



PRESENTATION:

DRAFT FINDINGS DOCUMENT IN RESPECT OF THE INQUIRY INTO THE SUBSCRIPTION TELEVISION BROADCASTING SERVICES

14 JANUARY 2021

THE TEAM

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eMEDIA INVESTMENTS

eMedia Investments is the holding company in respect of:

- e.tv, a licensed free-to-air broadcaster;
- e.Sat TV, which is the holder of a subscription television broadcasting licence; and
- Platco which operates Openview as a free-to-air satellite broadcasting service.

OPENING COMMENTS

- eMedia Investments wishes to thank the Authority for the opportunity to participate in these public hearings.
- eMedia Investments or its subsidiary companies have, since the licensing of e.tv as a free-to-air broadcaster, participated in ICASA processes relating to most regulatory matters.
- eMedia Investments has participated in this inquiry into subscription television broadcasting services since 2016.
- eMedia Investments supports the Authority's Inquiry into subscription broadcasting services and is of the view that the Inquiry is long overdue.

OPENING COMMENTS

- eMedia Investments is concerned at the length of time that the process, which commenced in 2016, has taken and that the current hearing will not be the end of the matter. If a decision is taken to regulate subscription broadcasting and the dominant player, this will take several more years in which time the dominant player, Multichoice Africa (“MCA”) will remain unrestrained to further entrench its dominant position in the marketplace.
- Given the time constraints in making the presentation, eMedia Investments only focusses on certain aspects of the findings document dealing primarily with remedies to be imposed to prevent the dominance of one player not only in the subscription television market but in the television market generally. It is accepted that based on the Authority’s definition of the market, MCA is the only dominant player and these submissions proceed on this premise.

OPENING COMMENTS

- The objective of the Broadcasting Act is to establish and develop a broadcasting policy in SA in the public interest and for that purpose to, amongst other things, **“ensure fair competition in the broadcast sector”** (section 2 (h) of the Broadcasting Act).
- One of the objectives of the ECA is to **“ensure fair competition in the ICT sector”** (Section 2(f)).

MCA SUBMISSION

- The prevalence of legalistic language is evident throughout the document.
- Our concern is that in the event that ICASA finds or rules against MCA with recommendations that are legitimate and level the playing field, MCA will delay any changes through legal challenges.
- The authority should be alive to the impact a delay would have on the industry. Any delay actually amounts to a victory for MCA.
- eMedia suggests that the authority focus on solutions that are implementable in the short term and not embroil the required changes in long term legal battles.
- There are inaccuracies in the MCA submission which need to be addressed.

ATTEMPTS TO REGULATE SUBSCRIPTION TELEVISION BROADCASTING

- The Authority and its predecessor, the Independent Broadcasting Authority, have for many years recognised the need to regulate subscription broadcasting and competition in the market.
- In the 1998 White Paper on Broadcasting Policy, it was recognised that:

“Fair competition between broadcasting services should prevail. All broadcasting services drawing advertising or subscription revenue from South Africa should be subject to a regulatory scheme”.
- Notwithstanding this, it took another ten years before MCA was licenced. Prior to this, MCA had operated without a licence.

ATTEMPTS TO REGULATE SUBSCRIPTION TELEVISION BROADCASTING

- In May 1999, the IBA released a Discussion Paper on satellite broadcasting which raised concerns about competition in the satellite broadcasting market and recognised that there was a need to regulate for competition in the market.
- In 2004, the Authority published a Discussion Paper in respect of its Inquiry into Subscription Television Broadcasting Services in which it recognised MCA had an unfair market advantage creating barriers of entry into the market and accepted that there was a need to regulate competition in subscription broadcasting services to “**ensure effective and sustainable competition**”.

ATTEMPTS TO REGULATE SUBSCRIPTION TELEVISION BROADCASTING

- In the Subscription Broadcasting Services Position Paper of June 2005, the need to regulate subscription broadcasting and promote competition was again recognised. Importantly, the difficulties of imposing advertising limitations on multi-channel subscription broadcasting services was raised. This has implications relating to MCA's current share of the total television advertising spend.
- In the Position Paper for the introduction of the first free-to-air commercial television service in South Africa, the Authority took the position that *“protecting and growing free-to-air terrestrial broadcasting services beyond the introduction of a single commercial entrant requires the restriction of advertising on subscription broadcasting services”*. Notwithstanding this, to date, over twenty years later, there are still no restrictions relating to advertising on multi-channel subscription broadcasting services.

ATTEMPTS TO REGULATE SUBSCRIPTION TELEVISION BROADCASTING

- In response to the 2005 Position Paper, Multichoice submitted to the Authority that the impact of subscription television broadcasting services on the advertising revenue of free-to-air terrestrial television broadcasting services had been minimal.
- MCA further submitted that, notwithstanding the fact that advertising would increase commensurate with the growth in subscribers, *“It is unlikely that it will ever account for a similar percentage of revenue as that received by terrestrial subscription television broadcasting services”*. As it transpires, this is not the case.

ATTEMPTS TO REGULATE SUBSCRIPTION TELEVISION BROADCASTING

- In the process surrounding the application for parties to apply for a subscription broadcasting services licence in 2007, e.Sat TV made submissions concerning the dominance of MCA in which it spoke to the difficulty of breaking into the market which had been dominated by one subscription broadcaster for well over a decade.
- e.Sat TV argued that regulations needed to be introduced in order to constrain the incumbent from engaging in anti-competitive behaviour. This dealt with, inter alia, the need to regulate exclusive agreements, the non-exclusivity of pass-through channels and a prohibition on tiering. With the information presented by potential competitors at the hearings, MCA could tier to prevent such entrants from breaking into the marketplace.
- As anticipated, as the Authority did not regulate any of the anti-competitive practices in the licence issued to MCA, tiering and other anti-competitive practices by MCA continued.

ATTEMPTS TO REGULATE SUBSCRIPTION TELEVISION BROADCASTING

- Notwithstanding this, it took a further nine years before the Authority engaged in the current process which will have taken more than five years to finalise. During this period, MCA has been able to further entrench its position in the market and increasingly encroach on the total television advertising spend.
- New entrants have found it impossible to break into the subscription broadcasting market and the lack of regulation has negatively impacted the viability of FTA broadcasters.
- Despite the Authority having recognised over a lengthy period of time the need to regulate the subscription broadcasting market, they have delayed in doing so. This has directly enabled MCA to entrench its dominant position in the marketplace.

eMEDIA'S CONCERNS

- eMedia Investments is concerned that the focus of the findings documents and the Inquiry is the impact of the dominance of MCA on new entrants into the subscription broadcasting market. It is, however, necessary to also focus on the impact of MCA's dominance on licenced FTA broadcasters.
- eMedia Investments submits that the impact which the unrestrained and unregulated dominance MCA has had in the marketplace, has impacted free-to-air broadcasters substantially. Accordingly, issues concerning FTA broadcasters must be taken into account in relation to any future regulatory regime or changes to the licence conditions of MCA.

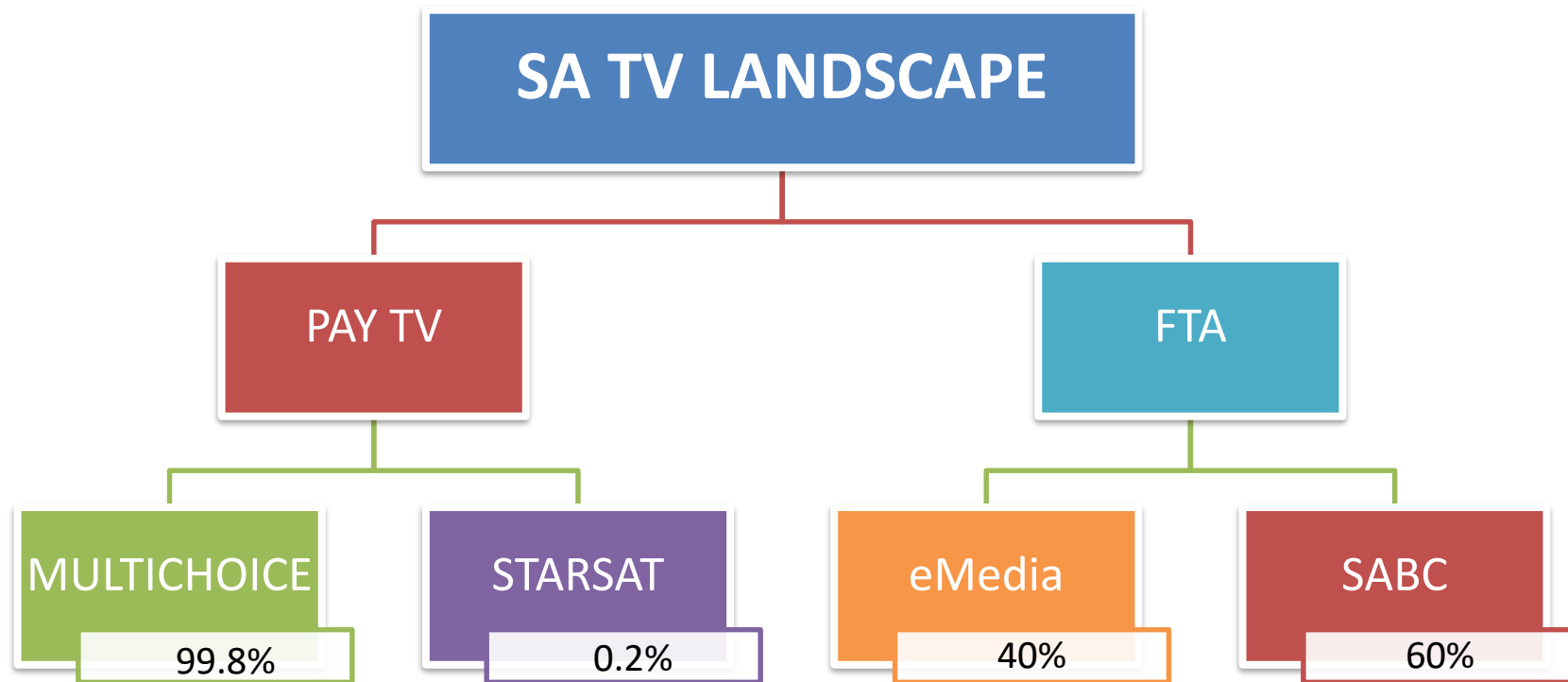
eMEDIA'S CONCERNS

- eMedia Investments also remains concerned at the length of time it has taken to deal with the regulation of the incumbent as more fully set out above and the fact that the current hearings will not be an end to the matter. Further submissions and hearings will need to be held concerning any proposed regulations. This will take a further several years.
- Additionally, MCA has already alluded to the possibility of reviewing any decisions by the Authority. During this period, MCA will not be restrained in any way from further entrenching its position.

eMEDIA CONCERNS: IS THE PLAYING FIELD LEVEL?

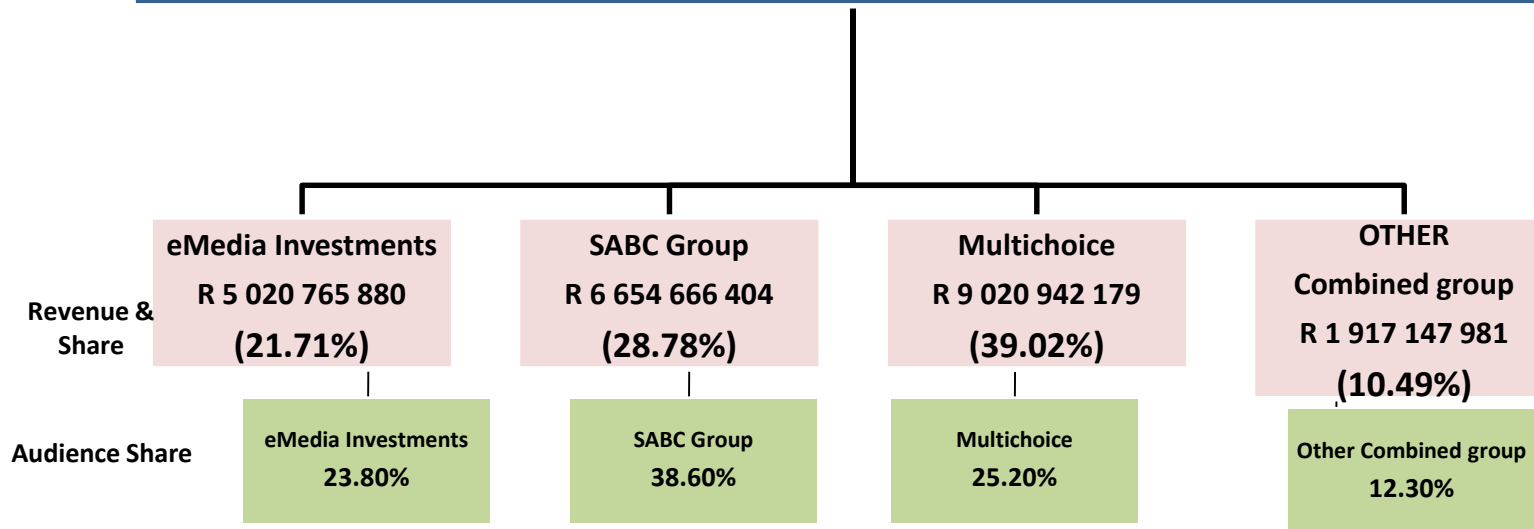
- Our view is that there are structural and legal impediments in the market in South Africa. This results in an un-level playing field.
- Free to Air broadcasters, including e.tv, are governed by Public Service mandates and limitations on advertising in their licence conditions. MCA are not.
- e.tv is solely dependent on advertising revenue which is driven by market conditions. The total television advertising spend has been decreasing for the last three years.
- This situation has been exacerbated by COVID-19, which has further impacted the total advertising spend. This has a far greater impact on e.tv whose sole revenue is advertising. Accordingly, Free to Air broadcasters have substantially less financial resources which impacts their purchasing power and ability to compete.

Apr 19 – Mar 20



Apr 19 – Mar 20

SA TV AUDIENCE & REVENUE SHARE



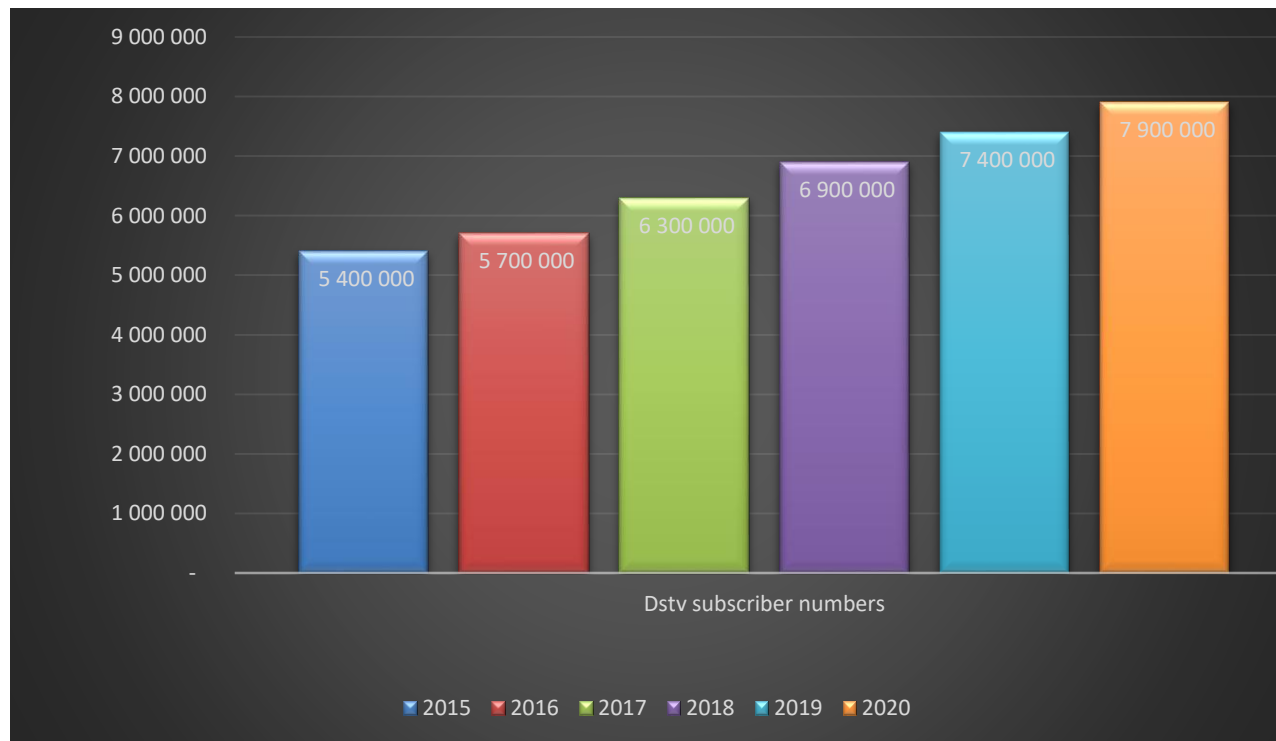
IS MCA REALLY A GROUP IN DISTRESS AND UNDER THREAT?

- MCA's submissions paint a picture of MCA as a company in distress and under threat not only by OTT but by free-to-Air services.
- The actual financial results of MCA paint a completely different picture. There is no threat to MCA.
- All businesses face change and challenges, but the unintended consequences of the pay landscape in South Africa and the inaction of the regulator, have provided MCA with a significant advantage.

IS MCA REALLY A GROUP IN DISTRESS AND UNDER THREAT?

- The most immediate and urgent threat is to FTA television in South Africa. Both the SABC and eMedia have been detrimentally affected by the unequal playing fields and require urgent regulatory relief.
- As will be shown, neither OTT nor FTA services pose a threat to MCA.
- Moreover, given the delays in rolling out DTT and that there are only 500,000 boxes in circulation, DTT does not constitute any threat to MCA.
- MCA is far from being a “company in distress” as the following graphs indicate.

CONTINUED GROWTH OF DSTV IN SOUTH AFRICA IS GREATER THAN INFLATION



MULTICHOICE FINANCIAL ANALYSIS

	2015	2016	2017	2018	2019	2020
	R'000	R'000	R'000	R'000	R'000	R'000
Subscription revenue*	21,699,495	23,836,591	26,197,816	27,729,578	27,740,000	28,434,000
- % increase	13.64%	9.85%	9.91%	5.85%	0.04%	2.50%
Advertising revenue*	2,426,234	2,649,514	2,883,987	2,848,806	2,873,000	2,797,000
- % increase	2.02%	9.20%	8.85%	-1.22%	0.85%	-2.65%
Operating profit*	8,816,943	9,337,494	10,160,766	10,446,000	10,199,000	10,259,000
- % increase	10.82%	5.90%	8.82%	2.81%	-2.36%	0.59%
Net Profit after tax*	5,639,035	6,004,877	6,827,779	7,789,000	3,466,000	6,521,000
- % increase/(decrease)	-10.43%	6.49%	13.70%	14.08%	-55.50%	88.14%
Total Revenue (excluding program revenue)*	27,287,975	30,288,909	33,196,997	32,702,000	33,696,000	34,154,000
Advertising revenue as a percentage of above	8.89%	8.75%	8.69%	8.71%	8.53%	8.19%
Advertising revenue as a percentage of total TV revenue					40%	39%

MCA IS NOT IN DISTRESS

- What these slides show is rather than being a company in distress and under threat, DSTV subscribers have grown year on year. This includes an increase of subscribers between 2019 and 2020 amounting to 500 000.
- The above numbers must be set against the small growth in OTT services such as Netflix which MCA submits is a threat. It is estimated that Netflix grew from 41 440 subscribers in 2016 to 200 000 subscribers in 2019 and to an estimated 340 000 subscribers in 2020. The total number of subscribers of 340 000 is less than the growth in DSTV subscribers between 2018 and 2020 which amounts to approximately one million subscribers in South Africa.
(Source: Global Internet TV Consortium at www.global-internet-tv.com)
- While MCA would have it that the number of Premium subscribers has decreased, the conclusion that this is necessarily through the introduction of OTT services is misguided. While the introduction of OTT services may have played a minor role, clearly other factors contributed to this such as the prevailing economic circumstances. Moreover, the decrease in premium subscribers can be attributed to DStv's tiering and it only has itself to blame for this.

MCA IS NOT IN DISTRESS

- Moreover, MCA also offers Showmax for a subscription fee to anyone who wishes to purchase it other than viewers on the Premium package who receive it free. There are no figures available as to the number of viewers of or income generated by Showmax. MCA is invited to disclose these figures.
- The slide dealing with MultiChoice financial analysis confirms that rather than being in distress, subscription revenue in respect of subscriptions in South Africa grew 2.5% between 2019 and 2020 and its net profit after tax remains in excess of R6.5 billion.
- More importantly, despite its previous contentions that its advertising revenue would not be a threat to FTA broadcasters, notwithstanding the size of its viewership, its advertising revenue as a percentage of total TV revenue now stands at 39%. This is clearly a threat to the viability of the FTA broadcasters and the object of encouraging investment in the broadcasting sector.

MCA IS NOT IN DISTRESS

- MCA as a “company in distress” must be set against the fact that the only source of revenue available to e.tv and Openview is advertising revenue and that the public broadcaster also competes for this revenue.
- MCA disputes the Authority’s findings that at present OTT services are not having a substantial impact on MCA. However, as set out above, and from the various charts and figures shown, this is not supported by the factual evidence.
- Equally important, to the extent that OTT is impacting television viewership, it will not only impact DSTV but all television broadcasters including free-to-air broadcasters.

MCA IS NOT IN DISTRESS

- The number of people who have the ability to view OTT services such as Netflix and Showmax (which realistically cannot be viewed on mobile devices), is extremely limited given that the number of people who have fibre into the home enabling uninterrupted viewing of OTT services is approximately 849 000 households. This must be measured against the fact that there are approximately 15.8 million TV households in South Africa and 7.9 million DStv subscribers. (Sources: Seacom FTTH Market Tracking Programme Quarter ended September 2020; Broadcast Research Council Update, October 2020)
- It is important to recognise that ICASA has stated that it will monitor OTT and VOD services to assess the impact it is having on broadcasters rather than dismissing OTT as having no possible impact on broadcasters.
- Additionally, many subscribers to OTT services such as Netflix, also subscribe to DSTV to gain access to services such as sport which are not readily available on OTT services.

PREMIUM CONTENT

- The finding by the Authority concerning Premium content does not recognise local content as being Premium content. However, local content is clearly Premium content.
- Local content drives audiences.
- The below graph indicates that the top shows on DSTV are all local content.
- The fact that DSTV is increasingly focussing on local content is also indicative of the fact that local content is Premium.

PREMIUM CONTENT

SATELLITE TOP 10 PROGRAMMES : APRIL 2019 - MARCH 2020							
Adults Age 15+ (Adults Age 15+)							
Counter	Description (grouped)	Channel	Platform & DStv Package	Level 1 Variable	AMR %	AMR	TTVSHR %
1	THE QUEEN (DRAM)	Mzansi Magic	DStv Premium - Access	Movies	3,1	1 107 167	9,72%
2	GOMORA	Mzansi Magic	DStv Premium - Access	Drama	3,0	1 092 512	7,04%
3	SARAFINA	eMovies	Openview & DStv Premium - Access	Movies	3,0	1 059 378	11,61%
4	OUR PERFECT WEDDING	Mzansi Magic	DStv Premium - Access	Drama	2,5	886 520	7,96%
5	TOTAL AFRICA CUP OF NATIONS 2019:NIGERIA VS SOUTH AFRICA	SuperSport 4	DStv Premium - Access	Sport	2,3	811 463	7,62%
6	FAST FIVE	eMovies Extra	Openview & DStv Premium - Access	Movies	1,9	700 051	9,75%
7	TOTAL AFRICA CUP OF NATIONS 2019:SOUTH AFRICA VS EGYPT	SuperSport 4	DStv Premium - Access	Sport	1,9	691 463	7,98%
8	UEFA CHAMPIONS LEAGUE:TOTTENHAM HOTSPUR VS LIVERPOOL FC	SuperSport 3	DStv Premium - Compact	Sport	1,9	676 402	9,28%
9	RUGBY WORLD CUP 2019:NEW ZEALAND VS SOUTH AFRICA	SuperSport 1	DStv Premium - Compact Plus	Sport	1,9	673 509	9,34%
10	MR BONES 2:BACK FROM THE PAST	eMovies	Openview & DStv Premium - Access	Movies	1,9	667 795	7,43%
11	13 HOURS	Mzansi Magic	DStv Premium - Access	Movies	1,9	662 965	5,80%
12	UEFA CHAMPIONS LEAGUE:LIVERPOOL FC VS FC BARCELONA	SuperSport 3	DStv Premium - Compact	Sport	1,8	650 087	8,19%
13	UEFA CHAMPIONS LEAGUE:FC BARCELONA VS LIVERPOOL	SuperSport 3	DStv Premium - Compact	Sport	1,8	643 915	8,44%
14	ISIBAYA	Mzansi Magic	DStv Premium - Access	Drama	1,8	643 369	4,91%
15	LOKSHIN BIOSKOP: IKHANDLELA ELIBOVU	Mzansi Magic	DStv Premium - Access	Drama	1,7	621 755	5,98%
16	IDOLS SA	Mzansi Magic	DStv Premium - Access	Reality	1,7	618 250	6,51%
17	MAMA JACK	eMovies Extra	Openview & DStv Premium - Access	Movies	1,7	613 485	7,97%
18	THE FAST AND THE FURIOUS 6	eMovies Extra	Openview & DStv Premium - Access	Movies	1,7	597 535	9,30%
19	INUMBER NUMBER (DRAMA)	eMovies Extra	Openview & DStv Premium - Access	Movies	1,6	592 342	8,75%
20	MAMA JACK	eMovies	Openview & DStv Premium - Access	Movies	1,6	590 119	8,38%
LOCAL TITLES							

PREMIUM CONTENT

- A glimpse at the Catch-Up service offered by DSTV will show that whereas previously the bulk of the Catch-Up programmes offered were not local. The number of local programmes appearing on the catch-up services has now grown substantially and continues to grow. Local content is clearly a driver.
- While eMedia Investments recognises the importance of local content and the need to support local productions and producers, what needs to be happen is for limitations to be placed on DSTV which is always in a better position to outbid free-to-air broadcasters in relation to local content due to its financial muscle.
- eMedia Investments supports the growth of local content and the local production sector. However, given MCA's financial clout, they are able to affect the ability of other broadcasters to continue producing quality local content given their limited resources.

PREMIUM CONTENT

- One of the considerations which should be given is that to ensure the continued success of local content on free-to-air services, limitations be placed on tiering.
- It is suggested that rather than allowing tiering to any level so that the lowest tier could almost be a free-to-air tier, DSTV be limited to tiering such that the minimal cost of tiering be not less than 35% of the monthly cost to subscribers of its Premium bouquet.

PREMIUM CONTENT

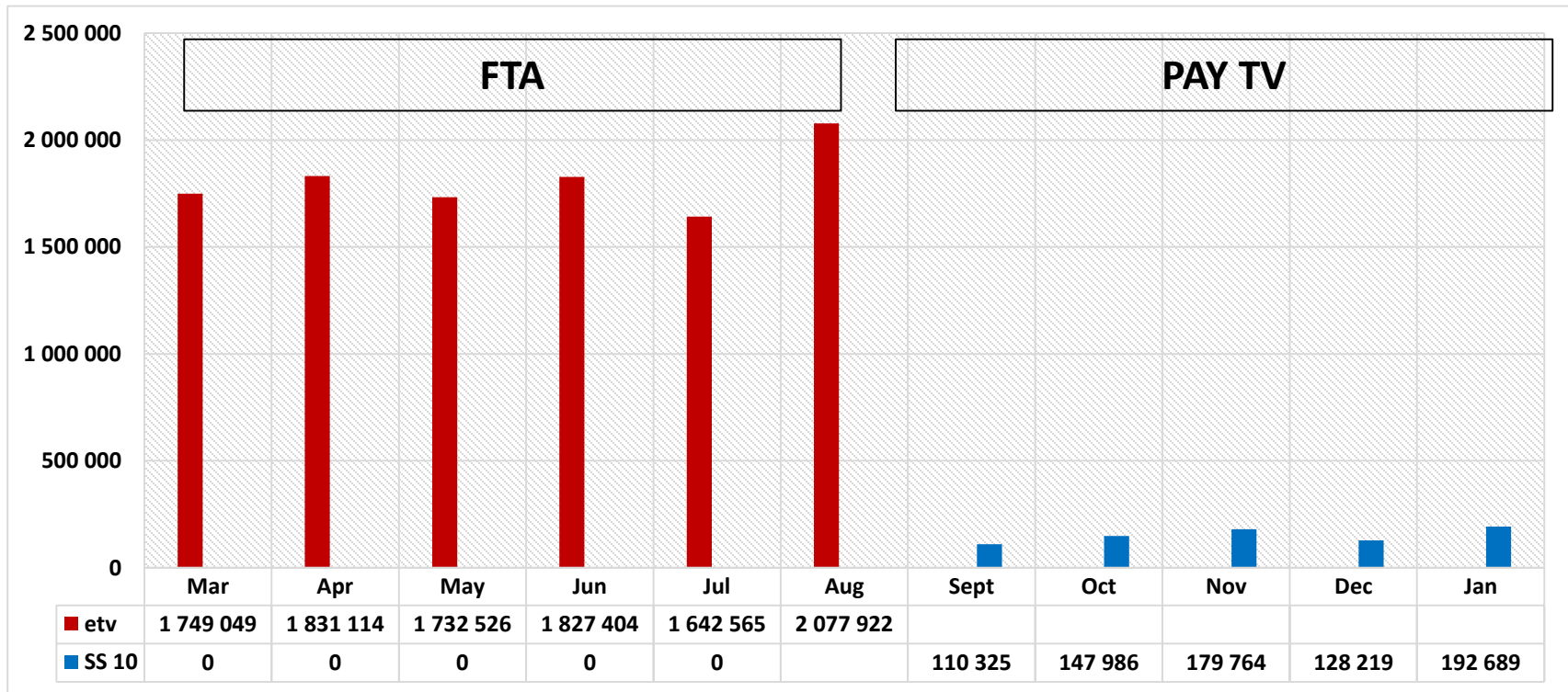
- MCA contends that premium content is “undefinable”. eMedia disagrees.
- To illustrate the point eMedia will use local content (see above), WWE and UEFA as examples.
- eMedia previously was able to broadcast WWE and UEFA on a free-to-air basis. It subsequently lost these rights to MCA. WWE was premium content to eMedia.
- However, most importantly, MCA did not only purchase the pay TV rights in respect of WWE and UEFA, **but also the free-to-air rights**.
- This is clearly anti-competitive aimed at preventing free-to-air broadcasters from also having access to these rights. Subscription broadcasters should be prevented from also purchasing free-to-air rights in respect of any content.

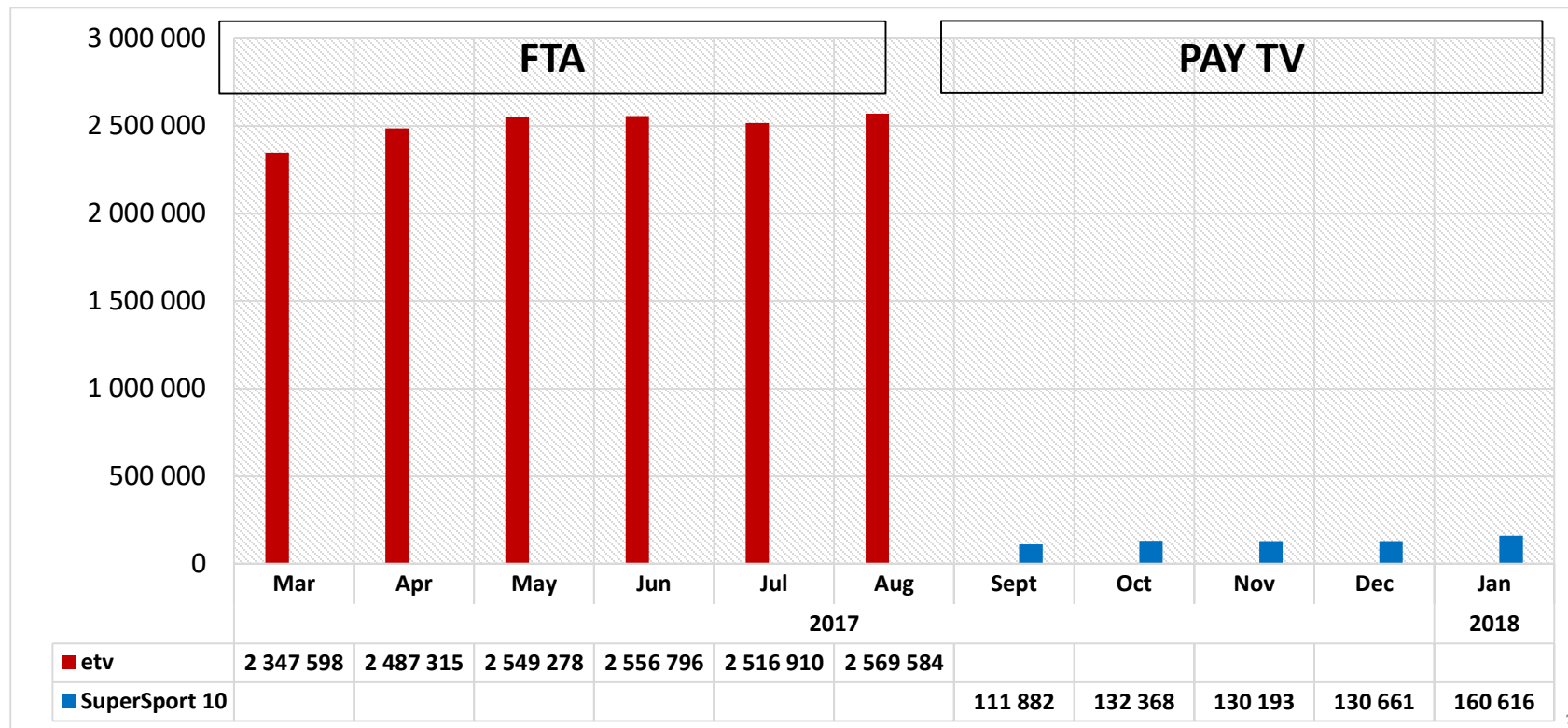
PREMIUM CONTENT

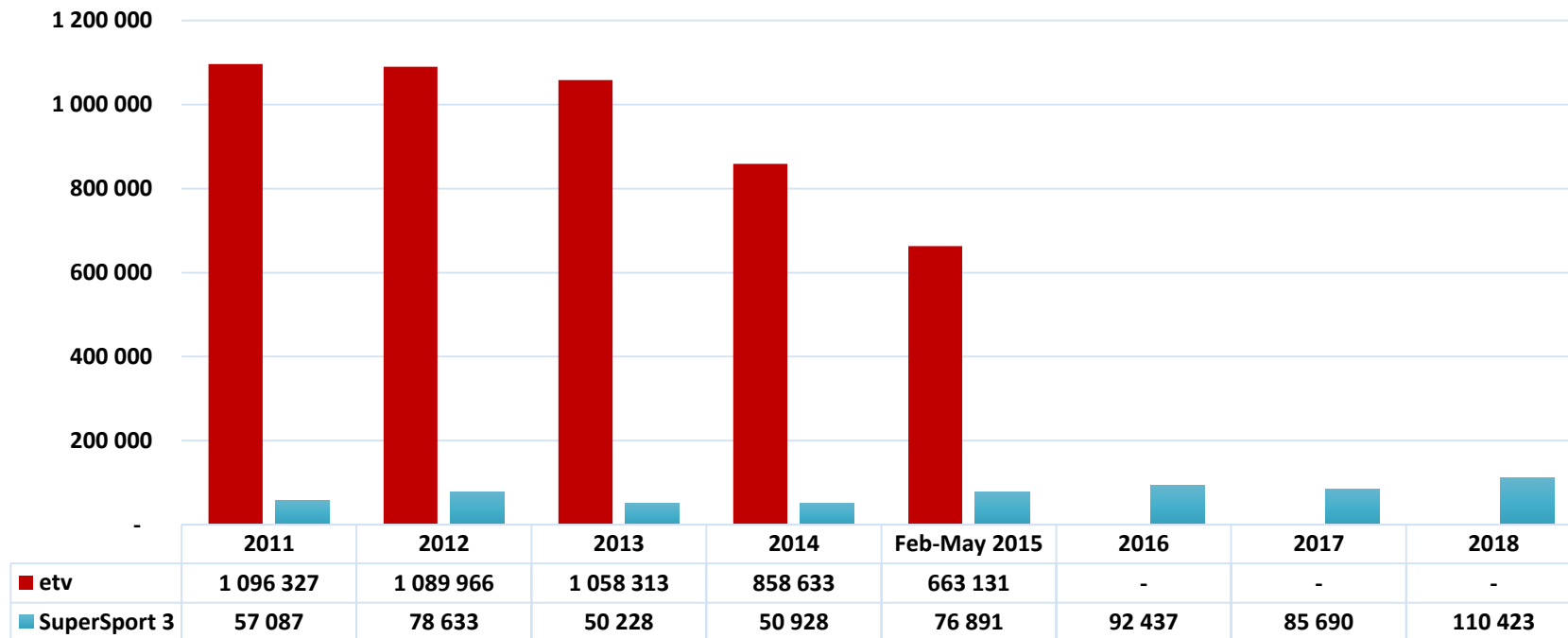
- Importantly this “must have” and “premium” content is now only available to affluent viewers that can afford pay TV.
- After 10 years of having this content, e.tv was significantly outbid by MCA. e.tv cannot find similar programming that will result in the same viewership patterns as was achieved with WWE.
- Moreover, the fact that MCA has now purchased these rights has deprived a substantial audience from access to this content. Immediately after MCA purchased these rights, MCA deprived more than one million viewers from access to UEFA, and more than 2.4 million viewers from access to WWE. This is depicted in the following three graphs.



WWE Smackdown







IMPLICATION OF CONTENT BEING KINGMAKER

- Viewers will migrate to the best content and neither channels nor platforms will experience viewer loyalty. The best content will be acquired or produced by the organizations that have the most financial resources.
- The only organization with significant financial resources in South Africa is MCA.
- Unless MCA is regulated, it will continue to dominate the acquisition of content and the production of local content.
- The cost of content is increasing significantly and will become more expensive and determinative of its television success.
- eMedia and SABC have limited resources. The playing fields are unequal.

MUST CARRY

- SABC 1 and e.tv as FTA channels are the most watched channels on DStv and accordingly drive audiences and subscriptions to DStv. This is evidenced in the below table.

06h00 - 24h00

Counter	Channel \ Variable	AMR
1	SABC 1	536,178
2	e.tv	261,938
3	Mzansi Magic	196,351
4	Mzansi Wethu	181,697
5	Mzansi Bioskop	145,810
6	SABC 2	139,657
7	Cartoon Network	108,178
8	Africa Magic Epic	106,464
9	MTV Base	100,831
10	TNT Africa	89,783
11	Moja Love	86,029
12	eExtra	85,786
13	eMovies Extra	77,213
14	Channel O	74,550
15	TLC Entertainment	64,238
16	MM4	59,386
17	Disney Junior	59,342
18	Boomerang	54,154
19	eNCA	52,143
20	Studio Universal	50,233

18h00 - 22h00

Counter	Channel \ Variable	AMR
1	SABC 1	1,449,604
2	e.tv	638,454
3	Mzansi Magic	501,276
4	Mzansi Wethu	333,906
5	SABC 2	318,992
6	Mzansi Bioskop	129,822
7	eExtra	119,240
8	Moja Love	113,999
9	kykNET	100,288
10	TNT Africa	94,917
11	eMovies Extra	82,980
12	Africa Magic Epic	80,376
13	kykNET & kie	73,238
14	Zee World	71,947
15	MM4	70,061
16	Cartoon Network	65,897
17	TLC Entertainment	65,375
18	SS Premier League	65,345
19	MTV Base	56,239
20	Studio Universal	55,053

MUST CARRY

- By reason of the above, in addition to regulating subscription broadcasters, the Authority needs to relook at the must carry obligations imposed on DStv. There is no doubt that the public broadcaster must be carried by DStv. However, there is no rational reason why other free-to-air broadcasters should not also be carried particularly where they are the most viewed channels on DStv.
- Moreover, when DStv turns off a subscriber's access to its services by reason of non-payment, the FTA channels should still be accessible to these viewers as it is likely that these viewers will only be able to watch the FTA channels via satellite. This too needs to be regulated.

MUST CARRY

- Given that free-to-air programmes are consistently the top shows on DStv and FTA channels, including e.tv, are the top performing channels on DStv, they drive audiences to DStv and hence establish a strong market share for DStv which is attractive to advertisers. In other words, FTA channels on DStv add substantial advertising revenue value for DStv.
- For the above reasons, the FTA channels ought to be compensated for providing their channels, much like most other channels broadcast by DStv. A mechanism needs to be developed for assessing how the price of such channels is determined.

TIERING AND IMPACT ON FTA

- MCA has increasingly engaged in a process of tiering. Initially MCA was only aimed at the top end of the market. However, following the process to licence new subscription broadcasters, and having seen the business plans of all the parties competing for licences, MCA increasingly engaged in a process of tiering by offering fewer channels for lower prices. Many applicants for subscription broadcasting licences had, as a driver, a lower subscription entry point than that offered by DStv. In response DStv offered subscriptions at lower prices in effect shutting out these new entrants who could not compete with these offerings.
- However, this tiering has also had a direct impact on FTA channels. The lowest tier offers 36 channels at R29 per month. This channel is aimed at LSM 4 viewers. This is not far away from being a free offering. There is nothing stopping DStv from offering channels at a minimal price of a few rand thereby being “almost free” which would effectively draw audiences away from FTA channels including Openview.
- The various tiers offered by DStv appear on the following table:

TIERING AND IMPACT ON FTA

Package	Monthly Price	Channels	Cost per Channel	LSM
DStv Premium	R819	159	R5.15	9-10
DStv Compact Plus	R529	144	R3.67	8
DStv Compact	R399	127	R3.14	5-7
DStv Family	R279	93	R3.00	4-7
DStv Access	R110	67	R1.64	4-5
DStv EasyView	R29	36	R0.80	4-5

TIERING AND IMPACT ON FTA

- MCA complains of declining revenues. Not only is this not borne out by MCA's financials, but it is MCA who has enabled viewers to churn down to lower tiers while at the same time being able to move to a higher tier for a specified event and only for a limited period of time. It therefore has itself to blame should there be any decline in revenue.
- By reason of the above, MCA's ability to tier should be limited to allow new entrants into the subscription broadcasting market and to allow the survival of FTA channels. It is suggested that the lowest-end tier should cost not less than 35% of its top-end/premium tier. This would only preclude MCA from broadcasting DStv Access and Easyview.

OPENVIEW

- MCA contends that Openview is growing. While this is correct, its growth in subscribers is less than that of DStv. This will have less of an impact on DStv than contended by it.
- In a segmented market, and given the failure to roll-out DTT, eMedia had no choice but to secure its own survival by embarking on the Openview platform.
- Notwithstanding this, significant losses have been incurred and break-even has not been achieved more than 6 years since Openview's launch.
- As Openview's only source of income is advertising revenue, Openview cannot compete at the same level as MultiChoice. With limited advertising income, Openview's growth will be constrained by MCA's ability to dominate the content market through its greater resources.

OPENVIEW

- The average advertising revenue per user is R354 for DStv, while the average for Openview is R99. Accordingly, Openview is not the threat that MCA contend it is.
- Openview's viewers lag well behind those of DStv as does the advertising spend it receives.
- Openview does not have the ability to subsidise the cost of decoders and recoup this from monthly subscriptions as is the case with DStv. A total set-up costs of a fully installed Openview decoder (in a house without DTH) is typically R1599, whereas to install the entry-level DStv HD decoder costs R649 (there are often specials where the costs are even less, including a recent offer of R399). The entry-level market directly competes with Openview's audience. The only reason that MCA is able to engage in this practice is because of its substantial revenue-generating ability through subscription and advertising. In this way it can squeeze FTA multi-channel competitors out of the marketplace.

OPENVIEW

- MCA admits that the Easyview and Access packages were launched around the time that Openview was launched. These are both lower-end packages. They further admit that the number of channels on both packages have increased substantially and that they have not adjusted the prices of these packages, save for a 6% increase to the Access price in 2019.
- MCA argues that there has been no price adjustment despite the increase in content because of the constraints placed on it by FTA. However, eMedia Investments submits that the reason there has been no price adjustment on the lower end is to compete for Openview's audiences. MCA can increase the number of channels on any of its tiers at no or minimal cost to it. If Openview wishes to increase the number of its channels, unlike MCA, this will be at a cost to it.

OPENVIEW

- MCA also contends that FTA programmes are among the most popular as the FTA channels offer local content in a context where South African viewers have particularly strong preferences for high quality local content. MCA, however, has substantially greater resources to produce local content and has entered into the competitive arena with FTA by increasing its local content in programmes and has also created local channels in all its tiers.
- For the above reasons, there is no substance to MCA's contention that FTA TV continues to be an important source of competitive constraint on it.

ADVERTISING REVENUE

- MCA has an unfair share of advertising revenue based on its audience share, which is driven by FTA channels. This contradicts MCA's previous submissions that it would not impact on the advertising revenue of FTA channels. Given this, and its ability to earn subscription revenue, it is able to outbid FTA channels in purchasing and producing premium content. MCA's share of advertising revenue is shown below.

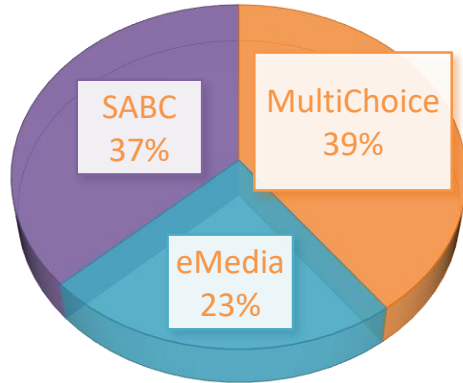
Net Advertising Revenue (including sponsorships)	R7,1 Billion (approximately)
MCA Advertising Income as per financials	R2,79 Billion
MCA Advertising Share of Income	39% share
Percentage Share available for rest of market	61%
Rest of market incumbents	SABC, eMedia, Viacom, Discovery, Starsat, FOX, Universal, Community TV

ADVERTISING REVENUE

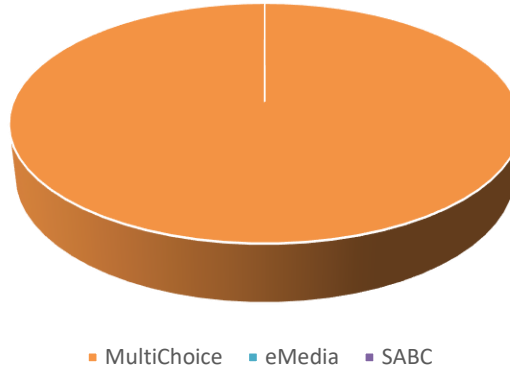
- Even grouping together advertising revenue earned by e.tv and Openview, it does not match advertising revenue earned by MCA which of course, has other income streams in addition to advertising.
- For the above reasons, the Authority needs to place some kind of limit on the advertising revenue which MCA is able to earn given that it earns the bulk of its revenue from subscription and would still be extremely profitable without advertising revenue.
- Limitations could be imposed by capping the amount of advertising revenue MCA can earn. It is suggested that the cap of 15% of the previous years' total television advertising spend.

SOURCES OF INCOME (INCLUDING SPONSORSHIPS)

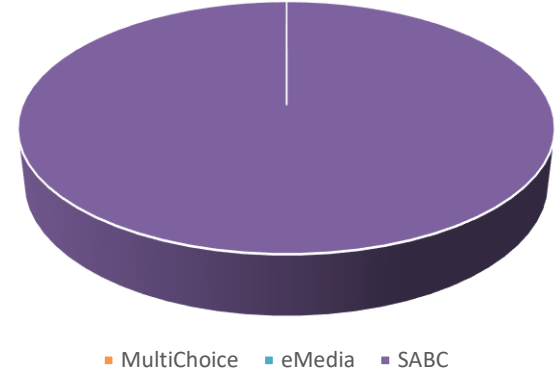
ADVERTISING REVENUE



SUBSCRIPTION REVENUE



LICENCE FEES



*Other broadcasters have <1% of the advertising revenue

	<u>AdRevenue</u>		<u>Subscription Revenue (SA)</u>		<u>Licence Revenue</u>		<u>TOTAL</u>
MultiChoice :	R2.797bn	+	R28bn		R0	=	R30.797bn
SABC :	R2.598bn	+	R0		R0.791bn	=	R3.389bn
eMedia :	R1.646bn	+	R0		R0	=	R1.646bn

THE PAY TV ADVERTISING GAP

- Section 60(4) of the ECA provides that: *Subscription broadcasting services may draw their revenues from subscriptions, advertising and sponsorships, however, in no event may advertising or sponsorship, or a combination thereof, be the largest source of annual revenue.*
- Based on the previous slides, it is noticeable that even if MCA took no advertising out of the market it would still be a very profitable business.
- To demonstrate the illogical nature of the provision. If MultiChoice took 4 times all the advertising revenue it would still not be in contravention of the Section 60(4) of the ECA. Advertising in the subscription broadcasting market therefore needs to be regulated as previously recognised by the Authority.
- To retain the current provision is illogical and will always be ineffectual. Other limitations need to be imposed.

SUBSCRIPTION TELEVISION LICENCE HOLDERS

- Most other subscription licensees who were issued with licences from the Authority have not commenced operating and have been unable to do so because of the predatory practices engaged by MCA. Those entrants who have entered the market have generally failed or have had extremely limited success.
- Accordingly, insofar as other parties who have already received subscription broadcasting licences are concerned, given the prevailing anti-competitive practises by MCA which have prevented new entrants from successfully entering into the marketplace, such licensees should have their licences extended so that they only need to commence operating within a period of two years after final regulations are promulgated and come into force following this process.

THE AUTHORITY'S FINDINGS

- eMedia Investments agrees that MCA should be regulated or licence conditions should be imposed on it to inhibit anti-competitive practices and promote competition in the broadcasting sector which includes FTA broadcasters.
- eMedia Investments further agrees that none of the remedies should work in isolation and need to be implemented as a suite of solutions to the competition challenges in the relevant markets. This would include the broadcasting market as a whole in which MCA competes with free-to-air broadcasters for advertising and has increasingly taken a larger and larger share of the total television advertising spend.

THE AUTHORITY'S FINDINGS

- In particular, eMedia Investments agrees that the following regulations should be implemented:
 - Reducing contract duration;
 - Rights splitting – split content rights and sell to more than one broadcaster;
 - Unbundling – offering rights to more than one broadcaster;
 - Limiting access to Premium content including Hollywood movie studios;
- Additionally to the above, eMedia Investments submits that the measures set out below should be implemented.

eMEDIA'S ADDITIONAL RECOMMENDATIONS

- The must carry obligations should not be limited to the public service broadcaster but should include other free-to-air service broadcasters such as e.tv and should be on a “must carry must pay” basis.
- The question of limiting the amount of advertising available to MCA should be looked at by either limiting duration, the channels on which advertising is permitted and/or placing a financial limit on the amount of advertising which MCA can sell.
- The question of tiering needs to be analysed given that the ability to tier closes the market to entrants into the subscription broadcasting sector and impacts the ability of free-to-air broadcasters to compete.

eMEDIA'S ADDITIONAL RECOMMENDATIONS

- MCA should be obliged to continue making available the FTA channels which it broadcasts on all its packages to subscribers when they cannot afford to pay their subscriptions. This will be beneficial for universal access as the debate on digital migration continues.
- MCA must be prohibited from buying FTA rights which precludes FTA channels from buying these rights and inhibits competition.
- Existing subscription broadcasting licensees who have not commenced operating should be given a period of two years after final regulations following this process have been implemented to commence broadcasting.

THANK YOU

e.Media Investments wishes to thank the Authority for the opportunity to make this presentation and would welcome any questions concerning the presentation.