any licensee's vertical integration in this market raise competition concerns?

7.2 Stakeholder comments

- 7.2.1 Telkom disagrees with the notion that "*...a licensee has significant market power if, among other things, it is dominant, within the meaning of the Competition Act*", as stated in the ECA, since this statement implies that having high market shares bestows market power upon a firm. According to Telkom, it is inadvisable to make a priori assumptions regarding the structure of a market and the existence of market power. Such a determination would place significant weight on the market share calculations, which is specifically problematic given the Authority's incorrect method for calculating market shares for the content market. As such, making a determination on whether a firm has SMP given its market shares is essentially flawed.

- 7.2.2 Telkom notes that MultiChoice is the only player in the South African subscription broadcasting industry that is fully vertically integrated and as such should be sufficiently investigated to identify any potential competition concerns.

- 7.2.3 Telkom makes reference to Ofcom's consultation paper on its Pay-TV market investigation which stated that Sky's unique position in the pay TV industry creates a vicious circle that allows Sky to engage in conduct which is harmful to competitors and consumers. It was suggested that the key features of Sky's position are (i) its vertical integration; (ii) its upstream bottleneck (more specifically, its grasp of attractive content that it purchases on an exclusive basis); and (iii) its downstream bottleneck, which includes its gatekeeper

status for the satellite platform (w.r.t. EPG listings and conditional access charges) and its majority share of the retail customer base.

- 7.2.4 Econet Media contends that the Authority refers to the ECA which states that SMP may flow from dominance, control of an essential facility or vertical relationships, but does not mention any market characteristics that may prevent firms with these characteristics from using its market power. However, there are conditions under which even a firm with 100% of the market may not be able to profitably maintain price increases.
- 7.2.5 First, barriers to entry and potential competition can limit a firm's attempts to exercise market power. Second, barriers to expansion, may entrench market power, through factors that prevent firms already in the market from quickly and cheaply increasing their output. Third, the absence of countervailing buyer power means that at the retail level, no other subscription television broadcaster is able to offer the same premium bouquets as DStv, and subscribers therefore have no outside options that can limit MultiChoice's market power in this segment of the market. Fourth, product differentiation may also influence a firm's market power by "softening" the degree of price competition between firms. If firms offer differentiated products or services, fewer consumers may switch following a price increase, making it easier for firms to profitably sustain higher prices.
- 7.2.6 When it comes to vertical integration, Econet Media makes reference to the OECD which states that "*A key issue is that a downstream broadcasting service provider may be able to leverage its market position to gain power in an upstream market for content*". According to Econet Media this has been true for MultiChoice, whose large footprint in the retail market has allowed it to grow its market share in the upstream market for content production and access to premium content rights, and vice versa.
- 7.2.7 In deciding whether or not to make content or channels that are produced or packaged in-house available to third parties, MultiChoice faces a trade-off between increased income from the sale of the content rights/channels to

potential competitors, and the risk of losing subscribers who may switch to competitors if the content becomes available on other platforms.

- 7.2.8 MultiChoice's access to premium and non-premium content has made it easy for it to enter the OTT market, which has given it a competitive advantage over other pay television broadcasters and OTT service providers. By leveraging from its negotiations for pay television content rights, it also gains access to content to screen on its own OTT platform/s. Competitors are therefore not only blocked out of the first-run television broadcasting window, but also out of the second-run windows.
- 7.2.9 Finally, MultiChoice, through its affiliation with firms such as SuperSport, M-Net and Orbicom is fully integrated, which makes it more efficient, but it also makes it more difficult for other subscription broadcasters to enter and become effective competitors.
- 7.2.10 The Commission is of the view that the identification of players with significant market power is mandated by legislation and is therefore deemed appropriate for the evaluation.
- 7.2.11 In respect of vertical integration, the Commission notes that this can, depending on the circumstances, give rise to either pro-competitive efficiencies or anticompetitive outcomes or at times both. The pro-competitive efficiencies largely relate to the removal of double marginalisation and the reduction of transaction costs which ultimately can be expected to result in lower prices and product quality, among others. On the other hand, vertical integration can contribute to the heightening of barriers to entry and/or expansion in a market as well as perverse incentives on the part of vertically-integrated firms.
- 7.2.12 According to Multichoice, the proper approach when determining significant market power is to first consider the effectiveness of competition in the retail market. If the Authority is unable to find that competition in the retail market is ineffective, then the inquiry ends there. If ineffective competition is found at the retail level and wholesale markets are assessed, it is only those within

which ineffective competition is found which should be the subject of any SMP test.

7.2.13 MultiChoice believes that any analysis of SMP is premature until a proper analysis of effectiveness of competition has been completed.

7.2.14 Furthermore, MultiChoice does not believe that vertical integration is capable of raising competition concerns in this market.

7.3 The Authority's findings

7.3.1 The Authority does not agree with Telkom and Econet Media that significant market power cannot be deduced from market shares. Section 67(5) clearly states that a licensee has significant market power if it is dominant; has control of an essential facility; or is vertically integrated in a manner that harms competition. The ECA ascribes to dominance the same meaning it has in terms of section 7 of the Competition Act, which states that a firm is dominant in a market if –

(a) it has at least 45% of that market;

(b) it has at least 35%, but less than 45% of that market unless it can show that it does not have market power; or

(c) it has less than 35% of that market, but has market power.

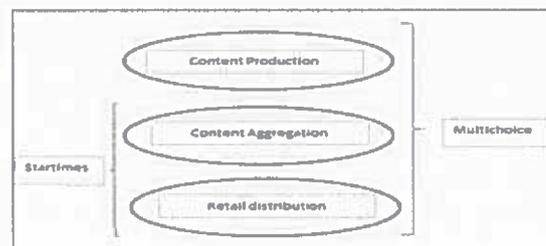
7.3.2 The Competition Act then defines market power as the ability of a firm to control prices, or to exclude competition or to behave to an appreciable extent independently of its competitors, customers or suppliers. A firm is irrefutably presumed to have market power and be dominant in a market if it has 45% or more market share. A market share of between 35% and less than 45% presumes dominance unless the firm concerned can show that it has no market power. A market share of less than 35% presumes dominance if it can be proven that the firm concerned has market power. In terms of the ECA a licensee has significant market power if, among other things, it is dominant, within the meaning of the Competition Act.

7.3.3 Thus, from the above, a firm can have significant market power on account of possessing high market shares only. To the extent that other factors are at play, they only magnify the extent of the market power that already exists due to the size of a firm in the market.

7.3.4 However, significant market power can also stem from vertical integration and the control of an essential facility. The Authority has determined that MultiChoice is vertically integrated in a manner that allows it to leverage its market power at one end of the value chain to benefit the other end.

7.3.5 Contrary to MultiChoice's contention that vertical integration is not a necessary condition to enter the market since content can be obtained from third parties, or commissioned from independent producers, it is vertical integration that has given rise to the current market structure that exhibits outcomes that prevent entry and expansion in the market. There are inherent economies of scale and scope associated with vertical integration. Unfortunately these have given rise to a market structure that results in ineffective competition.

Figure 13. Vertical integration in subscription television



7.3.6 The Authority starts its analysis at the retail level where it identified four relevant markets:

7.3.6.1 a market for the retail distribution of analogue based free-to-air television services in South Africa;

7.3.6.2 a market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa;

7.3.6.3 a market for the retail distribution of premium subscription television services in South Africa; and

7.3.6.4 a market for the retail distribution of video-on-demand services in South Africa.

The market for the retail distribution of analogue free-to-air television services in South Africa

7.3.7 The Authority did not find major competition challenges in the analogue free-to-air television services market.

The market for the retail distribution of basic-tier subscription television services and satellite free-to-air television services in South Africa

7.3.8 The Authority found that MultiChoice and StarTimes offer basic tier subscription TV bouquets and e.tv offers satellite based free to air services in this market. If the Authority considers the Family, Access and Easyview as entry level bouquets, MultiChoice has 2 399 832 subscribers in this market. StarTimes has about 60 000 subscribers to its service. The number of households with an OVHD service is estimated at 1 200 000. As a result, MultiChoice commands about 65% of the market. Therefore, in terms of section 67(5) of the ECA MultiChoice has significant market power in the market for the retail distribution of basic-tier subscription television services and satellite based free-to-air television services in South Africa.

The market for the retail distribution of premium subscription television services in South Africa

7.3.9 The Authority determined that MultiChoice and Deukom are the only players in this market. MultiChoice has 1 361 557 premium subscribers while Deukom has about 10 000 subscribers. As result MultiChoice commands 99% market share and therefore has significant market power in this market.

The market for the retail distribution of video-on-demand services in South Africa

7.3.10 There are currently various players of different sizes in this market. All of them are new entrants who are less than 5 years in the market and are at different stages of development. These include local, regional and international service

providers. Local players include Multichoice, through its Showmax and DStv Now services, Cell C's Black, Vodacom VideoPlay, Econet Media's Kwesé Play, Telkom LIT and DEOD. International service providers with a local presence include Netflix, Google Play, Amazon Prime and iflix among others.

7.3.11 The Authority notes that MultiChoice is increasing its presence in the video-on-demand market. MultiChoice states that Netflix subscribers are only two-thirds of its Showmax subscribers, indicating that MultiChoice is currently leading in terms of subscriber numbers in this market. There are concerns that MultiChoice may use its dominant market position in subscription television services to limit competition in the video-on-demand market. In its Pay TV Movies investigation Ofcom noted that Sky also acquired subscription video-on-demand rights to first run movies, although it was not at that time heavily utilising these rights. Ofcom concluded that this was evidence that BSkyB had market power in the linear channel distribution of premium movies. And at a time when growing SVOD services were disrupting the pay TV market, Ofcom concluded that Sky's position in the market could also limit competition in on-demand services in the future.

7.3.12 The Authority will monitor developments in this market and will intervene when required. The Authority notes further that there are collaborations among players, including between subscription service providers and OTTs as well as between electronic communications service providers and OTTs. Again, the Authority will monitor the nature of the collaborations to ensure that they are competition enhancing.

7.3.13 Various stakeholders also raised concerns with the fact that OTTs are currently not subject to any form of regulation in South Africa, including BEE and local content requirements. It must be recognised that this inquiry is based on section 67 of the ECA, in terms of which, regulations can only be imposed on licensees who are found to possess significant market power in an instance where there is ineffective competition in an identified market. However, nothing prevents the Authority to embark on a separate process to consider the regulation of OTTs in general, should the need arise.

The market for the wholesale acquisition of non-premium content for distribution in South Africa

- 7.3.14 As explained in the Discussion Document, the Authority considered the broadcasting and video-on-demand value chain as depicted in Figure 3 above to indicate that some broadcasters are able to produce content in-house. In most instances this would be non-premium content. Those with no such capabilities acquire content from third parties. Over the years, commercial and community television broadcasters have managed to enter the broader television broadcasting and video-on-demand sector.
- 7.3.15 The Authority views this market as not having high barriers to entry. There are many suppliers of non-premium content locally and internationally. Both free-to-air and subscription television broadcasters and channel producers can acquire content in this market. Vertical integration here does not appear to cause any harm to competition and as such there is no need for regulatory intervention.

The market for the wholesale supply and acquisition of premium content for distribution in South Africa

- 7.3.16 The Authority identified three categories of premium content, being FSPTW Hollywood movies and series; live soccer matches; live rugby matches; and live cricket matches. The Authority has considered the fact that MultiChoice currently holds movie rights in four of the six Hollywood movie houses; it owns the majority of the rights to the major live soccer matches, including the PSL, EPL, Bundesliga, La Liga and Serie A. MultiChoice has also acquired rights to the major rugby tournaments as well as the cricket competitions. MultiChoice has held these rights over an elongated period of time. It has used access to these rights to exert its market power in the downstream retail market. Thus Authority also considered the fact that MultiChoice is vertically integrated in a manner that could harm competition. As such, MultiChoice is found to possess significant market power in this market.

8. PRO-COMPETITIVE LICENCE CONDITIONS

8.1 Overview

8.1.1 This section of the Discussion Document considered possible pro-competitive licence conditions that may be imposed on a licensee with significant market power in the relevant markets that have been determined to be characterised by ineffective competition, in order to remedy the market failure. Having identified possible market failures and the fact that there could be ineffective competition in the proposed relevant markets, the Authority is required to consider appropriate remedies to deal with the market failure. According to section 67(7) pro-competitive licence terms and conditions may include but are not limited to:

- (i) obligations to publish any information specified by the Authority in the manner specified by it;
- (ii) obligations relating to accounts, records and other documents to be kept, provided to the Authority, and published;
- (iii) obligations concerning the amount and type of premium, sport and South African programming for broadcasting; and
- (iv) distribution, access and reselling obligations for broadcasters.

8.1.2 The Discussion Document went on to discuss other possible remedies in addition to the ones already listed in section 67(7) of the ECA, including shortening exclusive contracts; introducing unbundling; imposing rights splitting; impose wholesale-must-offer; opening up the dominant firm's network; and introducing set-top box inter-operability.

8.1.3 A firm also has significant market power if it has a vertical relationship that the Authority determines could harm competition. Whilst vertical integration does not raise competition concerns per se, it can be used to limit competition.

8.1.4 The following two questions were posed in this section of the Discussion Document:

Q23. Do you support the Authority's proposed approach in identifying players with significant market power? Kindly elaborate?

Q24. Does the nature of any licensee's vertical integration in this market raise competition concerns?

8.2 Stakeholder comments

- 8.2.1 Telkom supports the shortening of exclusive contracts, arguing that this is in line with best corporate governance in South Africa and will allow new players a fair opportunity to bid for and acquire key rights. However, Telkom points out that unless this is linked to requiring an open and fair bidding process, it will not alone address the problems associated with long term contracts and relationships between incumbents and rights holders. The length of time for such exclusive rights would also probably ideally be negotiated with both content providers and rights holders.
- 8.2.2 Telkom opines that rights splitting and unbundling of content rights can only be effective as a remedy to address unfair competition if used together. These conditions are generally imposed on rights holders (e.g. sporting codes) and therefore would need the cooperation of the competition authorities and rights holders.
- 8.2.3 Telkom fully supports the imposition of wholesale must offer in the South African context. The OTT market is not yet developed enough to address the issues and Telkom does not expect it to develop rapidly.
- 8.2.4 When it comes to the remedy of opening up the dominant player's network, Telkom refers to Ofcom who seems to have successfully addressed concerns about access through such interventions and Telkom supports the notion that ICASA explore this further.
- 8.2.5 Telkom also supports set-top box interoperability as a crucial licence condition in ensuring ease of switching by subscribers – allowing new operators to target both existing and potential customers.

- 8.2.6 In its written submission Econet Media provides an analysis of various remedies imposed by authorities in Europe, to deal with challenges of accessing content by third parties before outlining its views on the proposed remedies. Econet Media supports the proposal that exclusive contracts be shortened and believes that the approach adopted by the European Commission in limiting agreements for the acquisition of sports content to two years and agreements for the acquisition of premium entertainment content to three years, is an appropriate measure.
- 8.2.7 Econet Media proposes that in addition to shorter contract periods, the Authority should also consider a pro-competitive licence condition which would limit MultiChoice's (and its affiliates) ability to enter into output and volume licensing agreements to no more than two Hollywood studios. MultiChoice should also be prohibited from entering into any form of output licensing agreement with independent suppliers of content
- 8.2.8 Econet Media supports the approach adopted by the European Commission in respect of the acquisition of sports rights, including the unbundling of sports rights.
- 8.2.9 Another pro-competitive measure which Econet Media believes will be important to ensuring that the barriers to acquiring premium entertainment and sports content are lowered would be for the Authority to impose a requirement on MultiChoice that precludes it from acquiring DTT, Internet and mobile rights on an exclusive basis.
- 8.2.10 Econet Media is also in favour of the implementation of a wholesale 'must offer' obligation as it will unlock content which is currently subject to long term exclusivity arrangements and proposes that such an obligation be imposed on MultiChoice's premium entertainment and sports channels.
- 8.2.11 However, wholesale 'must offer' obligations will only be effective, if they are subject to substantial regulatory oversight with regard to access, the terms of access and the resolution of disputes between the parties. In addition, there is a need for ancillary pro-competitive licence conditions to accompany the wholesale 'must offer' obligation. These obligations include an obligation that

all channels which are made available to other pay television operators be offered on the same basis as those offered by MultiChoice to itself

8.2.12 Econet Media believes that the Authority should consider the introduction of set-top box interoperability together with technical platform service guidelines similar to those introduced by Ofcom.

8.2.13 In addition to the above remedies, Econet Media also proposes that anticompetitive contractual terms such as automatic renewal clauses, rights of first refusal in respect of the licensing of new or additional content and any form of restraint placed on content suppliers or local producers by MultiChoice should be prohibited

8.2.14 According to the Competition Commission, the South African Pay-tv broadcasting services market is characterised by the presence of an overwhelmingly dominant incumbent, significant barriers to entry, limited countervailing power (by both sellers of content rights and end consumers), and ineffective entry. Given this state of affairs it proposes various remedies, in line with the Discussion Document.

8.2.15 The Commission's view is that while shortening the duration of exclusive contracts can reduce the likelihood of anti-competitive outcomes, this is not sufficient. While short duration contracts are unlikely to raise competition concerns, the possibility for the renewal of these contracts with the same broadcaster still remains as a risk factor. The continuous renewal of exclusive contracts with the same broadcaster serves to entrench incumbency. This confers upon incumbents a competitive advantage in the market and effectively forecloses new entry and/or expansion by existing players.

8.2.16 The introduction of unbundling could be a welcome long-term remedy. Given the limited uptake and usage of alternative broadcast platforms such as mobile tv and IPTV, the Commission submits that such a remedy would not provide the necessary resolution to the identified market failures and competition concerns in the market. From a long-term perspective and in order to allow for these broadcast platforms to gain traction, the Commission is of the view

that if such unbundling is necessary it should be effected as part of the suite of regulatory intervention instruments in this market.

- 8.2.17 The introduction of rights splitting is a welcome potential remedy. The Commission notes that while the splitting of rights, subject to the terms set out in the Discussion Document, allows for numerous players to have access to a critical input, due regard must be given to the design of the various rights packages. This is to ensure that all rights acquirers are afforded the opportunity to acquire sufficiently compelling packages that will enable them to effectively compete in the market.
- 8.2.18 The Commission contends that the imposition of a wholesale-must-offer obligations on the dominant firm can serve to promote competition by ensuring that smaller and new market participants are able to access critical inputs such as premium content. However, such an obligation would necessitate the regulation of terms of access as vertically-integrated broadcasters may have incentives to stifle competition at the downstream retail level. Such incentives could be effected through strategies that would result in the raising of rivals' costs and/or constructive refusal to deal with competitors.
- 8.2.19 Access to a dominant firm's network may reduce barriers to entry for smaller and new entrants into the market. However, the Commission believes that this will also require the regulation of terms of access. A wholesale access regulatory framework, which regulates terms of access on non-discriminatory and cost-based (with a reasonable return) terms would have to be developed.
- 8.2.20 According to the Commission, the lack of interoperability of STBs can potentially raise barriers to entry for subscription television service providers as this has implications for the ease with which individual incumbent broadcasters' STBs interoperate with signals from other subscription television service providers. Ultimately, this also has implications for the ease with which customers can switch between different service providers. Inter-linked with the issue of operability is the issue of conditional access, particularly in the context of access to premium content.

- 8.2.21 As such, it is imperative that an appropriate regulatory framework in respect of interoperability and conditional access is put in place to safeguard the pro-competitive and consumer-welfare enhancing outcomes that are likely to arise from the implementation of such a system.
- 8.2.22 The Commission believes that none of the proposed remedies would be sufficient if considered in isolation. Rather, a combination of the proposed remedies, underpinned by effective regulation would serve to deal with the identified market failures and competition challenges.
- 8.2.23 Deukom expresses a concern that any regulations which may be developed relating to the imposition of pro-competitive licence conditions will inadvertently further trample the business activities of small broadcasters.
- 8.2.24 e.tv proposes that advertising revenue income streams for MultiChoice be capped at R1 billion per annum. e.tv further proposes that hoarded rights, especially sports rights, should be made available to FTA broadcasters on a cost effective basis.
- 8.2.25 Cell C proposes the following remedies to be imposed on Multichoice:
- to publish information concerning long term and/or exclusive contracts concluded by MultiChoice for premium content (as defined) with a view to **shortening exclusive rights periods**;
 - disclosing the terms on which such content is available for **acquisition by third parties**;
 - to maintain **separate accounts** for each of its various offerings by platform, premium and non-premium type of content, and wholesale and retail content;
 - to make programmes and channels available separately on terms regarding distribution, reselling and access to be imposed by ICASA (**rights splitting**);
 - to be subject to **rate regulation on wholesale services**, such that no content should be made available on terms that are less favourable than MultiChoice first acquired it, pro rata to the total price if content is sold by programme;

- relating to **accounts, records and other documents to be disclosed** to ICASA and published;
- regarding the amount and type of premium, sports and South African programming for broadcasting over a period of time, in the aggregate and **unbundling sports rights**; and
- to **carry the channels and advertising of third party products** that are not in the same market as Multichoice.

8.2.26 Over and above its call for the amendment of Must Carry Regulations, Sports Rights Regulations and Digital Migration Regulations, the SABC supports the Authority's new, proposed pro-competitive regulations and licence conditions.

8.2.27 The SOS & MMA support all the proposed pro-competitive licence conditions to be imposed on a licensee with significant market power. It further proposes that the Authority should:

- require that MultiChoice be responsible for the collection of the SABC licence fee (provided for in terms of the Broadcasting Act) from the nearly 6 million subscribers that it has;
- ensure that it regularly collects critical market related broadcasting information.
- collect information for the Authority's ICT sector review reports however the information gathered for broadcasting and OTT services is extremely limited; and
- ensure that the reports include detailed year on year broadcasting market information

8.2.28 SA Rugby indicates that the rights it owns are in relation to international and domestic matches in South Africa, but that the sale of domestic rights are factored into the sales of rights as part of joint venture competitions. Therefore, the broadcast rights to Super Rugby, Rugby Championship and PRO14 are part of alliances with SANZAAR and Celtic Rugby (unlike other SA sports). SA Rugby further argues that Sports bodies and their consultants are best placed to decide how, and to whom, to sell these rights taking into consideration various factors.

8.2.29 The above factors include:

- balancing the need for income with maximising exposure;
- funding development to expand opportunities for participation; and
- promoting social cohesion by ensuring that sport teams represent all sectors of society.

8.2.30 SA Rugby supports exclusivity arguing that it is a global practice because it:

- maximises revenue for the sporting body;
- promotes investment in the quality of production of the sport;
- enables broadcasters to differentiate their product offering, innovatively package the content and promote and market the content to the benefit of viewers; and
- promotes competitive bidding to maximise revenue

8.2.31 SA Rugby does not support the proposed pro-competitive measures. It argues that shortening of the rights period would jeopardise values and have the knock on effect of calling into question the SANZAAR and Celtic Rugby joint ventures as it would threaten the alignment of the arrangement and their reason for existence. Broadcaster appetite would be reduced as they require a reasonable period to recover costs and earn a reasonable return on a big investment. The consequences would be a material negative impact on the amount of the rights fee, the investment by the broadcaster in the product, and consequently the experience of the viewer.

8.2.32 With respect to rights splitting SA Rugby contends that the multiplication of rights holders has the potential to multiply transaction costs as sports bodies may have to enter into and manage multiple agreements.

8.2.33 SA Rugby then raises legal questions and concerns regarding both the process and the potential implications of the Authority's intervention for third parties such as SARU and the parties it in turn contracts with.

- 8.2.34 According to the PSL, the Discussion Document does not provide substantiation why remedies are required, given how the PSL sells its rights and the history of participation in the PSL rights-selling process. It argues that the remedies are disproportionate and damaging to sport. For instance, the remedies limit participation of buyers in bids which undermines demand and consequently revenue for the PSL thus unduly interfering with the normal working of the market for acquisition of rights. The proposed remedies increase costs and complexity associated with administration and negotiation of contracts and these are not offset by commensurate gains in income.
- 8.2.35 Cricket SA submits that the broadcasting sector is currently highly concentrated and in need of greater competition. It further submits that it is unable to maximize the commercial viability of its content offering in the absence of adequate competition particularly in the subscription tv market. It is of the view that the growth of broadband in the future will provide new opportunities for live streaming. Therefore, Cricket SA supports the unbundling of rights. It also notes that rights splitting has been implemented in Australia and thus is not a new measure, although it might bring negligible economic benefits in the South African context given limited competition. Insofar as opening up the incumbent's network Cricket SA supports the proposal as it might facilitate market to entry by new competitors.
- 8.2.36 Mr Whoolf, a consumer of subscription broadcasting services argued for the right and ability to select channels of his choice instead of the current bouquet model of providing services.
- 8.2.37 MultiChoice submits that the electronic audio-visual services do not fall within the limited rationale for ex ante regulation. This is the case because ex ante regulation has inherent risks; it can create barriers to entry; may generate inefficiencies, thereby increasing costs ultimately borne by consumers; and the threat of regulation may discourage investment.
- 8.2.38 It argues that each of the Authority's contemplated conditions is not warranted and likely to produce adverse consequences.

- 8.2.39 For instance, there is no basis for rights splitting and unbundling as it may reduce the value of rights to retailers and rights owners are likely to receive less revenue from the sale of their rights.
- 8.2.40 Similarly, there is no basis for shortening the duration of exclusive contracts since, among other things, rights negotiations are usually protracted and thus not desirable to negotiate rights on a yearly basis. Longer contracts give rights owners greater certainty of their revenue over a number of years. Lengthier contracts provide incentives for audio-visual retailers to invest in the marketing and promotion of the sport.
- 8.2.41 By the same token, MultiChoice argues that wholesale must offer obligations interfere with exclusivity in retailing. Wholesale must offer are also likely to reduce the revenues for rights owners and the incentive for retailers to invest.
- 8.2.42 Regarding set-top-box interoperability MultiChoice states that the Discussion Document did not attempt to identify a market for set-top-boxes and consider the effectiveness of competition in such a market.

8.3 The Authority's findings

- 8.3.1 The Authority notes the various comments submitted with respect to the proposed licence conditions to be imposed on licensees with significant market power. There is general support of the proposed measures especially by television broadcasting service providers and video-on-demand service providers. However, there is a lot of opposition and concerns raised by MultiChoice and sports bodies (SA Rugby and PSL), with the exception of Cricket SA which supports the proposed remedies.
- 8.3.2 The Authority agrees with a number of stakeholders who argued that none of the remedies would effectively work in isolation but that they need to be implemented as a suite of solutions to the competition challenges in the relevant markets. At this stage the Authority still considers all the proposed remedies contained in the Discussion Document as possible remedies. However, following the publication of the final Findings Document the Authority will have to embark on a separate regulation process in order to consult on any possible licence conditions.

8.3.3 The following remedies are supported by most stakeholders:

- Reducing contract duration
- Rights splitting - split content rights and sell them to more than one broadcaster
- Unbundling - offering the rights to more than one buyer
- Wholesale must offer
- Limiting access to the number of Hollywood movie studios

Reducing long term contracts and prohibiting automatic renewals

8.3.4 Long-term contracts are a common and at times inevitable feature of economic activity. There are various reasons why companies would prefer to enter into long-term contracts as opposed to transacting on the spot market¹⁶⁵. One of the reasons why long-term contracts are preferred in the market for the acquisition of premium content has to do with the transaction costs of going to market on a regular basis. Where repeated and multiple interactions between players in the market are expected, long-term contracts can be used to reduce transaction costs, including search costs, negotiation costs, cost of engaging in exchange and contract writing. However, there are two fundamental factors to consider when analysing long-term contracts from a competition perspective – (a) the rationale for entering into the contract and the context or prevailing circumstances at the time of contracting and (b) the competition effects of the contract in the relevant market.

8.3.5 One of the effects of long-term contracts in the market for the acquisition of premium content is input foreclosure. Whosoever wins an exclusive contract forecloses competitors from accessing the content. As a way of limiting the harm to competition created by long-term contracts their duration could be reduced. The European Commission considers that contracts longer than 5 years raise concerns, as a general rule because any efficiencies arising from such a contract usually do not offset foreclosure effects beyond that

¹⁶⁵ Including risk sharing, hold-up and asset specificity

duration¹⁶⁶. Whilst the South African market may be different from the European market, the Authority believes that it may be useful to consider possible lessons from the European market.

Introducing rights unbundling

8.3.6 The unbundling of sport rights involves offering the rights to more than one buyer, usually making the rights available on different platforms such as subscription tv and mobile tv and OTTs for instance. Jurisdictions that have unbundled sport rights into separate packages include Brazil¹⁶⁷ and the broader European market¹⁶⁸. The European Commission has adopted an approach that the sale of sport rights must satisfy the following conditions:

- (a) they must be sold on open tender
- (b) the rights must be "unbundled" allowing more than a single buyer;
- (c) no excessive exclusivity (a term of three years being regarded as a general norm);
- (d) no automatic renewal of contracts (regarded as a disguised extension of the term of the exclusivity).¹⁶⁹

8.3.7 It is worth noting that in the South African context, the winner of the PSL rights also acquires rights to other distribution channels such as mobile and the Internet. There is no reason why this should be the case.

Imposing rights splitting

8.3.8 Rights splitting requires a rights owner to split content rights and sell them to more than one broadcaster¹⁷⁰. The design of the split is paramount to ensure wider access and benefit to the rights owner. There are various arguments for

166 European Commission. Guidelines on Vertical Restraints, 2010. Available at http://ec.europa.eu/competition/antitrust/legislation/guidelines_vertical_en.pdf

167 Mattos, C. Broadcasting Football Rights in Brazil: 2012. The Case of Globo and "Club of 13" in the Antitrust Perspective. *Estudos Económicos*, vol. 42, No.2, p. 337-362

168 Blackshaw, I. 2013. Collective sale of sports television rights in the European Union: competition law aspects. *De Jure*

169 Dec 2003/778.

170 Germany's federal cartel office has approved plans to stop any single buyer from winning all the live television rights for Bundesliga soccer matches for the four seasons starting in 2017, see

and against the splitting of rights. In the end the Authority would be interested in a condition that has long term benefits on the market. The advantage with splitting rights into many packages is that it facilitates access by new smaller entrants who may not have deep pockets to bid for the full package of rights. On the downside, however, consumers may find it difficult to subscribe to various service providers in order to get access to specific matches. In the long run, however, the splitting of rights should enhance overall competition in the market¹⁷¹.

Imposing wholesale-must-offer

- 8.3.9 In 2010, following a three-year investigation, communications regulator Ofcom imposed a wholesale must-offer regulation on BSkyB's premium Sky Sports channels, requiring these to be made available to other distributors at regulated prices. In 2014 Ofcom undertook a review of the wholesale-must-offer obligation and found that in the intervening period there had been a number of developments in the subscription-tv sector including the wider availability of sports content on competing retail offerings and platforms, an increased presence of over-the-top internet services and new devices providing additional means of accessing subscription tv content¹⁷².
- 8.3.10 There was also entry into the subscription-tv market by British Telecommunications plc (BT) which was able to acquire key sports rights and offer other channels. As a result, Ofcom decided to remove the wholesale-must-offer obligation on Sky.
- 8.3.11 The South African market broadband market is still not mature as yet in respect of suitable alternative retail offerings and widespread OTT services. Although mobile broadband connection has gained traction, fixed broadband connection is still at low levels when viewed as a whole¹⁷³. As a result, the uptake of OTT services in South Africa may not (in the short to medium-term)

171 Toft, T. Football: joint selling of media rights. Competition Policy Newsletter. Number 3 – Autumn 2003

172 Ofcom. 2014. Review of the pay TV wholesale must-offer obligation. Available at <http://stakeholders.ofcom.org.uk/binaries/consultations/wholesale-must-offer/summary/condoc.pdf>

173 ICASA. State of ICT Sector in South Africa. 2016

be as rapid as in the UK. Thus, a regulatory intervention in the form of a wholesale-must-offer might still be a possible and feasible remedy¹⁷⁴.

Limiting access to the number of Hollywood movie studios

8.3.12 The Authority considers access to Hollywood movies as constituting a competitive advantage. For new entrants it may be difficult to break into the market without such access. As such, the Authority will limit the number of Hollywood studios that a player may enter into exclusive agreements with for purposes of distributing movies.

Set-top-box interoperability

8.3.13 In order to access DTH satellite subscription television broadcasting services at the moment viewers have to purchase customer premise equipment in the form of set-top-boxes and satellite receiver dishes. In the event that a customer wants to switch service providers a new set-top-box and dish are required. This is due to lack of interoperability of the CPE, which leads to high switching costs and hassle factor for consumers. Interoperability of CPE can help to stimulate competition by lowering switching costs. However, due to the technical complexities surrounding set-top-box interoperability, the Authority would have to undertake further work and separate consultations on the issue before proposing it as a licence condition on players with significant market power.

8.3.14 The Authority does not agree with MultiChoice that in order to effect set-top-box interoperability the Authority needs to first identify such a market and assess the effectiveness of competition. Set-top-box interoperability is being proposed as a remedy to deal with ineffective competition at the retail level of the market.

¹⁷⁴ Elsewhere in Europe, wholesale must-offer remedies have been imposed on a number of pay-tv mergers which created a dominant operator with control over premium content (e.g. Sogecable/Via Digital, Spain 2002; Newscorp/Telepiù, Italy 2003; CanalSat/TPS, France 2006, 2012)

A la carte model

- 8.3.15 The Authority's consumer survey revealed that consumers are looking for value for money services. There is general dissatisfaction with the service being offered. MultiChoice also states that its premium subscribers are under financial pressure and are dissatisfied with having to content with repeat programmes.
- 8.3.16 At a time when the cost of subscription television is increasing with no corresponding increase in value for money, consumers are calling for an ala carte model where individuals can pick and choose channels they prefer and pay only for those.
- 8.3.17 While it may be an appealing proposition, the Authority notes that it would take technical configuration and re-engineering of business models by current subscription broadcasters. The Authority also notes that there are few countries in the world that have implemented ala carte models with inconclusive results in terms of benefits to consumers¹⁷⁵. The Authority will embark on a separate process should it become necessary to introduce ala carte option in the South African market.
- 8.3.18 For now, the Authority is of the view that if the above proposed remedies are correctly implemented, they will lead to effective competition which should result in increased access and lower prices for television broadcasting and video-on-demand services.

¹⁷⁵ India and Canada have an ala carte model

9. CONCLUSION

9.1.1 This Draft Findings Document is the culmination of a process that began July 2016 with the Authority 's notice of its intent to conduct an inquiry into the state of competition in subscription television broadcasting services. This was followed with the dissemination of a Questionnaire in July 2016, to gather information from various stakeholders; and publication of a Discussion Document in August 2017.

The Discussion Document was based on responses to the Questionnaire and internal research. It sought to present an analysis of competition issues in subscription television broadcasting services and solicit stakeholder views. Public hearings were held in May 2018, affording stakeholders an opportunity to make oral presentations, in addition to their written responses to the Discussion Document. During the public hearings some stakeholders were requested to submit additional information clarifying questions posed or in further support of their written submissions was followed by the publication of a Discussion Document in August 2017. The Discussion Document was based on responses to the Questionnaire and internal research. It sought to present an analysis of competition issues in subscription television broadcasting services and solicit stakeholder views. Public hearings were held in May 2018, affording stakeholders an opportunity to make oral presentations, in addition to their written responses to the Discussion Document. During the public hearings some stakeholders were requested to submit additional information clarifying questions posed or in further support of their written submissions.

9.1.2 This Draft Findings Document summarises the stakeholder responses to the Discussion Document and information submitted during and after the public hearings, undertakes further analysis and presents the Authority's findings on each issue discussed. Most stakeholders agree with the Authority's analysis and preliminary views contained in the Discussion Document. MultiChoice, on the other hand, generally disagrees with the Authority's analysis and preliminary views expressed in the Discussion Document. Where the Authority arrives at a finding that differs from views expressed by stakeholders reasons are provided.

- 9.1.3 In defining the relevant markets, the Authority considered the impact of OTTs and DTT and came to the conclusion that both services do not compete directly with subscription television broadcasting services. The Authority defined relevant markets at the retail and wholesale levels.
- 9.1.4 At the retail level the Authority defined the following relevant markets: (a) a market for the retail distribution of analogue based free-to-air television services in South Africa; (b) a market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa; (c) a market for the retail distribution of premium subscription television services in South Africa; and (d) a market for the retail distribution of video-on-demand services in South Africa.
- 9.1.5 At the wholesale level for content acquisition the Authority defined the following relevant markets: (a) a market for the supply and acquisition of premium content for distribution in South Africa and (b) a market for the supply and acquisition of non-premium content for distribution in South Africa.
- 9.1.6 The Authority did not deem it necessary to define a wholesale market for channel acquisition since it is a function of content acquisition and would not have a significant impact on the analysis.
- 9.1.7 When it comes to assessing the effectiveness of competition in the relevant markets, the Authority found competition to be ineffective in the following markets: (a) the market for the retail distribution of basic-tier subscription television services and satellite-based free-to-air television services in South Africa; (b) the market for the retail distribution of premium subscription television services in South Africa; and (c) the market for the wholesale acquisition of premium content for distribution in South Africa.
- 9.1.8 The above relevant markets accord with the European Commission's views in the recent *Liberty Global/Ziggo*¹⁷⁶ case which considered the impact of OTTs on traditional television broadcasting services. Although in some instances the European Commission did not deem it necessary to be conclusive about a

176 European Commission. *Liberty Global / Ziggo*. Case No M.7000

particular market definition, it did nonetheless express a view on how it would approach market definition in such instances. The Authority is also satisfied that the approach to market definition in the Discussion Document found support from the Competition Commission.

- 9.1.9 The Authority found MultiChoice to possess significant market power in the relevant markets that are characterised by ineffective competition and thus proposes various licence conditions to remedy the market failure. The following licence conditions have been identified, in addition to those provided in section 67(7) of the ECA:(a) reducing rights contract duration; (b) prohibiting automatic renewal of rights contracts; (c) rights splitting; (d) rights unbundling; (e) limiting number of agreements with major movie studios; (f) wholesale must offer; and (g) set-top-box interoperability.
- 9.1.10 This Draft Findings Document provides stakeholders with an opportunity to respond to the Authority's findings before a Final Findings Document is developed.
- 9.1.11 Depending on the outcomes of the Final Findings Document, the Authority may consider developing regulations in terms of section 67(4) of the ECA to give effect to these findings. A separate public consultation process would be followed in that case.

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 574

12 APRIL 2019

AMENDMENT OF THE GOVERNMENT GAZETTE NO. 31595 NOTICE 1415 OF 2008.**NOTICE OF AMENDMENT OF THE GENERAL NOTICE IN TERMS OF THE SECTION 11A (C4) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED**

Notice is hereby given in terms of Section 11A (4) that an amendment is hereby made to the Government gazette No. 31595 Notice 1415 OF 2008.

Queen Modjadji the V (Mokope) lodged a land claim on behalf of the Balobedu Nationality on the 28th December 1998. The land claim complied with the requirements contained in section 2 of the Restitution Act of 1994, as amended.

The Balobedu Nationality land claim was gazetted in the Government Gazette No. 31595 Notice 1415 of 2008 for further research and it was discovered in terms of Rule 5 of the Restitution Act 22 of 1994, as amended that the Balobedu land claim is frivolous and vexatious, therefore all the properties gazetted in their favour must be withdrawn.

The details of the property are depicted in the table below as follows:

FARM	OWNER	TITLE DEED NO	EXTENT (ha)	ENDORSEMENTS	HOLDERS
Boomplaas 408 LT					
Remaining Extent of portion 2	RENSBURG SUSARA MARIA JANSE VAN	T66775/2008	252.5340 H	B69754/2008	Eerste Nasionale Bank
Portion 3	RENSBURG SUSARA MARIA JANSE VAN	T66775/2008	252.5339 H	B69754/2008	Eerste Nasionale Bank
DIEPLAAGTE 348 LT					
Remaining Extent	Matomahoek Boerdery Pty Ltd	T98799/1977	336.4789	B77344/1997	Eerste Nasionale Bank

Portion 1	Grootboom Boerdery Pty Ltd	T98807/1997	327.1956	B85439/1997	Eerste Nasionale Bank
DRIEHOEK 400 LT					
Remaining Extent	Jacobus Daniel Venter	T58813/1980	108.2547	B19228/1986	RSA
Portion 2	Theo Dicke Pty Ltd	T54090/2003	96.9539	B36191/203	LAND BANK
Portion 3	Theo Dicke Pty Ltd	T66/2007	85.6532	K1274/1983	LAND BANK
Portion 4	Driehoek 400 Boerdery CC	T51229/1988	96.9539	T51229/1988	Eerste Nasionale Bank
Portion 5	Jacobus Daniel Venter	T6813/1980	108.2546	B19228/1986	RSA
Portion 6	Malatji Pateni Patrick and Malatji Linda	T52463/2007	85.6532	B65473/2007	STD BANK OF SOUTH AFRICA
GEMBOKS PRUIT 349 LT					
Portion 1	Paardedood Boerdery Pty Ltd	T91449/1997	223.2468	B13971/1999	ABSA BANK
Portion 2	Paardedood Boerdery Pty Ltd	T91449/1997	204.1273	B13971/1999	ABSA BANK
Remaining Extent of Portion 3	Basson Petrus	T48082/1980	80.7584	K576/1956S	Eerste Nasionale Bank
Remaining Extent	Matomahhoek Boerdery	T89210/1997	277.0367	K2138/1977S	Eerste Nasionale Bnak
Remaining Extent of portion 5	Jordaan Priscilla	T49136/1996	202.6435	K188/1963S	No details
Portion 6	Rolvark Trust	T90364/2001	27.5745	B60468//2001	First Rand Bank LTD
Portion 7	Abraham Petrus Carolus Coetsee	T65994/1998	4.3855	B40910/2001	FIRST RAND BANK
Remaining Extent	Paardedood	T89212/1997	149.8931	B13971/1999	ABSA

of portion 9	Boerdery								
Portion 10	Paardedood Boerdery	T91449/1997	85.6532	B13971/1999					ABSA
Portion 11	Paardedood Boerdery	T91449/1997	42.8266	B13971/1999					ABSA
Portion 12	Paardedood Boerdery Pty	T8921/1997	36.6035	B13971/1999					ABSA
KORTFONTEIN 390 LT									
Remaining Extent	Hlayisi Tivani Churchill	T29480/1997	428.2660	No details					No details
Remaining Extent of Portion 3	Winter Familie Trust	T50988/1998	276.0908	B47194/1998					ABSA BANK
Remaining Extent of portion 4	Loots Hendrick Johannes	T45309/1992	216.9447	K2654/1959					No details
LEEUWDRAAI 365 LT									
Remaining Extent	Pieter Duvenage Trust	T7294/1997	428.2660	No details					No details
Remaining Extent of portion 3	Winter Familie Trust	T50988/1982	276.0908	B47194/1996					ABSA BANK
Remaining Extent of portion 4	Loots Hendrick Johannes	T45309/1982	216.9447	K2654/1989					No details
Remaining Extent	Pieter Duvenage Trust	T7294/1997	768.7746	B17364/1967					LAND BANK
MOOKETSI 376 LT									
Remaining Extent	Mooketsi Plase Besigheid Trust	T412221/2000	309.3927	B17364/1967					LANDBANK
Remaining Extent of Portion 2	Transnet Ltd	T3491/1932	3.1403	No Details					No Details
Remaining Extent of Portion 3	Transnet Ltd	T3491/1932	2656.0000sqm	No Details					No Details
Remaining Extent	Transnet Ltd	T1696/1932	1.0381	No Details					No Details

of Portion 4									
Remaining Extent of Portion 5	Noord Transvaalse Kooprasie Ltd	T54235/1998	4.2827	B66514/1986	First Rand Bank Ltd				
Remaining Extent of Portion 7	Bunkehills Inv 333 Pty Ltd	T115264/2000	5.6260	No Details	No Details				
Portion 9	Stagen Ignatius Christian	T72448/1998	8.5653	B91621/2004	First Rand Bank Ltd				
Portion 12	Bertie Van Zyl LTD	T14985/1989	8.5653	K771/1955S	No Details				
Portion 14	Jachtpad Boerdery Pty Ltd	T11364/2006	8.9276	B14431/2006	No Details				
Portion 15	Mooketsi Boerevereniging	T18678/1961	9271.0000	No Details	No Details				
Portion 17	Transnet LTD	T21399/1964	1.3669	No Details	No Details				
Remaining Extent of Portion 18	Transnet LTD	T1369/1964	5.9487	No Details	No Details				
Remaining Extent of Portion 20	Jachtpad Boerdery Pty Ltd	T19621/2000	12.8480	B28034/2000	Land & Landbou				
Remaining Extent of Portion 21	Jachtpad Boerdery Pty Ltd	T19621/2000	12.4579	B28034/2000	Land Bank				
Portion 22	Jachtpad Boerdery Pty Ltd	T19621/2000	8.5653	B28034/2000	Land Bank				
Portion 24	Jachtpad Boerdery Pty Ltd	T19621/2000	29.9786	B28034/2000	Land Bank				
Portion 25	Mooketsi Plase Besigheid Trust	T84331/1999	361.8095	B35151/2001	Land Bank				
Portion 26	Bertie Van Zyl Pty Ltd	T93972/1998	1.0213	B75980/1998	First Rand Bank				
Portion 27	Transnet	T16957/1966	2.9330	No Details	No Details				
Portion 28	Mooketsi Besigheid Trust	T41221/2000	339.0000sqm	No Details	No Details				

Portion 29	Chambers Richard Frederick	G386/1965	5211.0000sqm	No Details	No Details
Portion 31	Erf 66 Duiwelskloof Pty Ltd	T54235/1998	1.5036	B50426/1998	First Rand Bank
Remaining Extent of Portion 32	Telkom SA	T7301/1973	932.0000sqm	VA101762/2001	Telkom SA
Portion 33	Eskom Holding	T41219/2000	1.5000	No Details	No Details
Portion 34	Mooketsi Plaase Besigheidstrust	T41221/2000	3329.0000	K4330/1965S	No Details
Portion 35	Mooketsi Plaase Besigheidstrust	T41221/2000	1869.0000	K4330/1965S	No Details
Portion 38	Buikerhills Inv 333 Pty Ltd	T115264/2000	2053.0000sqm	No Details	No details
Portion 39	Mooketsi Boerevereniging	T86820/1991	7633.0000sqm	B100585/1991	Eerste Nasionale Bank
Portion 40	Transnet Ltd	T96967/1996	4.4911	No Details	No Details
Portion 41	Transnet Ltd	T96967/1996	696.0000sqm	No Details	No Details
Portion 42	Transnet Ltd	T2816/2000	8481.0000sqm	No Details	No Details
Portion 43	Eskom	T41220.2000	1.2335	No Details	No Details
Portion 46	Bertie Van Zyl Pty Ltd	T95661/2002	11.048	K6020/1999S	No Details
Portion 47	Jacoba Bertina	T95660/2002	6.1258	No Details	No Details
RIETRIVIER 373 LT					
Remaining Extent	Matomahoek Boerdery Pty Ltd	T98813/1997	243.7237	I-20665/1996C	No Details
Portion 1	Matomahoek Boerdery Pty Ltd	T96813/1997	1.7131	VA5858/1997	No Details
Remaining Extent of Portion 2	Mooketsi Plaase Besigheidstrust	T41221/2000	62.7239	B35152/2001	Land Bank
Portion 3	Transnet Ltd	T4714/1917	2284.0000SQ	No details	No details

Portion 4	MatomahoekBoerdery Pty	T96799/1997	M 255.2456	K8020/1993	No details
Portion 5	MatomahoekBoerdery Pty	T96799/1997	96.9380	B77341/1997	First National Bank
Remaining Extent of portion 9	Matomahoek Boerdery Pty Ltd	T98813/1997	2.1432	K6020/1999S	No details
Portion 7	Matomahoek Boerdery Pty Ltd	T98796/1997	97.0600	B77341/1997	First National Bank
Remaining Extent of portion 8	Matomahoek Boerdery Pty Ltd	T98813/1997	38.8532	K6020/1999S	No details
Portion 6	Matomahoek Boerdery Pty Ltd	T98796/1997	96.8510	B77341/1997	First National Bank
Remaining Extent of portion 11	Matomahoek Boerdery Pty Ltd	T98813/1997	33.1462	K8020/1999S	No details
Portion 12	Matomahoek Boerdery Pty Ltd	T98796/1997	21.4133	B77341/1997	First National Bank
Portion 13	Matomahoek Boerdery Pty Ltd	T98813/1997	29.5891	K3997/1999S	No details
Portion 14	Transnet Ltd	T870007/2000	1.5160	No details	No details
Portion 15	Transnet Ltd	T42092/1996	2.0939	No details	No details
Portion 16	Transnet Ltd	T42092/1996	9399.0000sqm	No details	No details
Portion 17	Transnet Ltd	T42092/1996	8610.0000	No details	No details
Portion 18	Transnet Ltd	T115053/1996	1. 0769	No details	No details
Portion 19	Transnet Ltd	T115053/1996	1.0769	No details	No details
Portion 20	Transnet Ltd	T115053/1996	4384.00 00sqm	No details	No details
Portion 21	Transnet Ltd	T115053/1996	6051.00 00	No details	No details

Portion 22	Transnet Ltd	T115053/1996	8439.00 00	No details	No details
Portion 23	Transnet Ltd	T115053/1996	628.000 0	No details	No details
Portion 24	Transnet Ltd	T115053/1996	2.1452	No details	No details
Portion 25	Transnet Ltd	T115053/1996	2.7036	No details	No details
Vaalkrans 413 LT					
Remaining Extent	Flowton Pty Ltd	T7762/1982	343.056 8	No details	No details
Portion 1	Flowton Pty Ltd	T7762/1982	229.550 6	No details	No details
Vrystaat 437 LT					
Remaining Extent	Michael Toulon Inv Pty Ltd	T26392/2009	106.546 4H SQM	B33557/1991	STANDARD
Remaining Extent of Portion 1	DUIVELSKLOOF/GA -KGAPANE TRANSITIONAL LOCAL COUNCIL	T14331/1947	71.3717 H	K4222/1998	No details
Remaining Extent of portion 2	MUN DUIVELSKLOOF	T27281/1971	58.2059 H	I-13186/1995	No details
Remaining Extent of portion 3	JOHN MODJELA FAMILY TRUST	T27909/2011	23.9193 H	K558/1974S	No details
Remaining Extent of Portion 4	KLINKERT ERIC HILLEBRANDUS	T71051/2014	5.6907 H	LT,437.4	No details
Remaining Extent of Portion 5	KLINKERT ERIC HILLEBRANDUS	T77243/2014	6.3855 H	I-6361/2014	No details
Remaining Extent of Portion 6	JOHN MODJELA FAMILY TRUST	T27909/2011	2.3056 H	VA2639/2011	No details
Portion 7	JOHN MODJELA	T27909/2011	5.2177 H	VA2640/2011	No details

Portion 8	FAMILY TRUST M C W BOEDERY CC	T37111/2016	116.4284 H	L.T.437,8	No details	
Remaining Extent of portion 9	KING'S COURT TRUST	T77721/1995	36.5602 H	K4663/2002	No details	
Portion 11	MUN DUIVELSKLOOF	T27281/1971	58.2142 H	T27281/1971	No details	
Portion 14	HILL KLINKERT FAMILIE TRUST	T79059/2005	67.3224 H	B12862/2015	FIRSTRAND BANK LTD	
Remaining Extent of portion 15	GREATER LETABA MUNICIPALITY	T32193/2009	81.0765 H	K1304/1985S	No details	
Portion 16	S W S VRYSTAAT BOEDERY CC	T58841/1995	169.6194 H	K480/1980	No details	
Remaining Extent of Portion 26	KLINKERT ERIC HILLEBRANDUS	T77886/2014	2.3343 H	No details	No details	
Portion 28	GREATER LETABA MUNICIPALITY	T34938/2011	4502.000 0 SQM	No details	No details	
Portion 29	PFUNANANE ACADEMY TRUST	T44363/2012	8.3374 H	No details	No details	
Duiwelskloof 436 LT						
Remaining Extent of Portion 1	THEO DICKE PTY LTD	T19536/1982	312.0331 H	K1181/1973	No details	
Remaining Extent of portion 2	VUUREN PIETER JANSEN VAN	T16412/1986	102.9370 H	B83673/1997	ABSA	
Portion 3	PIETWIL TRUST	T58674/1999	102.2000 H	I-3344/1992	No details	
Portion 4	M T O FORESTRY PTY LTD	T1675/2015	17.1306 H	B1018/2015	STANDARD BANK OF SOUTH AFRICA LTD	

Portion 5	KEMP WILLEM JOHANNES	T9302/2017	100.0449 H	VA1311/2017	No details
Portion 6	M T O FORESTRY PTY LTD	T1675/2015	85.0012 H	B1018/2015	STANDARD BANK OF SOUTH AFRICA LTD
Portion 7	HORN THEUNIS GERHARDUS	T6882/1995	85.6532 H	K1698/1986	No details
Portion 8	PIETWIL TRUST	T58674/1999	55.6746 H	I-3342/1992	No details
Remaining Extent of Portion 9	VUUREN LUCAS DANIEL PIETER VAN	T54762/2016	37.5986	B108390/1996	ABSA BANK
Portion 11	HORN THEUNIS GERHARDUS	T6882/1995	64.2399 H	K1698/1986	No details
Portion 12	TRANSNET LTD	T85073/1995	7.9615 H	No details	No details
PORTION 13	MAPHANGA PATRICIA TSAKANE	T2457/2017	9453.000 0 SQM	No details	No details
GEMBOKSPRUIT 372 LT					
Remaining extent	MATOMAHOEK BOERDERY PTY LTD	T89210/1997	273.1496 H	B20782/2015	FIRSTRAND BANK LTD
Portion 2	MATOMAHOEK BOERDERY PTY LTD	T89210/1997	8922.000 0 SQM	B20782/2015	FIRSTRAND BANK LTD
Portion 4	SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LTD	T65188/2012	2.3536 H	No details	No details
Portion 5	SOUTH AFRICAN NATIONAL ROADS	T65188/2012	2.6314 H	No details	No details

Portion 6	AGENCY SOC LTD SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LTD	T65228/2012	3.8871 H	No details	No details
Portion 11	MATOMAHOEK BOE LTD	T65186/2012	157.9458 H	B20782/2015	FIRSTRAND BANK LTD
Portion 12	MATOMAHOEK BOERDERY PTY LTD	T65186/2012	232.9911 H	B20782/2015	FIRSTRAND BANK LTD

The Office of the Regional Land Claims Commissioner: Limpopo is investigating this claim. Any party that has an interest in the above-mentioned property is hereby invited to submit in writing, within 14 days of publication of this notice, any comment, objection or information under reference number KRP's 11049 to:

**Office of the Regional Land Claims
Commissioner**
Private Bag X 9552
Polokwane
0700

Submissions may also be delivered to:
First Floor, 96 Kagiso House
Corner Rissik & Schoeman Street
Polokwane
0700

Further note that the Regional Land Claims Commissioner reserves the right to amend this gazette notice in terms of Section 11 (A) of the Restitution of Land Rights Act (Act 22 of 1994), as amended, should it later be established that there are properties that have been inadvertently omitted or included.


MR. L.H. MAPHUTHA

REGIONAL LAND CLAIMS COMMISSIONER

DATE: 2019/03/27

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 575

12 APRIL 2019

AMENDMENT OF GAZETTE NOTICE 334 OF 2006 WITHIN GAZETTE NUMBER: 28552 ISSUED ON 03 MARCH 2006

GENERAL NOTICE IN TERMS OF SECTION 11A (4) OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994) AS AMENDED

Notice is hereby given in terms of Section 11A (4) of the Restitution of Land Rights Act, 1994 Act No. 22 of 1994) as amended, that a claim for restitution of land rights has been lodged by Mr. Lesiba Hendrick Motshegoa on behalf of the Matabane Community.

The amendment of the above mentioned notice is made to include PORTIONS 2 & 3 OF THE FARM BUFFELSHOEK 41 KR which where erroneously omitted in previous gazette. The properties are situated within the Modimolle Local Municipality, Waterberg District of the Limpopo.

PROPERTY	OWNER	TITLE NOTICE	DEED	EXTENT (ha)	ENDORSEMENTS	HOLDER	CLAIMANT
PORTION 2 & 3 OF THE FARM BUFFELSHOEK 41 KR							
PORTION 2	BOTHA KAREL IZAK JACOBUS	T54211/2006PTA	60.1650	-	-	Lesiba Hendrick Motshegoa	Lesiba Hendrick Motshegoa
PORTION 3	BOTHA KAREL IZAK JACOBUS	T54211/2006PTA	1.1385	-	-	Lesiba Hendrick Motshegoa	Lesiba Hendrick Motshegoa

Take further notice that the Commission on Restitution of Land Rights herein after the Commission received a land claim lodged by Mr. Lesiba Hendrick Motshegoa on 18 March 1998. The Commission has investigated this land claim. Any party that has an interest on the above-mentioned property is hereby invited to submit in writing, within **14 days** of publication of this notice, any comments or information or objection to the said notice under reference number **KRP 1809** to:

Submission may also be delivered to:

Office of the Regional Land Claims Commissioner: Limpopo
Private Bag X 9552
Polokwane
0700

First Floor, 96 Kagisho House
Corner Rissik & Schoeman Street
Polokwane
0700


LEBJANE MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

DATE: 2019/03/08

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 576

12 APRIL 2019

GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT NO. 22 OF 1994), AS AMENDED

Notice is hereby given in terms of section 11(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) as amended, that a claim for Restitution of Land Rights has been lodged on the Portion 2 of Farm Nimmersault 109 LS situated within the Makhado Local Municipality, Capricorn District, Limpopo.

The claimant lost rights on 5418.544 Square Meters which falls within Tlokweng Royal Farm 1221 LS. This farm has been formed by consolidation of Portion 2 of the Farm Nimmersault LS and Portion 1 of the farm Ne Plus Ultra 110 LS. Note that Tlokweng Royal Farm 1221 LS is an un-surveyed state land.

Mr Machaba Molayi Samson lodged a land claim on the property mentioned in the table below on the 28th December 1998.

FARM NAME	TITLE DEED NUMBER	EXTENT IN SQUARE METERS	CURRENT OWNER	BOND HOLDER
Tlokweng Royal Farm 1221 LS	N/A	5418.544	Tlokweng Royal Farm	N/A

Take further notice that the Office of the Regional Land Claims Commissioner: Limpopo is in a process of settling this land claim. Any party that has an interest in the above-mentioned property is hereby invited to submit in writing within **14** days of publication of this notice, any comment, and/ or objection to this land claim to the Office of the Regional Land Claims Commissioner: Limpopo at the address set out below under reference number **KRP: 10611**

Office of the Regional Land Claims Submissions may also be delivered to:

Commissioner: Limpopo
Private Bag x9552
POLOKWANE
0700

First Floor, 96 Kagiso House
Corner Rissik & Schoeman Streets
POLOKWANE
0700


L.H. MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

DATE: 2019/04/26

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. 577

12 APRIL 2019

**INVITATION FOR APPLICATIONS FOR THE ACCREDITATION OF
DIVERSION PROGRAMMES AND DIVERSION SERVICE PROVIDERS**

The Minister of Social Development hereby invite interested Persons and Organisations, inclusive of Government Departments, to apply for accreditation of diversion programmes and diversion service providers in terms of section 56 (2) (c) (ii) of the Child Justice Act 75 of 2008 (Act No. 75 of 2008).

Application and self-assessment forms can be obtained from the following persons per province:

Province	Physical Address	Contact Details
GAUTENG	Thusanong Building, 4th Floor-Room 69, Commissioner Street, Johannesburg, 2000. 011 355 7691	Ms Pearl Moabelo/ Ms Veronica Sihawu/ Ms Awelani Madira: Telephone No: 011 227 0034/ 011 355 7827, Mobile: 071 686 4082/071 492 1074/ 082 414 6791. Email addresses: pearl.moabelo@gauteng.gov.za/ veronica.sihawu@gauteng.gov.za/ awelani.madira@gauteng.gov.za
FREE STATE	Old Mutual Building, 2nd Floor Room 206 Charlotte Maxeke Street, Bloemfontein, 9300.	Ms Catherine Senatle/ Ms Nombeko Tlaka: Telephone Number: 051 400 0315/ 051 409 0554, Mobile: 066 486 6716, Civilia Building, 9th Floor Room 907/908 Merriam Makeba Street, Bloemfontein, 9300. Mobile: 079 168 9692 060 987 6799, Email addresses: Reitumetse.Senatle@fssocdev.gov.za Nombeko.Tlaka@fssocdev.gov.za

EASTERN CAPE	Eastern Cape Social Development, Beacon Hill Office Park, Corner of Hargreaves Road and Hockley Close, Private Bag x 0039, Bhisho, 5605.	Mr Andile Mankayi/ Mr Lizo Cagwe/ Mr Thanduxolo Zimba: Telephone No: 043 605 5189, Mobile: 082 729 6622; Telephone: 043 605 5188, Mobile: 082 729 6568; Telephone: 043 605 5191, Mobile: 082 7243477. Email addresses: andile.mankayi@ecdsd.gov.za lizo.cagwe@ecdsd.gov.za ; and thanduxolo.zimba@ecdsd.gov.za Website: www.socdev.ecprov.gov.za
KWAZULU NATAL	Administrative Building, 174 Mayford Walk, Pietermaritzburg, 3200.	Mr Vusi Khoza/ Mr Pravin Chetty/ Ms Faith Simamane: Telephone No: 033 341 7907/ 033 341 7949 / 033 341 7990 , Mobile: 072 696 9414 /072 261 3582/ 066 474 8476 . Email addresses: vusi.khoza@kznsocdev.gov.za pravin.chetty@kznsocdev.gov.za faith.simamane@kznsocdev.gov.za
NORTH WEST	4 th Floor Provident House, University Drive, Mmabatho, 2735.	Ms Dolly Modise/ Mr Watson Seatle: Telephone No: 018 3881693/ 2829, Mobile: 082 470 4689/ 082 329 4191. Email addresses: Dmodise@nwpg.gov.za WSeatle@nwpg.gov.za
LIMPOPO	21 Biccard Street, Olympic Towers Building, Polokwane, 0700.	Ms Lizzy Mashimbye/ Mr Victor Malebatja: Telephone No: 015 230 4363 / 015 230 4353, Mobile: 079 496 1221/073 515 5019. Email addresses: MashimbyeLE@dsd.limpopo.gov.za MalebatjaJV@dsd.limpopo.gov.za

MPUMALANGA	Sonjoy Building, Government Boulevard, Riverside Office Park, Nelspruit, 1200.	Ms Gloria Mazibuko/ Ms Bonisile Biya Telephone No: 013 766 3362/3185 or 013 766 3185 Mobile: 082 335 3820/ 082 668 1308. Email address: GloriaM@dsdmpu.gov.za BoniB@dsdmpu.gov.za
NORTHERN CAPE	Northern Cape Province, Social Development, Mimosa Complex, Barkley Road, Homestead, Kimberley, 8300.	Mr Donald Whitebooi/ Ms Karen van Wyk: Telephone No: 053 874 9162/Mobile: 072 995 3719; 053 874 9100, Email addresses: dwhitebooi@ncpg.gov.za kvanwyk@ncpg.gov.za
WESTERN CAPE	8th Floor, Union House, 14 Queen Victoria Street. Cape Town, 8000.	Mr Mzukisi Gaba/ Ms Michele Palmer: Telephone No: 021 483 4212 /021 483 4405. Mobile: 082 560 8403/082 560 8403. Email addresses: Mzukisi.Gaba@westerncape.gov.za / Michele.Palmer@westerncape.gov.za

Application forms must upon completion be submitted to the respective Provincial coordinators (mentioned above) by no later than 21 June 2019. Service providers may obtain a copy of the Policy Framework for Accreditation of Diversion Services in South Africa at the said offices to assess their organizations and programmes using the criteria as outlined in the document or visit www.dsd.gov.za to access the document on Policy Framework for Accreditation of Diversion Services in South Africa.

DEPARTMENT OF TRANSPORT

NO. 578

12 APRIL 2019

NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002 (ACT NO. 16 OF 2002)**DETERMINATION OF PERMIT FEES UNDER SECTION 23(2) (a) OF THE
NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002**

I, Bonginkosi Emmanuel Nzimande, Minister of Transport, in terms of section 23(2)(a) of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) as amended, hereby determine as indicated in the Schedule, fees that the Railway Safety Regulator must charge for safety permits, with effect from 1 April 2019 to 31 March 2020.

The Safety Permit Fees are published for compliance and general information.



DR B.E. NZIMANDE, MP
MINISTER OF TRANSPORT

DATE: 30/03/2019

SCHEDULE

PERMIT FEES PAYABLE TO THE RAILWAY SAFETY REGULATOR

DEFINITIONS

1. **For the purpose of calculating fees:**

“Activity” means the activities undertaken by SADC operators on a railway network (i.e. kms operated into South Africa x Relevant Risk Based Fee Rate [3583.24]);

“annual passengers” means the total number of passengers transported aboard railway operator’s passenger or commuter rolling stock between two points (i.e. a station of boarding and of disembarkation) with the exception of a train operator’s personnel, over the period of an operator’s most recently completed financial year;

“annual tons” The total sum of the mass of dangerous or general goods loaded onto a locomotive by a train operator in the preceding financial year, and transported along the portion of a rail network for which the train operator has a permit to traverse;

“cape gauge” A type of railway track where the distance between the two rails of the track is 1,067 millimetres in length;

“general freight or passenger operators” means network, train or station operators (or a combination thereof) whose operations include the transportation of passengers and freight that excludes dangerous and/or mining goods;

“mine operations” means the operations undertaken above surface by train, network, and station operators to support mining activities;

“non-rail related revenue” means revenue generated by Train Operators, Network Operators or Station Operators whose railway operation is incidental to its main business;

“passengers” means people transported by a train between two points (i.e. a station of boarding and of disembarkation) with the exception of a train operator’s personnel;

“rail-related revenue” means the gross inflow of cash arising from all rail operating activities of an operator;

“**relevant risk based fee rate**” means the rand value equivalent of the risks attributable to rail activities. The units of measurement include R/Kilometres (for network operations), R/number of stations (for station operator), R/passenger kilometres (for passenger operations), and R/ton kilometre (for freight operations);

“**standard gauge**” railway track where the distance between the two rails of the railway track is 1,435 millimetres in length; and

“**tourist passengers**” means passengers transported aboard railway operator's rolling stock between two points (i.e. a station of boarding and of disembarkation) for recreational purposes, with the exception of a train operator's personnel and commuter passengers.

APPLICATION FEES

2. A non-refundable application fee must accompany an application for a safety permit. The fees specified in the categories **OPERATOR CATEGORY AND AMOUNT** column of the Schedule shall be payable in respect of the corresponding **APPLICATION FEES FOR GENERAL SAFETY PERMIT** that is applied for as specified in the first column of the Schedule indicated as follows:-

APPLICATION FEES FOR GENERAL SAFETY PERMIT	OPERATOR CATEGORY AND AMOUNT (RANDS)		
	Transportation of Mining Goods	Transportation of Dangerous Goods	Transportation of passengers or General Freight
Group A: Train, Network and Station operators Application Fee	R 56 333.00	R 56 333.00	R 56 333.00
Group B: Train, Network and Station Operators Application Fee	R 18 459.00	R 18 459.00	R 3 335.00
Group C: Train, Network and Station Operators Application Fee	R 7 741.00	R 7 741.00	R 3 335.00

OTHER SAFETY PERMIT FEES FOR RAILWAY OPERATIONS

3. The fees specified in the categories OPERATOR CATEGORY AND AMOUNT column of the Schedule shall be payable in respect of the corresponding APPLICATION FEES FOR OTHER SAFETY PERMIT being applied for as specified in the first column of the Schedule indicated as follows:-

APPLICATION FEES FOR OTHER SAFETY PERMIT	OPERATORS CATEGORY AND AMOUNT		
	GROUP A	GROUP B	GROUP C
Temporary Safety Permit	R 129 244.74	R 103 395.58	R 14 217.78
Construction Train Safety Permit	R 646 224.76	R 84 009.24	R 3 877.48
Test and Commissioning Safety Permit	R 1 292 449.52	R 129 244.74	R 51 698.32

PERMIT FEE RATES FOR NON RAIL-RELATED REVENUE GENERATING TRAIN OPERATORS, NETWORK OPERATORS AND STATION OPERATORS

- 4.1 The fees payable will be calculated as follows:

OPERATOR CATEGORY		Transportation of Mining Goods by rail	Transportation of Dangerous Goods by rail	Transportation of passengers and /or General Freight by rail
NETWORK		Permit fee paid in 2018/19 FY + 6%		
TRAIN	Private Siding Lines for General Freight/ Dangerous Goods	Flat Rate: R 67 734.00	Flat Rate: R 451 560.00	Flat Rate: R 9 905.00
	Private Siding Lines for Tourist /Passengers	NOT APPLICABLE		Flat Rate: R 9 905.00
STATION	On and off boarding sites/zones for passengers	NOT APPLICABLE		Flat Rate: R 110 131.00

PERMIT FEE RATES FOR RAIL-RELATED REVENUE GENERATING TRAIN OPERATORS, NETWORK OPERATORS AND STATION OPERATORS

5.1 The Operators have been grouped as follows:

(a) Group A: Train Operators, Network Operators and Station Operators

Railway Operators who transport 500 000 tons or more of general goods, 50 000 tons or more of dangerous goods, or passengers are liable to pay railway safety permit fees as determined in the table below.

(b) Group B: Train Operators, Network Operators and Station Operators

Railway Operators who transport between 200 000 tons and 500 000 tons of general goods, less than 50 000 tons of dangerous goods or tourists are liable to pay railway safety permit fees as determined in the table below.

(c) Group C: Train Operators, Network Operators and Station Operators

Railway Operators who transport less than 200 000 tons of general goods are liable to pay a flat fee of R 9 905.00

5.2 Table below is used as a basis to calculate railway Operators annual safety permit fee:

OPERATOR GROUP	BAND	PERMIT FEE PAYABLE
GROUP A: Train Station Network	Dangerous goods \geq 50 000t General goods \geq 500 000t All passengers	Permit fee paid in 2018/19 FY + 6%
GROUP B Train Station Network	Dangerous goods < 50 000t General goods \geq 200 000t and < 500 000t All tourists	Permit fee paid in 2018/19 FY + 6%
GROUP C Train Station Network	General goods < 200 000t	Flat Rate: R9 905.00

APPLICATION OF NOTICE

6.1 The permit fee rates determined for the 2019/20 financial year shall apply to the following entities:-

- | | | |
|-----|--|-------------------------|
| (a) | Transnet SOC Ltd | R 104 871 190.00 |
| (b) | Passenger Rail Agency of South Africa (PRASA) | R 31 260 950.00 |
| (c) | Bombela Operating Company | R 2 650 000.00 |
| (d) | Non-South African train operators operating in the Republic of South Africa will pay the activity fee i.e. kms operated into South Africa x Relevant Risk Based Fee Rate [3583.24]. | |

SHORT TITLE AND COMMENCEMENT

7. This notice is called the Determination of Safety Permit Fees for the 2019/20 financial year, and will come into operation at a date to be determined by the Minister.

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**NOTICE 210 OF 2019****INTENTION TO DECLARE STATE FORESTS PROPERTIES AS FOREST NATURE RESERVES UNDER SECTION 8(1) OF THE NATIONAL FORESTS ACT, 1998 (ACT NO 84 OF 1998)**

I, Avhashoni Renny Madula, on behalf of the Minister of Agriculture, Forestry and Fisheries hereby give notice of the intent to declare the State Forests as set out in Schedule A as Forest Nature Reserves under Section 8 (1) of the National Forests Act, 1998..

In terms of Section 9(1)(a) of the National Forests Act, 1998, interested and affected parties are invited to submit written representation on or objections to the proposed declaration within sixty (60 days) from the date of this notice by submitting it to the following postal address:

Ms. S. Dzivhani
Directorate: Forestry Regulation and Oversight
Department of Agriculture, Forestry and Fisheries
Private Bag X 93
Pretoria
0001
Fax: (012) 309 5840
Shumanid@daff.gov.za

AR Madula (Mr)
DIRECTOR: FORESTRY REGULATION AND OVERSIGHT

SCHEDULE A: Proposed properties for declaration

Name of proposed nature reserve	Property description	Size of property (ha)	Locality
Twefontein	A part of ptn 1 of the farm Hartebeestvlakte 163 JT; A part of the Remainder of the farm Geelhoutboom 565 KT; A part of the Remainder of the farm Twefontein 167 JT; A part of the Remainder of the farm Ceylon 197 JT; A part of the Remainder of the farm Mountain Top 161 JT; A part of the farm Lot E 201 JT; A part of the farm Lot D 202 JT; A part of the Remainder of the farm Lot C 204 JT; Ptn 1 of the farm Lot C 204 JT	1116,86	Thaba Chweu, Registration Division KT
Berlin	A part of the Remainder of the farm The Narrows 482 JT; A part of the farm Coetzeestroom 479 JT; A part of the farm Uitkyk 502 JT; A part of the Remainder of the farm Bridle 511 JT; A part of the Remainder of the farm KaapscheHoop 483 JT; A part of the Remainder of the farm Berlin 446 JT; A part of the farm The Wattles 509 JT; A part of the Remainder of the farm Majuba 508 JT	1288,29	Mbombela , Registration Division JT
Blyde	A part of the Remainder of the farm Berlyn 506 KT; A part of the Remainder of the farm Lisbon 531 KT; A part of the Remainder of the farm New York 530 KT; A part of ptn 1 of the farm Lisbon 531 KT	1482,73	Thaba Chweu, Registration Division KT
Uitsoek	A part of the Remainder of the farm Lisabon 262 JT; A part of the Remainder of the farm Kantoorbos 263 JT; A part of ptn 1 of the farm Uitkyk 264 JT	352,91	Thaba Chweu, Registration Division KT
Morgenzon	A part of ptn 3 of the farm Morgenzon 525 KT; Ptn 1 of the farm Peach Tree No 544 KT; A part of the Remainder of the farm Peach Tree No 544 KT	607,11	Thaba Chweu, Registration Division KT
TOTAL		4847,89	

Note: Property diagrams for the nature reserves to be declared can be obtained from the above email address

Motivation for declaration of five State Forest Nature Reserves -SAFCOL

Figure 1.1: Location Tweefontein Nature Reserve

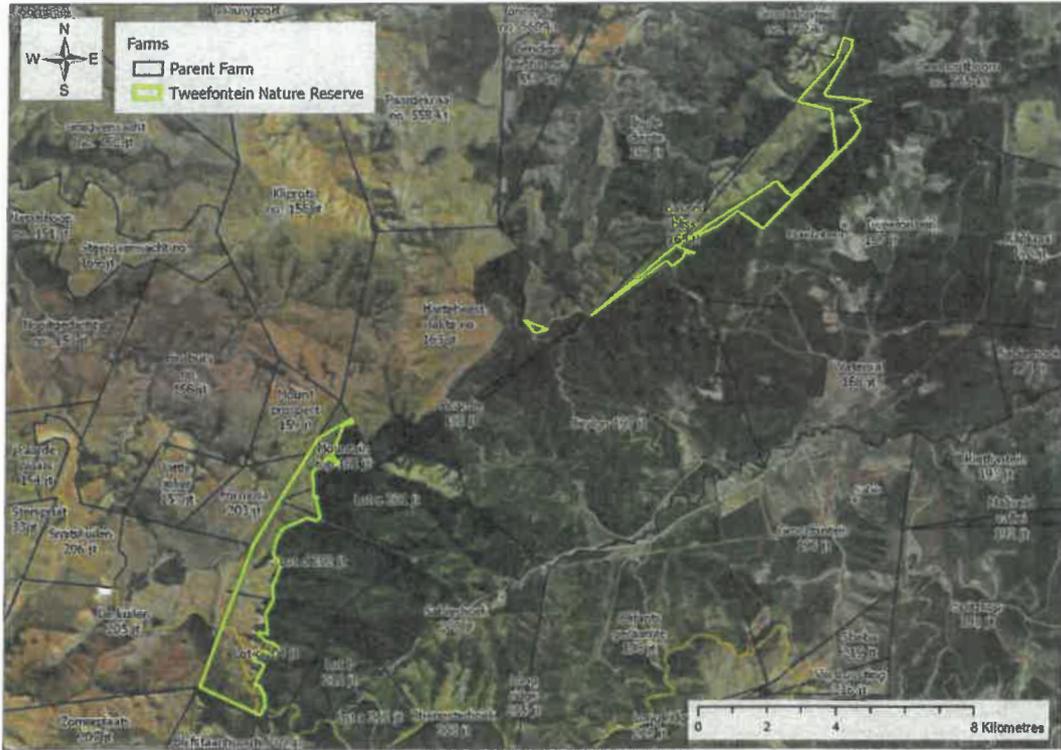
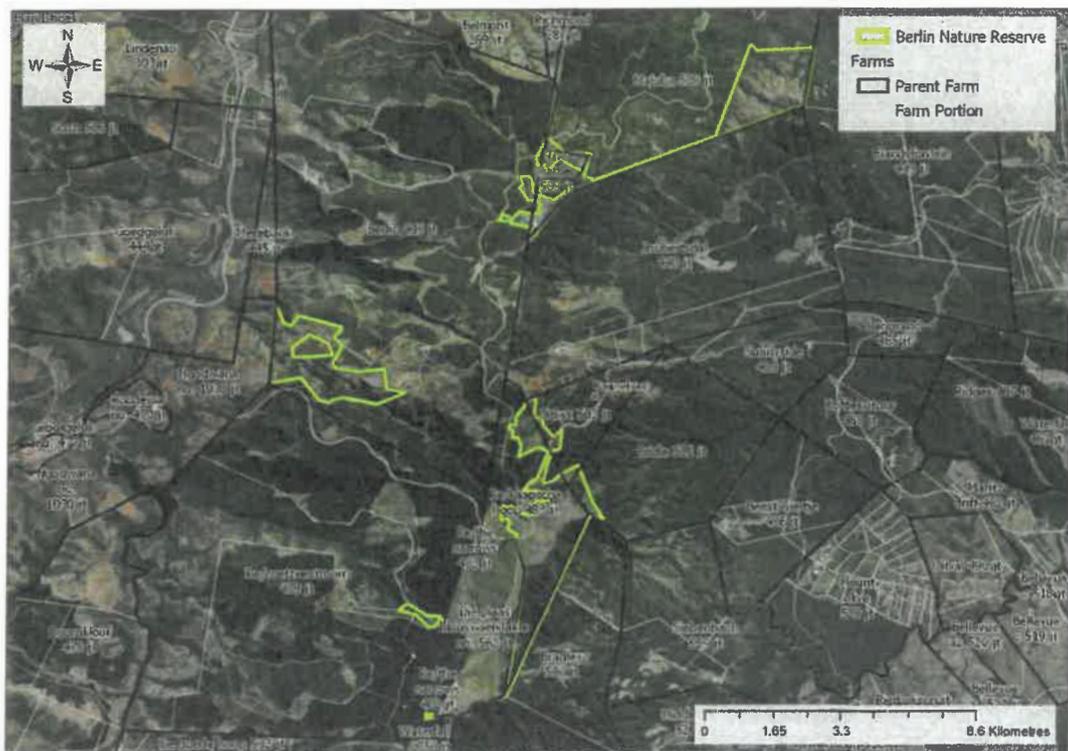


Figure 1.2: Location Berlin Nature Reserve



Motivation for declaration of five State Forest Nature Reserves -SAFCOL

Figure 1.3: Location Blyde Nature Reserve

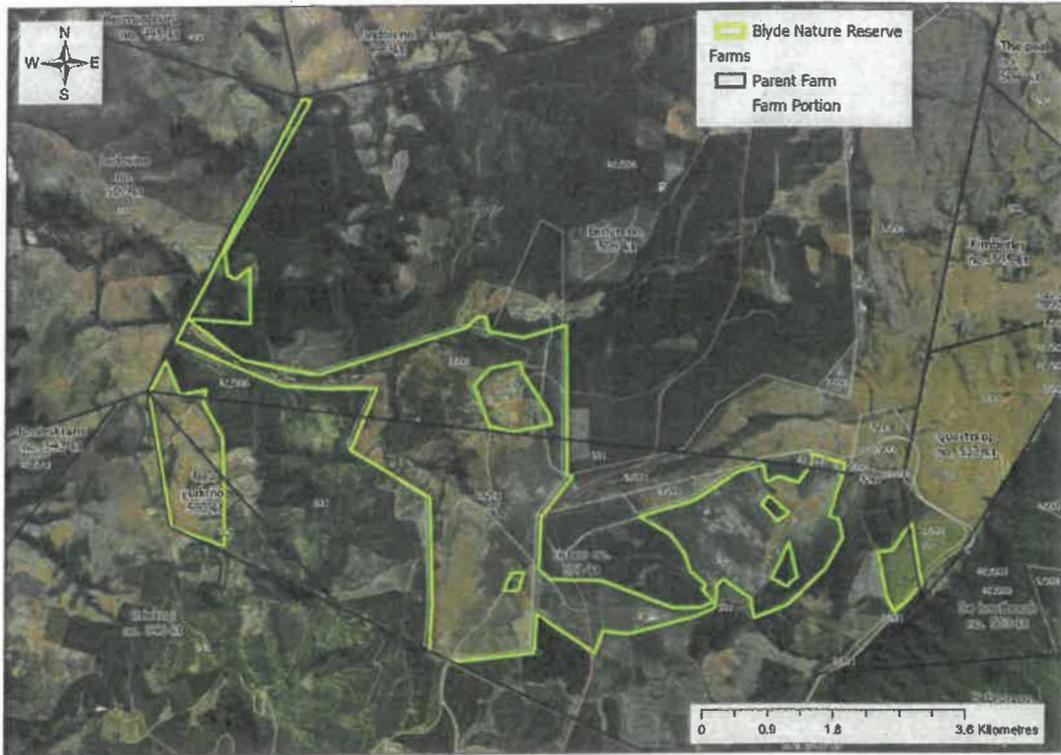
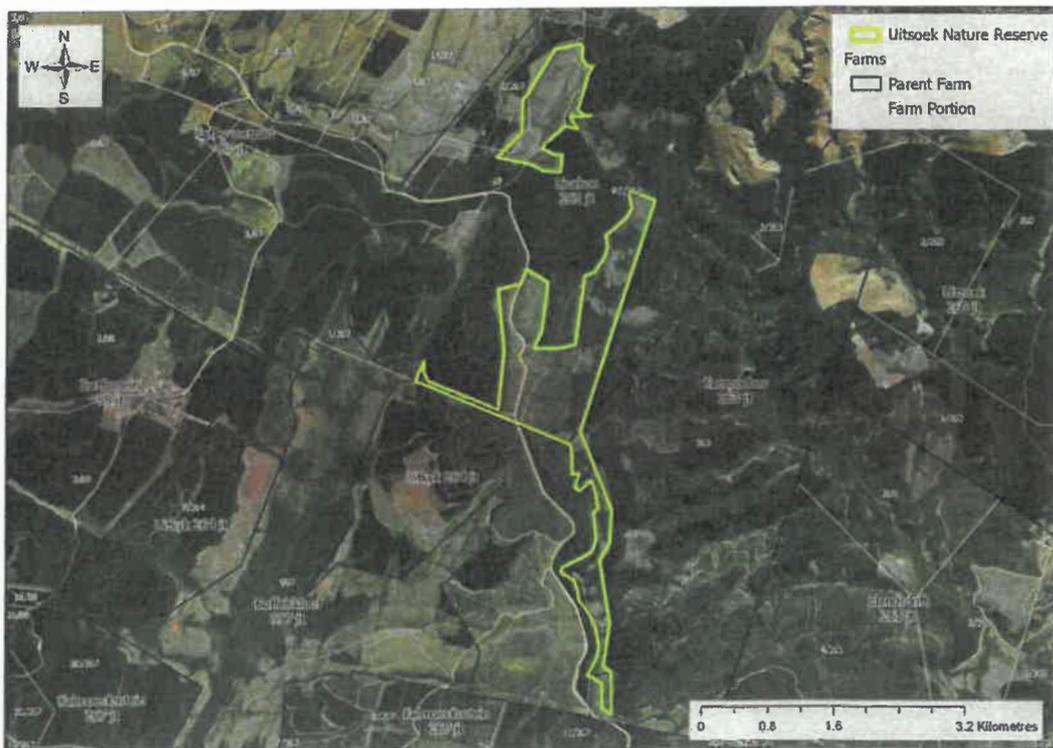


Figure 1.4: Location Uitsoek Nature Reserve



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NOTICE 211 OF 2019



Block A | 4th Floor | Meintjiesplein Building | 536 Francis Baard Street | Arcadia | 0002
 Private Bag X935 | Pretoria | 0001
 Tel: 012 341 1115 | Fax: 012 341 1811/1911
<http://www.namc.co.za>

**DECIDUOUS FRUIT INDUSTRY
 APPLICATION FOR THE CONTINUATION OF STATUTORY MEASURES ON POME AND
 STONE FRUIT**

NAMC REQUESTING COMMENTS / INPUTS FROM INDUSTRY ROLE PLAYERS

On 1 April 2019, the Minister of Agriculture, Forestry and Fisheries received a request from HORTGRO, on behalf of Hortgro Pome and Hortgro Stone, for the continuation of statutory measures (levies, records & returns and registration) on pome fruit (apples and pears) and stone fruit (plums / prunes, peaches / nectarines and apricots) in terms of the Marketing of Agricultural Products Act (MAP Act) 1996.

HORTGRO requested that the proposed statutory measures be approved for a new 4 (four) year period with effect from 1 October 2019 and lapse 4 (four) years later.

Currently, the following statutory measures are applicable on pome and stone fruit, namely –

- The payment of levies in terms of Section 15 of the MAP Act;
Traditional and trade and market development levy on -
 - i. Fresh pome and stone fruit (domestic and export) as well as processed apples (these measures lapse on 5 November 2019);
 - ii. Dried tree fruit (these measures lapse on 27 October 2020);
- Keeping of records and returns in terms of Section 18 of the MAP Act; and
- Registration of persons in terms of Section 19 of the MAP Act.

HORTGRO requested that the current statutory measures on pome and stone fruit be continued and extended as follows -

- The payment of levies in terms of Section 15 of the MAP Act;
Traditional levy on -
 - i. Fresh pome and stone fruit (domestic and export) as well as processed apples;
 - ii. Dried tree fruit;Trade and market focused levy on -
 - iii. Pome and stone fruit exported (export levy);
 - iv. Fresh stone fruit delivered to local fresh produce markets (local market levy);
 - v. Dried tree fruit trade and market focussed levy (this is a new levy)
- Keeping of records and returns in terms of Section 18 of the MAP Act; and
- Registration of persons in terms of Section 19 of the MAP Act.

Council Members: Prof P.K. Chauke (Chairperson), Mr. H. Prinsloo (Deputy Chairperson), Mr. S. Faku, Ms. F. Mkile, Mr. H. Mohane, Mr. B. Mokgatle, Ms. N. Mokose, Prof. D. Rangaka, Mr. G. Schutte, Mr. Z. Wapi

This application by HORTGRO includes dried tree fruit (pome and stone). Previously the dried tree fruits application was done by Dried Fruit Technical Services (DFTS) and covered dried tree and vine fruits. However, DFTS rebranded itself and Raisins South Africa was formed and will in future only represents dried vine fruits. The dried tree fruits were incorporated within the respective pome and stone fruit industry bodies. Therefore statutory measures on dried tree fruits are included in this application.

In terms of registration and records & returns, it is argued that the maintenance of macro industry statistics and market information is critical for long-term planning relating to production, orderly marketing and infrastructural capacity by the industry (producers and exporters), Government and service / input suppliers.

According to HORTGRO, the registration, in terms of section 19 of the MAP Act, of producers, exporters, retailers, fresh produce markets, trade, processors and juice plants will ensure the availability and provision of continuous, timeous and accurate information relating to the products and adherence to sound fruit handling discipline and protocols, business principles and ethical trading as well as to administer the requested statutory measures.

Furthermore, submitting records and returns, in terms of section 18 of the MAP Act, will ensure the availability and provision of continuous, timeous and accurate information relating to the products indicated above, to all stakeholders in the industry deemed to be essential to ensure informed decision making and a stable and profitable industry.

HORTGRO indicated that no information shall be required, in terms of this measure, which discloses confidential information of a marketing nature, and in particular, no returns disclosing, inter alia, contracting parties; purchasers of fruit; prices of services or the prices obtained for fruit, or any similar information.

The payment of the levy, in terms of section 15 of the MAP Act, will be used to finance the following:

- Scientific research & development and associated technology transfer;
- Technical market access, protocols and product standards;
- Plant material acquisition, including cultivar and / or rootstock development and international procurement;
- Independent evaluation (cultivars and rootstocks);
- Plant improvement and certification;
- Trade, market intelligence and market development;
- Economic development and land reform;
- Skills & human resource development, including socio-economic development;
- Industry information and statistics;
- Communication; and
- Good governance & industry representation.

The proposed levy amounts are as follows:

i. Traditional levy on pome and stone fruit exported, and domestically delivered –

	Current 2018/19	Proposed 2019/20	Proposed 2020/21	Proposed 2021/22	Proposed 2022/23
Apples and pears	4,75 c/kg	5,00 c/kg	5,30 c/kg	5,60 c/kg	6,00 c/kg
Processed apples	R8,75 /ton	R9,20 /ton	R9,70 /ton	R10,40 /ton	R11,00 /ton
Apricots	19,00 c/kg	20,00 c/kg	21,00 c/kg	22,50 c/kg	24,00 c/kg
Peaches & nectarines	12,00 c/kg	12,60 c/kg	13,40 c/kg	14,00 c/kg	15,00 c/kg
Plums and prunes	15,75 c/kg	16,50 c/kg	17,50 c/kg	18,60 c/kg	20,00 c/kg

ii. Dried tree fruits levy (apricots, apples, peaches, prunes, nectarines and pears) -

	Current 2018/19	Proposed 2019/20	Proposed 2020/21	Proposed 2021/22	Proposed 2022/23
Drying *	18,00 c/kg	21,00 c/kg	21,00 c/kg	25,00 c/kg	25,00 c/kg
Trade & market focused levy* (new levy)	(not applicable)	6,00 c/kg	6,00 c/kg	8,00 c/kg	8,00 c/kg

* dried kilograms

iii. Export levy on all pome and stone fruit exported -

Market development levy	Current 2018/19	Proposed 2019/20	Proposed 2020/21	Proposed 2021/22	Proposed 2022/23
Apples and pears	2,80 c/kg	2,80 c/kg	2,85 c/kg	2,90 c/kg	3,00 c/kg
Apricots	10,00 c/kg	10,50 c/kg	11,00 c/kg	11,80 c/kg	12,60 c/kg
Peaches & nectarines	20,00 c/kg	21,00 c/kg	22,20 c/kg	23,70 c/kg	25,00 c/kg
Plums and prunes	9,50 c/kg	10,00 c/kg	10,60 c/kg	11,30 c/kg	12,00 c/kg

iv. Domestic market levy on fresh stone fruit -

	Current 2018/19	Proposed 2019/20	Proposed 2020/21	Proposed 2021/22	Proposed 2022/23
Peaches & nectarines	4,20 c/kg	4,20 c/kg	4,50 c/kg	4,70 c/kg	5,00 c/kg
Plums and prunes	2,00 c/kg	2,00 c/kg	2,10 c/kg	2,20 c/kg	2,40 c/kg

The utilisation of levies will be continue to be aligned with the guidelines and directives of the NAMC with annual reporting to the NAMC and the Auditor General.

The NAMC believes that the statutory measures requested are consistent with the objectives of the MAP Act (as set out in section 2 of the Act).

Directly affected groups (e.g. agents, certification bodies, exporters, export inspection bodies, fresh produce markets, producers, processors and traders) in the pome and stone industry are kindly requested to submit any comments, in writing, regarding the proposed statutory measures, to the NAMC on or before 10 May 2019, to enable the Council to finalise its recommendation to the Minister in this regard.

ENQUIRIES:

National Agricultural Marketing Council
Mathilda van der Walt
e-mail: mathildavdw@namc.co.za
Tel.: (012) 341 1115
Fax No.: (012) 341 1911

BOARD / RAAD
NOTICE 212 OF 2019



SACNASP Code of Conduct
(with effect from 1 April 2019)

The Council has drawn up the following Code of Conduct with which registered natural scientists must comply. Failure to do so constitutes improper conduct and regulatory action may be imposed by SACNASP in terms of Section 29 of the Natural Scientific Professions Act (No 27 of 2003), as amended.

In practicing natural science professions registered natural scientists must:

1. Serve and protect the public and the environment from malpractice in matters involving the rendering of natural scientific services in accordance with applicable laws, regulations, standards and guiding principles.
2. Discharge their duties to their employers or clients efficiently and with integrity.
3. Discharge their duties in compliance with applicable ethical principles, relevant legislation and standards in the field of practice.
4. Uphold the dignity, standing and reputation of the natural scientific professions.
5. Only undertake natural scientific work for which their education, experience or background have rendered them competent to perform.
6. Disclose, to their respective employers or clients, in writing:
 - (a) Any interest that they may have in any company, firm or organisation, or with any person, which is related to the work that they may be or may have been employed to perform; and
 - (b) Particulars of any royalty or other financial benefit which accrues or may accrue to them as a result of such interest.
7. Not deliberately and without just cause, substance or legal requirements, injure directly or indirectly, the professional reputation, prospects or business of another person.
8. Not knowingly and unlawfully attempt to supplant another person after a formal offer of employment and/or letter of award has been made.

9. Not advertise their professional services in a manner that may be misleading or in a manner that is derogatory of the dignity of the profession.
10. Not knowingly misrepresent or permit misrepresentation of their own or their associates' academic or professional qualifications, neither exaggerate their own degree of responsibility for any work of a natural scientific nature.
11. Give due recognition when using the work of others, including associates, in compliance with applicable laws, regulations, standards and guiding principles.
12. Not destroy calculations, documentary or any other evidence required for the verification of their work in accordance with document management laws, regulations and standards and guiding principles.
13. Not personally, or through any other agency, attempt to obtain consulting work by way of intimidation, threat or bribery.
14. When practicing their professions in another country, do so in accordance with this Code of Conduct in so far as the Code of Conduct is not inconsistent with the law of the country concerned; provided that they also adhere to the standards of professional conduct in that country.
15. Comply with the applicable SACNASP Council rules and enforcement procedures published in accordance with their relevant field of practice.

ECONOMIC DEVELOPMENT DEPARTMENT

NOTICE 213 OF 2019

COMPETITION TRIBUNAL NOTIFICATION OF DECISION TO APPROVE MERGER

The Competition Tribunal gives notice in terms of rules 34(b)(ii) and 35(5)(b)(ii) of the "Rules for the conduct of proceedings in the Competition Tribunal" as published in Government Gazette No. 22025 of 01 February 2001 that it approved the following mergers:

Case No.	Acquiring Firm	Target Firm	Date of Order	Decision
LM212Nov18	VKB AGRI Processors (Pty) Ltd; Oxfordstraat Beleggings Bethlehem (Pty) Ltd	Nu-Pro Feeds (Pty) Ltd; Nu-Pro Commodities (Pty) Ltd	06/03/2019	Approved
LM223Dec18	Hirt and Carter Group (Pty) Ltd	First Impression Labels (Pty) Ltd	06/03/2019	Approved
LM249Feb19	Dynasty Acquisition Co. Inc.	StandardAero Holding Corp.	06/03/2019	Approved
LM252Feb19	Media 24 Boeke (Pty) Ltd	Nasou Via Afrika (Pty) Ltd	06/03/2019	Approved
LM185Oct18	Glencore South Africa Oil Investments (Pty) Ltd	Chevron South Africa (Pty) Ltd; Chevron South Africa (Pty) Ltd (Now known as Astron Energy Proprietary Limited)	15/03/2019	Approved Subject to Conditions
LM216Nov18	VKB Landbou (Pty) Ltd	Multi Green (Pty) Ltd	26/03/2019	Approved Subject to Conditions
LM181Sep18	Dis-Chem Pharmacies Limited	Mundel Gien (Pty) Ltd Trading as Springbok Pharmacy	27/03/2019	Approved

**The Chairperson
Competition Tribunal**

ECONOMIC DEVELOPMENT DEPARTMENT**NOTICE 214 OF 2019****COMPETITION TRIBUNAL****NOTIFICATION OF COMPLAINT REFERRAL**

The Competition Tribunal gives notice in terms of Section 51(3) & (4) of the Competition Act 89 of 1998 as amended, that it received the complaint referrals listed below. The complaint(s) alleges that the respondent(s) engaged in a prohibited practice in contravention of the Competition Act 89 of 1998.

Case No.	Complainant	Respondent	Date received	Sections of the Act
CRP207Nov18	Dr Vishalen Munsamy	Duzimed	06/11/2018	4 (1)(b)

The Chairperson
Competition Tribunal

NATIONAL TREASURY**NOTICE 215 OF 2019**

DETERMINATION OF RATE OF LEVY FOR 2017 TAX PERIOD AND PAYMENT DATE IN TERMS OF SECTION 3 OF MERCHANT SHIPPING (INTERNATIONAL OIL POLLUTION COMPENSATION FUND) CONTRIBUTIONS ACT, 2013

I, Tito Titus Mboweni, the Minister of Finance, in terms of section 3 of the Merchant Shipping (International Oil Pollution Compensation Fund) Contributions Act, 2013 (Act No. 36 of 2013), hereby—

- (a) determine £0.0097818 as the rate of levy for the period from 1 January 2017 to 31 December 2017 in the 2017 tax period, and is to be translated from British pound sterling to South African rands at the exchange rate for 1 March 2019 as published on the website of the South African Reserve Bank, <https://www.resbank.co.za/Research/Rates/Pages/SelectedHistoricalExchangeAndInterestRates.aspx>, namely R18.6791 to 1 £; and
- (b) specify 31 May 2019 as the date that the levy determined in accordance with paragraph (a) is due and payable.



TT MBOWENI
MINISTER OF FINANCE



GENERAL NOTICES: ANNUAL FEE INCREASE

NOTICE NUMBER 186 OF 2019: 42350

With reference to the Notice that appeared in the government gazette number 42350 dated 29 March 2019: Private Security Service Providers are requested to take note of the below correct information.

Ref No.	Description	Notice published...	Notice should read...
42350	PUBLICATION OF AMENDMENT TO THE REGULATIONS MADE UNDER THE SECURITY OFFICERS ACT (ACT NO. 92 OF 1987)	The Private Security Industry Regulatory Authority, with the concurrence of the Minister of Police, under sections 43 and 44(7) of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) read with section 32(1) of the Security Officers Act, 1987 (Act 92 of 1987), hereby intend to make the Regulations in the Schedule hereto.	I, Bhekokwakhe Hamilton Cele, Minister of Police, acting under sections 43 and 44(7) of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) read with section 32(1) of the Security Officers Act, 1987 (Act 92 of 1987), hereby make amendment to the Regulations made under the Security Officers Act, 1987 (Act No. 92 of 1987) in the Schedule hereto.

Private Security Industry Regulatory Authority would like to apologize for any inconvenience caused.

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
NOTICE 217 OF 2019**

GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT No. 22 OF 1994)

Notice is hereby given in terms of Section 11(1) of the Land Rights Act, 1994 (Act No. 22 of 1994), as amended. This claim for the restitution of land rights has been submitted to Regional Land Claims Commissioner for the Western Cape. The particulars regarding this claim are as follows:

REFERENCE No: KRK 6//2/3/A/6/0/1080/8 (S1395)

DISPOSSESSED PARTY: Hadjie Achmat Bardien

PROPERTY DESCRIPTION: Remainder of Erf 64519 Kenilworth
Rem. Erf 64519 is consolidated to form part of Erf 65506 Cape Town

EXTENT: 923m²

DEED OF ACQUISITION: T11636/1945

DEED OF DISPOSSESSION: T1935/1963

CAPACITY: OWNERSHIP CLAIM

CURRENT OWNER: Teeland Beleggings PTY LTD

DATE OF LODGEMENT: 21 September 1996

The Commission on Restitution of Land Rights will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 60 days from the publication of this notice, any comments / information to:

REGIONAL LAND CLAIMS COMMISSION: WESTERN CAPE
PRIVATE BAG X9163
CAPE TOWN
8000

TEL: 021-487 7400
FAX: 021 424 5146

MR. L.H MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

APPROVED: 

DATE: 2014/07/22

CHECKED BY: 

DATE: 24/6/2014

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
NOTICE 218 OF 2019**

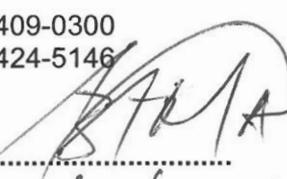
GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT No. 22 OF 1994)

Notice is hereby given in terms of Section 11(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended. This is a claim for the restitution of land rights that has been submitted to the Regional Land Claims Commissioner for the Western Cape. The particulars regarding this claim are as follows:

Claim Ref. Number	Claimant	Claim submission date	Claimed Property	Extent (sqm)	Dispossession Title Deed
G170	Mrs R. Gordon	27/03/1997	Erf 82468 Retreat, City of Cape Town.	.2.637 5 hectares	T37908/1976

The Regional Land Claims Commission will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 60 days from the publication of this notice, any comments / information to:

The Regional Land Claims Commission: Western Cape
Private Bag X9163
Cape Town
8000
Tel: (021)409-0300
Fax: (021)424-5146

CHECKED.....

DATE.....15/12/2014

APPROVED.....

DATE.....22/1/15

Mr. L.H Maphutha
Regional Land Claims Commissioner

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
NOTICE 219 OF 2019**

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994
(ACT No. 22 OF 1994)**

Notice is hereby given in terms of Section 11(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended, that the following claims (F439 & W475) for the restitution of land rights were submitted to the Office of the Regional Land Claims Commissioner: Western and Northern Cape. The particulars regarding these claims are as follows:

- Area** : West Coast District Municipality, Cederberg local municipality, Western Cape
- Properties** : Restitution claims lodged in respect of erf no. 288, Clanwilliam & erven no. 319, 320, 327 & 328, Citrusdal.
(Erven 319, 320, 327 & 328 in Citrusdal are properly described as erven no. 1319, 1320, 1327 & 1328, Citrusdal)
- Claimants** : Arthur Peter Fransman (erf no. 288, Clanwilliam)
N.J. Witbooi (erven no. 1319, 1320, 1327 & 1328, Citrusdal)
- Extent** : F439 – 1487 m² [erf no. 288, Clanwilliam]
W475 – 885 m² [for each of erven no. 1319, 1320, 1327 & 1328, Citrusdal]
- Claim reference number** : F439 & W475

The Commission on Restitution of Land Rights will investigate the claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 60 days from the publication of this notice, any comments/information to:

Office of the Regional Land Claims Commissioner: Western Cape
14 Long Street – 1ST & 2ND Floors
CAPE TOWN, 8000
Tel: 021 409 0300
Fax: 021 418 0205

Mr L.H. Maphutha
Regional Land Claims Commissioner

APPROVED 

DATE 20/02/2015

CHECKED 

DATE 03/02/2016

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
NOTICE 220 OF 2019**

GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT 1994, (ACT No. 22 OF 1994) AS AMENDED

Notice is hereby given in terms of Section 11(1) of the Land Rights Act 1994, (Act No. 22 of 1994), as amended. This claim for the restitution of land rights has been submitted to Regional Land Claims Commissioner of Western Cape. The particulars regarding this claim are as follows:

REFERENCE No: KRK6/2/3/A/1/0/6083/4 (L390)

DISPOSSESSED PARTY: Katrina Jeanetta Jansen and Lea Johanna Lindor

PROPERTY DESCRIPTION: Erven 91 and 92 Firgrove

EXTENT: 1134m² and 1134m²

DATE OF DISPOSSESSION: 1969

CAPACITY: OWNERSHIP

CURRENT OWNER: Provincial Government Western Cape

DATE OF LODGEMENT: 30 December 1998

The Commission on Restitution of Land Rights will investigate this claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 14 days from the publication of this notice, any comments / information to:

REGIONAL LAND CLAIMS COMMISSIONER: WESTERN CAPE
PRIVATE BAG X9163
CAPE TOWN
8000

TEL: 021-409 0300
FAX: 021-424 5146

MR. L.H MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER

APPROVED:

DATE: 19/2/19

CHECKED BY:

DATE: 12/03/2019

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
NOTICE 221 OF 2019**

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994
(No. 22 OF 1994)**

An amendment notice is hereby given in terms of Section 11A(4) of the Restitution of Land Rights Act, 1994 (No. 22 of 1994), as amended, for the inclusion of the following property to be part of claim WC22 for the restitution of land rights to be considered by the Office of the Regional Land Claims Commissioner: Western and Northern Cape.

The particulars regarding this claim are as follows:

- Area** : City of Cape Town Metro, Western Cape
- Property** : [The claim lodgement form describes the subject property as ``4 Bridge Street, Mowbray, Rosebank (Erf no. 31314) 30314 being Lot No. 5 of the Hermitage Estate”]
- The subject land (above) is properly described as erf no. 30314, Cape Town (at Mowbray) and is presently situated at no. 23 Victoria Road (in Mowbray)
- Claimant** : James John Fredericks
- Extent** : 281m² (``Lot No. 5 of the Hermitage Estate”)
- Current owners** : Ms. Maria Julia Rodrigues, Mr. Laurentino Joao Rodrigues, Mr. Fernando Alfredo Rodrigues, Ms. Natali Esabel Rodrigues and Mr. Luis Venancio Rodrigues [in different portions]
- Claim reference number** : WC22

The Commission on Restitution of Land Rights will investigate the claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 30 days from the publication of this notice, any comments/information to:

Office of the Regional Land Claims Commissioner: Western Cape
14 Long Street – 1ST & 2ND Floors
CAPE TOWN, 8000
Tel: 021 409 0300 (o/h)

Mr. L.H. Maphutha
Regional Land Claims Commissioner

APPROVED

DATE 29/4/19

CHECKED

DATE

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NOTICE 222 OF 2019

GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT 1994, (ACT No. 22 OF 1994) AS AMENDED.

Notice is hereby given in terms of Section 11(4) of the Restitution of Land Rights Act, 1994 (Act No.22 of 1994) as amended.

Reference Number : KRK6/2/3/A/6/0/1756/21 (P151)

Dispossessed Parties : Mr. William Pinto

Claimant : Mr. Harold Pinto

Property Description : Erf 1013 Ottery, City of Cape Town

Extent : 6, 26 HA

Capacity : Beneficial Occupation Rights

Deed of Occupation : 1955

Date of Dispossession : 1968

Current Owners : **Owners details not available**

Date Submitted : 10 September 1996

The Regional Land Claims Commission investigated this claim in terms of provisions of the Act. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 14 days from the publication of this notice, any comments / information to: The Regional Land Claims Commission: Western Cape, Private Bag X9163, Cape Town, 8000, Tel no: (021) 4090300 and Fax no: (021) 424-5146

Mr. L. H. Maphutha
Regional Land Claims Commissioner

APPROVED

CHECKED.....

DATE 17/2/19

DATE.....

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NOTICE 223 OF 2019

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994
(ACT No. 22 OF 1994)**

Notice is hereby given in terms of Section 11(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), as amended, that the following claims (G360, K391 & M477) for the restitution of land rights were submitted to the Office of the Regional Land Claims Commissioner: Western and Northern Cape. The particulars regarding these claims are as follows:

Area : City of Cape Town District Municipality, Cape Town Metro, Western Cape

Property : Restitution claims lodged in respect of Erven no. 2355, Grassy Park; 41781, Cape Town & 42120, Cape Town.

Claimants : Andrew Gideon (erf no. 2355, Grassy Park)
Josephine Koeberg (erf no. 41781, Cape Town)
Andrew Charles May (erf no. 42120, Cape Town)

Extent : G360 – 2052m² [erf no. 2355, Grassy Park]
K391 – 502m² [erf no. 41781, Cape Town]
M477 – 495m² & 496 m² [currently known as erven 43894 & 43895, Cape Town]

Claim reference numbers: G360, K391 & M477

The Commission on Restitution of Land Rights will investigate the claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 60 days from the publication of this notice, any comments/information to:

Office of the Regional Land Claims Commissioner: Western Cape
14 Long Street – 1ST & 2ND Floors
CAPE TOWN
8000
Tel: 021 409 0300
Fax: 021 424 5146

Mr L.H. Maphutha
Regional Land Claims Commissioner

APPROVED 

DATE 2016/02/29

CHECKED 

DATE 15/02/16

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NOTICE 224 OF 2019

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT, 1994
(No. 22 OF 1994)**

An amendment notice is hereby given in terms of Section 11A(4) of the Restitution of Land Rights Act, 1994 (No. 22 of 1994), as amended, that a claim (N449) for the restitution of land rights has been submitted to the Office of the Regional Land Claims Commissioner: Western and Northern Cape. The particulars regarding this claim are as follows:

- Area** : City of Cape Town District Municipality, Western Cape
- Property** : Restitution claim lodged in respect of "9 Athlone Str, Strand" (properly described as remainder 4425, the Strand)
- Remainder 4425, Strand was later subdivided into erf no. 4428, portion of erf no. 4425, the Strand and remainder erf no. 4425, the Strand. Years later, remainder 4425, Strand and erf no. 4428, portion of erf no. 4425, the Strand were consolidated with other properties to form erf, no. 32424, the Strand.
- Claimant** : Ms. Y. Noor
- Extent** : 1 983 m²
- Current owner** : Tweede Flambeau Beleggings (Pty) Ltd. – erf no. 32424, the Strand
- Claim ref. no.** : N449

The Commission on Restitution of Land Rights will investigate the claim in terms of provisions of the Act in due course. Any party who has an interest in the above-mentioned land is hereby invited to submit, within 30 days from the publication of this notice, any comments/information to:

Office of the Regional Land Claims Commissioner: Western Cape
14 Long Street – 1ST & 2ND Floors
CAPE TOWN, 8000
Tel: 021 409 0300 (o/h)
Fax: 021 418 0205

Mr. L.H. Maphutha
Regional Land Claims Commissioner

APPROVED

DATE 19/3/19

CHECKED

DATE

SOUTH AFRICAN RESERVE BANK
NOTICE 225 OF 2019
Notice and Order of Forfeiture

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under Section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

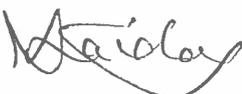
Affinity Import and Export (Pty) Limited
(registration number 2016/341280/07)

of:

44 Marigold Crescent
Marlboro Gardens
Sandton
2063

Be pleased to take notice that:

1. The Minister of Finance has, by virtue of the provisions of Exchange Control Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Exchange Control Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, *inter alia*, the Governor or the Deputy Governor of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as the Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
 - 2.1 the amounts of R1 003 345.60 and USD71 735.00 being capital standing to the credit of Affinity Import and Export (Pty) Limited, in account number 62658547058, held with FirstRand Bank Limited, together with any interest thereon and/or other accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by deposit thereof to the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 29 day of MARCH 2019.



K Naidoo
Deputy Governor
South African Reserve Bank

SOUTH AFRICAN RESERVE BANK**NOTICE 226 OF 2019****Notice and Order of Forfeiture**

Notice of Forfeiture to the State of money in terms of the provisions of Regulation 22B made under Section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

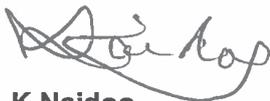
Mr Qiqin Huang with identity number 820302 6869 182 (the 'Respondent')

of:

8 Esme Street
Cyrildene
2198

Be pleased to take notice that:

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E of the Exchange Control Regulations delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
 - 2.1 the amount of R114 295.69 being capital standing to the credit of the Respondent in account number 62317086462, held with FirstRand Bank Limited, together with any interest thereon and/or other accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by deposit thereof to the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Regulation 22B of the Exchange Control Regulations, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 2 day of APRIL 2019.



K Naidoo
Deputy Governor
South African Reserve Bank

**SOUTH AFRICAN RESERVE BANK
NOTICE 227 OF 2019**

Notice and Order of Forfeiture

Notice of Forfeiture to the State of money in terms of the provisions of Exchange Control Regulation 22B made under section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933), as amended, as promulgated by Government Notice No. R.1111 of 1961-12-01 in respect of the money of:

Mr Mwaba Chilundika (Passport No. ZN322904)

(hereinafter referred to as the Respondent)

of:

2 Naledi Court
109 High Street
Rossettenville
Johannesburg
2190

Be pleased to take notice that:

1. The Minister of Finance has, by virtue of the provisions of Regulation 22E delegated all the functions and/or powers conferred upon the Treasury by the provisions of the Exchange Control Regulations [with the exception of the functions and/or powers conferred upon the Treasury by Regulations 3(5) and (8), 20 and 22, but which exception does not include the functions and/or powers under Exchange Control Regulations 22A, 22B, 22C and 22D], and assigned the duties imposed thereunder on the Treasury, to, inter alia, the Governor or Deputy Governors of the South African Reserve Bank.
2. By virtue of the functions, powers and/or duties vested in me, in my capacity as a Deputy Governor of the South African Reserve Bank, in terms of the delegation and assignment of the functions, powers and/or duties referred to in 1 above, I hereby give notice of a decision to forfeit to the State the following money and I hereby declare and order forfeit to the State the following money, namely:
 - 2.1 the capital amount of R82 163,86 standing to the credit of the Respondent in account number 9328877792 held with ABSA Bank Limited, together with any interest thereon and/or accrual thereto.
3. The date upon which the money specified in 2 above is hereby forfeited to the State is the date upon which this Notice and order of Forfeiture is published in this Gazette.
4. The money specified in 2 above shall be disposed of by depositing it into the National Revenue Fund.
5. This Notice also constitutes a written order, as contemplated in Exchange Control Regulation 22B, in terms of which the money specified in 2 above is hereby forfeited to the State.
6. Signed at Pretoria on this 7 day of MARCH 2019.



**K Naidoo
Deputy Governor
South African Reserve Bank**

DEPARTMENT OF TOURISM
NOTICE 228 OF 2019
TOURISM AMENDMENT BILL 2019

INVITATION FOR THE PUBLIC TO COMMENT ON THE TOURISM AMENDMENT BILL

I, Derek Andre Hanekom, Minister of Tourism, hereby publish the Tourism Amendment Bill for public comment.

Interested parties and organisations are invited to submit within sixty (60) days of publication of the notice in the gazette, written representations on the proposed Bill to the following address:

By post: The Director General
Department of Tourism
Private Bag x424
PRETORIA
0001

Attention: Ms MM Setwaba

By hand: Ground Floor (Reception), Tourism House, 17 Trevenna Street Sunnyside.

By email: msetwaba@tourism.gov.za

Any inquiries in connection with the proposed Tourism Amendment Bill may be directed to Ms Mmaditonki Setwaba at 012 444 6312.

Comments received after the closing may not be considered.



Derek Hanekom, MP
Minister: Tourism

REPUBLIC OF SOUTH AFRICA

TOURISM AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary
of Bill published in Government Gazette No. 42391 of 12 April 2019) (The English text
is the official text of the Bill)*

(MINISTER OF TOURISM)

[B — 2019]

" 'short-term home rental' means the renting or leasing on a temporary basis, for reward, of a dwelling or a part thereof, to a visitor;"

Amendment of section 7 of Act 3 of 2014

2. Section 7 of the principal Act is hereby amended by the deletion in subsection (1)(a) of the word "and" at the end of subparagraph (iii), and the addition of the following subparagraph:

"(v) thresholds with regard to short-term home rental; and"

Substitution of heading of Chapter 3 of Act 3 of 2014

3. The following heading is hereby substituted for the heading of Chapter 3 of the principal Act:

"South African Tourism [Board]"

Substitution of section 9 of Act 3 of 2014

4. The following section is hereby substituted for section 9 of the principal Act:

"Continued existence of South African Tourism Board

9. (1) The South African Tourism Board, established by section 2 of the Tourism Act, 1993 (Act No. 72 of 1993), continues to exist as

Amendment of section 11 of Act 3 of 2014

6. Section 11 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
- "Powers of [Board] South African Tourism";**
- (b) by the substitution for the words preceding paragraph (a) of the following words:
- "Without derogating from its power generally to perform legal acts as a juristic person, **[the Board] South African Tourism** may—";
- (c) by the substitution in paragraph (c) for the words preceding subparagraph (i) of the following words:
- "insure **[the Board] South African Tourism** against—"; and
- (d) by the substitution for paragraph (d) of the following paragraph:
- "(d) employ persons who are necessary for the performance of the functions of **[the Board] South African Tourism**; and".

Repeal of section 12 of Act 3 of 2014

7. Section 12 of the principal Act is hereby repealed.

"(4) [The Board] South African Tourism may charge and recover fees for any services rendered."

Substitution of section 22 of Act 3 of 2014

9. The following section is hereby substituted for section 22 of the principal Act:

"Application of Public Finance Management Act to [Board] South African Tourism

22. The Public Finance Management Act applies to [the Board] South African Tourism."

Insertion of section 22A in Act 3 of 2014

10. The following section is hereby inserted after section 22 of the principal Act:

"Delegations and assignments by the Board

22A. (1) The Board may in writing and subject to such conditions as it may determine, delegate or assign any of its powers or duties in terms of this Act—

(a) to a committee of the Board;

(b) to an employee of South African Tourism; or

(c) with the concurrence of the Minister, to any other suitable body.

(2) A delegation or assignment under subsection (1)—

(a) must be in writing;

(b) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) The Board must determine an employment and remuneration policy applicable to personnel of **[the Board]** South African Tourism.";

(c) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) after consulting the Board, must determine the staff establishment necessary to assist **[the Board]** South African Tourism in carrying out its functions; and"; and

(d) by the substitution for subsection (3) of the following subsection:

"(3) An employee of **[the Board]** South African Tourism is employed subject to terms and conditions determined by the Board in accordance with the employment policy contemplated in subsection (1)."

Amendment of section 28 of Act 3 of 2014

13. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister **[may]** must develop a national grading system for tourism with a view to maintaining or enhancing the standards and quality of tourism services, facilities and products."

- (ii) cooperate on matters of mutual interest in the tourist guiding sector."; and
- (b) by the addition of the following subsection after subsection (2):
- "(3) Whenever the Registrar—
- (a) is to be absent from office, the Registrar must prior to his or her absence and in writing, designate an official in the Department to act as Registrar; or
- (b) is for any other reason unable to act as Registrar, the Minister must, in writing, designate another official in the Department to act as Registrar.".

Amendment of section 49 of Act 3 of 2014

17. Section 49 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- "A Provincial Registrar must, in addition to any other duties or responsibilities that may be determined by the relevant MEC—"; and
- (b) by the substitution in subsection (2) for paragraph (g) of the following subsection:
- "(g) if he or she has reason to believe that any person, company or close [corperation] corporation contravenes section 57, lay a charge with the South African Police Service."; and
- (c) by the addition of the following subsection after subsection (2):

- (b) interpret the cultural heritage of an area for visitors or tourists;
- (c) assist or coach visitors or tourists in specific recreational activities they undertake; and
- (d) undertake any other activity determined by the Minister by notice in the Gazette."

Substitution of section 51 of Act 3 of 2014

19. The following section is hereby substituted for section 51 of the principal Act:

"Competence

51. The competence referred to in section 50—

- (a) must be [determined] registered by the South African Qualifications Authority in accordance with the national qualifications framework contemplated in the National Qualifications Framework Act, 2008 (Act No. 67 of 2008); and
- (b) may include any additional requirements prescribed by the Minister by notice in the Gazette."

Amendment of section 52 of Act 3 of 2014

20. Section 52 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The National Registrar must in the prescribed manner, after consultation with the MEC in each province, the

Amendment of section 59 of Act 3 of 2014

23. Section 59 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (f) of the following paragraph:

"(f) contravenes section 57(1), (2) [or] (3) or (4)."

Transitional provisions

24. (1) In this section—

"**Amendment Act**" means the Tourism Amendment Act, 2018; and

"**principal Act**" means the Tourism Act, 2014 (Act No. 3 of 2014).

(2) A person who is a member of the South African Tourism Board immediately before the Amendment Act takes effect, remains a member of the Board of South African Tourism for the remainder of his or her term of office or until the Minister appoints a new Board in terms of section 13 of the principal Act, whichever occurs first.

(3) Anything done or any decision or step taken by the Tourism Grading Council immediately before the Amendment Act takes effect, remains of force and effect and must be regarded as having been done or taken by South African Tourism.

(4) All the assets, liabilities, rights and obligations of the Tourism Grading Council immediately before the Amendment Act takes effect are hereby transferred to South African Tourism.

Substitution of long title of Act 3 of 2014

26. The long title of the principal Act is hereby substituted for the following long title:

"To provide for the development and promotion of sustainable tourism for the benefit of the Republic, its residents and its visitors; to provide for the continued existence of the South African Tourism Board as South African Tourism; [to provide for the establishment of the Tourism Grading Council;] to regulate the tourist guide profession; to repeal certain laws; and to provide for matters connected therewith."

Short title and commencement

27. This Act is called the Tourism Amendment Act, 2019, and takes effect on a date determined by the President by proclamation in the *Gazette*.

MOLAOKAKANYWAPHETOŠWA WA TŠA BOETI WA 2019**TALETŠO GO SETŠHABA GO FA DITSHAOTSHWAO KA GA SETHALWA SA
MOLAOKAKANYWAPHETOŠWA WA TŠA BOETI**

Nna, Derek Andre Hanekom, Tona ya Kgoro ya Boeti, ke phatlalatša Molaokakanywaphetošwa wa tša Boeti gore setšhaba se fe ditshwaotshwao ka ga ona.

Batho le mekgatlo yeo e nago le kgahlego e laletšwa gore mo matšatšing a masometshela (60) ka morago ga go phatlalatšwa ga tsebišo ye ka gare ga kuranta ya mmušo, e romele maikutlo a tšona ao a ngwadilwego ka ga Molaokakanywa wo o šišintšwego go atereše ye e latelago:

Ka poso: The Director General
Department of Tourism
Private Bag x424
PRETORIA
0001

Go: Mohumagadi MM Setwaba

Ka letsogo: Ground Floor (Reception), Tourism House, 17 Trevenna Street Sunnyside.

Ka emeile: msetwaba@tourism.gov.za

Ge o na le dipotšišo dife goba dife mabapi le sethalwa sa Molaokakanywaphetošwa wa tša Boeti o ka letšetša Mohumagadi Mmaditlonki Setwaba go 012 444 6312.

Ditshwaotshwao tšeo di amogelwago ka morago ga letšatšikgwedi la go tswalela di ka no se hlokomelwe.

Derek Hanekom, Leloko la Palamente
Tona: Kgoro ya Boeti

REPABLIKI YA AFRIKA BORWA**MOLAOKAKANYWAPHETOŠWA WA TŠA BOETI**

(Ka ge o tsebagaditšwe ka Palamenteng (karolo ya 76 ye e šišintšwego); kakaretšo ye e hlalošago ya Molaokakanywa wo o phatlaladitšwego ka gare ga Kuranta ya Mmušo ya nomoro ya bo ya) (Sengwalwa sa Seisemane ke sengwalwa sa semmušo sa Molaokakanywa)

(TONA YA KGORO YA BOETI)**[B — 2019]**

- (a) ke tlogelo ya tlhalošo ya "Lekgotla"; le
- (b) ke tsenyo ka morago ga tlhalošo ya "taolo" ya tlhalošo ye e latelago:
" 'go renta ntlo lebaka le lekopana' go ra go renta goba go hiriša lebakanyana, bialo ka kabo, ya madulo goba ya karolo ya ona gonafao, go moeti;".

Phetošo ya karolo ya 7 ya Molao wa 3 wa 2014

2. Karolo ya 7 ya Molaomogolo e a fetošwa ka go phumola karolwana ya (1)(a) ya lentšu le "le" mafelelong a temana ya (iii), gomme gwa tsenywa temana ye e latelago:

"(v)___mellwane mabapi le go renta ntlo mmogo lebaka le lekopana; le".

Go tlošwa ga hlogwana ya Kgaolo ya 3 ya Molao wa 3 wa 2014

3. Hlogwana ye e latelago e a tlošwa ka go hlogwana ya Kgaolo ya 3 ya Molaomogolo:

"Sehlongwa sa tša Boeti sa Afrika Borwa [Lekgotlataolo]".

Go tlošwa ga karolo ya 9 ya Molao wa 3 wa 2014

4. Karolo ye e latelago e a tlošwa ka go karolo ya 9 ya Molaomogolo:

"Go tšwela pele go ba gona ga Lekgotlataolo la tša Boeti la Afrika Borwa"

"(2) **[Lekgotlataolo]** Sehlongwa sa tša Boeti sa Afrika Borwa se swanetše go dira mošomo ofe goba ofe wo se filwego ona go latela taelo ya melawana yeo e sa thulanego le Molao wo woo o phatlaladitšwego ke Tona."

Phetošo ya karolo ya 21 ya Molao wa 3 wa 2014

8. Karolo ya 21 ya Molaomogolo e a fetošwa—

(a) ke tlogelo ya hlogwana ya:

"Ditšhelete tša [Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa";

(b) ke tlogelo ka go karolwana ya (1) ya mantšu ao a tlogo pele ga temana ya (a) gwa tsenywa mantšu ao a latelago:

"Ditšhelete tša [Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa se bopilwe ke—";

(c) ke tlogelo ka go karolwana ya (1) ya temana ya (b) gwa tsenywa temana ye e latelago:

"(b) tšhelete efe goba efe ye e lefetšwego [Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa go ditirelo tšeo di abilwego;"

(d) ke tlogelo ka go karolwana ya (1) ya temana ya (d) gwa tsenywa temana ye e latelago:

"(d) ditšhelete dife goba dife tšeo [Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa se nago le maswanedi goba se ka bago le maswanedi go tšona."

(e) ke tlogelo ka go karolwana ya (2) gwa tsenywa karolwana ye e latelago:

"(2) [Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa se ka šomiša ditšhelete tša sona gore di thuše ka go ditshenyegelo tšeo di hweditšwego ge se phethagatša mešomo ya sona go latela Molao wo."

22A. (1) Lekgotlataolo le ka no ngwala le go latela maemo ao go ya ka fao le ka tšeago sephetho, la romela, goba la fa maatla afe goba afe a yona goba mešomo go latela Molao wo—

(a) go komiti ya Lekgotlataolo;

(b) go mošomi wa Sehlongwa sa tša Boeti sa Afrika Borwa; goba

(c) ka tumelelano le Tona, go sehlongwa sefe goba sefe sa maleba.

(2) Thomelo goba mošomo wo o dirwago ka fase ga karolwana ya (1)—

(a) e swanetše go ngwalwa;

(b) ga e hlokiše Lekgotlataolo maatla ao a rometšwego goba a filwego yona;

(c) ga e thibele Lekgotlataolo go phethagatša maatla a goba go dira mošomo wo o rometšwego goba o filwego yona; le

(d) e ka re ka nako efe goba efe ya gomišwa ke Lekgotlataolo."

Phetošo ya karolo ya 24 ya Molao wa 3 wa 2014

11. Karolo ya 24 ya Molaomogolo e a fetošwa—

(a) ke tlogelo ya hlogwana ya hlogwana ye e latelago:

"Go thwala le maikarabelo a mohlankedimogolophethiši wa

[Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa"; le

(b) ke tlogelo ka go karolwana ya (4) gwa tsenywa karolwana ye e latelago:

"(4) Mohlankedimogolophethiši o rwele maikarabelo a

taolo ye kaone ya kgwebo le merero ya **[Lekgotlataolo] Sehlongwa sa**

tša Boeti sa Afrika Borwa ebile o swanetše go phethagatša mošomo

thwala bašomi mešomong yeo e hlagišitšwego ka go karolwana ya (1).".

Phetošo ya karolo ya 28 ya Molao wa 3 wa 2014

13. Karolo ya 28 ya Molaomogolo e a fetošwa ke tlogelo ya karolwana ya (1) gwa tsenywa karolwana ye e latelago:

"(1) Tona [a ka] o swanetše go hlama lenaneo la peakanyo ya maemo la bosetšhaba la tša boeti ka nepo ya go hlokomela goba ya go maatlafatša maemo le boleng bja ditirelo tša boeti, bja mafelo le ditšweletšwa.".

Go fediša ga dikarolo tša 29 go fihla go ya 44 ya Molao wa 3 wa 2014

14. Dikarolo tša 29 go fihla go ya 44 tša Molaomogolo di a phumolwa.

Phetošo ya karolo ya 47 ya Molao wa 3 wa 2014

15. Karolo ya 47 ya Molaomogolo e a fetošwa—

(a) ka go tsenya ga "(1)" pele ga mantšu ao a tlogo pele ga temana ya (a); le

(b) ka go tsenya karolwana ye e latelago:

"(2) Ga se gona ka mo karolong ye seo se thibelago Mohlankedi wa Dingongorego tša Boeti go, ka boyena, se romele taba

mohlankedi yo mongwe wa ka Kgorong go šoma bjalo ka Mongwadiši."

Phetošo ya karolo ya 49 ya Molao wa 3 wa 2014

17. Karolo ya 49 ya Molaomogolo e a fetošwa—

(a) ke tlogelo ka go karolwana ya (2) ya mantšu ao a tlogo pele ga temana ya (a) gwa tsenywa mantšu ao a latelago:

"Mongwadiši wa Phrobentshe o swanetše, godimo ga mešomo efe goba efe ye mengwe goba maikarabelo ao a ka fiwago ke Molekgotlaphethiši wa maleba—"; le

(b) ke tlogelo ka go karolwana ya (2) temaneng ya (g) gwa tsenywa karolwana ye e latelago:

"(g) ge e le gore o na le lebaka la go dumela gore motho ofe goba ofe, khamphani goba khamphani [koporase] ya mohlakanelwa e tshela karolo ya 57, a ka e bulela molato go Tirelo ya Mphodisa ya Afrika Borwa."; le

(c) ka go tsenya ga karolwana ye e latelago ka morago ga karolwana ya (2):

"(3) Nako le nako ge Mongwadiši wa Phrobentshe—

(a) a ka se be gona ka kantorong, Mongwadiši wa Phrobentshe o swanetše gore pele ga ge a ka se be gona gomme a ngwale, a romele mohlankedi wa Kgoro go šoma bjalo ka Mongwadiši wa Phrobentshe; goba

- (c) thuša goba go hlahla baeng goba abeti ka mešomong ye itšego ya tša boitapološo yeo ba e dirago; le
- (d) dira mošomo ofe goba ofe o mongwe wo a filwego ke Tona ka tsebišo ka gare ga *Kuranta ya Mmušo*."

Phetošo ya karolo ya 51 ya Molao wa 3 wa 2014

19. Karolo ye e latelago e a fetošwa ka go karolo ya 51 ya Molaomogolo:

"Bokgoni

51. Bokgoni bjo go boletšwego ka bjona ka go karolo ya 50—

- (a) bo swanetše [tšeelwa sephetho] ngwadišwa ke Setheo sa Mangwalo a Dithuto sa Afrika Borwa go latela tlhako ya mangwalo a dithuto ya bosetšhaba yeo e hlagišitšwego ka go Molao wa Tlhako ya Mangwalo a Dithuto wa Bosetšhaba, wa 2008 (Molao wa nomoro ya 67 wa 2008); le
- (b) e ka akaretša dinyakwa tša tlaleletšo tšeo di beilwego ke Tona ka tsebišo ka gare ga *Kuranta ya Mmušo*."

Phetošo ya karolo ya 52 ya Molao wa 3 wa 2014

20. Karolo ya 52 ya Molaomogolo e fetošwa ke tlogelo ka go karolwana ya (1) gwa tsenywa karolwana ye e latelago:

"(1) Mongwadiši wa Bosetšhaba o swanetše gore ka mokgwa wo o beilwego, ka morago ga go rerišana le Molekgotlaphethiši ka phrobentsheng ye nngwe le ye nngwe, le

baeti, go akaretšwa le go bea dikelo tšeo di dumelelegago tša bahlahli
ba baeti go baeti."

Phetošo ya karolo ya 59 ya Molao wa 3 wa 2014

23. Karolo ya 59 ya Molaomogolo e fetošwa ke tlogelo ka go karolwana ya
(1) temaneng ya (f) gwa tsenywa temana ye e latelago:

"(f) o tshela karolo ya 57(1), (2) [goba] , (3) goba (4)."

Ditlhagišo tša lebakanyana

24. (1) Ka mo karolong ye—
"Molaophetošwa" o ra Molaophetošwa wa tša Boeti, wa 2018; le
"Molaomogolo" o ra Molao wa tša Boeti, wa 2014 (Molao wa nomoro ya 3 wa
2014).

(2) Motho yo e lego leloko la Lekgotlataolo la tša Boeti la Afrika
Borwa ka pela pele ga ge Molaophetošwa o tsenywa tirišong, o tšwela pele go ba
leloko la Lekgotlataolo la Sehlongwa sa tša Boeti sa Afrika Borwa go fihla
mafelelong a nako ya gago ya mošomo goba go fihla ge Tona e twala Lekgotlataolo
le leswa go latela karolo ya 13 ya Molaomogolo, go eya ka gore ke efe e tlogo pele.

(3) Selo sefe goba sefe seo se dirwago goba sephetho sefe goba
sefe seo se tšewago ke Lekgotla la Peakanyo ya Maemo la tša Boeti ka pele ga ge
Molaophetošwa o tsenywa tirišong, se tšwela pele go phethagatšwa goba go šoma
gomme se swanetše go tšewa gore se dirilwe goba se tšerwe ke Sehlongwa sa tša
Boeti sa Afrika Borwa.

(h) ke tlogelo ya ntlha ya 24 gwa tsenywa ntlha ye e latelago:

"27. Melawana ya go thwala bašomi mošomong le ya go ba lefela ya **[Lekgotlataolo] Sehlongwa sa tša Boeti sa Afrika Borwa** le go thwala bašomi"; le

(i) ke tlogelo ya dintlha tša 29 go fihla ka 44.

Tlogelo ya thaetlele ye telele ya Molao wa 3 wa 2014

26. Thaetlele ye telele ya Molaomogolo e a tlogelwa gomme gwa tsenywa thaetlele ye telele ye e latelago:

"Go hlagišetša gore go be le tihabollo le tšwetšopele ya boeti bja go ya go ile go hola Repabliki, badudi ba yona le baeti ba yona; go hlagišetša gore Lekgotlataolo la tša Boeti la Afrika Borwa le tšwela pele go ya go ile bjalo ka Sehlongwa sa tša Boeti sa Afrika Borwa; [go hlagišetša gore go hlangwe Lekgotla la Peakanyo ya Maemo la tša Boeti;] go laola phrofešene ya bahlahli ba baeti; go fediša melao ye itšego; le go hlagišetša merero ye e amanago le ditaba tša ka mo."

Thaetlele ye kopana le go thomiša ga yona

27. Molao wo o bitšwa Molaophetošwa wa tša Boeti, wa 2019, gomme o thoma go dirišwa ka letšatšikgwedi leo le beilwego ke Mopresidente ka kgoeletšo ka gare ga *Kuranta ya Mmušo*.

DEPARTMENT OF TRADE AND INDUSTRY

NOTICE 229 OF 2019

STANDARDS ACT, 2008
STANDARDS MATTERS

In terms of the Standards Act, 2008 (Act No. 8 of 2008), the Board of the South African Bureau of Standards has acted in regard to standards in the manner set out in the Schedules to this notice.

SECTION A: DRAFTS FOR COMMENTS

The following draft standards are hereby issued for public comments in compliance with the norm for the development of the South Africa National standards in terms of section 23(2)(a) (ii) of the Standards Act.

Draft Standard No. and Edition	Title, scope and purport	Closing Date
SANS 3088 Ed 1	<i>Water Efficiency in buildings.</i> Provides minimum requirements for plumbing fixtures and fittings and for water usage in buildings	2019-05-28
SANS 10105-2 Ed 4	<i>The use and control of fire-fighting equipment Part 2: Fire hose reels and above-ground hydrants.</i> Specifies the requirements for the installation and inspection and use of fire hose reels and hydrants.	2019-06-06
SANS 724 Ed 2	<i>Personal protective equipment and protective clothing against the thermal hazards of an electric arc.</i> Covers the design, selection and performance requirements of electric arc resistant clothing and equipment for the protection of persons against the thermal hazards of an electric arc, which could occur during operating or working on or near electrical equipment in the workplace.	2019-06-06
SANS 10007 Ed 2	<i>Quality management systems - Guidelines for configuration management.</i> Gives guidance on the use of configuration management within an organization.	2019-06-06
SANS 274 Ed 2	<i>Quality management systems - Guidelines for quality management in projects.</i> Gives guidance on the application of quality management in projects.	2019-06-06

SCHEDULE A.1: AMENDMENT OF EXISTING STANDARDS

The following draft amendments are hereby issued for public comments in compliance with the norm for the development of the South African National Standards in terms of section 23(2)(a) (ii) of the Standards Act.

Draft Standard No. and Edition	Title	Scope of amendment	Closing Date
SANS 164-4 Ed 5.5	<i>Plug and socket-outlet systems for household and similar purposes for use in South Africa Part 1: Two-pole and earth, 16 A 250 V a.c. system.</i>	Amended to update the requirements and introduce an annex on gauge for determining the suitability of socket outlet contact design to lateral and torsional stress	2019-06-06

SCHEDULE A.2: WITHDRAWAL OF THE SOUTH AFRICAN NATIONAL STANDARDS

In terms of section 24(1)(C) of the Standards Act, the following published standards are issued for comments with regard to the intention by the South African Bureau of Standards to withdraw them.

Draft Standard No. and Edition	Title	Reason for withdrawal	Closing Date

SCHEDULE A.3: WITHDRAWAL OF INFORMATIVE AND NORMATIVE DOCUMENTS

In terms of section 24(5) of the Standards Act, the following documents are being considered for withdrawal.

Draft Standard No. and Edition	Title	Reason for withdrawal	Closing Date

SECTION B: ISSUING OF THE SOUTH AFRICAN NATIONAL STANDARDS**SCHEDULE B.1: NEW STANDARDS**

The following standards have been issued in terms of section 24(1)(a) of the Standards Act.

Standard No. and year	Title, scope and purport
SANS 1728:2019 Ed 1	<i>The requirements for the marking and identification of degradable plastics.</i> Specifies the requirements for the identification and markings of degradable plastics, with regards to the claims made.
SANS 2074:2019 Ed 1	<i>Frozen lobster, frozen lobster products and products derived therefrom.</i> Covers requirements for the handling, preparation, processing, packaging, freezing, storage and quality of frozen lobster tails, frozen whole lobster (cooked or raw) or any other frozen lobster product derived from lobsters of the families Palinuridae and Scyllaridae, and of the family Nephropidae (genera Homarus, Nephrops and Metanephrops, or any other species of lobster), intended for human consumption.
SANS 2329:2019 Ed 1	<i>Dried abalone.</i> Covers the harvest, manufacture, processing, transport, handling and treatment of dried abalone.
SANS 8840:2019 Ed 1	<i>Non woven wound dressings.</i> Covers four types of non-woven wound dressings.
SANS 8841:2019 Ed 1	<i>Disposable diapers for infants.</i> Specifies requirements for disposable diapers for infants.
SANS 10019:2019 Ed 8	<i>Transportable pressure receptacles for compressed, dissolved and liquefied gases - Basic design, manufacture, use and maintenance.</i> Covers the minimum requirements for the design, manufacture, use and maintenance of refillable and non-refillable pressure receptacles of water capacity 0,5 L to 3 000 L and cartridges of water capacity greater than 0,5 L, and can include requirements over and above those contained in the pressure receptacles design and manufacturing standards (see table 1 and annex A).
SANS 17885:2019 Ed 1	<i>Plastics piping systems - Mechanical fittings for pressure piping systems – Specifications.</i> Specifies the requirements and test methods for mechanical fittings intended to join plastic pressure piping systems including transition fittings to metal pipes for the following: - supply of gaseous fuels (GAS); - supply of water for human consumption (W), including raw water prior to treatment and for the supply of water for general purpose, as well as underground drainage and sewerage under pressure (P); - supply of water for irrigation (I); - industrial applications (IS).
SANS 54325:2019 Ed 1	<i>Protective clothing against chemicals - Test methods and performance classification of chemical protective clothing materials, seams, joins and assemblages.</i> Specifies the performance classification and test methods for materials used in chemical protective clothing, including gloves and footwear.
SANS 60601-2-54:2019 Ed 1	<i>Medical electrical equipment - Part 2-54: Particular requirements for the basic safety and essential performance of X-ray equipment for radiography and radioscopy.</i> Applies to the basic safety and essential performance of ME equipment and ME systems intended to be used for projection radiography and radioscopy.

Standard No. and year	Title, scope and purport
SANS 949:2019 Ed 3	<i>Strongroom doors or Vault doors.</i> Specifies the requirements for six categories of strongroom and vault door that will also give protection against fire for a maximum period of 30 min..
SANS 10388:2019 Ed 2	<i>The inspection and testing of lift trucks.</i> Covers provisions for the inspection and testing of self-propelled lift trucks in service.
SANS 60335-2-23:2019 Ed 4	<i>Household and similar electrical appliances - Safety Part 2-23: Particular requirements for appliances for skin or hair care.</i> Deals with the safety of electric appliances for the care of skin or hair of persons or animals and intended for household and similar purposes, their rated voltage being not more than 250 V..
SANS 20013-H:2019 Ed 3	<i>Uniform provisions concerning the approval of passenger cars with regard to braking.</i> Applies to the braking of vehicles of categories M1 and N1. Does not cover vehicles with a design speed not exceeding 25 km/h and vehicles fitted for invalid drivers.

SCHEDULE B.2: AMENDED STANDARDS

The following standards have been amended in terms of section 24(1)(a) of the Standards Act.

Standard No. and year	Title, scope and purport
SANS 60601-2-43:2019 Ed 1.1	<i>Medical electrical equipment Part 2-43: Particular requirements for the basic safety and essential performance of X-ray equipment for interventional procedures. Consolidated edition incorporating amendment No.1.</i> Amended to update the introduction, referenced standards, terms and definitions, general requirements, requirements for electromagnetic disturbances, requirements for radiation protection in diagnostic X-ray equipment, and the annex on particular guidance and rationale.
SANS 60601-2-63:2019 Ed 1.1	<i>Medical electrical equipment Part 2-63: Particular requirements for the basic safety and essential performance of dental extra-oral X-ray equipment. Consolidated edition incorporating amendment No.1.</i> Amended to update the introduction, referenced standards, general requirements, and the requirements and tests and tests for electromagnetic compatibility.
SANS 60601-2-65:2019 Ed 1.1	<i>Medical electrical equipment Part 2-65: Particular requirements for the basic safety and essential performance of dental intra-oral X-ray equipment. Consolidated edition incorporating amendment No.1.</i> Amended to update the introduction, referenced standards, general requirements, requirements and tests for electromagnetic compatibility, and requirements for radiation protection in diagnostic X-ray equipment.
SANS 1329-1:2019 Ed 2.5	<i>Retro-reflective and fluorescent warning signs for road vehicles Part 1: Triangles. Consolidated edition incorporating amendment No.5.</i> Amended to move reference to an international authority to the foreword, to update the requirements for colour and luminance factor test for fluorescent surfaces, to update referenced standards, and to delete the footnote on sand of grain size.
SANS 1329-2:2019 Ed 2.6	<i>Retro-reflective and fluorescent warning signs for road vehicles Part 2: Abnormal load vehicle signs. Consolidated edition incorporating amendment No.6.</i> Amended to update referenced standards and to move reference to legislation to the foreword..
SANS 1376-3:2019 Ed 1.7	<i>Lights for motor vehicles Part 3: Secondary lights. Consolidated edition incorporating amendment No.7.</i> Amended to update the requirements for front position lights and front end-outline marker lights, and for marking..
SANS 1624:2019 Ed 1.2	<i>Bush conveyor chains. Consolidated edition incorporating amendment No.2.</i> Amended to update referenced standards and the clause on requirements..
SANS 10167:2019 Ed 1.1	<i>The quality evaluation of fusion welded joints in steel structures. Consolidated edition incorporating amendment No.1.</i> Amended to update referenced standards.

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SANS 10335:2019 Ed 1.1	<i>The installation, maintenance and safe use of overhead monorail transport systems for underground use. Amended to update referenced standards. Consolidated edition incorporating amendment No.1.</i> Amended to change the designation from SABS to SANS, to move reference to national legislation to the foreword, to update the subclause on records of results of inspections, examinations and tests, to delete the subclause on the control system general safety requirements, and to update the subclause on system requirements.
SANS 449:2019 Ed 4.4	<i>The manufacture of soft drinks and soft drink concentrates. Consolidated edition incorporating amendment No.4.</i> Amended to update referenced standards, and to update the sub-clause on microbiological requirements.
SANS 788:2019 Ed 1.3	<i>Frozen shrimps (prawns), langoustines and crabs. Consolidated edition incorporating amendment No.3.</i> Amended to update referenced standards, methods of microbiological examination, and the clause on methods of chemical analysis - Determination of sulfur dioxide content.
SANS 911:2019 Ed 3.3	<i>Natural fibre ropes. Consolidated edition incorporating amendment No.3.</i> Amended to update the requirements for rotproofing.
SANS 938:2019 Ed 1.3	<i>Unpolished twines. Consolidated edition incorporating amendment No.3.</i> Amended to update the notes to the scope and delete footnote to clause on sampling and compliance with the specification.
SANS 1254:2019 Ed 1.1	<i>Fusible interlinings. Consolidated edition incorporating amendment No.1.</i> Amended to update referenced standards,
SANS 1255:2019 Ed 2.1	<i>Oven cleaner and grease remover. Consolidated edition incorporating amendment No.1.</i> Amended to update referenced standards, the clause on requirements, and the clause on marking.
SANS 5266:2019 Ed 4.1	<i>Water resistance of textile fabrics: Variable head test. Consolidated edition incorporating amendment No.1.</i> Amended to update the clause on apparatus and materials, and to delete the relevant footnotes on a suitable variable waterhead apparatus.
SANS 5778:2019 Ed 3.1	<i>Redeposition index of laundry detergents. Consolidated edition incorporating amendment No.1.</i> Amended to update the standard detergent, to correct an error in table 1 and to modify the volume of artificial soil dispersion that is added to the test specimen solution.
SANS 5779:2019 Ed 2.3	<i>Fluorescent whitening agent content of laundry detergents. Consolidated edition incorporating amendment No.2.</i> Amended to delete the footnote to the sub-clause on standard detergent.
SANS 6027:2019 Ed 2.1	<i>Calibration of the BCIRA X-type viscometer. Consolidated edition incorporating amendment No.1.</i> Amended to update the title, the scope, the clause on apparatus, the table on dimensions of a capillary viscometer, and the figure on an example of capillary viscometer.
SANS 6028:2019 Ed 2.1	<i>Fluidity of cotton and certain cellulosic man-made fibres in cuprammonium solution (basic method). Consolidated edition incorporating amendment No.1.</i> Amended to update referenced standards and the sub-clause on a suitable capillary viscometer, and to delete bibliography.
SANS 10371:2019 Ed 1.1	<i>Terms and definitions for clothing. Consolidated edition incorporating amendment No.1.</i> Amended to the scope, and terms and definitions.

SCHEDULE B.3: WITHDRAWN STANDARDS

In terms of section 24(1)(C) of the Standards Act, the following standards have been withdrawn.

Standard No. and year	Title
SANS 1616:1995 Ed 1	<i>Detergent-disinfectants based on glutaraldehyde.</i>
SANS 12281:2005 Ed 1	<i>Printing and business paper - Requirements for copy paper for dry toner imaging processes.</i>
SANS 15161:2003 Ed 1	<i>Guidelines on the application of ISO 9001:2000 for the food and drink industry.</i>

SCHEDULE B.4: ESTABLISHMENT OF TECHNICAL COMMITTEES

In terms of section 4(2) (l) the South African Bureau of Standards has established the following technical committees:

Technical Committee No.:	Title	Scope

SCHEDULE B.4: DISBANDMENT OF TECHNICAL COMMITTEES

In terms of section 4(2) (l) the South African Bureau of Standards has disbanded the following technical committees:

Technical Committee No.:	Title	Scope

If your organization is interested in participating in these committees, please send an e-mail to Dsscomments@sabs.co.za for more information.

SCHEDULE 5: ADDRESSES OF THE SOUTH AFRICAN BUREAU OF STANDARDS OFFICES

The addresses of offices of the South African Bureau of Standards where copies of the standards mentioned in this notice can be obtained, are as follows:

1. Gauteng Head Office, 1 Dr Lategan Road, Groenkloof, Private Bag X191, Pretoria 0001.
2. Western Cape Regional Office, SABS, Liesbeek Park Way, Rosebank, PO Box 615, Rondebosch 7701.
3. Eastern Cape Regional Office, SABS, 30 Kipling Road, cor. Diaz and Kipling Roads, Port Elizabeth, PO Box 3013, North End 6056.
4. KwaZulu-Natal Regional Office, SABS, 15 Garth Road, Waterfall Park, Durban, PO Box 30087, Mayville 4058.

BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 37 OF 2019

**INVITATION TO COMMENT ON EXPOSURE DRAFT ISSUED BY THE ACCOUNTING STANDARDS BOARD****Issued: 12 April 2019**

The Accounting Standards Board (the Board) invites comment on the Exposure Draft of the proposed Directive on *The Application of Standards of GRAP by Public Entities that Apply IFRS® Standards* (ED 174) that was approved by the Board at its March 2019 meeting. Comment is due by **31 July 2019**.

Any input received on the proposals in ED 174 will be used in finalising the applicable pronouncement before it is issued.

All those affected by, or who are interested in this Exposure Draft are encouraged to provide a written response to the Board.

Responses to the Exposure Draft should be received by its comment deadline, as indicated above.

Copies of the document

The document is available electronically on the Board's website – <http://www.asb.co.za>, or can be obtained by contacting the Board's offices on 011 697 0660 (telephone), or 011 697 0666 (fax).

Comment can be emailed to info@asb.co.za or can be submitted in writing to:

Accounting Standards Board

PO Box 7001

Halfway House

1685

We look forward to receiving your responses.

BOARD NOTICE 38 OF 2019**COUNCIL FOR DEBT COLLECTORS****NOTICE IN TERMS OF SECTION 12(5) OF THE DEBT COLLECTORS ACT, 1998
(ACT 114 OF 1998)**

The register contemplated in section 12(1) (a) of the Debt Collectors Act, 1998 (Act 114 of 1998) is available for inspection-

- (a) from Monday to Friday, excluding public holidays, from 7h30 to 16h00 at the registered office of the Council for Debt Collectors: 310 Brooks Street, Menlo Park, Pretoria; and
- (b) electronically at the following address: www.cfdc.org.za

A CORNELIUS

CEO: COUNCIL FOR DEBT COLLECTORS

BOARD NOTICE 39 OF 2019

**Engineering Council of South Africa (ECSA)****ECSA FEES AND CHARGES**

The Engineering Council of South Africa (ECSA) hereby makes known that, in terms of section 36(3) of the Engineering Profession Act No. 46 of 2000 (the Act), it has made Rules regarding the Application, Annual and Appeal Fees referred to in section 12 of the Act.

The fees will be applicable from 1 April 2019 to 31 March 2020.

SCHEDULE**1. Definitions**

1.1 In these rules, unless the context otherwise indicates:

1.1.1 **“Act”** means the Engineering Profession Act No. 46 of 2000.

1.1.2 **“Council”** means the Engineering Council of South Africa established in terms of section 2 of the Act.

1.1.3 **“Days”** means calendar days, including the first day and excluding the last.

1.1.4 **“Partial exemption”** means a discount afforded Registered Persons who belong to an ECSA recognised voluntary association.

1.1.5 **“Retired Persons”** means persons between the age of 55 and 69 who are retired but who are still required to pay a nominal annual fee until they reach the age of 70, where after they will become fully exempt from the payment of annual fees.

- 1.1.6 **“Rules” means** these rules.
 1.1.7 **“VAT” means** Value added tax.
 1.1.8 All fees listed are VAT inclusive. Persons residing outside of South Africa will be charged a VAT exclusive fee.
 1.1.9 The current VAT rate of 15% is used.

2. Application Fees

- 2.1 No Applications will be considered until payment of the full application fee has been received.

2.1.1 Candidate Categories

Within one calendar year from the date of obtaining a qualification recognised for purposes of registration.	Later than one calendar year after the date of obtaining a qualification recognised for purposes of registration.
R815.01	R2,034.01

2.1.2 Foreign Qualification Assessment and Professional Registration

All applicants with foreign educational qualifications are required to have their qualifications assessed before applying for registration.	R10,174.01
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2.1.3 Professional & Registered Categories

Applicants with uninterrupted registration as a Candidate	Applicants not registered in any of the Candidate categories
R4,070.00	R8,140.00

2.1.4 International Register

Applicable only to persons already registered with ECSA who are applying for registration on the ECSA portions of the International Registers. This is a once-off fee. No annual fees are payable.	R4,070.00
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3. Annual Fees

- 3.1 Annual fees are payable by all persons registered for as long as they are registered with ECSA.
- 3.2 Persons registered in the Candidate category for more than six (6) years pay the same annual fees as persons registered in the Professional category.
- 3.3 An Early bird discount is granted to Registered Persons if their annual fees for April to March are paid on or before 30 June. The discount is R50 for Candidates and R100 for Professionals, VAT inclusive.

- 3.4 In addition to the annual fees in arrear, an admin fee of R500 is payable when reinstating a registration within one year of cancellation. After one year of being cancelled persons will need to re-apply for registration.

Candidates		Professional & Registered Categories		Retired Persons
Partial Exemption	No Exemption	Partial Exemption	No Exemption	
R1,470.00	R1,690.01	R3,550.01	R4,190.00	R270.00

4. Appeal Fees

- 4.1 A person wishing to lodge an appeal in terms of section 24 or 33 of the Act must pay the appeal fee of R8 000. If the appeal is successful, the appeal fee will be refunded back to the appellant.
- 4.2 The proof of payment together with the notice of appeal must be addressed to the Chief Executive Officer (CEO) and sent to legal@ecsa.co.za.

5. Payment Details

- 5.1 Banking details: Standard Bank Eastgate Branch, Branch Code 018505, Account No. 221285938. Swift code SBZAZAJJ.
- 5.2 The accepted methods of payment are cheque, credit card (Visa, MasterCard and American Express only), EFT or deposit made at any Standard Bank branch into ECSA's bank account.
- 5.3 Persons residing outside of South Africa who are experiencing difficulty making payment by credit card; are advised to use the online portal to make payment on Sage Pay.
- 5.4 ***No cash will be accepted at the ECSA Offices.***
- 5.5 Cheques are not to be sent by post. ECSA will take no responsibility for cheques lost in the post or intercepted.

BOARD NOTICE 40 OF 2019

**SOUTH AFRICAN COUNCIL
FOR THE
LANDSCAPE ARCHITECTURAL PROFESSION**

2nd Floor, Block A Corobay Corner, 169 Corobay Ave, Waterkloof Glen, Pretoria 0181

registrar@saclap.org.za

www.saclap.org.za

**FOR IMPLEMENTATION
12 APRIL 2019****RATES 2019/2020****FOR THE
SOUTH AFRICAN COUNCIL FOR THE
LANDSCAPE ARCHITECTURAL PROFESSION
(SACLAP)**

The South African Council for the Landscape Architectural Profession, has under Section 12 (1) of the Landscape Architectural Profession Act, (Act No. 45 of 2000) the power to determine the applicable fees and charges.

The Council wishes to notify registered persons and members of the public that the 2019/2020 rates have been determined. They are applicable from 1 April 2019 and will be reviewed in March 2020 to co-incide with the SACLAP financial year

These rates supersede all other rates published in this regard before this date. The effective date is 1 April 2019.

The full document is available for download from our website www.saclap.org.za

REGISTRAR
Ms Cecilia Chinga

BOARD NOTICE 41 OF 2019**SOUTH AFRICAN PHARMACY COUNCIL****FEES PAYABLE TO THE COUNCIL UNDER THE PHARMACY ACT 53 OF 1974**

In terms of section 4(zG) of the Pharmacy Act 53 of 1974 Council may determine the fees payable to Council. This means that any new fees or amendments to existing fees are determined annually by Council. As in the past, all efforts will be made to curtail costs and keep any increases in fees to the minimum. The fees payable to Council for 2019 were published in Board Notice 170 of 2018 (GG 42016, published on 2 November 2018). The fees hereunder are additional fees payable to Council for the year 2019 and are published below for general information:

Description	Exclude VAT R	VAT R	Include VAT R
REGISTRATION FEES (payable with a duly completed application form)			
A pharmacy for -			
• application for registration of a remote automated dispensing unit (RADU) (Public Sector)	5 729.57	859.43	6 589.00
• application for registration of mobile unit	5 729.57	859.43	6 589.00
ANNUAL FEES			
In terms of Regulation 106 of the <i>Regulations relating to the registration of persons and the maintenance of registers</i> (R.1160 of 20 November 2000), every person registered in terms of the regulations must renew such registration annually by paying the annual fee(s) as determined by Council. The annual fee due dates each year are as follows:			
- 1 July - Pharmacies (institutional public) and Responsible Pharmacists (public sector).			
For pharmacies for -			
• remote automated dispensing unit (RADU) (Public Sector)	1 475.65	221.35	1 697.00
• mobile unit	1 475.65	221.35	1 697.00
OTHER FEES – The following fees are payable by:			
• evaluation fee for mobile unit	2 700.00	405.00	3 105.00
• approval of delegated pharmacist of a pharmacist intern or pharmacist's assistant	1 163.48	174.52	1 338.00



TA Masango
REGISTRAR

Address: 591 Belvedere Street, Arcadia, Pretoria, 0083. Private Bag X40040, Arcadia, 0007 - Telephone: 0861 7272 00

WARNING!!!

To all suppliers and potential suppliers of goods to the Government Printing Works

The Government Printing Works would like to warn members of the public against an organised syndicate(s) scamming unsuspecting members of the public and claiming to act on behalf of the Government Printing Works.

One of the ways in which the syndicate operates is by requesting quotations for various goods and services on a quotation form with the logo of the Government Printing Works. Once the official order is placed the syndicate requesting upfront payment before delivery will take place. Once the upfront payment is done the syndicate do not deliver the goods and service provider then expect payment from Government Printing Works.

Government Printing Works condemns such illegal activities and encourages service providers to confirm the legitimacy of purchase orders with GPW SCM, prior to processing and delivery of goods.

To confirm the legitimacy of purchase orders, please contact:

Anna-Marie du Toit (012) 748-6292 (Anna-Marie.DuToit@gpw.gov.za) and

Siraj Rizvi (012) 748-6380 (Siraj.Rizvi@gpw.gov.za)

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