15 February 2024

Councilor L.S. Mkumatela
Chairperson: Subscription Television Broadcasting
Services Inquiry Council Committee
Independent Communications Authority of South Africa
350 Witch-Hazel Avenue
Eco Point Office Park
Eco Park
Centurion

By email: subscriptioninquiry@icasa.org.za

Dear Councilor Mkumatela

SUBSCRIPTION BROADCASTING SERVICES INQUIRY QUESTIONNAIRE 2023

1 MultiChoice thanks the Authority for the opportunity to participate in the further consultation in the Inquiry into Subscription Broadcasting Services which the Authority rebooted in November 2023 ("**the Inquiry**").[1]

2 MultiChoice welcomes the opportunity to respond to the Subscription Broadcasting Services Inquiry Questionnaire for Broadcasters, OTT Providers and Other Relevant Stakeholders ("**the Questionnaire**") and thanks the Authority for the extension until 15 February 2024[2] to do so.

3 On 9 May 2022 the Authority announced that it had -

3.1 resolved, based on ongoing developments in a rapidly changing market, to reboot the process to enable the Authority to take account of all relevant and current developments to inform a robust, forward-looking regulatory intervention that balances the interests of consumers and the stability of the broadcasting services market; and

3.2 identified the need for further consultation and engagement with stakeholders in order to take account of policy developments and recent technological and market trends, including the entry of complementary and competitive services introduced by, amongst others, OTT players.[3]

---

1 Notice of Further Consultation with Stakeholders with respect to the Inquiry into Subscription Television Broadcasting Services, published under notice number 4050, Government Gazette number 49646, 10 November 2023

2 Published under notice number 4209, Government Gazette number 49936, 19 December 2023

3 Media Statement, ICASA consults further on the Inquiry into the Subscription Broadcasting Services Market, ICASA, 9 May 2022

4 Against this background, on 10 November 2023, the Authority launched the rebooted Inquiry and published questionnaires for input.

5 MultiChoice has endeavoured to respond to the Questionnaire comprehensively, in an effort to contribute constructively to the Inquiry and to place the relevant facts before the Authority to enable it to apply its mind fully to the matter and make rational, evidence-based decisions.

6 The data set out in MultiChoice's submission confirms the Authority's recognition that the sector has been changing rapidly and that the ongoing significant technological and market trends must inform the approach to the further conduct of this Inquiry.

7 Since the Authority's decision nearly eight years ago to launch the Inquiry, seismic changes have occurred in the audio-visual services market that have had, and continue to have, a fundamental effect on the delivery and consumption of audio-visual services and the nature of competition between audio-visual service providers.

8 These changes, underpinned by technological advances, have accelerated swiftly in the two years since the Authority's decision to reboot the Inquiry.

9 The rapid entry and proliferation of OTT services have significantly changed the competitive dynamics and continue to intensify the competitive constraints faced by traditional broadcasters, in particular Pay TV providers. In response, traditional FTA and Pay TV services have innovated and adapted to the changing market dynamics including by launching their own OTT services.

10 These changes have not gone unnoticed by regulators and policy makers.

11 It is not only the Authority which accepts that market forces such as competition with unregulated on-demand services have negatively impacted on traditional broadcasters.

12 In the past few years, policy pronouncements have been made by the Presidential Commission on the Fourth Industrial Revolution, the Competition Commission and the Department of Communications and Digital Technologies, which recognise the shift in the consumption of audio-visual content and the competition between traditional broadcasters and digital platforms and have recommended steps to radically overhaul the policy, legislative and regulatory framework.

13 On 31 July 2023 the Department of Communications and Digital Technologies published the second iteration of the Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety: A New Vision for South Africa ("**the White Paper**"), which represents government's latest thinking on these matters. The White Paper -

13.1 recognises that the audio-visual services sector has widened significantly beyond traditional broadcasters to include online services, which compete for the same audiences, creating a broader content market than traditional broadcasting;

13.2 proposes legislative amendments to proactively address this change; and

13.3 sets out government's plan to table a bill in Parliament in 2024/2025.

14 The evidence overwhelmingly shows that the Inquiry has been overtaken by developments. Market forces already impose significant competitive constraints on traditional broadcasters such as MultiChoice.

15 We urge the Authority to consider the compelling evidence in our response, as well as the recent policy pronouncements and, in particular, the White Paper proposals which are due to be finalised soon.

16 The intervention which is most urgently required at this stage is to make the necessary changes to the licensing and regulatory framework that take into account market realities in the audio-visual services sector and create regulatory parity among providers, as proposed in the draft White Paper.

17 We respectfully submit that this evidence and government's latest thinking as articulated in the White Paper should inform the Authority's next steps in this Inquiry.

18 Against this backdrop, MultiChoice takes pleasure in submitting its response to the Questionnaire for the Authority's kind consideration.

19 Certain of the information and documents in this response are confidential. MultiChoice hereby requests, in terms of s4D of the ICASA Act, that the Authority treat as confidential the documents and information, as set out in the enclosed confidentiality request which we have completed in the prescribed form. We have accordingly provided both a confidential and a non-confidential version of MultiChoice's response.

20 We thank the Authority once again for the opportunity to provide this response and trust that it will assist the Authority to make a rational and evidence-based decision as to how to proceed.

Yours sincerely

Kwezi Mtengenya
GM: Regulatory Affairs
MultiChoice (Pty) Ltd

CONFIDENTIAL

TABLE OF CONTENTS:

Q1.1: DESCRIBE YOUR COMPANY'S OWNERSHIP STRUCTURE. IF YOUR COMPANY IS A SUBSIDIARY, PROVIDE DETAILS OF THE PARENT COMPANY AND ITS OWNERSHIP STRUCTURE 1

Q1.2: PROVIDE A DETAILED EXPLANATION OF YOUR COMPANY'S ACTIVITIES. PROVIDE A COMPREHENSIVE LIST AND EXPLANATION OF ALL YOUR BUSINESS ACTIVITIES 2

Q2.1: DESCRIBE YOUR COMPANY'S ENTIRE VALUE CHAIN FROM CONTENT PRODUCTION/ACQUISITION TO CUSTOMER BILLING ETC..... 2

Q2.1.1: INDICATE YOUR ROLE IN EACH STAGE OF THE VALUE CHAIN..... 2

Q2.2: PROVIDE A FULL BREAKDOWN OF THE PRODUCTS AND SERVICES THAT YOU PROVIDE AND INDICATE WHETHER THEY ARE PROVIDED AT A WHOLESALE OR RETAIL LEVEL 5

Q2.3 INDICATE THE PROPORTIONAL CONTRIBUTION OF EACH PRODUCT OR SERVICE MENTIONED ABOVE TO YOUR OVERALL REVENUE. 7

Q2.4 ARE THERE ANY EXCLUSIVITY AGREEMENTS WITH ADVERTISERS OR SPONSORS? IF YES, HOW DO THESE AGREEMENTS WORK? 7

Q2.5 APART FROM ADVERTISING AND/OR SUBSCRIPTION FEES DOES YOUR COMPANY RECEIVE ANY OTHER FORM OF OPERATIONAL FUNDS? 7

Q2.6: HOW MANY PACKAGES AND/OR CHANNELS DO YOU PROVIDE? 8

Q2.6.1: AT WHAT PRICES ARE THE PACKAGES AND/OR CHANNELS PROVIDED? 8

Q2.6.2: PROVIDE A LIST OF THE PACKAGES, DATES OF LAUNCH AND CORRESPONDING PRICES FOR THE PERIOD 2019 TO DATE..... 8

Q2.6.3: WHAT IS THE RATIONALE BEHIND PROVIDING DIFFERENT PACKAGES AT DIFFERENT PRICES? PLEASE ELABORATE 8

Q2.7: HOW DO YOU DETERMINE PRICING FOR YOUR SERVICES? 8

Q2.8 HAVE YOU IMPLEMENTED ANY PRICE INCREASES FOR THE PERIOD 2019 TO DATE?..... 12

Q2.8.1 IF SO, PROVIDE A FULL BREAKDOWN OF THE REASON(S) FOR EACH YEAR WERE THERE WAS AN INCREASE. 12

Q2.9 HAVE YOU LOST OR GAINED ON THE OVERALL TOTAL NUMBER OF SUBSCRIBERS/VIEWERS FOR THE PERIOD 2019 TO DATE? 12

Q2.9.1 IF SO, PLEASE PROVIDE THE MAIN REASONS FOR THE LOSS OR GAIN IN SUBSCRIBERS/VIEWERS OVER THE PERIOD ABOVE. PLEASE SUBSTANTIATE YOUR ANSWER WITH EVIDENCE..... 12

Q2.10: DO YOU PROVIDE SUBSCRIBERS/VIEWERS WITH THE ABILITY TO DESIGN THEIR OWN PACKAGES? PLEASE PROVIDE DETAILED REASONS FOR YOUR ANSWER..... 15

Q2.11: DESCRIBE YOUR TARGET MARKET IN TERMS OF THE FOLLOWING: 17

Q2.11.1 VIEWERS/SUBSCRIBERS; AND 17

Q2.11.2 ADVERTISING 17

Q2.12: WHO DO YOU CONSIDER TO BE YOUR COMPETITORS IN TERMS OF THE PRODUCTS AND SERVICES THAT YOU PROVIDE? PROVIDE REASONS FOR THE RESPONSE 17

Q2.14: DO YOU VIEW YOUR SERVICE AS COMPETING WITH ALL TYPES OF AUDIO-VISUAL SERVICES?: 17

Q2.14.1 OR DO YOU BELIEVE COMPETITION DEPENDS ON THE TYPE OF SERVICE, I.E., SUBSCRIPTION TV, FREE-TO-AIR, OR OTT? PLEASE PROVIDE A DETAILED ANSWER WITH REASONS AND EVIDENCE WHERE AVAILABLE 17

Q2.13: WHAT ARE THE MAIN COMPETITIVE DYNAMICS IN TERMS OF THE PRODUCTS AND SERVICES YOU PROVIDE? 21

Q2.15: HOW DO YOU DIFFERENTIATE YOUR SERVICES FROM THOSE OF YOUR COMPETITORS? 59

Q2.16 INDICATE THE TYPE OF TECHNOLOGY YOUR CUSTOMERS USE TO ACCESS YOUR SERVICES, I.E., SET-TOP BOXES, INTERNET, DIGITAL TV, ANALOGUE TV. PLEASE PROVIDE THE INFORMATION FOR THE PERIOD 2019 TO DATE. 61

Q2.16.1 IF YOUR CUSTOMERS UTILISE MORE THAN ONE TYPE OF TECHNOLOGY TO ACCESS YOUR SERVICES , KINDLY INDICATE AND PROVIDE THE PROPORTION BETWEEN THE DIFFERENT TECHNOLOGIES FOR THE PERIOD 61

Q2.17 ARE THE PRICES DIFFERENT DEPENDING ON THE TYPE OF PLATFORM OR TECHNOLOGY TYPE (I.E., SATELLITE, INTERNET, ETC.) USED BY CUSTOMERS TO ACCESS CONTENT? 61

Q2.17.1 IF SO, PLEASE PROVIDE THE MAIN REASONS FOR THE PRICE DIFFERENCES 61

Q2.17.2: DO THE DIFFERENT SETS OF CUSTOMERS (STREAMING-ONLY, SET-TOP BOX, FREE TO AIR ETC) CUSTOMERS GET THE SAME NUMBER OF PACKAGE AND/OR CHANNEL CHOICES? IF NOT, PLEASE PROVIDE REASONS 62

Q2.18 WHAT PROPORTION OF YOUR SUBSCRIBERS/VIEWERS WATCH LINEAR LIVE TV AS COMPARED TO VIDEO ON DEMAND? PROVIDE A BREAKDOWN FOR BOTH SET-TOP BOX VIEWERS AND STREAMING-ONLY SUBSCRIBERS/VIEWER. 62

Q2.19 FOR SERVICES PROVIDED THROUGH THE INTERNET: WHAT IS THE RECOMMENDED SPEED AND QUALITY OF BROADBAND SERVICES TO ENSURE UNINTERRUPTED VIEWING FOR BOTH LINEAR LIVE TV AND VOD CONTENT? 62

Q2.20: PROVIDE A DESCRIPTION OF THE VARIOUS CATEGORIES OF CONTENT PROVIDED ON YOUR SERVICE 63

Q2.21 DO DIFFERENT CONTENT PROVIDERS CHARGE THE SAME FEE FOR THE SAME CATEGORY OF CONTENT? I.E., WOULD EPL RIGHTS COST THE SAME AS LA LIGA RIGHTS? PLEASE ELABORATE 64

Q2.21.1 IF NOT, PROVIDE REASONS FOR THE DIFFERENCES IN PRICES FOR SIMILAR CONTENT FROM DIFFERENT CONTENT PROVIDERS? 64

Q2.22 HOW IS THE VALUE/COST OF CONTENT DETERMINED BY YOUR COMPANY? I.E., WHY IS CERTAIN CONTENT FOUND IN MORE EXPENSIVE PACKAGES THAN OTHERS? 65

Q2.23 DOES POSSIBLE ADVERTISING REVENUE DETERMINE YOUR CHOICE OF CONTENT? PLEASE ELABORATE 68

Q2.23.1 PROVIDE INFORMATION ON OTHER POSSIBLE DRIVERS OF ADVERTISING REVENUE, IF ANY 68

Q2.24 OF THE OVERALL CONTENT PROVIDED TO YOUR SUBSCRIBERS/VIEWERS FOR THE PERIOD 2019 TO DATE, INDICATE WHAT PROPORTION IS MADE UP OF:. 68

Q2.24.1 OWN LOCAL PRODUCTION; 68

Q2.24.2 COMMISSIONED LOCAL CONTENT; 68

Q2.24.3 THIRD-PARTY CONTENT ON A NON-EXCLUSIVE CONTRACT LOCAL; 68

Q2.24.4 THIRD-PARTY CONTENT ON NON-EXCLUSIVE CONTRACTS INTERNATIONAL; 68

Q2.24.5 THIRD-PARTY EXCLUSIVE CONTRACTS. PLEASE SUBMIT COPIES OF EXCLUSIVE CONTRACTS WHERE APPLICABLE 68

Q2.25 PROVIDE YOUR TOTAL CONTENT SPEND FOR THE PERIOD 2019 TO DATE, BROKEN-DOWN AS FOLLOWS: 70

Q2.25.1 PER CATEGORY OF CONTENT; 70

Q2.25.2 LOCAL CONTENT; AND 70

Q2.25.3 INTERNATIONAL CONTENT 70

Q2.26 PROVIDE YOUR TOTAL CONTENT BUDGET FOR THE PERIOD 2024 TO 2028, BROKEN DOWN AS FOLLOWS: 71

Q2.26.1 PER CATEGORY OF CONTENT; 71

Q2.26.2 LOCAL CONTENT; AND 71

Q2.26.3 INTERNATIONAL CONTENT 71

Q2.27 DO YOU PURCHASE ANY PACKAGED CHANNELS FROM ANY INTERNATIONAL/ LOCAL WHOLESALE PLAYERS? PLEASE PROVIDE DETAILS 71

Q2.28: WHAT DO YOU CONSIDER TO BE PREMIUM CONTENT? 71

Q2.29: DO YOU OFFER PREMIUM CONTENT? IF SO, HOW? 71

Q2.29.1: IF NOT, PROVIDE REASONS FOR NOT OFFERING PREMIUM CONTENT 71

Q2.33: HOW DO YOU ACQUIRE CONTENT? ARE THERE EXCLUSIVE CONTENT AGREEMENTS IN PLACE 71

Q2.30 DO YOU BUY ANY CONTENT FROM OTHER BROADCASTERS (LOCAL OR INTERNATIONAL) AND OR OTTS? ELABORATE AND PROVIDE SUPPORTING DOCUMENTATION ON ANY AGREEMENTS OR ARRANGEMENTS, IF ANY..... 76

Q2.31 HOW HAVE THE PRICES YOU PAY FOR RIGHTS TO KEY CONTENT ASSETS INCREASED (SPORTS, MOVIES, HIGH-QUALITY TV DRAMA ETC) FOR THE PERIOD 2019 TO DATE? 76

Q2.32: DO YOU ON-SELL CONTENT TO ANY BROADCASTER OR OTT STREAMING AND VOD PLATFORMS 76

Q2.34 DO YOU DISTRIBUTE YOUR CONTENT THROUGH MULTIPLE PLATFORMS, SUCH AS TRADITIONAL BROADCASTING, STREAMING, OR SOCIAL MEDIA? 77

Q2.35 HOW DO YOU ADAPT TO TECHNOLOGICAL ADVANCEMENTS AND CHANGES IN CONSUMER BEHAVIOUR, SUCH AS STREAMING SERVICES? 77

Q2.36 ARE THERE ANY TECHNOLOGICAL BARRIERS THAT COULD LIMIT COMPETITION OR CONSUMER CHOICE? 78

Q3.1: CAN YOU PROVIDE AN OVERVIEW OF THE AUDIENCE REACH AND DEMOGRAPHICS FOR THE SERVICES THAT YOU PROVIDE 80

Q3.2 PROVIDE YOUR ESTIMATED MARKET SHARE FOR THE PERIOD 2019 TO 2023? PLEASE PROVIDE THE MARKET SHARE ESTIMATE BASED ON: 80

Q3.2.1 SUBSCRIBER/VIEWER NUMBERS; AND 80

Q3.2.2 ANNUAL TURNOVER 80

Q3.3 PROVIDE YOUR ANNUAL SUBSCRIBER/VIEWER NUMBERS FROM 2019 TO 2022/23 FINANCIAL YEAR, BROKEN DOWN BY PACKAGES. PROVIDE A COPY OF SUPPORTING DOCUMENTATION FOR DETAILED NUMBERS 82

Q3.4 WHAT HAS BEEN YOUR OPERATING PROFIT MARGIN FOR THE PERIOD 2019 TO DATE. 83

Q4.1 DO YOU CONSIDER THE MARKETS IN WHICH YOU OPERATE TO BE COMPETITIVE? IF SO, PROVIDE REASONS FOR YOUR RESPONSE. 83

Q4.1.1 IF NOT, WHAT ARE SOME OF THE IMPEDIMENTS TO COMPETITION IN THIS MARKET? 83

Q4.2: WHAT BARRIERS TO ENTRY DO YOU ENVISAGE NEW ENTRANTS WOULD ENCOUNTER WHEN ENTERING THE MARKET? DESCRIBE THE TYPE OF BARRIER, INCLUDING BUT NOT LIMITED TO: 84

Q4.2.1: LEGAL/REGULATORY; 84

Q4.2.2: COST OF CAPITAL AND SUNK COSTS; 84

Q4.2.3: CUSTOMER BEHAVIOUR; 84

Q4.2.4: ACCESS TO CONTENT; 84

Q4.2.5: ECONOMIES OF SCALE OR SCOPE; AND 84

Q4.2.6: MARKET DYNAMICS. SHARE YOUR OWN EXPERIENCE IF APPLICABLE 84

Q4.2.3: KINDLY PROVIDE YOUR EXPERIENCE IN GROWING YOUR SUBSCRIBER/VIEWER NUMBERS OVER THE PERIOD 2019 TO DATE. IN YOUR RESPONSE PLEASE FULLY DESCRIBE ANY STRATEGIES DEPLOYED AND THEIR SUCCESS RATE 86

Q4.4: DOES YOUR COMPANY HAVE ANY CONCERNS OR COMMENTS REGARDING THE OVERALL MARKET? GIVE A DETAILED EXPLANATION OF YOUR CONCERNS/COMMENTS 87

Q5.1: KINDLY PROVIDE INTERNALLY AND EXTERNALLY PRODUCED STRATEGIC DOCUMENTS, INCLUDING BOARD AND COMPANY MINUTES WHERE YOUR PROVISION OF BROADCASTING, STREAMING, VOD, OR ANY OTHER AUDIO-VISUAL SERVICES WAS DISCUSSED OR RESEARCHED FOR THE PERIOD 2019 TO DATE. THIS INCLUDES, BUT NOT LIMITED TO: 94

Q5.1.1: CUSTOMER SURVEYS; 94

Q5.1.2: MARKETING SURVEYS; 94

Q5.1.3: GROWTH STRATEGIES REPORTS; 94

Q5.1.4: CONTENT STRATEGIES; 94

Q5.1.5: PRICING STRATEGIES; 94

Q5.1.6: COMPETITOR AND/OR COMPETITION ANALYSIS; 94

Q5.1.7: CUSTOMER COMPLAINTS; AND 94

Q5.1.8: SHORT TO MEDIUM BUSINESS STRATEGY. 94

Q5.2: SUBMIT COPIES OF AUDIENCE RESEARCH CONDUCTED PRIOR TO PRICE INCREASES OR LAUNCHING NEW SERVICES. 94

APPENDIX 1 - GLOSSARY OF TERMS 95

APPENDIX 2 - DOCUMENTS PROVIDED IN RESPONSE TO Q5.1 AND 5.2 97

APPENDIX 3 - DOCUMENTS REFERRED TO IN RESPONSE TO Q2.24 98

CONFIDENTIAL

Q1.1: DESCRIBE YOUR COMPANY'S OWNERSHIP STRUCTURE. IF YOUR COMPANY IS A SUBSIDIARY, PROVIDE DETAILS OF THE PARENT COMPANY AND ITS OWNERSHIP STRUCTURE

1 MultiChoice South Africa Proprietary Limited ("MultiChoice") is a wholly-owned subsidiary of MultiChoice South Africa Holdings Proprietary Limited, which in turn is majority owned by MultiChoice Group Limited, a public company listed on the Johannesburg Stock Exchange ("the MultiChoice Group").

2 The MultiChoice Group's combined direct and indirect interest in MultiChoice is 77.53%, comprising of a 75% direct stake, a 1.43% indirect stake via Phuthuma Nathi, a 0.45% stake via the Enterprise Development Trust and a 0.65% stake via the Sports and Development Trust. Phuthuma Nathi shareholders own the remaining 22.47%.

3 MultiChoice owns a number of wholly-owned subsidiaries which are active in the audio-visual content services value chain, including:

3.1 MultiChoice Proprietary Limited ("MultiChoice", "the licensee", or "MultiChoice, the licensee"), which holds an individual subscription television broadcasting service licence;

3.2 Electronic Media Network Proprietary Limited ("M-Net"), which holds an individual subscription television broadcasting service licence;

3.3 Orbicom Proprietary Limited ("Orbicom"), which holds an individual ECS licence and an individual ECNS licence; and

3.4 SuperSport International Proprietary Limited ("SuperSport").

4 In addition to MultiChoice, the MultiChoice Group owns a number of other subsidiaries, some of which are also active in the audio-visual content services value chain. These include:

4.1 MultiChoice Africa Holdings B. V., responsible for the audio-visual content services in the rest of Africa;

4.2 Showmax SA Proprietary Limited ("Showmax"), responsible for providing internet-based VOD services in South Africa; and

4.3 Irdeto B.V., a company that services the security and anti-piracy needs of the MultiChoice Group.

Q1.2: PROVIDE A DETAILED EXPLANATION OF YOUR COMPANY'S ACTIVITIES. PROVIDE A COMPREHENSIVE LIST AND EXPLANATION OF ALL YOUR BUSINESS ACTIVITIES

5 MultiChoice and its subsidiaries are active in the audio-visual content services value chain.

6 MultiChoice's principal business activities relate to the curation and supply of audio-visual services to end-customers (residential and commercial) on a subscription basis. This is done under the DStv and Showmax brands. In curating its retail audio-visual services, MultiChoice uses content it produces or commissions and content that it acquires from third parties in the form of individual programmes (e.g., a movie) or channels. MultiChoice, like any other local broadcaster, has the capabilities to create its own channels, which is done by M-Net and SuperSport. MultiChoice also undertakes other related supporting activities such as subscriber management services, management of its own delivery infrastructure and content security.

Q2.1: DESCRIBE YOUR COMPANY'S ENTIRE VALUE CHAIN FROM CONTENT PRODUCTION/ACQUISITION TO CUSTOMER BILLING ETC.

Q2.1.1: INDICATE YOUR ROLE IN EACH STAGE OF THE VALUE CHAIN

7 The audio-visual content value chain broadly consists of the following levels, with many players participating at each level.

Content creation and production

8 The content creation and production level of the value chain consists of –

8.1 the commissioning of individual programmes;

8.2 the production of individual programmes;

8.3 the acquisition (licensing) of individual programmes; and

8.4 the acquisition (licensing) of channels (i.e. the acquisition of the right to broadcast channels).

9 MultiChoice produces or commissions content and acquires content from third-party suppliers in the form of individual programming or channels. This applies to both general entertainment and sports content.

10 Other broadcasters and many OTT providers are also involved in the acquisition or production of content. For example, Netflix and Amazon Prime Video all produce and acquire content. Traditional broadcasters like eMedia and the SABC also create and produce content and acquire programming and channels from other content suppliers.

Packaging of content into channels, bouquets or VOD products

11 Depending on the business model chosen by the individual provider of retail audio-visual services, the curation and packaging of content into the services supplied to consumers involves –

11.1 the packaging of individual programmes (e.g. The River) into channels (e.g. Discovery channel, History channel, Mzansi Magic);

11.2 the packaging of channels into bouquets (e.g. DStv Access; DStv Family or DStv Premium, etc);

11.3 aggregation of a variety of programming content (e.g. sports, movies, series, documentaries etc.) for viewing by consumers on a VOD basis. Since the entry of OTT services, content is not always packaged into channels albeit some OTT services contain linear channels and/or broadcast live events such as sports matches; and/or

11.4 a combination of 11.1 to 11.3 above. Importantly, nothing prevents OTT services from including channels as part of their services. eMedia, MultiChoice and the SABC all use a combination of channels and individual programming in their internet-based services. Equally, nothing prevents any provider from including individual programming that can be watched on a video-on-demand basis.

12 MultiChoice is involved in all of these activities. M-Net and SuperSport package channels and individual programming included in MultiChoice's retail audio-visual services. Individual programming can be viewed under the DStv Catch-Up, BoxOffice, and Showmax services which can be accessed via capable STBs and/or the internet.

13 Other broadcasters (e.g. the SABC and eMedia) and providers of OTT services package content into channels, bouquets and VOD services. For example, the SABC's individual programming is available on a catch-up basis included in its SABC+ streaming service.

Distribution to deliver the services to consumers

14 At this level of the value chain, audio-visual content is delivered to consumers through different technologies such as DTH satellite, DTT, analogue and via the internet. For example, MultiChoice's DStv services accessed by subscribers using a STB is delivered to consumers by Orbicom. The SABC and eMedia use Sentech's signal distribution services to deliver their services to end consumers. eMedia has a signal distribution licence and as such could use that licence to deliver its own services to consumers.

15 OTT services are accessible to consumers via the internet meaning that there is no need for OTT providers to commit to and undertake significant investments in infrastructure for delivering their services to consumers. Direct-to-consumer content providers, similarly access consumers via the internet, often through their own web-based or app-based service.

Consumer services

16 This involves supplying audio-visual services (e.g., DStv bouquets) to consumers, which comprises several functions, including marketing and subscriber management services.

17 Subscriber management services include customer service and administrative services which provide support to the retail service and assist in the management of subscribers to or consumers of such a service. They include customer service support, subscription fee collection services, the handling of consumer inquiries, call centres, marketing and sales, and technical and installation support.

18 Consumer or subscriber management services could be provided inhouse or by an independent third party.

Summary

19 MultiChoice operates at each level of the value chain described above and as such is vertically integrated.

20 Many of the entities with which MultiChoice competes, such as FTA broadcasting services, Pay TV broadcasting services, and OTT services are active in some, if not all, of these levels of the value chain.

Q2.2: PROVIDE A FULL BREAKDOWN OF THE PRODUCTS AND SERVICES THAT YOU PROVIDE AND INDICATE WHETHER THEY ARE PROVIDED AT A WHOLESALE OR RETAIL LEVEL

21 All of the services offered by MultiChoice are offered at the retail level. These are outlined below.

Service	Description
DStv	MultiChoice provides a Pay TV satellite service branded as DStv which offers a number of DStv bouquets at different price points in order to attract subscribers across different income levels and to cater for their varied preferences. Each DStv bouquet includes a different selection of linear channels, including third party local and international channels, as well as M-Net and SuperSport produced channels. In this way, MultiChoice is able to offer subscribers the variety they seek at price points which are attractive and affordable. MultiChoice offers bouquets comprising multiple genres of content, including movies, general entertainment, news, sport, music, etc. DStv bouquets are also available for online streaming on any internet enabled device via the DStv app or on the DStv website. All DStv bouquets can be streamed online.[1] Subscribers to all bouquets on the DTH platform have access to DStv streaming as a value-added service at no additional cost. Additionally, MultiChoice offers DStv Stream, which is an OTT only service available to any subscriber who wishes to have access to any DStv bouquet over the internet, on payment of a subscription fee. This service does not require the subscriber to have a decoder nor installation of a satellite dish. Customers only require internet access and an internet capable device such as a TV, laptop, tablet or smartphone. Subscribers can register up to four devices on their account but can only stream on one device at a time. Through the payment of an extra monthly fee subscribers can add "Extra Stream" to their account which allows them to stream on two mobile devices at the same time.
DStv Catch Up and Catch Up Plus	DStv Catch Up is a VOD service available to all DStv subscribers with a DStv Explora decoder.[2] DStv Catch Up is a value-added service. DStv Catch Up gives subscribers the ability to 'catch up' on a selection of content from across the DStv channels on the bouquet subscribed to, such as movies, series, children's shows,

[1] DStv Indian and ADD Movies are not available for streaming
[2] Certain older DStv decoders with PVR functionality are also able to receive Catch Up services

Service	Description
	documentaries and sporting highlights, at a time convenient to the subscriber (i.e. the subscriber does not need to watch the content 'live' at the time it is broadcast on the DStv channel). Select content from the linear channels is pushed to the decoder where it can be viewed at the subscriber's convenience. Catch Up content on the DStv website (www.dstv.co.za) and app is available to all DStv subscribers, but the content available to a subscriber depends on the bouquet that they are subscribed to.[3] DStv Catch Up Plus is a more extensive version of the DStv Catch Up service and is available to any DStv subscriber.[4] This service is accessible[5] via a DStv Explora which is connected to the internet.[6] The catalogue of content is much larger than that on DStv Catch Up because it is not restricted by the hard drive storage capacity of the subscriber's Explora decoder. The content available to a subscriber depends on the DStv bouquet that they are subscribed to. DStv Catch Up Plus is also available to all DStv Stream subscribers.
BoxOffice	BoxOffice is a TVOD service – South Africa's first online movies-only rental service. Movies which are rented can be viewed on a TV, PC or mobile device. Movies are available to download onto the decoder for viewing or on the internet for streaming. A DStv subscription is not required to be able to rent movies through the BoxOffice website. In the absence of an internet connection, a smaller offering of BoxOffice movies is pushed via satellite to DStv PVRs, which movies are available for rental by subscribers. BoxOffice is thus a hybrid offering which is made available online and via satellite.
Showmax	Showmax is a SVOD offering with different subscription plans available to the subscriber. Subscribers can subscribe to one plan or can combine plans. - The Entertainment plan includes trending international and local series and movies, children's programming and other general entertainment content. - The Premier League plan offers all 380 Premier League games live from SuperSport, as well as fan content, on mobile only. The content for the Showmax offerings is accessed over the internet. The Showmax Entertainment plan is accessible on a wide range of devices, namely smart TVs, smartphones, tablets, PCs, media players, games consoles, the DStv Streama and the DStv Explora Ultra. Subscribers can stream on two devices at the same time. The Showmax Premier League Plan is only available on mobile, meaning a subscriber can watch the content on only one mobile device (smartphones and tablets). A programme can be started and paused at will. Showmax content can either be streamed while connected to the internet or downloaded for watching later when offline.

[3] Indian bouquet subscribers do not have access to Catch Up
[4] Except subscribers to the Indian bouquet
[5] Through payment of a monthly access fee
[6] i.e., using a DStv WiFi Connector or an ethernet cable. The DStv WiFi Connector is a device which may be used should a subscriber want to access the various services via WiFi. It links the DStv Explora to the router in the home. By linking the DStv Explora to the internet, subscribers can access various connected services, being DStv Catch Up Plus, Showmax and remote recording

Q2.3 INDICATE THE PROPORTIONAL CONTRIBUTION OF EACH PRODUCT OR SERVICE MENTIONED ABOVE TO YOUR OVERALL REVENUE.

Bouquet	Contribution to Revenue
Premium	[redacted]
Compact Plus	[redacted]
Compact	[redacted]
Family	[redacted]
Access	[redacted]
Easy View	[redacted]

22 Each bouquet's contribution to MultiChoice, the licensee's overall revenue is primarily influenced by the number of subscribers to the bouquet. To illustrate, [redacted]

23 Overall, the table above shows that the bouquets that contribute most to overall revenue are [redacted]

Q2.4 ARE THERE ANY EXCLUSIVITY AGREEMENTS WITH ADVERTISERS OR SPONSORS? IF YES, HOW DO THESE AGREEMENTS WORK?

24 MultiChoice does not have exclusive agreements with advertisers.

Q2.5 APART FROM ADVERTISING AND/OR SUBSCRIPTION FEES DOES YOUR COMPANY RECEIVE ANY OTHER FORM OF OPERATIONAL FUNDS?

25 [redacted]

Q2.6: HOW MANY PACKAGES AND/OR CHANNELS DO YOU PROVIDE?

Q2.6.1: AT WHAT PRICES ARE THE PACKAGES AND/OR CHANNELS PROVIDED?

Q2.6.2: PROVIDE A LIST OF THE PACKAGES, DATES OF LAUNCH AND CORRESPONDING PRICES FOR THE PERIOD 2019 TO DATE

Q2.6.3: WHAT IS THE RATIONALE BEHIND PROVIDING DIFFERENT PACKAGES AT DIFFERENT PRICES? PLEASE ELABORATE

Q2.7: HOW DO YOU DETERMINE PRICING FOR YOUR SERVICES?

26 Our combined response to Q2.6 and Q2.7 is provided below.

27 MultiChoice, the licensee, does not provide individual channels to subscribers. Its services consist of a number of bouquets (under the DStv brand) comprising combinations of audio-visual and audio channels. MultiChoice offers a choice between six DStv bouquets with the option of additional speciality bouquets/add-ons.

28 Under the Showmax brand, MultiChoice offers two subscription plans with the option to subscribe to one plan or combine the two.

Service	Bouquet/ package	Launch date	Price per month for FY2019	Price per month for FY2020	Price per month for FY2021	Price per month for FY2022	Price per month for FY2023	Price per month for FY2024[7]
DStv	Premium *(135+ channels and 38 HD channels)*	1995	R809	R809	R819	R829	R839	R879
	Compact Plus *(115+ channels and 30 HD channels)*	2013	R509	R519	R529	R539	R549	R579
	Compact *(100+ channels and 25+ HD channels)*	2005	R385	R399	R399	R409	R429	R449
	Family *(75+ channels and 10+ HD channels)*	2013	R249	R265	R279	R295	R309	R319
	Select *(discontinued)*[8]		R265	n/a	n/a	n/a	n/a	n/a
	Access *(66+ channels and 10+ HD channels)*	2010	R99	R105	R110	R115	R120	R129
	Easyview *(30+ channels)*	2007	R29	R29	R29	R29	R29	R29
	Indian specialty *(discontinued)*[9]	2001	R375	R395	R395	n/a	n/a	n/a
	Portuguesa speciality *(discontinued)*[10]	2001	R375	R395	n/a	n/a	n/a	n/a
	Indian add-on	2001	R249	R255	R260	R270	R270	R270
	Portuguese add-on *(discontinued)*[11]	2001	R249	R255	n/a	n/a	n/a	n/a
	ADD Movies[12]	2020	n/a	n/a	R99	R99	R79	R79
	Premium Stream	2021	n/a	n/a	n/a	R699	R699	R799
	Compact Plus Stream	2021	n/a	n/a	n/a	R469	R469	R549
	Compact Stream	2021	n/a	n/a	n/a	R369	R369	R399

7 The prices for the Showmax Entertainment, Showmax Entertainment Mobile, Showmax Premier League and Showmax Entertainment + Premier League are from 1 February 2024

8 DStv Select 1 and Select 2 bouquets (both sold for the same price) were discontinued in April 2013. [redacted]

9 The standalone Indian bouquet was discontinued on 31 March 2021. This bouquet is now only available as an add-on to an of the main English bouquets

10 The standalone Portuguesa bouquet was discontinued on 1 August 2019

11 The Portuguese add-on bouquet was discontinued on 1 August 2019

12 An optional add-on pack available to Compact Plus, Compact, Family and Access subscribers on payment of an additional monthly subscription fee

Service	Bouquet/ package	Launch date	Price per month for FY2019	Price per month for FY2020	Price per month for FY2021	Price per month for FY2022	Price per month for FY2023	Price per month for FY2024[7]
	Family Stream	2021	n/a	n/a	n/a	R269	R269	R299
	Access Stream	2021	n/a	n/a	n/a	R99	R99	R99
	Easyview Stream	2021	n/a	n/a	n/a	R29	R29	R29
Showmax	Standard Showmax *(discontinued)*[13]	2015	2015	R99	R99	R99	R99	R99
	Showmax Mobile *(discontinued)*[14]	2019	2019	R49	R49	R49	R39	R39
	Showmax Pro *(discontinued)*[15]	2020	2020	n/a	R449	R449	R349	R349
	Showmax Pro Mobile *(discontinued)*[16]	2020	2020	n/a	R225	R225	R225	R225
	Showmax Entertainment	2024	n/a	n/a	n/a	n/a	n/a	R89
	Showmax Entertainment Mobile	2024	n/a	n/a	n/a	n/a	n/a	R39 (launch price) R45 (standard price)
	Showmax Premier League	2024	n/a	n/a	n/a	n/a	n/a	R69 (launch price) R89 (standard price)
	Showmax Entertainment + Premier League	2024	n/a	n/a	n/a	n/a	n/a	R140
	Showmax Entertainment Mobile + Premier League	2024	n/a	n/a	n/a	n/a	n/a	R99

[13] The Standard Showmax, Showmax Mobile, Showmax Pro and Showmax Pro Mobile plans were discontinued in February 2024 with the launch of the new Showmax subscription plans. All existing subscribers to these plans will be migrated to the Showmax Entertainment plan over the coming months

[14] See footnote 13 above

[15] See footnote 13 above

[16] See footnote 13 above

29 MultiChoice's business model is structured on the basis of a number of pre-determined bouquets. In this way, MultiChoice is able to offer subscribers a wide range of channels, with the variety they seek, at various price points. This enables MultiChoice to offer products that are attractive to and affordable for a variety of potential subscribers.

30 Prices of MultiChoice's services are determined annually, and if necessary price changes are implemented at the beginning of April. MultiChoice follows an approach to pricing which adapts to market and economic conditions which evolve from year to year. Given the nature of audio-visual services, MultiChoice takes a longer-term view when determining prices, striking a balance between revenue generation from all its services and overall subscriber growth.

31 Pricing decisions (whether to increase, reduce or maintain prices) are implemented after considering a variety of factors including:

31.1 general economic conditions including any inflation considerations which affect affordability of audio-visual services and the ability and willingness of subscribers to take up such services. Subscribers are highly price-sensitive, particularly in the current macro-economic environment. Accordingly, MultiChoice's assessment of the general economic, inflationary considerations and affordability are key considerations in pricing decisions;

31.2 the impact of a bouquet price change on subscriber numbers across all bouquets, the subscriber mix, and consequently the impact on revenue and overall company performance;

31.3 evolving consumer preferences;

31.4 the competitive environment and offerings of competitors;

31.5 overall costs including anticipated changes to the cost base such as those necessitated by changes in content line-ups; and

31.6 exchange rate volatility (which is an important consideration given that a significant portion of MultiChoice's costs is denominated in US dollars but MultiChoice charges for its services in local currency), as well as applicable taxes and licence fees.

32 For new services, whether internet-based streaming services or traditional broadcasting services, the decision on the price of the service considers the anticipated ability to grow and sustain scale given the preferences of consumers, costs, general economic conditions, and the behaviour of competitors.

Q2.8 HAVE YOU IMPLEMENTED ANY PRICE INCREASES FOR THE PERIOD 2019 TO DATE?

Q2.8.1 IF SO, PROVIDE A FULL BREAKDOWN OF THE REASON(S) FOR EACH YEAR WERE THERE WAS AN INCREASE.

33 As stated in response to Q2.7 at paragraph 30 above, MultiChoice assesses and reviews its pricing annually. Since 2019, it has increased prices of its DStv services primarily due to increases in content costs, but it has done so by less than the inflation rate over a sustained period and while adding new content to the bouquets over the years. This means that the quality-adjusted prices for DStv services have declined over time. Indeed, as shown in the response to Q2.13 (see paragraph 86 below), the weighted average real (inflation adjusted) price of the six main residential DStv bouquets has declined by 6% between FY2019 and FY2024. This is despite the increase in, for example, content programming costs which have increased by [redacted] between FY2019 and FY2023 (i.e., [redacted]).

34 MultiChoice, like any other business, has also had to implement contingency measures to mitigate potential disruption to service provision because of loadshedding. For example, MultiChoice has had to run generators incurring significant costs for diesel and replacing damaged equipment because of the effects of loadshedding. A review of prices across various markets will show that prices of goods and services in South Africa have generally increased. In the audio-visual services market specifically, competitors such as Netflix have also increased their prices in recent times.

Q2.9 HAVE YOU LOST OR GAINED ON THE OVERALL TOTAL NUMBER OF SUBSCRIBERS/VIEWERS FOR THE PERIOD 2019 TO DATE?

Q2.9.1 IF SO, PLEASE PROVIDE THE MAIN REASONS FOR THE LOSS OR GAIN IN SUBSCRIBERS/VIEWERS OVER THE PERIOD ABOVE. PLEASE SUBSTANTIATE YOUR ANSWER WITH EVIDENCE.

35 MultiChoice has been losing subscribers on several of its bouquets over the last 8 years that this Inquiry has been running. In this regard -

35.1 [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

36 The decline in subscriber numbers primarily resulted from the intensification of competition from both traditional broadcasters and OTT services (discussed in detail in response to Q2.13, paragraphs 49 to 91). These declines have occurred despite MultiChoice's competitive responses to retain its current subscribers, regain lost subscribers and acquire new subscribers, all of which partially mitigated the decline. See the response to Q4.2.3 (paragraphs 180 and 181).

37 Other factors contributing to the decline in subscriber acquisition and retention are (a) the difficult macroeconomic environment which affects disposable income and (b) the consequences of loadshedding which disrupt the availability of traditional broadcasting services to consumers as and when they wish to, or would ordinarily view audio-visual content, increasing the appeal of OTT services. Subscriptions to paid retail audio-visual services (traditional Pay TV and paid OTT services) are optional, derived from discretionary income available to consumers and consumers can easily terminate their subscriptions. DStv subscribers are not subject to long-term contracts and can terminate their subscriptions when their circumstances change.[17]

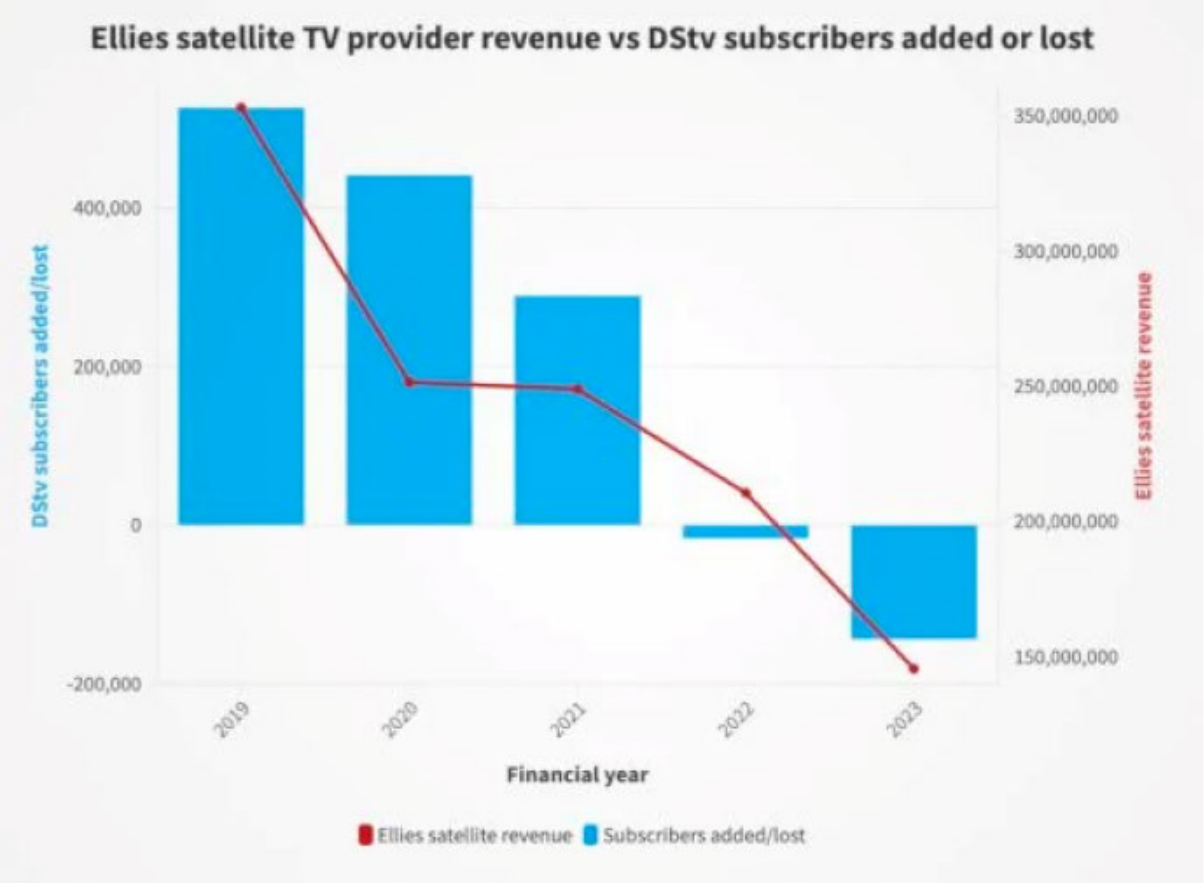
[17] A small proportion of DStv subscribers have taken up the optional 24 month price look offer which entitles them to a set top box and fixed instalments over the period.

38 It is important to emphasise that in audio-visual service provision, growing subscriber bases do not mean an absence of, or ineffective, competition. Audio-visual service providers compete in various ways that are not measurable purely by reference to subscriber loss or growth. Key to competition is investment in making the audio-visual service attractive to potential and existing subscribers through, for example, astute content curation. These investments, which are driven by competition, can result in subscriber growth. In other words, the presence of competition can drive investments, which in turn result in subscriber growth.

39 Third parties report that the loss of DStv subscribers is having concomitant impact on related service providers in the value chain. For example, Ellies (a supplier of components related to delivery of the DStv service) reported that it has suffered a decline because of reductions in subscriptions for DStv.[18] Ellies' revenue from satellite television providers, including DStv, declined by 58.78% from R352 million to R145 million from FY2019 to FY2023.[19] Ellies explained that the decline of its satellite business was due to decreased demand for DStv services over the past few years. In turn, it attributed this to "*competition from streaming alternatives*" and that "*growth of 'fibre-to-the-home'… has fundamentally changed the way consumers receive entertainment transmission*", disintermediating aggregators such as MultiChoice and other traditional broadcasters.[20] Based on Ellies's FY2023 results report, mybroadband produced the figure below to illustrate.[21]

[18] Ellies Holdings Limited Results, 30 April 2022, pages 1 to 3. Also: https://mybroadband.co.za/news/broadcasting/523274-dstvs-decline-is-killing-this-south-african-household-name.html accessed on 31 January 2024 at 12h38.
[19] Ellies and mybroadband.co.za, cited in footnote above.
[20] Ellies and mybroadband.co.za, cited in footnote above
[21] mybroadband, cited in footnote above

Figure 1: mybroadband's analysis of the correlation between DStv's subscriber additions or losses to Ellies' satellite TV provider revenue



Source: reproduced from www.mybroadband.co.za

40 www.mybroadband.co.za explains that the growth of broadband connectivity has resulted in fewer households requiring television to access entertainment, educational content and news; and that many are opting for streaming services like Netflix, Amazon Prime Video, Disney+ and Showmax, stating that *"These services are eating into DStv's growth potential in South Africa…"*

Q2.10: DO YOU PROVIDE SUBSCRIBERS/VIEWERS WITH THE ABILITY TO DESIGN THEIR OWN PACKAGES? PLEASE PROVIDE DETAILED REASONS FOR YOUR ANSWER

41 MultiChoice's DStv business model is structured based on a number of pre-determined bouquets. Even for OTT services, consumers do not get to design their own packages. As such, the decision on how to package audio-visual services is made by the provider of the services. The pre-determined bouquet/package model is the standard model of subscription broadcasting services across the world. The reason for this is simple: it is pro-consumer, pro-competitive and sustainable for businesses that operate in this space.

It is more cost-effective and efficient than when consumers seek to create their own bouquets by selecting the channels they want to subscribe to (often referred to as à la carte). The bouquet model allows the provider of Pay TV services to amortise the costs of providing services over a wider base of subscribers. This, in turn, helps to lower the price per subscriber. Where subscribers choose their own channels, the cost of that channel is amortised over the smaller base of subscribers who pick that channel. This means those consumers pay a higher price. It also requires more resources to be dedicated to subscriber management services to cater for this increased complexity and the potentially thousands of consumer-determined bouquets. This increases the cost of subscriber management services and ultimately the price to the consumer.

42 Employing an à la carte model which allows consumers to choose their own content is likely to result in:

42.1 consumers having to pay a prohibitive price to have the content that they prefer;

42.2 given how prohibitive the cost would be for consumers, most consumers would either end up not having access to the content they prefer or having access to significantly reduced quantity and variety of content;

42.3 this in turn would threaten the financial viability of the providers of paid-for audio-visual services resulting in under-provision of services; lower levels of investment across the value chain; lower levels of development of the sector and job losses;

42.4 there are also practical implementation issues associated with other models other than the bouquet model. For example, if consumers are to choose their own channels or pay only when they want to watch content, this would require providers to have the systems and capabilities to manage all the potential choices of combinations of consumer-constructed bouquets. Pricing will also become more complex for both consumers and providers with a high risk of billing and marketing complexities that will leave consumers frustrated and worse off. All these will result in additional costs which will have to be incurred by consumers through higher prices.

43 To resolve and avoid this obviously undesirable situation, suppliers of paid-for audio-visual services (both linear and OTT) will, for example, place a variety of content into a bouquet/service and supply that bouquet/service to a wide range of potential subscribers.

This enables providers to: (i) meet the varied content needs of different households; (ii) be more sustainable by spreading the costs of all the content across the subscriber base, enabling more consumers to have access to all the content they prefer at a much more affordable price; and (iii) simplify the provision of retail audio-visual services.

44 While the bouquet model means that some consumers may end up with access to content which they presently may not necessarily have a strong preference for, the overall outcome is more efficient and consumer welfare enhancing than the a la carte model which would result in higher prices, reduced quantities and variety of content and an unsustainable supply environment. Further, under a bouquet model, a larger pool of consumers would be able to access the services. This is particularly a better outcome for lower income households who would otherwise not be able to access these services. The bouquet model is therefore the most cost effective, pro-consumer way to meet the varied needs/preferences of consumers.

Q2.11: DESCRIBE YOUR TARGET MARKET IN TERMS OF THE FOLLOWING:
Q2.11.1 VIEWERS/SUBSCRIBERS; AND
Q2.11.2 ADVERTISING

45 MultiChoice, the licensee's target market is primarily within LSM 2-10, served through different bouquets at different price points, which conforms with its licensed target market.

46 The target market for advertisers is advertisers/advertising agencies who target viewers that fall within MultiChoice’s subscriber base.

Q2.12: WHO DO YOU CONSIDER TO BE YOUR COMPETITORS IN TERMS OF THE PRODUCTS AND SERVICES THAT YOU PROVIDE? PROVIDE REASONS FOR THE RESPONSE

Q2.14: DO YOU VIEW YOUR SERVICE AS COMPETING WITH ALL TYPES OF AUDIO-VISUAL SERVICES?:
Q2.14.1 OR DO YOU BELIEVE COMPETITION DEPENDS ON THE TYPE OF SERVICE, I.E., SUBSCRIPTION TV, FREE-TO-AIR, OR OTT? PLEASE PROVIDE A DETAILED ANSWER WITH REASONS AND EVIDENCE WHERE AVAILABLE

47 As demonstrated in response to Q2.13 below, MultiChoice competes in a retail audio-visual content services market in which firms all compete for viewer's attention (referred to in the industry as "eyeballs"). MultiChoice considers its competitors to be all firms that

provide retail audio-visual services (whether paid for or free), through whichever delivery mechanism such firms may use (analogue, digital terrestrial, satellite or internet etc.):

Competitor	Description of competitor
FTA and Pay TV providers	
SABC	A multi-channel FTA service provider which is the public broadcaster and offers local dramas, soapies, reality series and local and international sport. In addition to its analogue broadcast distribution, it now offers non-linear services free and on-demand on various internet platforms such as YouTube, Viu and SABC+ Refer to paragraph 75 below for further evidence on SABC's competitive offerings
e.tv	A single-channel commercial FTA broadcaster that offers an extensive range of popular dramas, soaps, reality series, sport and other programming. In addition to its analogue, DTT distribution and inclusion in the Openview DTH offering, it now provides content free and on-demand over the internet.
OpenView	A multi-channel FTA digital satellite DTH service owned by eMedia (which is also the owner of e.tv). Its channels are accessed through a decoder (for which there have been a significant number of activations to date) and it offers a number of channels across a range of genres. Additionally, three of OpenView channels (eExtra, eMovies Extra and etoonz) are also distributed via DTT. Refer to paragraphs 74.8 to 74.10 below for further evidence on Openview's competitive offerings
UltraView	A Pay TV service offered by eMedia that allows viewers to see additional bouquets of content for a monthly subscription fee. Refer to paragraph 74.12 below for further detail on Ultraview
StarTimes	A regional audio-visual services provider, operating as StarSat in South Africa, with operations across the continent and has been present in South Africa since 2007. StarSat provides a range of bouquets offering from 60+ to 140+ channels in its various bouquets. Its content slate includes general entertainment, news and sport. It provides its services via satellite and over the internet
Deukom	Provides German language television and radio programs in South Africa via satellite and IPTV. It has 26 television channels targeted at Germans living in South Africa which cover the full range of programme genres including sports, entertainment, movies, series, documentaries, kids shows, reality shows, and church and music programs
Premium.Free TV	An FTA DTH television service that has launched in South Africa with 18 English channels. Premium.Free TV is marketed as having content that is "custom-made for African viewers" and includes Hollywood Movies, African Movies and Series, Kids, Telenovelas, Sport, Comedy, Lifestyle, Documentaries, Faith and education channels. The Premium.Free TV service is also now available via OTT
OTT providers	
Netflix	Has been available in South Africa since 2016 and has rapidly grown its popularity. It has millions of subscribers worldwide and reports a content budget of billions of dollars. Its original content is very popular, which content is no longer made available to traditional broadcasters, and increasingly also includes local South African content. The Netflix service is available through a plethora of consumer devices including smartphones, laptops, tablets, smart TVs, and streaming devices

Competitor	Description of competitor
Amazon Prime Video	A service owned and operated by Amazon. It also has a global subscriber base in the millions and reports a video content budget of billions of dollars. It offers series, movies, sport and third-party channels which can be streamed on demand. The Amazon Prime Video service, like Netflix, is available through a plethora of consumer devices including smartphones, smart TVs, gaming devices, and others.
Apple TV+	Has been available in South Africa since its launch in November 2019. It offers a subscription OTT VOD service, with a one-year subscription service offered for free to purchasers of a range of new Apple devices. Apple TV is understood to have a focus on original content and reports a content budget of billions of dollars. The Apple TV is a streaming device that integrates third-party streaming services such as Netflix, Disney+ and others
DAZN	A sports-focused OTT service provider, available in over 200 countries including South Africa. DAZN is accessible across a variety of devices including smart TVs, gaming consoles such as PlayStation and Xbox, and connected devices (smartphones, laptops, tablets, etc.)
Acorn TV	A streaming service currently available in over 29 countries, including South Africa. Its content offering primarily focuses on British dramas, mysteries and comedies
YouTube Premium	A subscription-service which launched in South Africa in 2019, with a monthly subscription. It provides ad-free access to traditional YouTube content, but it also provides access to premium YouTube Originals, the ability to download videos, background playback of videos on mobile devices, and access to the music streaming service, YouTube Music
YouTube	A well-known provider of on-demand content, available on a website and an app. It is the most popular website and app in South Africa, receiving on average over 100 million visits monthly from South Africans. In addition to its general YouTube content, it offers YouTube Premium (available in South Africa). It has also partnered with the NBA Africa to provide live streaming of the NBA games as well as with other providers to show VOD sports highlights packages. DAZN has also announced that it will launch a "DAZN Sport" channel on YouTube. In addition to this range of content, YouTube is one of the platforms used by SABC and OVHD to provide their content on-demand and through which their content can be viewed outside of linear broadcast times, and/or reach additional consumers
Google	Offers a TVOD service, Google Play Movies, which is available in South Africa and enables users to rent or purchase the latest movies from all the major Hollywood studios
Facebook	The largest social media platform in South Africa. The platform has moved rapidly into streaming audio-visual content to its global user base through its Watch streaming platform. It has also reported a content budget in excess of a billion dollars and has acquired live sporting content rights in some jurisdictions (including English Premier League, UEFA Champions League, La Liga and the PGA Tour)
X	Historically known as Twitter, X streams a range of content, spanning entertainment, gaming, lifestyle, and news and sports content. It should be noted that advertising revenue from video content is one of the service's key revenue streams – historically more than half of advertising revenue. In recent years Twitter acquired the global rights to the PGA Tour as well as the rights to stream the finals of the NBA in India
rlaxx TV	A free online streaming service that streams content on a linear basis. It streams a wide variety of content, including movies, series, general entertainment and sport. Some channels are only available in specific countries, but many are available globally

Competitor	Description of competitor
Plex TV	A free online streaming service which is available globally. A large selection of free movies and series are available. Plex TV can also be used in conjunction with other paid streaming services to view content from all services subscribed to in one place
SABC+	Was launched in November 2022, and streams all the SABC channels online for free. This includes a variety of movies, series, general entertainment and sport
eVOD	A VOD streaming service owned by eMedia. The service allows streaming of a large selection of movies and series for free, as well as a subscription service for additional content and features Refer to paragraph 74.11 below for more detail on eMedia's eVOD offering
StarTimes ON	A video streaming service offered by StarTimes, offering more than 150 live/linear African and international TV channels (a number of which are free) and also boasts a significant library of VOD content. It also offers significant sporting content (including the UEFA Europa League, Bundesliga, Ligue 1, and the Coppa Italia
Viu	A streaming service available in 16 countries across Asia and the Middle East which has been available in South Africa since February 2019. Viu offers some content for free (with adverts) as well as an SVOD service to access exclusive shows. The offering includes Bollywood films, African series and movies and South Asian shows. Viu also has partnerships with e.tv and SABC, thus incorporating some popular local content
Trace+	A subscription-based service dedicated to urban and afro-urban music and entertainment. It offers 17 live/linear TV channels, 70 FM and digital radio stations, alongside a wide range of on-demand programs which include original as well as syndicate content
iROKOtv	A subscription-based VOD service focusing exclusively on African content. It is available in 178 countries, including in South Africa
Primedia+	Provides a streaming service for audio and visual content owned by Primedia. This includes video streaming of their radio content, as well as news bulletins
Afriforum TV	Provides users with Afriforum's news and events but also offers general entertainment comment with Afrikaans films, fiction and reality. Afriforum TV includes AfriKinders which consists of a variety of content for children
Direct-to-consumer content providers	
Disney+	Was launched in November 2019 and reached more than 100 million subscribers across 59 countries in just sixteen months since its launch.[22] Disney+ has an enormous content library across key brands like Disney, Pixar, 20th Century Fox, Marvel, and Star Wars. It launched in South Africa in May 2022
BritBox	Owned by BBC and ITV offers an ad-free, monthly subscription service offering a range of popular British dramas, comedies, documentaries, and lifestyle shows. It is available in a number of countries and was launched in South African in August 2021
Paramount+,	A streaming service expected to launch in South Africa imminently, bundles extensive library and new content ranging from Paramount Pictures films, Paramount+ Originals, Nickelodeon, MTV and CBS Studios

[22] https://thewaltdisneycompany.com/disney-tops-100-million-global-paid-subscriber-milestone/

48 Many of the above services are offered with a variety of price points and content offerings, many of which are attractive relative to a range of MultiChoice's DStv offerings. The entry of OTTs has and will continue to result in fundamental market changes and imposes significant competitive threat to MultiChoice.

Q2.13: WHAT ARE THE MAIN COMPETITIVE DYNAMICS IN TERMS OF THE PRODUCTS AND SERVICES YOU PROVIDE?

Introduction and overview

49 The Authority is conducting its inquiry into Pay TV during a period of dramatic and rapid change. The rise of OTT services is the single most important development since the advent of Pay TV, surpassing in significance the introduction of satellite as a delivery technology. At the time of the Authority's 2019 Draft Findings, MultiChoice submitted that OTT services had resulted in a significant change in competitive dynamics and would, going forward, continue to intensify the competitive constraints faced by traditional broadcasters, in particular Pay TV providers. These changes, which can be traced back to before the launch of this Inquiry, were already intensifying when the Authority's 2019 Draft Findings were published. As the evidence below will demonstrate, this has accelerated significantly.

50 At the same time, local competition has sharpened as FTA and Pay TV services have proliferated, innovated and adapted to changing market dynamics. Traditional FTA broadcasters, like SABC and eMedia, have successfully expanded their offerings across a variety of distribution technologies in direct competition with MultiChoice and OTT services. eMedia, in particular, has experienced phenomenal success via the growth of its Openview service targeted at the lower end of the market, the launch of its OTT service eVOD and its recently launched Pay TV offering, Ultraview. eMedia has estimates its viewership market share to be approximately 34% for all of its channels, and claims that it is "*the biggest broadcaster in South Africa*".[23]

51 To assist the Authority in this Inquiry, this response to Q2.13 below provides extensive data and other information explaining the main competitive dynamics that exist today. It demonstrates that the market for audio-visual services has continued to undergo

[23] eMedia Holdings unaudited interim results, September 2023

significant changes post 2019, consistent with the upheaval that was already occurring during the early part of the Inquiry (from 2016 to 2019) and with the trend that was already observable then.

52 In broad terms, in the following section MultiChoice explains -

52.1 South African policy developments which adopt and affirm the reality that the proliferation of the internet and broadband access has changed the provision and consumption of audio-visual services such that formidable international OTTs (and certain media giants, such as Disney) have taken advantage of these developments to become significant competitors to traditional broadcasters around the world, including in South Africa;

52.2 evolving audio-visual consumption patterns and how these enhance preferences for streaming, non-linear audio-visual services, and supporting evidence is provided on the growth of broadband access and declining data costs that facilitates these changing consumer preferences;

52.3 how these and other developments have led to an explosion of highly-valued content, with easy access, and more affordable than ever;

52.4 the ways in which South African FTAs eMedia and the SABC have responded, expanding and improving their offerings and services, including through new channel offerings, more attractive content and their own OTT services; and

52.5 the impact of these competitive dynamics on MultiChoice and its DStv service.

The proliferation of broadband and OTT services has fundamentally redrawn the competitive landscape, significantly expanding the choice set available to consumers

53 Seismic changes are occurring in the provision of audio-visual services globally. Audio-visual entertainment of extraordinary scope, quality and volume is now delivered through OTT services utilising the vast and existing infrastructure of the internet, involving a wide and growing range of participants. As indicated above, these new players are a mix of global technology giants, global OTT providers, long-established content providers, including global household names such as Netflix, Amazon and Disney, and are threatening and eroding the businesses of all traditional broadcasters, including

MultiChoice. For a vast number of South Africans, consumption of these and other OTT services is now a daily routine.

54 The fundamental changes in how audio-visual services are provided and consumed have been acknowledged in recent pronouncements on broadcasting and competition policy. This includes the Draft White Paper on Audio and Audiovisual Content Services Policy: A New Vision for South Africa (the "Draft White Paper") published by the Department of Communications and Digital Technology on 31 July 2023[24] and which is discussed in more detail in the response to Q4.4.

55 The Draft White Paper recognises 'the proliferation of different broadcasting-like on-demand and video-sharing platform services using the internet as a means of distribution and many of which operate on a global scale',[25] and describes its effects as 'revolutionary'.

> '*The whole media system is experiencing a digital revolution and is in transition. As many analysts have correctly put it, this is a period of unprecedented disruptive change. The driving force behind this revolution as in other sectors is the internet. The change it brings is not merely more content and more content providers, it is the overthrowing of the current broadcasting distribution ecosystem and a change in the way that viewers consume audio and audiovisual content'*.[26] (Emphasis added)

56 Pertinently, the Draft White Paper identifies the impact of these changing dynamics on markets:

> *'Audio and audio-visual content consumption via the internet are fundamentally transforming the South African audio and audio visual landscape creating a broader content market than traditional broadcasting'*.[27] *(Emphasis added)*

---

[24] Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety: A New Vision for South Africa (July 2023), published under notice number 1934 of 2023, Government Gazette number 49052, 31 July 2023
[25] White Paper, para 1.1.1
[26] White Paper, para 1.1.2.
[27] White Paper, para 1.1.16.

57 The Competition Commission ("Commission") reached a similar conclusion in its 2021 Position Paper on Competition in the Digital Economy. (the Competition Position Paper).

58 In particular, the Commission observes that there has been '*digital disruption*' in broadcasting, with '*new technologies and the dynamic effects of convergence … changing the way consumers access audio-visual content'.*[28]

59 These changes were also articulated in submissions to the Authority by multiple stakeholders, not only MultiChoice.

59.1 As early as December 2017, the SOS Support Public Broadcasting Coalition (SOS) told the Authority that OTT services were '*fundamentally changing the way that audiences consume audio-visual content*',[29] and made the point even more emphatically during the 2021 public hearings in describing the OTT players and '*the very real threats that they pose to sustainable businesses in our own environment'*:

> *'[E]ven the giants that we are up against now are no longer just the local ones, they are the ones that are coming from all over and things that make our local giants look like small fish, quite frankly. You know, when you talk about entities like Netflix and Amazon and Google and Facebook etcetera, you know, you are talking about almost I think trillion Dollar companies in some instances, so these are very real issues*'.[30]

59.2 In response to the Draft Findings Document, e.tv anticipated that OTTs' accelerating impact on '*the subscription and the broadcasting industry as a whole will be felt'*,[31] and the SABC stated that '*OTTs are rapidly changing how content is consumed*', that the effect of this change '*spills into competition of all various content providers regardless of the platform of broadcast'* and that *'the bottom line is that all content providers and broadcasters compete for eyeballs and advertising revenue'.*[32]

---

28 Competition Commission Position Paper, p.48
29 Draft Findings Document, para 5.11.6
30 Transcripts from the public hearings held on 13 January 2021, Volume 3, pp 192 and 194-5
31 e.tv response to the Authority's Draft Findings Document, 23 August 2019, para 4
32 SABC response to the Authority's Draft Findings Document, 4 October 2019, para 4.2

59.3 This view has been supported by more recent statements made by the Minister of Communications and Digital Technologies in response to questions regarding the SA Broadcasting Corporation Bill of 2023. In particular the Minister stated that:

> *"Additionally, the Bill provides the SABC with an option to create new channels and digital platforms, thereby expanding its offerings and attracting even more viewers. By offering a wider selection of channels, the SABC can better compete with other broadcasters and streaming platforms, ultimately enhancing its competitiveness in the industry. This will drive long-term profitability which is a key component of financial sustainability of the public broadcaster."*[33] *(emphasis added)*

60 The new reality in retail audio-visual services can be summarised as follows.

60.1 The development of the internet, coupled with the proliferation of internet-capable devices, has enabled a new form of large scale, high-quality distribution of audio-visual content, previously accessible via linear television broadcast, which has eliminated all the traditional requirements for the distribution of such services: i.e., access to radio spectrum by the provider, broadcasting licensing, satellite capacity, installed dishes and/or set top boxes.

60.2 A new generation of powerful and financially well-resourced providers of audio-visual services has emerged to take advantage of this opportunity. They include the international giants Amazon, Apple, YouTube, Netflix, Disney, Google/YouTube and Facebook as well as regional players like StarTimes On and Viu. Most of these firms have extraordinary advantages in scale and financial resources. Many have used this muscle to become content creators on a massive scale, directly delivering audio-visual content to viewers through the internet. They also have direct access to most MultiChoice subscribers in South Africa, amongst whom internet penetration is high.

60.3 In response to these changing dynamics, leading providers of content - including those on which MultiChoice has traditionally relied - are in the process of shifting

---

[33] Question NW3367 to the Minister of Communications and Digital Technologies, 11 December 2023. Available from: https://pmg.org.za/committee-question/24358/

from simply creating and supplying content to traditional broadcasters, to distributing their own retail services directly to consumers in direct competition with traditional broadcasters. Thus, traditional broadcasters are also facing the threat of disintermediation by content producers. These include powerhouse producers of content such as Disney, Warner Brothers, Marvel, 20th Century Fox, Pixar, Paramount and HBO.[34] While not all of these providers currently distribute their own services directly in South Africa, they have unequivocally stated their global ambitions and it is certain that South Africa is one of the markets that will see entry of these providers. The cost of extending OTT services to an additional country is not prohibitive. Indeed, since the publication of the Draft Findings Document, BritBox[35] and Disney+[36] have both successfully launched in South Africa while Amazon Prime Video began offering Rand-denominated pricing.[37] Paramount+ also announced its plan to launch in South Africa in 2023.[38] While Paramount has not met its stated timeline, there is no reason to believe that this launch will not take place given it already has a local presence, established programming and sells Rand-denominated advertising in South Africa.

61 This is the technological convergence of which market participants, government, the Competition Commission and the Presidential Commission have been speaking.

The Impact on Consumers

62 The choices and behaviour of consumers have been transformed by these developments. The Competition Commission observes that '*new technologies and the dynamic effects of convergence are changing the way consumers access audio-visual content.*'[39] The White Paper recognises that '*[o]n the consumer side, there is a significant shift in the way consumers access and enjoy audiovisual entertainment services.*

---

34 Sports bodies also increasingly offer their content direct to consumers including FIFA and EUEFA (see para 66.4 for more examples).

35 Ferreira, T. (2021) New streaming service launches in South Africa - here's everything you need to know about BritBox. Available online: https://www.news24.com/life/arts-and-entertainment/tv/new-streaming-service-launches-in-south-africa-heres-everything-you-need-to-know-about-britbox-20210727

36 Vermeulen. J,. (2022) Disney+ launches in South Africa – all the details. Available online: https://mybroadband.co.za/news/broadcasting/444994-disney-launches-in-south-africa-all-the-details.html

37 Vermeulen. J,. (2021) Amazon Prime Video gets rand support – new prices for South Africa. Available online: https://mybroadband.co.za/news/broadcasting/423836-amazon-prime-video-gets-rand-support-new-prices-for-south-africa.html

38 Ferreira T,. (2022) Paramount video streaming service launching in SA in 2023. Available online: https://www.news24.com/channel/tv/news/paramount-video-streaming-service-launching-in-sa-in-2023-20220217-2

39 Competition Commission Position Paper, p 47

Consumers are moving away from linear TV to on-demand and multi-screen viewing.'[40] (Emphasis added)

63 This should not come as a surprise. The powerful new players are targeting the same consumers as traditional broadcasters, and viewers are enjoying audio-visual content on a far wider array of devices (including Smart TVs, laptops, tablets and smartphones) anywhere and at any time. Rapid growth in broadband infrastructure and connected devices has facilitated widespread consumer viewing of online video content and changed viewing patterns.

64 **Changes in audio-visual content consumption patterns.** South Africans have fundamentally changed how they find and consume audio-visual content, and how they pay for these services. The world in which retail audio-visual services were only watched in linear form on a traditional TV set is fast disappearing.

64.1 Online video streaming is a universal feature amongst South African internet users.

64.1.1 According to a We are Social 2023 report, amongst internet users aged 16 to 64 years, 97% (approximately 42 million) stream TV content over the internet[41] and 61% (approximately 26.5 million) cite "watching videos, TV shows, or movies" as a primary motive for using the internet.[42]

64.1.2 South Africans aged between 16 and 64 years with internet access reportedly spend 40% of their total time streaming audio-visual content.[43]

64.1.3 In September 2022, 85% of DStv subscribers consumed online video content (both free and paid), up from 76% in the previous year.

64.2 *Viewing continues to shift from traditional TV sets to other devices, especially mobile ones.* That this is the case is clear from the fact that many OTT providers are now offering mobile only subscriptions. [redacted]

---

40 White Paper, para 2.3.16.
41 We are social (2023) Digital 2023, South Africa: The Essential guide to the latest connected behaviours ("We are social report presentation"), slide 43.
42 We are social report presentation. Slide 31
43 We are social report presentation. Slide 43

[redacted][44] Given the high penetration and proliferation of mobile devices as well as the increasingly important role they play in consumers lives, such trends do not come a surprise.

64.3 *Increased demand for non-linear content.* It is a misapprehension that OTT providers do not offer linear content: for example, DStv Stream, StarTimes On, Showmax, eVOD, SABC+ all provide linear content via OTT. It is nonetheless true that VOD is a key attraction of streaming services. Non-linear viewing offers flexibility as to when viewers can watch a programme of their choice, which self-evidently makes it an attractive alternative to linear viewing. As a result, viewers are increasing their consumption of VOD content. Even traditional broadcasters are adapting to give consumers flexibility by making some of their linear programming available to consumers on a VOD basis. This VOD service is referred to by DStv (and some other players in the industry) as "catch up tv". For example, the DStv service accessed via the Explora decoder has a catch up feature. The DStv Streaming App and the SABC+ service provide both linear viewing and catch up options.[45]

64.4 Survey data from September 2022,[46] shows that [redacted] It is important to state that because these figures only relate to the usage of MultiChoice's services on a non-linear basis, they under-represent the full scope of non-linear viewing that is taking place in South Africa, outside of MultiChoice's services.

---

44 MultiChoice Video Entertainment survey September 2022.

46 MultiChoice's Video Entertainment Survey September 2022

47 This includes downloading/streaming paid/free VOD services, DStv Catch Up and Catch Up Plus, content recorded by subscribers on STBs, as well as content from storage devices and DVDs.



64.5 **Some consumers are increasingly engaging in multi-homing behaviour whereby they construct their viewing experience from multiple sources**. Consumers are consuming audio-visual content in a more fragmented manner, from different service providers across different platforms and for different amounts of time.

64.5.1 As already indicated a significant proportion of DStv subscribers are viewing online video content. However, the fact that subscribers to DStv (or any other service), also consume OTT services, does not mean that these services are complementary (and do not compete). This has been a significant misnomer in some debates about this phenomenon. It is important to correct this. Properly considered, the notion of economic complements refers to a situation where the demand for one good generates demand for the other (for example printers and toner cartridges).[48] This is clearly not the case for audio-visual services: more Netflix content watched by a consumer, does not translate in that consumer having greater demand for DStv content (or vice versa).

[48] See J M. Perloff.2007. Microeconomics, Fourth Edition, p. 14. Consumer Economics, Editor(s): Neil J. Smelser, Paul B. Baltes, International Encyclopedia of the Social & Behavioral Sciences, Pergamon, 2001, Pages 2669-2674,https://doi.org/10.1016/B0-08-043076-7/02233-6 and : https://economicpoint.com/complementary-goods

64.5.2 To the contrary, the consumer's demand for and valuation of DStv services reduces the greater the amount of Netflix content the consumer watches.

64.5.3 Indeed, many so-called "cord-stackers" (i.e. subscribers to multiple services) are still substituting OTT services for Pay TV services. Cord-stackers are often simultaneously "cord-shavers" in that they downgrade to a lower-tier Pay TV bouquet by substituting OTT services for content they used to get in the higher-tier Pay TV bouquet. In other words, many cord-stackers do not merely add an OTT service to their Pay TV service, but *downgrade* their Pay TV service (at the same time or soon thereafter). Cord-shaving also represents substitution and competition as it still results in a loss of revenue for Pay TV operators.

64.5.4 The [redacted]. That DStv has experienced significant cord-cutting and cord-shaving by subscribers is discussed in more detail later. In other words, the greater the time that consumers spend watching, for example, Netflix, the greater the risk that the consumer will terminate their DStv subscription.

65 **Growth in broadband access and declining data costs**. Access to electronic audio-visual content has been facilitated by the rapid development of the broadband eco-system. Rising internet penetration, higher internet speeds and progressively lower data prices have accelerated the take-up of OTT services by consumers across the socio-economic spectrum, including lower income segments:

65.1 2022 census data indicates that 79% of South African households had access to the internet.[49] Statista estimates that mobile internet user penetration in 2023 was as high as 82%.[50] This represents rapid growth from the 30.8 million internet users and 54% internet penetration rate cited by the Authority in its Draft Findings

[49] Stats SA. (2022). *Census 2022 Statistical release*. Available online: https://census.statssa.gov.za/assets/documents/2022/P03014_Census_2022_Statistical_Release.pdf

[50] See https://www.statista.com/statistics/972866/south-africa-mobile-internet-penetration/

Document published just four years ago. Statista estimates that mobile internet user penetration will reach 89% by 2025.[51]

65.2 Further, internet speeds have increased, and are usually more than sufficient to allow for streaming. As of the start of 2023, the median mobile and fixed download speeds are 36.7Mbps and 40.1Mbps respectively.[52] This comfortably exceeds the broadband speed requirement for live streaming (see the response to Q2.19 for details of such requirements).

65.3 Data prices have tumbled since 2019, further enabling the take-up of OTT services in South Africa. In the Authority's Bi-Annual Report on the Analysis of Tariff Notifications, [53] it observed *"a positive trend in terms of data price reductions"* from FY 2020/21 to 2021/2022 and noted that *"the continued reduction of data prices makes communication services more affordable to customers"*. By way of example, the table below demonstrates the decreases in the price of a prepaid 1 gigabyte (GB) data 30-day bundle across the four telecommunications networks since 2019. These decreases range between 21% and 43%.

Table 1: Price of a prepaid 1GB data bundle valid for 30 days (ZAR)

ZAR	2019 Q4	Jan 24	% change
MTN	150	85	-43%
Vodacom	149	85	-43%
Telkom	100	79	-21%
Cell C	100	65	-35%

Source: Mobile operators' websites
Note: Telkom's 1GB monthly data bundle consists of a 1GB daytime bundle (for use between 5am and midnight) and an additional 1GB nighttime bundle (for use between midnight and 5am)

65.4 OTT services are adapting and targeting low budget consumers in South Africa. Some provide lower cost mobile-only packages to extend accessibility to consumers who do not have other means to stream audio-visual content; and also allow users to choose their streaming quality[54] or to download content to watch offline later in order to manage their data usage.[55] The latter allows for downloads

---

51 See https://www.statista.com/statistics/972866/south-africa-mobile-internet-penetration/
52 We Are Social Digital 2023: South Africa report. Available online: https://datareportal.com/reports/digital-2023-south-africa. We note that according to the Authority's own ICT Sector Report for 2023 median download speeds for 2022 were 43.23Mbps and 25.81Mbps for fixed and mobile respectively.
53 the Authority, Bi-annual report on the analysis of tariff notifications submitted to the Authority for the period 01 January 2021 to 30 June 2021, p 112
54 See for example https://help.netflix.com/en/node/87
55 See for example https://help.netflix.com/en/node/54816?q=offline%20

to be done on free data networks (e.g., public Wi-Fi and schools) or on workplace networks etc.

65.5 Viu, an OTT provider based in Hong Kong, offers both free and paid services tailored to the budget-conscious average South African. The paid services are priced at R69 per month and R7 per day. Viu has managed to accumulate 4.5 million monthly users in South Africa in just four years since launch in 2019.[56] [57] The very successful experience of Viu is in part a result of the partnerships that it has with telcos (Vodacom and MTN), e-commerce players and advertisers in South Africa.[58]

65.6 Streaming giants such as Netflix, Amazon Prime Video, and Disney+ all now also offer mobile-only versions of their packages in South Africa. These have significantly cheaper prices, and enable consumption of OTT services by lower-income consumers. Showmax has also launched its own mobile-only service.

65.7 OTT providers have also partnered with telecommunications operators to provide data as part of these mobile only subscriptions. For example,

65.7.1 MTN offers a Disney+ mobile pass (mobile streaming on 1 device) and 2GB of data for R59 per month. Since the normal cost of a Disney Plus Mobile plan is R49 per month, this means that the effective price of the data is just R10 for 2GB.[59]

65.7.2 Vodacom offers a Viu monthly package that provides a Viu premium subscription and 3GB of data per month for R69.[60] Notably, the price for this bundle is significantly lower than the price of a standalone Vodacom 3.6GB monthly recurring bundle at R229.[61] In some instances, if a Viu subscriber buys certain telco products, they are rewarded with a Viu subscription.[62]

---

56 For instance, a one-day subscription purchased through Vodacom is accompanied by a 250MB Viu data bundle, and similarly, a one-month subscription comes with a 3GB data bundle.

57 Moyo. A,. (2023) OTT player VIU targets low-budget streamers in SA. Available online: https://www.itweb.co.za/content/xnklOqz1dNxM4Ymz

58 Moyo. A,. (2023) OTT player VIU targets low-budget streamers in SA. Available online: https://www.itweb.co.za/content/xnklOqz1dNxM4Ymz

59 https://play.mtn.co.za/get/disney/

60 https://www.vodacom.co.za/vodacom/shopping/v/viu

61 https://www.vodacom.co.za/vodacom/shopping/data/prepaid-data

62 Moyo. A,. (2023) OTT player VIU targets low-budget streamers in SA. Available online: https://www.itweb.co.za/content/xnklOqz1dNxM4Ymz

65.7.3 Showmax together with MTN has also announced a number of budget friendly entertainment plans for streaming which will become available from 12 February 2024.[63]

65.8 The proliferation of affordable broadband access has enabled FTA TV broadcasters to offer OTT services. The SABC's OTT service, SABC+ (launched in November 2022) is available for free and eMedia's eVOD service also allows for the viewing of certain local and international content at no cost (in addition to eVODs subscription offering). Various international OTT service providers with free offerings now provide streaming services in South Africa. These include Germany-based firm, Rlaxx TV (launched in 2022), US-based Plex TV (launched in 2019), Africa XP's Premium Free TV (launched in 2021) and Hong Kong based VIU (launched in 2019).[64]

65.9 Another way to understand the dramatic change is to look at data usage. Between 2019 and 2022 mobile data usage in South Africa grew by 656%[65] This shows that cost of data is not a prohibitive barrier to the consumption of mobile broadband-based services such as audio-visual content. The bulk of data traffic is believed to be driven by video traffic.[66]

65.10 All this – the sextupling of data consumption and the availability of OTT offerings focused on the lower-end – shows that South Africa's broadband eco-system appropriately enables the provision and consumption of OTT services at both the high and lower-end of the market. The consumption of these services can only intensify into the future as more consumers have greater access to affordable broadband.

---

63 Ranjan, A. 23 January 2024, MTN and Showmax unveil affordable entertainment bundles for South African Customers. Tech Africa News, available from: https://www.techafricanews.com/2024/01/23/mtn-and-showmax-unveil-affordable-entertainment-bundles-for-south-african-customers/

64 Labuschagne. H,. (2023) Best free streaming services in South Africa. Available online: https://mybroadband.co.za/news/broadcasting/487251-best-free-streaming-services-in-south-africa.html. https://mybroadband.co.za/news/broadcasting/389150-new-premiumfree-satellite-tv-service-to-take-on-dstv-and-openview-in-south-africa.html

65 See the Authority, The State of the ICT Sector Report in South Africa March 2020, p 111 and the Authority, The State of the ICT Sector Report in South Africa March 2023, p.111.

66 See for example J,. (2023) South Africa's 500,000% Internet traffic surge. Available online: https://mybroadband.co.za/news/internet/478461-south-africas-500000-internet-traffic-surge.html and Labuschagne. J,. (2023) Netflix, YouTube, and TikTok dominate web traffic in South Africa. Available online: https://mybroadband.co.za/news/broadband/507560-netflix-youtube-and-tiktok-dominate-web-traffic-in-south-africa.html

65.11 When considering the competitive dynamics with specific regard to DStv services, the following should be noted: Internet penetration is high amongst DStv subscribers and as such OTT competitors can readily compete for the vast majority of DStv subscribers including those at the low end. [redacted] Fixed broadband is not required to consume OTT services because, as indicated in paragraph 65.4 above mobile broadband is increasingly becoming more affordable and OTT services are also becoming more affordable for lower income consumers, as shown paragraph 65.4. Further as shown in paragraphs 105 to 109 below read together with paragraph 65.2 above, mobile broadband achieves streaming-ready speeds. It is also more ubiquitously available to a large array of consumers.

65.12 This evidence demonstrates that MultiChoice and OTT providers compete for the same consumers and broadband costs are not a prohibitive impediment to switching to OTT services in substitution for services procured from MultiChoice.

[67] MultiChoice Video Entertainment Survey September 2022.

[redacted]



[redacted]

66 **An explosion of highly valued content.** The OTT revolution has resulted in the proliferation of high-quality content that demonstrably attracts subscribers/audiences. OTT providers available in South Africa offer not just series and movies but a whole range of content including general entertainment (including sitcoms, dramas reality TV and so on), sports, news and local content.[68]

66.1 A direct consequence is that the major Hollywood studios are now less important as other studios and production houses have muscled in. For example, in 2023 Netflix picked up 16 Oscar nominations across 8 movies.[69] Notably, in this same year, A24, an independent production and distribution company picked up more Oscars than any of the traditional movie studios.[70]

---

68 See examples in para. 20.2, 20.3 and 20.4. "Conversations with a Killer", "Love is Blind", "Selling Sunset", "Our Planet", "My Octopus Teacher", "Squid Games", "Formula 1: Drive to Survive etc. are all examples of shows that are not movies or series, but documentaries or reality TV. In addition, DStv streaming, SABC+ and Star Times ON all offer news content.

69 Spangler. T,. (2023) Netflix Wins Six Oscars, Including for 'All Quiet on the Western Front,' Guillermo del Toro's 'Pinocchio'. Available online: https://variety.com/2023/awards/news/netflix-2023-oscars-wins-all-quiet-on-the-western-front-pinocchio-1235544587/

70 Whitten. S,. (2023) A24 leads the way with 9 wins. Available online: https://www.cnbc.com/2023/03/12/oscars-highlights-complete-list-of-winners.html; Sakoui. A,. (2023) Oscars 2023. A24 cements indie powerhouse status with " Everything Everywhere All at Once" win. Available online: https://www.latimes.com/entertainment-arts/awards/story/2023-03-12/oscars-2023-scorecard-a24-everything-everywhere-all-at-once

66.2 The idea of movies being the main motivation behind subscribing to retail audio visual services has long since been debunked.. A proliferation of highly valued series, documentary and reality content developed by and for OTT services offer multiple and varied reasons to subscribe. Examples of highly popular OTT programming include "Stranger Things", “The Mandalorian”, "Orange is the New Black", "Transparent", “Conversations with a Killer”, “Love is Blind”, “Selling Sunset”, “Dubai Bling” “Our Planet”, "The Crown:, "Jack Ryan", "Reacher" and "Rings of Power".

66.3 The global popularity of shows like “My Octopus Teacher” “Squid Games”, “Narcos” and “Money Heist” has shown that content from emerging markets can be just as popular (if not more) as that from Hollywood. This content is as valuable as Pay TV movie content, if not more so, as it is high quality and available immediately after release. It often has the added advantage of offering several episodes and thereby increasing subscriber retention and generating more eyeballs for advertising.

66.4 OTT players are also investing in sports and sports-related content.

66.4.1 For example, Netflix has developed highly popular sports-based series which give behind-the-scenes looks at players and tournaments. These include “Formula 1: Drive to Survive” (Formula 1), “Full Swing” (PGA Tour), “Unchained” (Tour de France), “Break Point” (ATP and WTA tour) and “Six Nations: Full Contact” (Rugby). Further, in 2023 Netflix hosted live sports events including The Netflix Cup (a golf competition between Formula 1 drivers and PGA Tour golfers) and scheduled The Netflix Slam (a match between Rafael Nadal and Carlos Alcaraz) for March 2024.[71]

66.4.2 Netflix also recently acquired rights to stream the World Wrestling Entertainment (WWE) Raw events from 2025 onwards.[72]

[71] https://www.hollywoodreporter.com/business/digital/netflix-tennis-match-slam-rafael-nadal-carlos-alcaraz-1235737650/
[72] https://about.netflix.com/en/news/netflix-to-become-new-home-of-wwe-raw-beginning-2025

66.4.3 In addition to Netflix, there are a number of OTT providers in SA with sports content including Showmax Pro[73], SABC+[74], StarTimes On[75], and DAZN.[76] DAZN has also recently announced that it will be launching a new YouTube sports channel.[77] Sports bodies also increasingly offer their content direct to consumers. FIFA's FIFA+ streaming service, UEFA's free OTT streaming service,[78] Formula 1,[79] the NBA channel[80] and the WWE Network[81] all provide live sports content OTT in South Africa.

66.4.4 ESPN, Fox and Warner Bros Discovery have announced an agreement to launch a new streaming platform in the US for live sports, which will include games from the NFL, NBA and Major League Baseball, NASCAR, UFC, college sports, PGA Tour golf and international soccer, including the 2026 World Cup. This not only shows that traditional broadcasters continue to search for ways to ameliorate the effects of consumers switching away from their services but also that there is no impediment to sporting content becoming available via new or existing OTT platforms.[82]

66.5 The explosion of popular content across all genres and the rapid expansion of services without sports content has toppled the traditional, European notion that subscriptions to paid-for services are primarily driven by first-window Hollywood movies and popular sports rights.

66.6 The range of content that can be used to build audiences for electronic audio-visual services is extremely broad. MultiChoice's own data on viewing hours by genre (illustrated in Figure 4 below) for DStv Premium, Compact Plus and Compact subscribers together, reveals that general entertainment is by far the most viewed

---

73 Showmax offers a wider variety of sports, mostly notably coverage of football in Europe's top leagues. See: https://www.showmax.com/eng/sports

74 All sport broadcast on SABC Sport can be found on the SABC+ platform. See: https://sabc-plus.com/live/323/SABC-Sport

75 StarTImes On offers a wide variety of sport, most notably some combat sports and football from European leagues. See https://m.startimestv.com/browser/liveDetail?channelId=1031981242

76 DAZN offers a wide variety of sports, primarily boxing, NFL and women's football. See: https://www.dazn.com/en-ZA/sport/Sport:289u5typ3vp4ifwh5thalohmq.

77 "DAZN Sport": https://www.digitaltveurope.com/2024/02/05/dazn-sport-channel-launches-on-youtube/

78 https://tmbroadcast.com/index.php/uefa-tv-free-ott-platform-ready-operate-premium-distribution-channel/

79 https://www.formula1.com/en/subscribe-to-f1-tv.html#en-ZA

80 https://watch.nba.com/packages?gclid=CjwKCAiA9aKQBhBREiwAyGP5lYHJPr6rnMS1z4xPsq7NGMwjZbUg1tEXQjIsLIXOuvWQ2211onosihoCt9wQAvD_BwE&cid=nba:ilp:paid:sem:sa360:na:eg:acq:sub:dtc-acq:global:dynlan:RoEMEA_G_Secondary_General_English_LI:NBA_Games_Phrase:NBA+channel:43700063459812925:&ef_id=CjwKCAiA9aKQBhBREiwAyGP5lYHJPr6rnMS1z4xPsq7NGMwjZbUg1tEXQjIsLIXOuvWQ2211onosihoCt9wQAvD_BwE:G:s&s_kwcid=AL!5120!3!554376401726!p!!g!!nba%20channel!12968167127!121491656333&gclsrc=aw.ds

81 https://www.wwe.com/wwenetwork

82 https://briefly.co.za/business-economy/economy/179438-networks-unite-create-sports-streaming-platform

genre of content, with movies and sports viewed much less. Overall, no single content genre dominates viewing hours.



66.7 A subscriber segmentation study conducted by MultiChoice shows (in Figure 5 below) the highly fragmented nature of subscribers to each of the DStv bouquets and demonstrates why sport and first-window movie content is not essential for competition in the provision of Pay TV services or audio-visual services more broadly.

66.7.1 

66.7.2 [redacted]

66.8 In sum, as the range and volume of content that is attractive to viewers has proliferated in recent years, first-window Hollywood movies have been declining in importance. Similar trends are appearing for live sport. Providers of retail audio-visual services and those who package channels do not require access to particular content in order to compete because they can build compelling offerings from a wide variety of content that is capable of attracting audiences/subscribers. The exponential growth of Viu to 4.5 million monthly customers in less than 4 years without significant amounts of Hollywood and sports content is illustrative. Another example is eMedia's Openview service (dealt with in more detail below) which has experienced rapid growth despite a lack of sports content and its movie content being predominantly library, non-first window movies.

[redacted]

67 **Local content has proven to be very valuable**. The figure above highlights the important role played by local content in the viewing and Pay TV subscription decisions of SA households, particularly at the lower end. Local content meets unique viewing needs related to culture, representation, language and geography that cannot be fulfilled by acquired international content. Indeed, local content is the most viewed content in South Africa. As a result, investment in local content is an important means of competing and growing a subscriber base.

67.1 Demand for local content is also driving investment in local content by global OTT providers such as Netflix. This is demonstrated by investment in local original South African content including "Queen Sono", "Blood and Water", "Shadow", "Miseducation", "Savage Beauty"; "Kings of Joburg", "Heart of the Hunter" and

"Soweto Love Story".[83] Viu has also produced its own local original shows including "Six in the City" and "Courting Anathi".[84] Providers such as Netflix have made these investments because they see its importance for attracting subscribers.[85] Indeed, Netflix appears to have prioritised investment in local content over that of live sporting events – suggesting that it considers such investment more important for growth than acquiring sports content.

67.2 There is no scarcity of local content rights and there are no material barriers to entrants and competitors in acquiring or producing their own local content. New and existing local and international operators have been able to acquire or produce local content for inclusion in their services within a short period and local content can be developed relatively inexpensively; either through building in-house capabilities or commissioning local content from independent producers. The strides made by Netflix demonstrate these propositions. Notably, Viu has also partially attributed its significant growth in South Africa to the popularity of local content.[86]

67.3 This demonstrates that popular, high-quality content is available to providers of retail audio-visual services, either by acquisition or own production. Furthermore, as explained above, there is no single category of content which is particularly important or essential for building audiences and subscriber bases. A range of content, including local content, can fulfil this purpose.

68 Investment in content is but one indicator of the increased competition between traditional FTA and Pay TV services, and the significant and increasing number of new OTT entrants in South Africa. These players have considerable resources, access to attractive content, and they have packages for a wide range of South African consumers. Providers of OTT services are not encumbered by regulation and licence conditions. They do not even require a local presence to operate.

---

83 Ferreira. T,. (2023) Netflix spotlights local productions and partnerships, commits to variety and authenticity. Available online: https://www.news24.com/life/arts-and-entertainment/tv/netflix-spotlights-local-productions-and-partnerships-commits-to-variety-and-authenticity-20230905

84 M. Gavaza. 22 October 2023, Local content pushes Viu's SA growth, Business Live. Available from: https://www.businesslive.co.za/bd/companies/telecoms-and-technology/2023-10-22-local-content-pushes-vius-sa-growth/

85 See paragraphs 180.2, 181.2, 181.3, 233.4 and 341.3 of MultiChoice's 2019 representations

86 M. Gavaza. 22 October 2023, Local content pushes Viu's SA growth, Business Live. Available from: https://www.businesslive.co.za/bd/companies/telecoms-and-technology/2023-10-22-local-content-pushes-vius-sa-growth/

69 These OTT services are thus firmly within the relevant retail market for the Authority's inquiry. This is so because of established market definition principles. A forward-looking assessment of the effectiveness of competition cannot be conducted without fully appreciating the fierce competition between traditional Pay TV and OTT services.

Expansion and improvement of competition from FTA offerings

70 Apart from competition from other traditional Pay TV providers like StarSat, MultiChoice continues to face competition from the public broadcaster and eMedia for audiences and subscribers. This is because the first decision consumers make when considering paid-for services is whether their viewing requirements are adequately satisfied by free services (FTA TV as well as free OTT services) and other alternatives (e.g. OOH viewing). This decision is particularly salient for the vast majority of South Africans who are low-income, price-sensitive consumers, but is increasingly so for other DStv subscribers as well. All else equal, the more attractive free content there is, the less need for such consumers to pay for audio-visual content.

71 Both the SABC and eMedia (via e.tv and Openview) have highly attractive and expanding content offerings, and competition between them and Pay TV providers like MultiChoice is particularly fierce. They cater to South African consumers' demand for local content by offering extensive, popular local content. Programmes such as "Uzalo" and "Skeem Saam" (SABC 1) and "Scandal" (e.tv) consistently rank amongst the top 10 most popular TV shows in the country.

72 Since publication of the Authority's 2019 Draft Findings document, both broadcasters have been highly successful in growing their offerings, by adding channels to their service offering (including new OTT offerings) and expanding their operations. We outline these developments in more detail below.

eMedia

73 eMedia has performed remarkably well over time, particularly in recent years. Based on prime-time audience share, eMedia is the biggest broadcaster in South Africa as per its 2023 annual report[87] and it has managed to grow its prime-time audience share ahead

[87] eMedia Holdings Limited 2023 Integrated Annual Report, p.23

of the SABC and MultiChoice from 24.1% in FY2019 to 35% in mid-FY2024 (i.e. the 6 months ended September 2023). These rising audience shares have translated into year-on-year growth in TV advertising revenue - growth rates which have, according to eMedia, outperformed those of the industry since at least FY2021.[88] eMedia TV advertising revenue has grown by 33% between FY2019 (R1.58 billion) and FY 2023 (R2.10 billion).

74 Part of the reason for eMedia's success is its growing and diversified range of retail services consisting of its -

74.1 e.tv FTA channel;

74.2 Openview, its FTA DTH service;

74.3 a multi-channel DTT offering;

74.4 OTT service eVOD; and

74.5 Ultraview, a DTH Pay TV service.

74.6 Each of these services is discussed in more detail below.

74.7 *e.tv.* e.tv was established in 1998 and is described by eMedia as the first and only FTA commercial TV station in the country.[89] It started as an analogue-only channel, and is now additionally available on eMedia's Openview, DTT and eVOD services, as well as DStv. Daily local prime time programmes on e.tv such as "Scandal!" and "House of Zwide" are amongst the most popular programmes across terrestrial channels in South Africa, and e.tv has consistently held a prime-time audience share above 20% since FY2021.[90]

74.8 *Openview*. eMedia has offered its FTA digital satellite service, Openview, since 2013. In recent years, however, it has performed particularly well.

---

88 eMedia Holdings Limited 2021 Integrated Annual Report, p.49; eMedia Holdings Limited 2022 Integrated Annual Report, p.50; and eMedia Holdings Limited 2023 Integrated Annual Report, p.10

89 eMedia Holdings Limited 2023 Integrated Annual Report, p.6

90 eMedia Holdings Limited 2021 Integrated Annual Report, p.11; eMedia Holdings Limited 2022 Integrated Annual Report, p.13; and eMedia Holdings Limited 2023 Integrated Annual Report, p.58

74.8.1 Openview currently has 21 television channels (and 28 radio stations), covering a range of genres such as general entertainment, children's content, reality television, news and the SABC's sports channel, which eMedia started carrying after it had shut down its own sports channel.[91] This offering includes new channels launched in the last three years, such as Power Up,[92] ePlesier[93] and eRewind[94] (which was renamed eXposed and has recently been rebranded as eSeries[95]), the latter of which is reported to have contributed towards growing eMedia's prime-time audience share.[96]

74.8.2 Use of Openview requires a set-top box (the current retail price starts at R699) and a satellite dish on the IS-20 satellite – the same as a DStv satellite dish. This makes substitution from DStv to Openview easier for any DStv subscriber.[97] Indeed, as is illustrated in the figure below, Openview has been directly targeting DStv subscribers on this basis.

Figure 6: Openview Advertisement Main Road Bryanston, Johannesburg

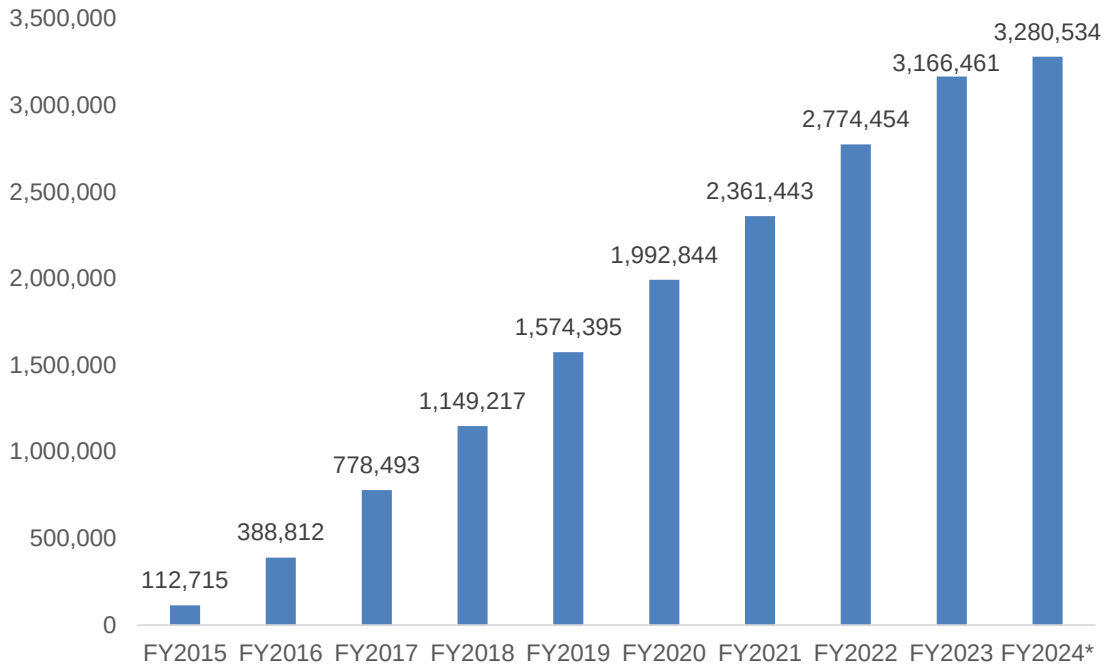


Source: Photo taken on 26 July 2023

91 https://www.openview.co.za/channels
92 eMedia Holdings Limited 2023 Integrated Annual Report, p.25
93 eMedia Holdings Limited 2022 Integrated Annual Report, p.14
94 eMedia Holdings Limited 2020 Integrated Annual Report, p.14
95 https://www.etv.co.za/scoop/eseries
96 eMedia Holdings Limited 2020 Integrated Annual Report, p.14;
97 https://www.openview.co.za/help-faqs#:~:text=Openview%20decoder%20prices%20start%20at,(pointing%20North%2DEast).

74.8.3 Openview has experienced phenomenal growth over time and in recent years, with STB activations increasing from 1.57m in FY2019 to 3.28m in mid FY2024[98] - amounting to a compound annual growth rate of 18%. This growth in STB activations has occurred amidst eMedia reducing[99] and eventually no longer finding it necessary to subsidise the cost of STBs.[100] Again, this suggests that the cost of an Openview STB is not a barrier to switching to this service or Openview's growth. Further, the rapid growth rate has been consistent even in the absence of sports content (whether its own or riding on the back of the SABC's investments in sports content). Indeed, eMedia told the High Court in recent litigation that its growth was not dependent on sports content.".[101]

Figure 7: Total Openview STB Activations (FY2015 to mid FY2024)

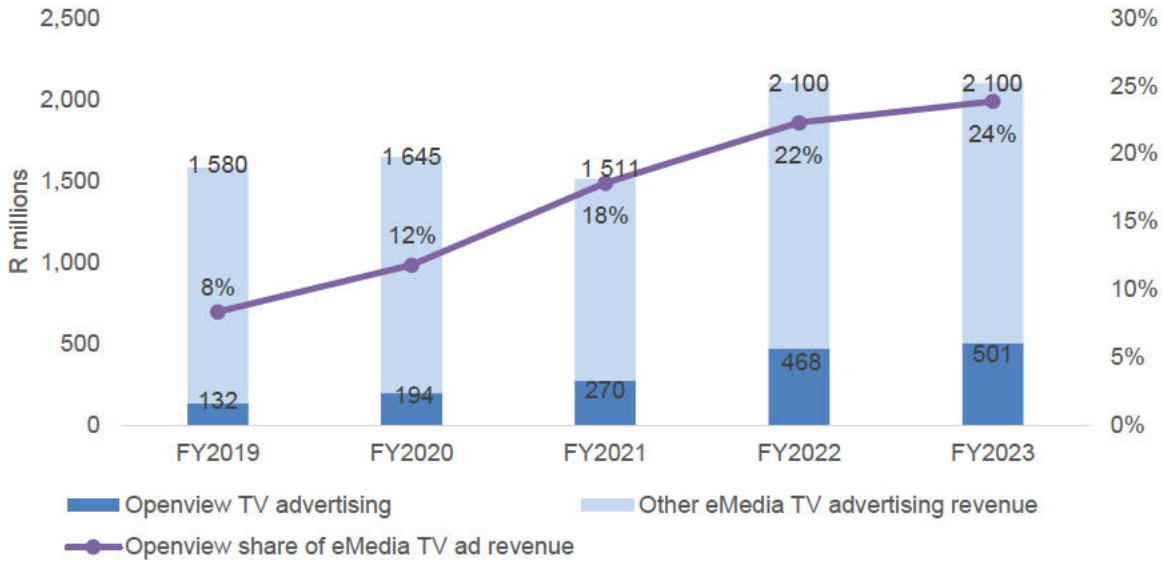


Source: eMedia annual reports.
*Notes: *Openview STB activations as of September 2023 (mid-FY2024)*

98 eMedia Holdings Integrated Annual Report for the year ended 31 March 2023, p.25 and eMedia Holdings Interim results for the six months ended 30 September 2023, p.2
99 eMedia Holdings Limited 2019 Integrated Annual Report, p.45
100 eMedia Holdings Limited 2021 Integrated Annual Report, p.50
101 Replying Affidavit in the main application and answering affidavit in the counter-application of Antonio Lee in eMedia's urgent application at the High Court of South Africa (Gauteng Division, Johannesburg), case no. 2023/097814, paras 21-22

74.9 Openview's success, without having invested in Hollywood first run movies and sports content, is also reflected in its revenues from TV advertising which virtually quadrupled from R132 million in FY2019[102] to R501 million in FY2023.[103] As a result, Openview comprises a growing share of eMedia's total TV advertising revenue from 8% in FY2019 to 24% in FY2023.

Figure 8: eMedia TV advertising revenue (FY2019 to FY2023)



Source: eMedia Holdings Limited Annual Integrated Reports

74.10 *Multi-channel DTT offering.* eMedia also has a DTT offering comprising of its e.tv, eExtra, eMovies Extra and eToonz channels that can be accessed via an integrated digital television set or using an external FTA set-top box. Notably eMedia's DTT offering comprises a non-negligible and growing part of the eMedia retail business. According to TAMS data,[104] in FY2020 DTT accounted for on average 11% of eExtra, eMovies Extra and eToonz viewership. This had increased to 15% for the period January to June 2023.

---

102 eMedia Holdings Integrated Annual Report for the year ended 31 March 2019, p.45

103 eMedia Holdings Integrated Annual Report for the year ended 31 March 2023, p.58

104 Viewership of eExtra, eMovies Extra and eToonz, measured by Average Minute Rating (AMR) - average number of people watching a given channel over a minute - from 06:00:00 to 23:59:59 as reported in TAMS Adults 15+ Breaks data. We understand Breaks data should be utilised because it reflects viewership of advertisements (during breaks in television programming), and this viewership is where advertising revenue is derived. TAMS data reports total national viewership and viewership on DStv, Pay TV and OVHD (Openview). Viewership on DTT and analogue is not reported but can be determined by subtracting DStv and Openview viewership from total national viewership. Since these channels are only on DTT (and not analogue), the remaining viewership after subtracting DStv and Openview from national viewership, amounts to DTT viewership eExtra, eMovies Extra and eToonz.

74.11 *eVOD*. eMedia has expanded into providing OTT services by offering its streaming service, eVOD, launched in September 2021. eMedia has also recently launched an upgrade to its streaming app.[105]

74.11.1 On-demand content on eVOD comprises exclusive eMedia-produced local movies and series (eVOD Originals), other local content produced by eMedia such as its daily prime-time soap operas "Scandal!" and "House of Zwide", and international movies and series.[106] Users of eVOD are also able to watch eMedia's e.tv and eExtra linear channels from 17:00 and 22:00.[107] The service therefore allows for both non-linear and linear viewing.

74.11.2 eVOD offers both free (with advertising) and paid (premium) options. The free service includes all eVOD "Originals" content, certain local and international movies and series, the linear channels e.tv and eExtra. The paid service provides viewers with access to a broader range of exclusive local and international content beyond what is included in the free service. A subscription to eVOD's premium service is currently set at R29.99 per month.[108]

74.11.3 eMedia reports that it has made extensive investments into content for eVOD, with eMedia producing original movies and series for the streaming service with a strong focus on local content.[109] As of September 2023, there were over 5,000 hours of content on eVOD[110] and over the two financial years in which eVOD has been operational, the total catalogue size increased by 17% from about 289,000 minutes in FY2022 to 337,000 minutes in FY2023.[111]

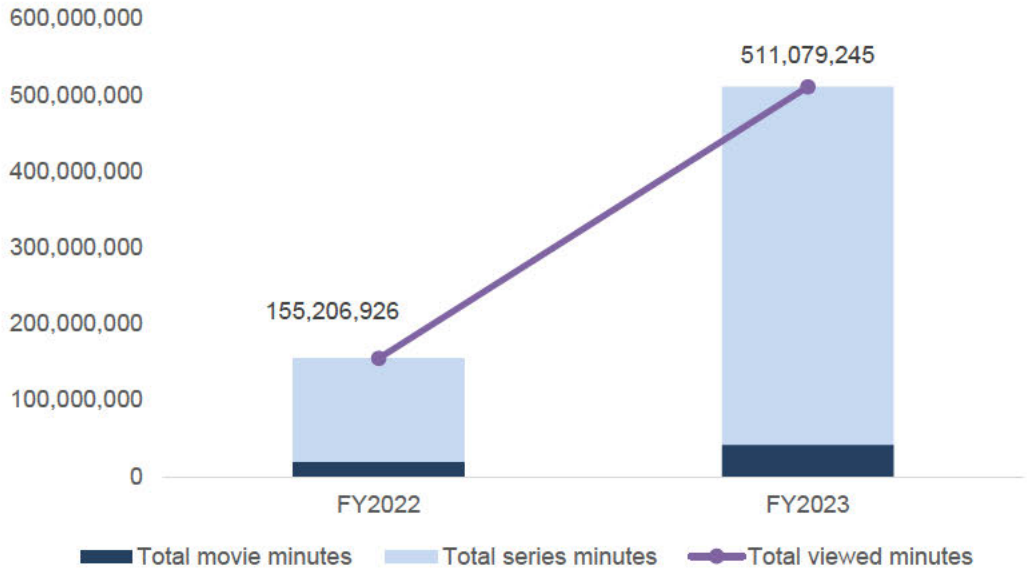
74.11.4 Usage of eVOD has grown significantly: as of January 2024, eVOD has reached 970,000 registrations.[112] Compared to the 461,611 subscribers recorded as at the end of FY2022 (the first financial year in which it

---

105 The Media Online, 1 February 2024, eVOD , The upgraded app experience is here, available: https://themediaonline.co.za/2024/02/evod-the-upgraded-app-experience-is-here/
106 https://watch.evod.co.za/category/5f45233ff0a4ca2277d30ca1/Home
107 See Bizcommunity article issued by eMedia on 23 January 2024, available: https://www.bizcommunity.com/article/evod-sas-fastest-growing-subscription-free-streaming-platform-890553a
108 https://www.evod.co.za/
109 eMedia Holdings Limited 2022 Integrated Annual Report, p.16
110 eMedia Holdings Interim results for the six months ended 30 September 2023, p.3
111 eMedia Holdings Limited 2023 Integrated Annual Report. P.16 and eMedia Holdings Limited 2023 Integrated Annual Report, p.1
112 https://www.bizcommunity.com/article/evod-sas-fastest-growing-subscription-free-streaming-platform-890553a

operated),[113] eVOD subscriptions have more than doubled within two and a half years. Average daily minutes viewed in both FY2022 and FY2023 exceeded 1.5 million, and total viewed minutes on eVOD more than tripled from 155 million to 511 million minutes between FY2022[114] and FY2023,[115] mainly driven by series as depicted in the figure below. This has resulted in positive eMedia investor sentiment, with eMedia planning to invest R100m per annum in local content for eVOD.[116]

Figure 9: Total Viewed Minutes on eVOD (FY 2022 to FY2023)



Source: eMedia Holdings Limited Integrated Annual Reports

74.12 *Ultraview:* eMedia has recently expanded into traditional Pay TV by launching its Ultraview service in March 2023, which can be accessed via the Openview STB. This service makes use of a licence that was issued to eMedia more than a decade ago. This offering currently comprises two packages, Edge (previously known as "Pride") and Spice, priced at R74.99 and R119.99 per month respectively with two channels each offering exclusive, niche content. According to the Ultraview website, eMedia is expected to add two additional packages to its offering.[117] eMedia is the

---

113 eMedia Holdings Limited 2022 Integrated Annual Report, p.16
114 Note that this only constitutes only the first 7 months (August 2021 to March 2022) that eVOD was in operation
115 eMedia Holdings Limited 2023 Integrated Annual Report. P.16 and eMedia Holdings Limited 2023 Integrated Annual Report, p.28
116 eMedia Holdings Limited 2023 Integrated Annual Report, p.59
117 eMedia's Ultraview website. Home: Packages. Available online: https://www.ultraview.tv/

only broadcaster in South Africa who holds both a commercial free-to-air and a subscription broadcasting licence. Offering the Ultraview service using the Openview STB enables eMedia to generate advertising revenue from consumers who churn from its subscription service. When a subscriber churns from eMedia's subscription service, that subscriber can still watch the Openview free service and generate advertising revenue for eMedia. Indeed, the Ultraview website claims ***"With ONE decoder, you have the option to experience two worlds. Openview remains FREE, Ultraview is for a FEE."***[118] This is a commercial advantage, stemming from eMedia having both subscription and free-to-air licenses, that no other broadcaster in South Africa has.

The public broadcaster, the SABC

75 Content on SABC channels is a mainstay on the list of most popular television programmes in the country. In paragraph 76, below, we list some of the ways in which SABC remains highly popular and relevant. However, since the Authority's Draft Findings Document, the SABC has significantly expanded its offering in ways that are reflective of fundamental changes in the provision and consumption of audio-visual services:

75.1 *Launch of additional channels via DTT.* Supported by digital migration, the SABC has expanded its FTA offering from three television channels - SABC 1, SABC 2 and S3 (formerly SABC 3) - to six, with the addition of SABC News/SABC Lehae (local language news channel), SABC Education (launched in April 2020),[119] and SABC Sport (launched in June 2021).[120] SABC Sport is a dedicated 24-hour sports channel which the SABC also supplies for inclusion in eMedia's Openview bouquet. According to TAMS data, between January and June 2023, DTT accounted for 48% and 25% of viewership for the SABC Sports and News channels respectively. This is a notable increase from 2022, when DTT accounted for 33% and 20% of viewership for each of these channels respectively.

75.2 *SABC+.* The SABC has also expanded into providing OTT services, launching SABC+ in November 2022. SABC+ is a free service, accessible via the mobile app

---

118 https://www.ultraview.tv/

119 SABC website (2020) Available online: https://www.sabc.co.za/sabc/sabc-launches-a-new-television-channel-sabc-education/

120 Labuschagne. H,. (2021) SABC launches 24-hour sports channel https://mybroadband.co.za/news/broadcasting/403355-sabc-launches-24-hour-sports-channel.html

or through a web browser. It enables both linear and non-linear viewing by providing users with access to all SABC channels (including its 3 new additional channels) and various VOD programmes in its Catchup section including SABC's daily soap operas (Uzalo, Skeem Saam, Muvhango, etc) and programmes across various content categories such as The Sauce, Asikhulume and Sadhana.

76 In relation to its three historical channels, SABC 1 has remained the most popular channel during prime-time.

76.1 Uzalo has consistently been the most watched programme in South Africa.[121] Other popular daily SABC programmes include Generations the Legacy, Skeem Saam (both on SABC 1) and Muvhango (SABC 2). Overall, SABC programming has accounted for the majority (at least 60%) of the top 20 most watched programmes across terrestrial channels between FY2019 and FY2023.

76.2 In addition to its popular local programming, the SABC continues to invest in and acquire a wide range of attractive sports content for its offerings, including the local Premier Soccer League (PSL), the English Premier League (EPL), most recently the cricket and rugby world cups (2023) and the 2024 African Cup of Nations (AFCON).

77 It is therefore evident that the SABC too has, along with the significant changes occurring in the audio-visual services market, evolved and expanded its own offering in new ways, while continuing to provide highly popular content.

78 In conclusion as concerns South African FTA offerings, it is evident from the information above that initiatives by South African FTA's have served to increase the competitiveness of FTA TV offerings against other offerings available to consumers in the market. Looking ahead, the development of DTT and OTT technologies provides an additional basis for new FTA TV entrants in SA.

79 FTA TV is, and continues to be, an important source of competition to Pay TV services.

---

[121] SABC 2023 Annual Report, p.34; SABC 2022 Annual Report, p. 45; SABC 2021 Annual Report, p. 41; and SABC 2019 Annual Report p.46

The impact of these dynamics on DStv Services

80 The proliferation of OTT services, enhancement of FTA and dramatic uptake of connectivity have intensified competition in the retail audio-visual services market. There is exponentially more content available than ever before. And South African consumers can choose between a significant number of high-quality, affordable retail audio-visual services offerings catering to their different needs.

81 These developments have, in turn, led to new trends amongst consumers of traditional Pay TV services:

81.1 Increased "**cord-cutting**" where Pay TV subscribers cancel or simply do not renew their subscriptions due to a switch to OTT or FTA services (or both). In this case, a Pay TV provider experiences full revenue loss from that consumer. This consumer switching behaviour is possible because MultiChoice does not tie its DStv subscribers to long-term contracts and they can switch away at any month end.

81.2 Increased "**cord-shaving**" where Pay TV subscribers downgrade to a lower tier bouquet and replace the content they no longer get with OTT or FTA services. In this case, a Pay TV provider experiences a reduction in revenue from that consumer. For example, when a DStv Premium subscriber cord-shaves to the DStv Compact bouquet, [redacted]

81.3 The industry has also observed significant increases in "**cord-nevers**", that is, people that could have subscribed to Pay TV services but are not subscribing to Pay TV in the first place. These consumers feel they do not need Pay TV given the quality and availability of OTT services together with FTA and OOH viewing alternatives.

82 This is competition for Pay TV services. The loss of subscribers and revenue that result from cord-cutting, cord-shaving and cord-nevering is the consequence of competitive pressure exerted on Pay TV providers by OTT and traditional broadcasters. In 2019 this trend was most evident amongst DStv Premium subscriptions. Since 2019, this trend has expanded to lower-tier bouquets, as explained below.

83 *Cord-cutting*. The overall effect of the increasingly competitive landscape can be seen starkly [redacted].

83.1 [redacted]

[redacted]

83.2 [redacted]

83.3

83.4

[122] Active subscribers refers to the number of subscribers as measured by MultiChoice at the end of each month.

[redacted]

[redacted]

[redacted]

83.5 [redacted]

[123] Disconnections minus reconnections, which is a measure of subscribers that have voluntarily disconnected.

[redacted]

[redacted]

83.6 The survey evidence gathered by MultiChoice shows that these disconnected subscribers are switching to competitor products including VOD and FTA.

83.6.1 [redacted]

83.6.2 This survey also showed that, as per the figure below, a significant portion of subscribers that disconnected in October 2023 are now watching OTT (paid and free VOD) and FTA services. [redacted]

83.6.2.1 [redacted]

83.6.2.2 The proportion of disconnected subscribers viewing paid VOD is **high** [redacted]

[redacted]

83.6.3 [redacted]

83.6.4 Further, the survey confirms that **FTA** is an important competitor across the entire market. [redacted] This aligns with the fact that many households are likely to be supplementing the use of international OTT with local FTA content. The combination of FTA content and OTT services competes with DStv bouquets.

84 *Cord shaving.* MultiChoice's subscriber data also demonstrates a significant increase in the prevalence of cord-shaving:[124]

84.1 [redacted] This is shown in the figure below.

[124] The extent of cord shaving for each bouquet is measured by subtracting **downgrades out** (the number of active subscribers that have downgraded to a lower tier bouquet) from **upgrades in** (the number of active subscribers that have upgraded from a lower-tier bouquet to the (higher-tier) bouquet in question). This is calculates net downgrades. Where downgrades out exceed upgrades in, the netted off figure is negative. In such instances, more subscribers are downgrading out of the bouquet than there are upgrades into the bouquet – an indication of an overall trend of cord shaving.

[125] EasyView is also not included. This is because as the lowest tier bouquet, it is not possible to upgrade in or downgrade out of EasyView

[redacted]

85 *Cord nevers.* [redacted]

[redacted]

[126] (i.e., those that have not been DStv subscribers before)



86 The overall effect of competition on MultiChoice specifically can also be seen in the **significant falls in quality adjusted prices for DStv bouquets** over recent years. (See also the response to Q2.8).

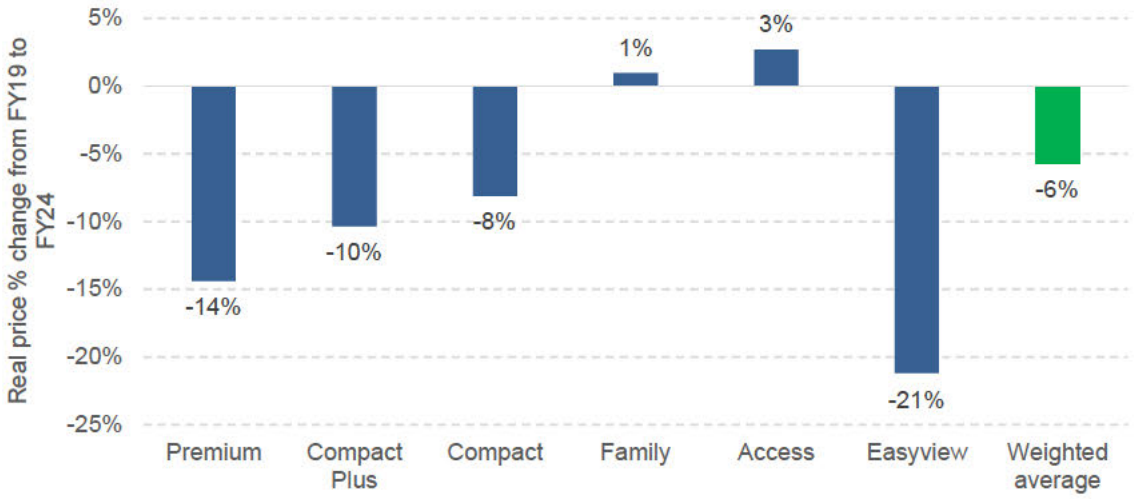
86.1 Bouquet prices in real terms (i.e., inflation adjusted) have fallen on average as depicted in the figure below. In real terms, DStv's weighted average bouquet price has decreased by 6% between April 2018 and April 2023. DStv Premium bouquet prices have fallen by 14%, while DStv Compact Plus and DStv Compact bouquet prices have fallen by 10% and 8% respectively between April 2018 (i.e., FY2019) and April 2023 (i.e., FY2024) in real terms.

86.2 Yet, there have been significant **increases in content** included within these bouquets[127] and in value-added services, such as the ability to watch content on any device at any time and free or discounted access to the Showmax service for DStv Premium, DStv Compact Plus, DStv Compact, Dstv Family and DStv Access subscribers. In other words, there has been an overall increase in product-offering (i.e. volume and value of service to subscribers), without a correlating increase in price. There are costs associated with providing these value-added services to consumers. The quality-adjusted value for subscribers of the DStv bouquets has therefore increased substantially without a commensurate increase in prices. This

[127] Since FY2019, the number of channels on DStv Premium and Compact Plus have increased by 10% and 16% respectively. The number of channels on DStv Compact has increased by 19%. The number of channels on the DStv Family, Access and EasyView bouquets have increased by 28%, 32% and 18% respectively.

is clear evidence of the direct effect of competition that MultiChoice, as a Pay TV broadcaster, faces from other Pay TV services, OTT services and the developments in FTA services described above.

Figure 16: DStv bouquet real price changes FY2019 – FY2024



Source: MultiChoice bouquet price and subscriber data, Stats SA[128]

87 This means that MultiChoice has been unable to pass on any material price increases above inflation, in an environment in which, its programming costs have increased by more than inflation.

88 Combined with the impact of increased levels of cord-cutting[129], cord-shaving and cord-nevers, MultiChoice's average revenue per user ("ARPU")[130] has been declining significantly over recent years.

---

128 CPI and bouquet prices refer to the starting month (April) in the applicable financial year. Every year MultiChoice announces bouquet prices effective from April. CPI for April 2018 (the start of the 2019 financial year) has been used as the base for inflation adjustment to reflect real price increases from FY2019 to FY2023. Subscriber data is based on the closing balance in March of each financial year, with the exception of FY2024, where the closing balance references November 2023

129 This impact has been felt in particular for higher tier bouquets

130 ARPU is an operating measure of the average revenue per subscriber (or user) in the business on a monthly basis. It is calculated by dividing average monthly subscription fee revenue for the period (total subscription fee revenue during the period divided by the number of months in the period) by the average number of subscribers during the period (the number of subscribers at the beginning of the period plus the number of subscribers at the end of the period, divided by 2). Subscription fee revenue includes BoxOffice rental income but excludes decoder insurance premiums and reconnection fees which are disclosed as other revenue in terms of IFRS.

89 In FY2019, the ARPU MultiChoice derived from subscribers was R302[131]. By FY2023 this had reduced to R256.[132] This is an average revenue decrease of 15% per subscriber in nominal terms and 30% when inflation is taken into account.

90 MultiChoice's latest interim results for the first half of FY2024 report a further 3% nominal decline in the ARPU for the South African business relative to the same period in the previous year.[133]

91 This is again clear and significant evidence of the highly dynamic and competitive environment in which MultiChoice is operating, and its impact on MultiChoice.

Q2.15: HOW DO YOU DIFFERENTIATE YOUR SERVICES FROM THOSE OF YOUR COMPETITORS?

92 The competitive pressure from the multitude of operators in the audio-visual services market has meant that MultiChoice has had to respond competitively to retain its subscriber base and grow. MultiChoice has increased its spend across a range of initiatives related to improving value for customers, reflecting the enormous effort required to retain and compete for subscribers in a very competitive environment. This includes spend on content, improving the technical platform by investing in technology and STBs, focused retention efforts to keep customers engaged and connected, and enhanced customer service interactions with MultiChoice's customer service team.

93 MultiChoice constantly assesses its subscribers' needs and content preferences and ensures that it includes new and distinctive content on its services in order to differentiate its services from competitors, while remaining relevant.

94 MultiChoice has invested considerable time and effort in continually reviewing the attractiveness of content (programmes and channels) available on its bouquets relative to alternatives in the market. Changes to bouquets are typically made to improve the attractiveness of the bouquet to actual and potential subscribers, and/or to strengthen a genre by adding channels within that genre. As consumer preferences change over time, content is added or removed to reflect those changes. Where content gaps exist, such

131 MultiChoice Group Limited integrated annual report 2019, p.126
132 MultiChoice Group Limited integrated annual report 2023, p.75
133 ARPU is calculated by dividing monthly subscription fee revenue for the period by the average number of 90-day active subscribers at the beginning and at the end of the period. MultiChoice Group, 1H FY24 Results Presentation, slide.14

as local content, MultiChoice has invested in developing that content through its sister company, M-Net. For example, MultiChoice has responded to increased interest in local content and has placed significant focus on commissioning local content programming that is unique to MultiChoice, broadening the diversity and depth of local content entertainment available to South African consumers.

95 MultiChoice also offers consumers a choice of bouquets and video-on-demand services. It is therefore able to offer consumers a wide range of distinct content and channels, at various prices.

96 The provision of audio-visual services extends beyond just the content that consumers have access to. MultiChoice differentiates its services and continuously innovates, including keeping up with technological advancements, in order to meet evolving consumer preferences and habits and ensure that its services remain current:

96.1 **Decoder and platform innovation**. Continual investment and improvements in MultiChoice's technical platform such as new and better STB functionality (eg improvements to memory capabilities and new STBs such as DStv Explora and Explora Ultra), value added services (like DStv Catch Up and BoxOffice). As technology has advanced, MultiChoice has continued to innovate by offering its services over different platforms and by introducing new technologies. The reduction in STB retail prices (and concomitant increases in subsidies) reflects a deliberate strategy to minimise the upfront cost of acquiring DStv in the context where these upfront costs are considerably cheaper for OTT services.

96.2 **Customer service**. MultiChoice's focus on customer service has been sharpened as competition has intensified, so as to put the DStv customer first in a very deliberate and tangible way. Including ongoing improvements to its self-service app, investments have been made in improving the user experience when interacting with MultiChoice's service team.

96.3 **Pricing**. As canvassed in paragraphs 33 and 86 above, the increasingly competitive landscape has pressured MultiChoice to contain real price increases across all bouquets, whilst at the same time increasing consumer value.

96.4 **Cost efficiencies**. MultiChoice has also had to focus on improving its operational efficiency and contain operational costs.

Q2.16 INDICATE THE TYPE OF TECHNOLOGY YOUR CUSTOMERS USE TO ACCESS YOUR SERVICES, I.E., SET-TOP BOXES, INTERNET, DIGITAL TV, ANALOGUE TV. PLEASE PROVIDE THE INFORMATION FOR THE PERIOD 2019 TO DATE.

Q2.16.1 IF YOUR CUSTOMERS UTILISE MORE THAN ONE TYPE OF TECHNOLOGY TO ACCESS YOUR SERVICES , KINDLY INDICATE AND PROVIDE THE PROPORTION BETWEEN THE DIFFERENT TECHNOLOGIES FOR THE PERIOD

97 As indicated in response to Q2.2 under paragraph 21, subscribers to MultiChoice's services can access the services via satellite technology (via an STB) and/or the internet.

98 All subscribers with a traditional satellite subscription accessible via a STB can also access the bouquet that they have subscribed to through the DStv Stream app, DStv website and DStv smart TV app. This is a value-added service available to subscribers for free. Subscribers who opt for the streaming only option (i.e., those who do not require a STB) can access the services via the internet on the DStv website or via the DStv apps on internet capable devices including smartphones, tablets, laptops and smart TVs.

99 Because some subscribers can, and do, access MultiChoice's service using both delivery technologies (STB and internet), MultiChoice is unable to provide a reliable indication of the proportion of its subscribers that access its services via an STB versus the internet. MultiChoice cannot determine with any certainty which delivery technology to ascribe to each of its subscribers because any attempt to do so will result in double-counting.

Q2.17 ARE THE PRICES DIFFERENT DEPENDING ON THE TYPE OF PLATFORM OR TECHNOLOGY TYPE (I.E., SATELLITE, INTERNET, ETC.) USED BY CUSTOMERS TO ACCESS CONTENT?

Q2.17.1 IF SO, PLEASE PROVIDE THE MAIN REASONS FOR THE PRICE DIFFERENCES

100 As indicated in paragraph 98 above, a DStv subscriber who takes up a traditional satellite related subscription is free to watch their service on the internet without paying any additional fee. These subscribers can simultaneously watch the service that they subscribe to via their STB and on a streaming ready device (e.g., smartphone, tablet, laptop, and smart TV). The DStv services can be watched via the DStv Stream App and DStv website.

101 Subscribers who opt for the DStv Stream service (the internet only option) pay a different, somewhat lower price to the same satellite based bouquet. This is because these subscribers do not make use of satellite-related infrastructure and have less

opportunities for simultaneous viewing. Such a subscriber is unable to watch their content on a STB and can only enjoy one stream at a time, that is, they can only stream the service on one internet enabled device at a time.

Q2.17.2: DO THE DIFFERENT SETS OF CUSTOMERS (STREAMING-ONLY, SET-TOP BOX, FREE TO AIR ETC) CUSTOMERS GET THE SAME NUMBER OF PACKAGE AND/OR CHANNEL CHOICES? IF NOT, PLEASE PROVIDE REASONS

102 Whether a subscriber streams the various DStv bouquets or whether they access them through a STB, each subscriber generally gets the same channels and programmes relevant to the bouquet they have subscribed to.

Q2.18 WHAT PROPORTION OF YOUR SUBSCRIBERS/VIEWERS WATCH LINEAR LIVE TV AS COMPARED TO VIDEO ON DEMAND? PROVIDE A BREAKDOWN FOR BOTH SET-TOP BOX VIEWERS AND STREAMING-ONLY SUBSCRIBERS/VIEWER.

103 Audio-visual services have historically been consumed on a linear basis, but this has changed dramatically with the rapid entry and expansion of OTT services. As demonstrated in response to Q2.13, this has resulted in growth of VOD (non-linear) viewership. Because MultiChoice's subscribers can watch both linear and non-linear content, it is not possible to provide the proportion of MultiChoice's subscribers that view linear content versus non-linear content without it resulting in double-counting. MultiChoice is also unable to track the time spent by individual subscribers watching linear content as compared to non-linear content.

104 However, the evolution of viewership outside of linear viewing within MultiChoice's own services is demonstrated in Figure 2 in response to Q2.13 (under paragraph 64.4 above). [redacted] subscribers. This is also supported by the survey evidence on non-linear viewing discussed in paragraphs 64.3 and 64.4 in the response to Q2.13.

Q2.19 FOR SERVICES PROVIDED THROUGH THE INTERNET: WHAT IS THE RECOMMENDED SPEED AND QUALITY OF BROADBAND SERVICES TO ENSURE UNINTERRUPTED VIEWING FOR BOTH LINEAR LIVE TV AND VOD CONTENT?

105 The broadband speed requirement for live streaming of audio-visual services is low. HD content can be streamed from any service above 1.5Mbps connection speed and the lowest quality SD can be streamed at 300Kbps.

106 DStv recommends that subscribers stream services using internet speeds of 4 Mbps and higher. Showmax considers that a minimum speed of 2 Mbps can be used to stream its service and recommends an uncapped 4 Mbps or higher speed for a subscriber to obtain the best experience in viewing.

107 These recommended speeds align with the speeds recommended by MultiChoice's competitors. Top-rated services like Netflix recommend the following speeds for streaming its services:[134]

Video Quality	Resolution	Recommended Speeds
High Definition (HD)	720p	3 Mbps or higher
Full High Definition (FHD)	1080p	5 Mbps or higher
Ultra High Definition (UHD)	4K	15 Mbps or higher

108 Amazon Prime Video recommends minimum download speeds of 1 Mbps for SD content and 5 Mbps for HD content.[135]

109 As demonstrated in paragraph 65.2, internet speeds in South Africa already exceed these minimum requirements meaning that South Africa has streaming capable internet. At the same time technological advancements which enable greater compression of data, and its concomitant reduced consumption are lowering the speeds required for streaming.

Q2.20: PROVIDE A DESCRIPTION OF THE VARIOUS CATEGORIES OF CONTENT PROVIDED ON YOUR SERVICE

110 MultiChoice provides a range of content genres on its various services. Within each content genre, MultiChoice provides a mix of local and international content. A description of each content genre is provided below:

Genre	Description
General entertainment	This genre consists of various sub-categories, such as series, reality, telenovelas, sitcoms and variety
Movies	This genre consists of both local and international motion pictures "movies"

134 https://help.netflix.com/en/node/306
135 https://www.primevideo.com/help?nodeId=GP57SKQ7CB5DRS6F

Genre	Description
Lifestyle and culture	This genre consists of factual programming in arts and culture, food, fashion and beauty
Documentary	This genre consists of non-fiction programming intended to document some aspect of reality, primarily for the purposes of instruction or maintaining a historical record. The main sub-genres are wildlife, nature, crime re-enactments and human nature
Sport	This genre consists of sporting events involving different sporting codes including live and non-live matches, magazine shows and highlights programmes
Free-to-air	This genre consists of free-to-air public, commercial or community programming
Children	This genre is designed specifically for young children, and often contains material that entertains and educates them. It is largely characterised by animated series
Music	This genre consists of music videos across specific genres, such as pop, RnB, gospel, hip hop, rock and jazz
Religion	This genre deals with religious themes and features various figures who talk about religious texts and various topics relating to religion
News and commerce	This genre focuses on socio-economic, political, business and current affairs news and analysis
Specialist	Various genres appear across various foreign languages, such as French, Italian, Mandarin, Portuguese and German
Audio	This genre consists of music and radio, with no video

Q2.21 DO DIFFERENT CONTENT PROVIDERS CHARGE THE SAME FEE FOR THE SAME CATEGORY OF CONTENT? I.E., WOULD EPL RIGHTS COST THE SAME AS LA LIGA RIGHTS? PLEASE ELABORATE.

Q2.21.1 IF NOT, PROVIDE REASONS FOR THE DIFFERENCES IN PRICES FOR SIMILAR CONTENT FROM DIFFERENT CONTENT PROVIDERS?

111 Content owners decide how best to commercialise and price their content.

112 In MultiChoice's experience, even when content falls within the same genre, it can be highly differentiated, appeal more to some consumer groups than others and consequently appeal to competing audio-visual services providers in different ways. Part of the differences in appeal stem from the varying degrees of investment in the development, marketing and promotion of the content by the rights owners and/or the audio-visual services providers.

113 The price of content is affected by how the content owner decides to commercialise it (for example, whether to licence the content on an exclusive or non-exclusive basis).

114 These considerations mean that there are differences in the perceived value and prices for content, meaning that even if content is within the same genre, it will not necessarily command the same price.

Q2.22 HOW IS THE VALUE/COST OF CONTENT DETERMINED BY YOUR COMPANY? I.E., WHY IS CERTAIN CONTENT FOUND IN MORE EXPENSIVE PACKAGES THAN OTHERS?

115 It is not clear what the Authority means by "*the value/cost of content determined by [MultiChoice]*". First, if the Authority seeks to understand how the cost of content incurred by MultiChoice is determined by MultiChoice (as a broadcaster), the answer is that MultiChoice does not determine the cost (i.e., the price) of the content it acquires. Content prices are driven by underlying costs incurred to produce such content and competition amongst providers of audio-visual services (traditional broadcasters and OTT services) for that content. In other words, content prices are influenced by market forces and ultimately determined by content owners/providers, who decide whether and on what terms to sell their content.

115.1 This, combined with the diverse preferences of consumers, is why the decision-making process when selecting content for audio-visual services is not limited by genre or specific content. Providers of audio-visual services (e.g., broadcasters and OTT services) trade off the incremental benefit that they will get from acquiring any particular content (in terms of subscription and advertising revenues) against the cost of that content. As the price of the particular content increases, it will become more attractive to acquire other content instead. An audio-visual services provider that is bidding for certain sports rights, for example, will have an upper limit on what it is prepared to pay that reflects the value to it of alternative content (including alternative sports rights but also content in other genres) that may be cheaper to acquire. Examples of the significant fluidity of content that can be considered a substitute, because it is capable of building audiences, is demonstrated by the following:

115.1.1 When MultiChoice Africa Ltd (MAL) lost the EPL, the UEFA soccer rights (Champions League and Europa League), the FA Cup and the English Football League for the rest of Sub--Saharan Africa,[136] it invested in local

[136] i.e. Sub-Saharan Africa excluding South Africa

soccer leagues that were not at the time particularly attractive rights, and were much cheaper to acquire, yet offered considerable value in terms of attracting and retaining subscribers. MultiChoice has also shifted some of its general entertainment budget from international content to local content.

115.1.2 When BSkyB lost the European Champions League soccer rights to British Telecom, it redeployed its content budget across its offering, including dramas and original production.

115.1.3 When TalkTalk entered Pay TV in the UK, it claimed that sports content is not necessary for success in Pay TV and that other types of content (specifically local general entertainment content) are good alternatives.

115.1.4 Both the SABC and e.tv have submitted to the Authority during the public hearings in relation to the Draft Sports Broadcasting Services Amendment Regulations, 2018 that decisions on content acquisition and broadcast are commercial in nature and whether they would acquire sports content and broadcast it depends on the ability to generate revenue relative to the cost of acquiring the content. In making these choices, the SABC and e.tv would be trading off between broadcasting sports content as opposed to other content. When broadcasting non-sports content generates greater revenue than broadcasting sports content, the trade-off to non-sports content is likely to occur. In fact, eMedia has since stopped investing in sports content and continues to grow the uptake and consumption of its services and its revenue base. eMedia is the largest broadcaster by viewership despite not investing in any sports content of its own.

116 Second, if the Authority seeks to understand decisions on why some content is placed on some, but not other, offerings by an audio-visual services provider, these are individual decisions that are taken by each provider based on their particular business models, unless stipulated by content suppliers. These decisions are based on a range of considerations including the interests and viewing habits of target audiences, affordability considerations, the need to differentiate offerings from those of competitors and from other offerings supplied by the provider in question and the ability to recoup costs. It is important to emphasise that consumers, even in the same household, do not have the same content preferences. To cater for differences in content preferences, affordability

and willingness to pay, MultiChoice curates its bouquets with differences in available content and these are offered to consumers at different price points.

117 The more all bouquets have the same content, the less distinctive each bouquet becomes relative to the others, defeating the purpose of having several bouquets. For illustrative purposes, in the most extreme and absurd scenario where MultiChoice were to place the same content on all bouquets, two consequences would arise.

117.1 First, there would be no need to have multiple bouquets. The availability of only one bouquet would mean that there would be a reduction in choice and response to varying consumer preferences and affordability. The growth of Pay TV in South Africa was in part because of the existence of several distinctive offerings that met the varied content preferences of consumers at different price points.

117.2 Second, the price of this hypothetical bouquet would be higher than some of the bouquets currently offered by MultiChoice. This would mean that consumers who cannot afford to pay those higher prices would be left without access to DStv services. Both outcomes are detrimental to consumers and to MultiChoice.

118 That a provider may offer several products that differ in terms of their features/composition and prices, is not unique to audio-visual services. In the automotive industry, cars within the same brand do not have the same features/composition and as such sell at different prices. For example, within Mercedes Benz, there are obvious differences between an A-Class and a C-Class models which result in differences in prices. But even within one model, one C-Class may come with standard features while another C-Class will have additional features and as such will sell for a higher price. The same observations can be made in cellphones where devices with greater features (e.g., speed, memory, storage, camera resolution etc.) cost more, and in the consumer products industry with simple products like bread and bath soaps. Even medical aid and insurance providers have different plans priced differently and with certain cover only available on the plans which have higher prices. In all these instances, one can thus inquire as to why certain features are only seen in products that are sold at higher price points.

119 Having said this, it is important to highlight that subscribers to the DStv bouquets can and do (in thousands) switch between the bouquets on a month-to-month basis.

Q2.23 DOES POSSIBLE ADVERTISING REVENUE DETERMINE YOUR CHOICE OF CONTENT? PLEASE ELABORATE

Q2.23.1 PROVIDE INFORMATION ON OTHER POSSIBLE DRIVERS OF ADVERTISING REVENUE, IF ANY

120 Broadcasters and OTT services that derive advertising revenue seek to have content that they can use to attract audiences which they can then use to compete for and generate advertising revenues. However, providers of retail audio-visual services also acquire and use content that may not drive significant amounts of advertising revenue, if any, but satisfies the preferences of some consumers thereby driving uptake of services as a whole (for example children's programming). Some services do not include any advertising at all, meaning that the potential to generate advertising revenues does not drive content choices. In other words, while advertising revenue is a factor that may be considered in content decisions, this is not always the case and depends very much on the context.

121 However, from a general perspective, and as with any rational firm, MultiChoice seeks to maximise total revenue. This means that in creating its bouquets and selecting content it seeks to maximise the total revenue it derives from the sum of both subscription fees and advertising sales.

122 Advertising revenues are influenced by a range of factors including but not limited to demand for advertising spots by advertisers, size of audiences, prices, time of advertising (prime-time vs off-peak), channel/platforms on which advertisements are placed, and the programming in which adverts are placed etc. For example, a prime-time advertising spot during Carte Blanche is more expensive than an advertising spot at mid-day during the rebroadcast of an episode of Our Perfect Wedding.

Q2.24 OF THE OVERALL CONTENT PROVIDED TO YOUR SUBSCRIBERS/VIEWERS FOR THE PERIOD 2019 TO DATE, INDICATE WHAT PROPORTION IS MADE UP OF:

Q2.24.1 OWN LOCAL PRODUCTION;
Q2.24.2 COMMISSIONED LOCAL CONTENT;
Q2.24.3 THIRD-PARTY CONTENT ON A NON-EXCLUSIVE CONTRACT LOCAL;
Q2.24.4 THIRD-PARTY CONTENT ON NON-EXCLUSIVE CONTRACTS INTERNATIONAL;
Q2.24.5 THIRD-PARTY EXCLUSIVE CONTRACTS. PLEASE SUBMIT COPIES OF EXCLUSIVE CONTRACTS WHERE APPLICABLE

123 MultiChoice's DStv services comprise a wide variety of content, both channels and programming content, which is intended to appeal to the varying needs of different households. This content includes local and international content across different genres,

such as news, movies, series, sports, and children's programming. In its quest to differentiate its services from those of its competitors and to offer value for its subscribers whom it must attract to pay a subscription fee for its services, MultiChoice acquires some content on an exclusive basis. Acquisition of exclusive content is, as the Authority has recognised, the norm for subscription-based providers of audio-visual entertainment.

124 The Authority has recognised the fundamental importance of exclusivity to enable broadcasters, in particular subscription broadcasters, to differentiate their service offering:

> *"The ability of subscription broadcasting services to acquire content on an exclusive basis is fundamental to the provision of these services. For subscription broadcasting services, exclusivity is the primary basis on which these services will attract and retain subscribers. Some forms of exclusive arrangements in the broadcasting industry are, therefore, both efficient and desirable."*[137]

125 This exclusive content, both channels and programming content, is acquired from local and international channel providers, independent producers and Hollywood studios. **Appendix 3** reflects the channels on the various DStv services and whether each of the channels is exclusive or non-exclusive. Where channels are acquired on an exclusive basis, this is for a limited period generally ranging from [redacted].

126 It is important to note that, while MultiChoice has exclusive rights to the specified third-party general entertainment channels, the majority of the programming content on those channels is non-exclusive. Where the content is exclusively available on those channels, this is for a limited period generally ranging from [redacted], after which it is available to other players who may be interested in acquiring the content.

127 With regard to the channels compiled by M-Net, some of the programming content is produced inhouse by M-Net – either through in-house productions or through third party production houses who are commissioned to produce such content on behalf of M-Net. Both these types of productions are considered as own local productions.

---

137 Independent Communications Authority of South Africa, Position Paper on Subscription Broadcasting in 2004

128 Given the mix of local and international channels as well as programming content on those channels, MultiChoice, the licensee, does not track the content on its DStv services in the manner requested by the Authority. Instead, MultiChoice, the licensee, tracks its spend on local vs international content.

129 Considering the purpose of the Inquiry and, among other things, the fact that the contracts for channels and programming content are voluminous, these are not at this stage attached. MultiChoice is willing to engage the Authority on how best to assist the Authority regarding any aspect of the contracts that may be of interest to the Authority.

Q2.25 PROVIDE YOUR TOTAL CONTENT SPEND FOR THE PERIOD 2019 TO DATE, BROKEN-DOWN AS FOLLOWS:
Q2.25.1 PER CATEGORY OF CONTENT;
Q2.25.2 LOCAL CONTENT; AND
Q2.25.3 INTERNATIONAL CONTENT

130 MultiChoice buys programming from local and international suppliers. MultiChoice, the licensee does not report its programming spend according to the categories contemplated in the Authority's question. In its best endeavours to assist the Authority, MultiChoice has adopted a combination of identifying local content spend in line with Reg. 6(2) of the ICASA Local Television Content Regulations, 2016, which identifies local channels as those which are compiled and uplinked from South Africa, and categorising the rest of the programming costs incurred by MultiChoice, the licensee, according to whether the supplier is local or foreign. For those programming costs categorised as either local or international, based on whether the supplier is local or foreign, there are some programming-related costs (e.g., production costs including transmission, depreciation and foreign currency related costs etc.) that cannot readily be categorised and allocated as either local or international and as such are reflected separately in Table 2 below.

131 It is also important to note that MultiChoice's investment in international content is impacted by the Rand/US Dollar exchange rate depreciation.

Table 2: Programming costs of MultiChoice, the licensee

Content category	FY2019 ('000)	FY2020 ('000)	FY2021 ('000)	FY2022 ('000)	FY2023 ('000)
Local Content	[redacted]				
International Content					

Other programming-related costs	[redacted]
Total	

Q2.26 PROVIDE YOUR TOTAL CONTENT BUDGET FOR THE PERIOD 2024 TO 2028, BROKEN DOWN AS FOLLOWS:
Q2.26.1 PER CATEGORY OF CONTENT;
Q2.26.2 LOCAL CONTENT; AND
Q2.26.3 INTERNATIONAL CONTENT

132 MultiChoice does not prepare budgets for periods as contemplated in the question. MultiChoice operates with approved budget projections for one financial year. Budgets are also reviewed and adjusted on an ongoing basis to take account of evolving economic and market conditions, movements in the subscriber base (growth or contraction), content rights costs and other costs of providing services.

133 As MultiChoice is currently still going through its budgeting process for the 2024/2025 financial year, it does not have final approved budgets for the period after April 2024.

Q2.27 DO YOU PURCHASE ANY PACKAGED CHANNELS FROM ANY INTERNATIONAL/ LOCAL WHOLESALE PLAYERS? PLEASE PROVIDE DETAILS

134 MultiChoice purchases pre-packaged channels from several local and international content suppliers. Local channels that MultiChoice has commissioned, and licenced include news channels such as eNCA, SABC News and Newsroom Africa, and general entertainment channels such as Moja Love and Movie Room. International channels include news channels such as CNN and Sky news; general entertainment channels like Studio Universal and Discovery ID; and sports channels like ESPN etc. Please refer to Appendix 3.

Q2.28: WHAT DO YOU CONSIDER TO BE PREMIUM CONTENT?
Q2.29: DO YOU OFFER PREMIUM CONTENT? IF SO, HOW?
Q2.29.1: IF NOT, PROVIDE REASONS FOR NOT OFFERING PREMIUM CONTENT
Q2.33: HOW DO YOU ACQUIRE CONTENT? ARE THERE EXCLUSIVE CONTENT AGREEMENTS IN PLACE

135 There is no clear and objective means of determining which content is premium and which is non-premium within a particular genre. These are subjective concepts which are imprecise.

136 Historically, the term "premium content" has often been applied to certain types of content, particularly the latest blockbuster (especially Hollywood) movies in the first subscription Pay TV window (FSPTW) and live coverage of popular sports.

137 However, "premium" is extremely vague in meaning. MultiChoice has previously submitted to the Authority that the best definition of "premium" content is content which attracts a higher price for content owners relative to other content of the same genre. However, there is no clear and objective means of determining whether any content within a particular genre is premium (in this sense). Moreover, what is considered premium is not static, since the relative quality and desirability of content changes over time and hence so do the prices which content can attract.

138 In recent years the importance of content which has traditionally been labelled as "premium" has declined due to a proliferation of high quality, varied international and local content which is attractive to viewers. For example, as mentioned in paragraph 66.2 above, drama and reality series (international and local) are now as sought after by viewers, if not more sought after than movies. At the same time, there is more and more high quality and popular sports content available. Importantly, traditional broadcasters such as the SABC and eMedia use the term premium content to refer to their local content programming which is available to consumers free of charge.

139 Within MultiChoice, "premium content" is also a phrase that is used to describe content that is included only within MultiChoice's DStv Premium Bouquet and not on MultiChoice's lower-priced DStv bouquets. Under the DStv business model, the Premium Bouquet includes all the channels broadcast on cheaper bouquets as well as additional channels in each genre which channels are only available on that bouquet. Programming content in these additional channels is sometimes internally referred to as "premium" content.

140 These additional channels tend to include content of a relatively higher quality and price within each genre, but this is not always the case and therefore this internal usage of the term "premium" is also not precise.

140.1 For instance, library movies are packaged into some of the M-Net Movie channels which are only included within the DStv Premium bouquet yet they are typically inexpensive to acquire.

140.2 Certain sports genres that are relatively inexpensive to acquire [redacted] are generally only available within the Premium bouquet.

140.3 Conversely, certain content which is acquired at a relatively higher price within a genre may not always end up on channels that are only available on high-priced bouquets. Such content may be broadcast FTA or within lower priced, but more widely viewed, bouquets. For example, international and local football (sports content) are acquired at a relatively higher price but are included in channels that are available on the Compact Bouquet and are thus not unique to the Premium Bouquet.

141 It is also important to appreciate that what may be considered premium content is not static, as the relative quality or desirability (and hence relative pricing) of content changes. Content that was relatively inexpensive to produce or acquire at one point in time may, over time, cost more to produce and sell at relatively higher prices. This may be due to investments by the content owner or providers of audio-visual services in the effective development of that content and its marketing/promotion to audiences, or due to changes in the relative value of competing content.

141.1 For instance, within the sports genre the PSL rights have increased in value and acquisition price over time. This is in large part due to the enormous investments made by SuperSport in the league, including quality broadcasting of matches, investment in expert match analysis by panels of experts and complementary magazine programming content, which has increased the quality and popularity of the PSL.

141.2 Similarly, the enormous investment made by MultiChoice in local content and its effective promotion has improved its quality and desirability within the general entertainment genre. High quality local content is frequently included only on higher priced bouquets.

141.3 Conversely, certain content within a genre that fetched relatively highly prices at one point in time, may not keep pace with competing content and lose its relative position over time. For example, in the sports genre boxing content has generally declined in popularity over time in South Africa and the asking price for this content has done likewise.

142 Like any other participant in the audio-visual services market, MultiChoice competes for, acquires, and provides quality content in the following ways:

142.1 Commissioning of local content: MultiChoice contracts with the countless producers of local content to generate concepts for such programming and to produce such content for inclusion in its channels which are ultimately packaged into bouquets.

142.2 International entertainment content (e.g. movies and series): There is an ever-increasing amount and range of such content which is available – either through the bidding or negotiating for such content – the contracts typically run for a standard period of a few years.

142.3 Local and international sport: There is also an ever-increasing amount and range of rights which may be acquired – again either through the bidding or negotiating for such rights – where again, the contracts typically run for a few years.

142.4 Acquisition of third party local and international channels: The amount and range of third party local and international channels is extensive and is ever-increasing. This acquisition occurs through negotiating for the right to distribute these channels – again, the contracts typically run for a limited duration.

143 All the above avenues of content acquisition (including creation) are open to any participant in the audio-visual services market.

144 It is common, throughout the traditional television broadcasting sector and within the wider audio-visual services market, both within South Africa and internationally, for content to be sold and acquired on an exclusive basis. Exclusivity is fundamental, to enable those entities providing audio-visual services to be able to differentiate their offering from other competing services.

145 Exclusivity is also important for content rights owners and producers, who incur considerable up-front investments when acquiring and/or developing quality content. In doing so, they assume significant risks, and therefore require sufficient guarantees that they will receive returns necessary to make such investments financially viable. Selling

the content on an exclusive basis enables them to extract greater value for their rights. This in turn incentivises increased production and improved quality of content.

146 Even free-to-air broadcasters like the SABC recognise the importance of exclusivity, previously submitting to the Authority that:

> *"Fourthly, the SABC notes that acquiring exclusive rights is not only advantageous for pay-tv broadcasters but for FTA broadcasters as well. In general* ***exclusive sports rights represent a guarantee of the value of sports content, an opportunity to build up audiences, the potential for a sizeable advertising or sponsorship revenue, a degree of exclusive standing that distinguishes a broadcaster from other existing broadcasters****. Thus, the SABC submits that exclusivity should be allowed on unbundled rights (for example exclusive FTA rights can be acquired by a broadcaster who has a licence for that particular broadcasting platform).* ***It would make no sense if the SABC invested in acquiring FTA rights only to find that the same or similar rights had been granted to an FTA competitor. This would dilute audiences and make it difficult to achieve a return on investment."***[138] [emphasis]

147 Exclusivity is particularly important to subscription broadcasters. If viewers can watch something for free through one or more broadcasters, then they will not pay to watch it through a subscription broadcaster.

148 Exclusive agreements as regards content have long been accepted by competition and sector regulatory authorities all over the world, in recognition that exclusivity is fundamental to competition within the market and exhibits strong pro-competitive benefits. The Authority, itself, in its Subscription Broadcasting Services Position Paper of 1 June 2005, recognised the importance of exclusivity, when it stated:

> "*The ability of subscription broadcasting services to acquire content on an exclusive basis is fundamental to the provision of these services. For subscription broadcasting services, exclusivity is the primary basis on which these services will attract and retain subscribers"*

---

[138] SABC Submission on the Sports Broadcasting Services Amendment Regulations, 2018 dated 15 March 2019, para. 1.6, p.3.

Q2.30 DO YOU BUY ANY CONTENT FROM OTHER BROADCASTERS (LOCAL OR INTERNATIONAL) AND OR OTTS? ELABORATE AND PROVIDE SUPPORTING DOCUMENTATION ON ANY AGREEMENTS OR ARRANGEMENTS, IF ANY

149 As explained in response to Q2.27 above (paragraph 134 above), MultiChoice purchases/licences news content and/or channels from other audio-visual services providers such as the SABC, eMedia, Sky, and CNN. MultiChoice also purchases content (channels and individual programmes e.g., movies and series) from some traditional studios who now have their own competing OTT services e.g., Disney and Formula 1.

Q2.31 HOW HAVE THE PRICES YOU PAY FOR RIGHTS TO KEY CONTENT ASSETS INCREASED (SPORTS, MOVIES, HIGH-QUALITY TV DRAMA ETC) FOR THE PERIOD 2019 TO DATE?

150 MultiChoicef's services comprise a combination of several genres of content for which it incurs costs in order to provide its bouquets to consumers. As such, for a holistic view, we provide information relating to the changes in MultiChoice, the licensee's overall content programming costs over the financial years FY2019 to FY2023.

151 MultiChoice, the licensee's content programming costs increased by [redacted] between FY2019 and FY2023. Excluding the FY2021 financial year which was affected by the COVID-19 lockdown, the average annual increase in content programming costs was around [redacted]. These content programming cost increases have been occasioned by increased competition as well as currency devaluation as a significant proportion of costs are US dollar denominated. Cost increases have also taken place despite MultiChoice's drive to improve efficiencies and cut costs.

Q2.32: DO YOU ON-SELL CONTENT TO ANY BROADCASTER OR OTT STREAMING AND VOD PLATFORMS

152 MultiChoice is not active in the content supply market as it does not sell content (programming and channels) to any broadcaster or OTT services in South Africa. This would run counter to the MultiChoice Group's business model of creating and acquiring content for the purposes of curating and providing a distinct and differentiated retail offering to subscribers in competition with other providers of retail audio-visual services. It would also adversely affect the ability of the MultiChoice Group to recoup the investment it has made in acquiring content through earning income via subscription fees, advertising and sponsorships.

153 There are certain limited circumstances in which MultiChoice sub-licences some of the sports rights it has acquired. These are where:

153.1 the Authority's regulations require it to do so in terms of the Sports Broadcasting Services Regulations, 2010 where MultiChoice has acquired exclusive FTA rights to any of the listed national sporting events; and

153.2 rights owners require MultiChoice to sub-license rights to a free-to-air broadcaster.

Q2.34 DO YOU DISTRIBUTE YOUR CONTENT THROUGH MULTIPLE PLATFORMS, SUCH AS TRADITIONAL BROADCASTING, STREAMING, OR SOCIAL MEDIA?

154 As indicated in response to Q2.2 and Q2.16 (paragraphs 21 and 97 to 99 above), MultiChoice's services are distributed via traditional technology (through use of an STB) and the internet (through the DStv website or the DStv Stream app).

Q2.35 HOW DO YOU ADAPT TO TECHNOLOGICAL ADVANCEMENTS AND CHANGES IN CONSUMER BEHAVIOUR, SUCH AS STREAMING SERVICES?

155 MultiChoice has adapted to changing consumer behaviour and technological advancements in several ways.

155.1 In response to the rise in online consumption of retail audio-visual services and competition from both traditional broadcasters and OTT services, MultiChoice has made its own services accessible via the internet. Subscribers to DStv (and its SVOD service, Showmax) can access and enjoy the service that they subscribe to over the internet.

155.2 MultiChoice invests significantly in enhancing its own capabilities including in improving its compression technology for streaming to reduce the data needs of subscribers who wish to watch their service on streaming capable devices. Like other providers of OTT services, MultiChoice has also concluded partnerships with traditional telecommunications companies to lower the cost of data for the consumption of its services via the internet.

155.3 In addition to this, MultiChoice invests significantly in ensuring that subscribers can watch its services in higher quality broadcasts using the latest broadcast

technology. For example, MultiChoice broadcast the recent Rugby World Cup in 4K quality thereby enhancing the viewing experience for subscribers.

155.4 MultiChoice also continuously invests in improving its STB capabilities to improve viewer experience, for example, the ability to download, rewind, fast forward and pause linear broadcasts as well as making those boxes capable of connecting to the internet to facilitate access to a broader Catch Up library (Catch-Up Plus), and its Showmax service. The latest PVR STB can also include an interface for third-party OTT services such as Netflix, Disney+ and YouTube. This means that consumers with an active subscription to the third-party OTT services can use the STB to watch the service.

155.5 MultiChoice also consistently assesses the viewing preferences of its subscribers and strives to create or acquire content that resonates with its subscribers while differentiating its services from those of its competitors. For example, in line with this approach and given the strong demand for local content, MultiChoice has been investing significantly in local content as a key mechanism for differentiating its services from those of its competitors, who comprise paid and free traditional broadcasters and OTT services.

155.6 MultiChoice has also been investing significantly in retention efforts including the amount of money spent on customer retention. This includes value added services, the DStv rewards that subscribers receive. In addition to this, MultiChoice's price changes have been below or around inflation for a sustained period.

156 All these pro-competitive initiatives benefit subscribers who get to enjoy high quality services.

Q2.36 ARE THERE ANY TECHNOLOGICAL BARRIERS THAT COULD LIMIT COMPETITION OR CONSUMER CHOICE?

157 In MultiChoice's experience, there are no insurmountable technological barriers that can be regarded as limiting competition or consumer choice. Quite to the contrary, technological advancements have resulted in a lowering of barriers to competition with providers of retail audio-visual services no longer needing to invest in cumbersome infrastructure and comply with regulatory requirements to provide services to consumers.

158 This is evidenced by the rapid entry and growth of OTT services across the world including entry and expansion into multiple countries with relative ease. As explained in detail in paragraphs 53 to 65.12 in the response to Q2.13, this growth has also been aided by declining broadband prices and shifting consumer behaviour towards consumption of content on OTT services (e.g. Netflix, Disney+, Showmax, etc.) and digital platforms such as YouTube and Google which are now the biggest generators of advertising revenue.

159 A wide variety of broadband options are available in the market including the introduction of low-cost prepaid fibre options aimed at the lower end of the market. Companies like Vumatel, Afrihost and Openserve etc. offer prepaid fibre products. Companies like Axxess currently offer MTN uncapped LTE at up to 20Mbps for R299.00 per month.[139]

160 Consumers thus have an expanded array of broadband alternatives from which to select and which they can use for all their internet needs, including work, education and entertainment, at varying price points. It is also no longer the case that OTT services are only accessible and affordable to higher-end consumers, and has not been for some years.

161 Consumers are also benefitting from lower price points occasioned by the emergence of advertising supported OTT services and mobile only streaming products, further enhancing access (see paragraphs 65.4 to 65.12 of the response to Q2.13). These include the free streaming service provided by the SABC and the free versions of eVOD and Viu. Notably, that OTT services are gaining significant traction within lower LSMs is illustrated by both these providers: Viu has indicated that it has over 4.5 million monthly users[140] and eMedia's eVOD services reported 511 million minutes of total viewership in FY23[141] and 970,000 registrations as of January 2024.[142]

162 Even if one were to (incorrectly) disregard OTT services, traditional modes of broadcasting are also still clearly an attractive and viable pursuit. eMedia's Openview service has grown dramatically, and it launched its Ultraview DTH Pay TV service in March 2023 by offering one bouquet ("Pride", now known as "Edge"), subsequently

---

139 https://www.axxess.co.za/mobile/mtn-fixed-lte, accessed on 01 February 2024 at 17h10.
140 For instance, a one-day subscription purchased through Vodacom is accompanied by a 250MB Viu data bundle, and similarly, a one-month subscription comes with a 3GB data bundle.
141 eMedia 2023 Integrated Annual Report, p.59
142 https://www.bizcommunity.com/article/evod-sas-fastest-growing-subscription-free-streaming-platform-890553a

adding a second bouquet ("Spice") a month later. Further, the continued and significant growth of Openview despite it having eliminated STB subsidies (see paragraph 74.8.3 of the response to Q2.13), indicates that the requirement for consumers to purchase an STB is not a significant barrier to entry or expansion. This demonstrates that any technological barriers are not insurmountable even using traditional technology. There is also sufficient satellite capacity for players to enter and/or grow their DTH services.

163 In addition, while DTT has experienced some challenges in South Africa, the evidence at hand shows that it remains an important distribution mechanism for reaching audiences and competing for advertising revenues for those providers of retail audio-visual services who use it or choose to rollout services using this delivery mechanism. For instance, TAMS data shows that DTT viewership accounted for on average 15% of the eExtra, eMovies and eToonz channels total viewership for the period January to June 2023. This is an increase from 11% in FY2020. Similarly, DTT accounted for 48% and 25% of viewership of the SABC Sports and News channels respectively. As such, analogue and DTT remain important distribution technologies. Collectively they accounted for approximately 43% and 48% of SABC and e.tv viewership between January and June 2023.

164 In sum, technological barriers are, at best, limited and surmountable. Levels of competition in retail audio-visual services are increasing and will continue to intensify into the future. Consumers have more choice than ever before, in terms of both the number of services and mode of accessing these services.

Q3.1: CAN YOU PROVIDE AN OVERVIEW OF THE AUDIENCE REACH AND DEMOGRAPHICS FOR THE SERVICES THAT YOU PROVIDE

165 Content preferences and incomes differ across individuals and households and MultiChoice offers various products at different price points to cater for each demographic in South Africa.

Q3.2 PROVIDE YOUR ESTIMATED MARKET SHARE FOR THE PERIOD 2019 TO 2023? PLEASE PROVIDE THE MARKET SHARE ESTIMATE BASED ON:

Q3.2.1 SUBSCRIBER/VIEWER NUMBERS; AND

Q3.2.2 ANNUAL TURNOVER

166 While MultiChoice does, through a variety of means (for example by tracking public statements made by competitors), try to gain an understanding of the size of its competitors, it is difficult to accurately estimate market shares because, in the absence

of public reporting by its competitors, there is no reliable information available and it is not clear what metric, if any, would be appropriate to measure market share on a meaningful basis. As such MultiChoice does not calculate its competition market shares in the forementioned audio-visual services market.

167 Additionally, any estimated market shares do not provide a true picture of the intensity of competition in this ultra-dynamic market, particularly on a forward-looking basis.

167.1 The industry is in a significant state of flux, subject to recent and ongoing entry which has resulted in intense competition including particularly from large international OTT providers. Market shares do not provide an accurate means of assessing this level of competition and the highly dynamic nature of the competitive process and the market power (or lack of) that result from it. For example, Disney+, a truly formidable competitor, has recently entered the South African market and while its observable market share may have initially been low, its mere entry changed the decision processes of providers and viewers alike. Given that South Africa is marginal for these giants (who also loom large in the upstream content market from which MultiChoice procures content) traditional notions of market shares simply do not reflect their market power and competitive potential.

167.2 There are no reliable viewership/subscriber statistics that capture South African's consumption of paid-for and free online video services.

167.3 Neither does revenue help. Different players in the market have different business models, such as advertisement-funded versus sale of subscriptions. This makes it difficult to find a consistent, reliable metric on which market shares, reflective of market power, can be based.

167.3.1 Whilst subscription revenue primarily drives the business of pay providers, free services by definition do not have subscribers at all. Instead, when competing with paid services they rely on the advertising revenues that viewership attracts.

167.3.2 It is not obvious that comparing revenues that are so different is a meaningful exercise. Given the differing business models, competitors earn revenue from different sides of the market. The problems associated with calculating market

shares based on revenue shares in two-sided markets is explained by a report from the Centre on Regulation in Europe as follows:

> "*Using market shares as indicators of market power, in addition to all the difficulties in standard markets, raises further issues for two-sided markets platforms. When calculating revenue shares, the only reasonable option is to use the sum of revenues on all sides of the platform. Then, such shares should not be interpreted as market shares as they are aggregated over two interdependent markets. Large revenue shares appear to be a meaningful indicator of market power if all undertakings under consideration serve the same sides. However, they are often not meaningful if undertakings active in the relevant markets follow different business models*."[143] (emphasis added)

167.4 Furthermore, the aforementioned issues are only exacerbated by the fact that the market is highly fluid and service provider business models are themselves evolving. For instance, Netflix has started offering ad-supported versions of its service (for a lower price) in certain jurisdictions.[144] In South Africa, services like eVOD and Viu operate hybrid business models offering both free and paid services. This not only highlights the highly complex competitive dynamics at play in this market but also adds significant additional complexity to any attempts to estimate and rely on market shares.

Q3.3 PROVIDE YOUR ANNUAL SUBSCRIBER/VIEWER NUMBERS FROM 2019 TO 2022/23 FINANCIAL YEAR, BROKEN DOWN BY PACKAGES. PROVIDE A COPY OF SUPPORTING DOCUMENTATION FOR DETAILED NUMBERS

168 MultiChoice's closing subscriber numbers for the financial years 2019 to 2023 are provided below.

Bouquet	FY2019	FY2020	FY2021	FY2022	FY2023
Premium					
Compact Plus					
Compact					
Family					

[143] Frank. JU & Peitz. M,. (2019) Centre on Regulation in Europe. Market Definition and Market Power in the Platform Economy. Available online: https://cerre.eu/publications/market-definition-and-market-power-platform-economy/

[144] See https://about.netflix.com/en/news/one-year-into-netflix-ads

Bouquet	FY2019	FY2020	FY2021	FY2022	FY2023
Access	[redacted]				
Easyview					

Q3.4 WHAT HAS BEEN YOUR OPERATING PROFIT MARGIN FOR THE PERIOD 2019 TO DATE.

169 MultiChoice's operating profit for the financial years 2019 to 2023 are provided below.

	FY2019	FY2020	FY2021	FY2022	FY2023
Operating Profit (R000)	[redacted]				

170 MultiChoice's operating profit [redacted] It is also worth stating that operating profit does not take into account economic costs including the cost of capital and as such, do not reflect economic profitability.

Q4.1 DO YOU CONSIDER THE MARKETS IN WHICH YOU OPERATE TO BE COMPETITIVE? IF SO, PROVIDE REASONS FOR YOUR RESPONSE.

Q4.1.1 IF NOT, WHAT ARE SOME OF THE IMPEDIMENTS TO COMPETITION IN THIS MARKET?

171 The market in which MultiChoice operates is highly dynamic and competitive. In fact, competition is evolving and increasing. As indicated in responses to Q2.12 and Q2.14, MultiChoice's competitors are firms that provide retail audio-visual services through whichever distribution mechanisms or business models such firms may use. This includes traditional FTA broadcasters, traditional subscription television broadcasters and paid-for as well as free OTT services, as outlined in response to Q2.14.

172 There are also increased opportunities for entry and expansion, resulting in significantly increased competition across the value chain, in particular due to -

172.1 the significant disruption caused by the proliferation of OTT services;

172.2 the associated explosion in content; and

172.3 important local dynamics such as the high demand for local content and audio-visual services that cater to lower-income consumers.

173 The result is that -

173.1 there is more content available than ever before and

173.2 South African consumers can now choose between a significant number of high-quality, affordable audio-visual service offerings, catering to their varying needs.

174 This competitive intensity can only be expected to strengthen as new entry is expected, particularly by global OTT service providers.[145] All of the above is set out in great detail in Q2.13 supported by irrefutable evidence.

175 As such, many of the conventional impediments to competition in the provision of audio-visual services are no longer relevant. There is, however, as discussed in the response to Q4.4. below, a potential, new impediment to competition that could arise, namely the uneven regulatory playing field for traditional local broadcasters vis-à-vis global OTT providers.

Q4.2: WHAT BARRIERS TO ENTRY DO YOU ENVISAGE NEW ENTRANTS WOULD ENCOUNTER WHEN ENTERING THE MARKET? DESCRIBE THE TYPE OF BARRIER, INCLUDING BUT NOT LIMITED TO:

Q4.2.1: LEGAL/REGULATORY;
Q4.2.2: COST OF CAPITAL AND SUNK COSTS;
Q4.2.3: CUSTOMER BEHAVIOUR;
Q4.2.4: ACCESS TO CONTENT;
Q4.2.5: ECONOMIES OF SCALE OR SCOPE; AND
Q4.2.6: MARKET DYNAMICS. SHARE YOUR OWN EXPERIENCE IF APPLICABLE

176 The requirements for entry into the audio-visual services market are not insurmountable. With the emergence of OTT providers, what may previously have been considered to be a "barrier to entry" no longer exists.

177 The main requirements relevant to a firm's ability to enter this market are a delivery platform, a licence (where applicable), and content.

---

[145] Paramount, for example, announced plans to enter South Africa in 2023 https://www.news24.com/channel/tv/news/paramount-video-streaming-service-launching-in-sa-in-2023-20220217-2

177.1 Licensing requirements and regulatory obligations currently apply to traditional broadcasters only. Entry into the audio-visual services market does not require entry in the form of traditional broadcasting. OTT entrants are not subject to the regulations and licence conditions that traditional TV broadcasters in South Africa have to comply with. They do not even need to have a local presence.

177.2 The overall cost (and broadcasting fixed costs in particular) of starting up an audio-visual service is lower, since the prospective entrant need only focus on sourcing and packaging a range of content. In this respect, the same dynamics that have led to the emergence of OTT providers have also resulted in a proliferation of high-quality content. This means that there is effectively no shortage of content for a prospective entrant with which to launch and build a service. Illustratively, this is precisely where Netflix began – by buying and packaging older library content – but has moved to developing its own content, 'Netflix Originals'. Like Netflix, many content suppliers such as studios and sports bodies are also developing their own direct to consumer offerings. For those content suppliers, content acquisition is not a relevant consideration as they already own and control vast content libraries.

177.3 Entrants are also able to invest in commissioning or producing their own content or acquiring content from independent producers to further differentiate their offering. Again, the proliferation of content production means there is no shortage of high-quality content. This includes local content, for which there is significant demand in South Africa (and elsewhere) and which is relatively easy and inexpensive to commission.

177.4 Importantly, the costs associated with entry depend on the strategy chosen by the prospective entrant and the scope of the services it is planning on offering. It is therefore difficult to generalize. However, in all instances, MultiChoice does not believe there to be an insurmountable barrier to entry. As noted in the ICN Merger Guidelines Workbook "*[t]he mere need to invest in order to enter is not itself a barrier to entry.*[146] The reason for this is that capital investments in and of themselves will not prevent a rival from entering a market if attractive profits can be

[146] ICN Merger Guidelines Workbook, ICN Merger Working Group: Investigation and Analysis Subgroup, April 2006, p55, para E8

earned. If the entry and/or expansion is likely to be profitable, then rivals will be willing to put up the capital required or will be able to raise the capital in financial markets.

177.5 The emergence of the broadband ecosystem has effectively eliminated the need for a prospective provider of audio-visual services to invest in and develop a significant part of the technical distribution platform for its content. The delivery platform is now the public internet and there is no need to develop, supply and subsidise STBs, since the existing range of smart devices are capable of receiving that content. As the Netflix founder Reed Hastings famously stated: *"creating a TV network is now as easy as creating an app."*[147]

178 The most likely entrants typically have elements of these requirements already in place. For example, access to content production capabilities and libraries; global scale; established brands and platforms and some of the players can piggyback on the existing broadband platforms of others. Therefore, the capital that they would spend would not necessarily be as large as initially envisaged.

179 Accordingly, in MultiChoice's opinion, there are no significant barriers to entry in the audio-visual services market. Furthermore, the current environment is dynamic and rapidly evolving.

Q4.2.3: KINDLY PROVIDE YOUR EXPERIENCE IN GROWING YOUR SUBSCRIBER/VIEWER NUMBERS OVER THE PERIOD 2019 TO DATE. IN YOUR RESPONSE PLEASE FULLY DESCRIBE ANY STRATEGIES DEPLOYED AND THEIR SUCCESS RATE

180 Please see response to Q2.9 and Q2.9.1 at paragraphs 35 to 40 above. While MultiChoice has been able to attract new subscribers, regain some churned subscribers and retain some existing ones, [redacted]. The increasing intensity of competition and a challenging macroeconomic environment have all contributed to the negative effects on subscriber numbers.

147 The Guardian, 18 July 2017, Netflix tops 100m subscribers as it draws worldwide audience: https://www.theguardian.com/media/2017/jul/18/netflix-tops-100m-subscribers-international-customers-sign-up

181 MultiChoice's strategies to acquire and retain subscribers are multi-faceted, including ensuring that despite the difficult environment, it continues to invest in (a) high-quality content that meets the viewing preferences of its subscribers; (b) its delivery platforms to ensure the best functionality and high-quality viewing experience for consumers; (c) offering subscribers value added services such as allowing DStv satellite subscribers to access the service via the internet at no additional cost and offering Showmax for free or at a discounted price to qualifying DStv subscribers; (d) minimising the extent of price increases over the past few years; (e) promotional offers, competitions and rewards (DStv Rewards Program) extended to subscribers, and (f) extending subsidies to consumers to lower the cost of set-top boxes. All these are aimed at enhancing MultiChoice's competitiveness and its ability to acquire and retain subscribers and come at a cost to MultiChoice.

Q4.4: DOES YOUR COMPANY HAVE ANY CONCERNS OR COMMENTS REGARDING THE OVERALL MARKET? GIVE A DETAILED EXPLANATION OF YOUR CONCERNS/COMMENTS

Introduction

182 Traditional broadcasters operate in a market that has already been, and continues to be, fundamentally disrupted. Traditional broadcasters face fierce competition from firms that have used new distribution technologies, have fundamentally different business models, lower-costs, and are more agile than traditional broadcasters. Large, well-resourced global OTT providers and technology is disrupting the market for audio-visual services and meeting changing consumer demand in new ways, with content owners now also providing direct OTT access to their content, which was previously available only via traditional broadcasting services - creating new competition.

183 At the same time, broadcasting is the most heavily regulated media (compared to media such as print or music for example) in South Africa. OTT players are not subject to broadcasting licensing or regulation and do not need to take regulatory considerations into account, nor comply with local investment and content requirements, giving them competitive further advantage.

Policy developments recognise these developments, and the changing nature of competition

184 The impact of the rapid pace of development in digital platforms and other relevant market considerations has been acknowledged by policy makers and competition authorities.

185 They have recognised the shift in the consumption of audio-visual content and the fact that competition occurs between traditional broadcasters and digital platforms and have recommended steps to radically overhaul the applicable policy, legislative and regulatory framework.

186 In October 2020, the Report by the Presidential Commission on the Fourth Industrial Revolution stated that –

> *"going forward issues requiring change include (but may not be limited to) … [a] restructuring of ICT governance bodies to better align with the trends in technology which e.g. reduce differences between broadcasting and internet services".*[148]

187 In December 2021, in its Position Paper on Competition in the Digital Economy,[149] the Competition Commission recognised that digital markets are very dynamic and highly disruptive with competition taking place across platforms. The Competition Commission cautioned against regulations that distort the market and competition.[150] After noting that the dissemination of information to the public and the provision of other services through multiple platforms, including analogue or digital terrestrial television, radio, satellite, internet protocol and OTT television, could constitute "broadcasting", the Competition Commission made the following proposal:

> *"We propose that regulation in these and other sectors should adopt a technology neutral approach without differentiating whether firms traditionally operate their business or whether they make use of digital platforms. <u>The unequal application of regulation means that the firms making use of these platforms have a</u>*

148 published on 23 October 2020
149 Competition in the Digital Economy, Version 2, Competition Commission, 7 December 2021
150 Chapter 4; paragraph 4.2

competitive advantage over the traditional operators. This is because they have little or no costs of compliance with the regulations."[151] *[emphasis added]*

188 The Competition Commission expressly recognises the competitive advantage of digital platforms over traditional providers and proposes a change in regulations.

189 The Department of Communications and Digital Technologies has also recognised the need for a radical shift in the regulatory approach to audio-visual services. The second iteration of the Draft White Paper on Audio and Audiovisual Media Services and Online Content Safety: A New Vision for South Africa ("the White Paper"), gazetted on 31 July 2023, again recognises that the audio-visual services sector has widened significantly beyond traditional broadcasters to include online services, which compete for the same audiences.

190 The White Paper's overarching objective is to develop a "*new Policy Framework to address a broader market of AAVCS that include traditional linear broadcasting services, non-linear on-demand services, and video sharing platforms*"[152] in order to "*create a level playing field between competing services*"[153]. The White Paper states:

> *"… because of the interpenetration of the world's technological systems, regulatory parity and fair competition need a technology neutral approach to ensure growth and investment"*[154]
>
> *"Audio and audiovisual content consumption via the Internet is fundamentally transforming the South African audio and audio-visual landscape creating a broader content market than traditional broadcasting. The purpose of this Draft White Paper is to proactively address this change"*[155] *(Emphasis added)*
>
> *"Attempting to regulate broadcasting as one did in the past no longer makes sense in an era of diverse content available on multiple platforms, as satellite and the Internet can deliver local and international content from anywhere …"*[156]

---

151 Page 48
152 para 1.1.12
153 para 3.2.13
154 Executive summary, para 9
155 para 1.1.16 and 1.1.17
156 para 2.1.10

191 The draft White Paper sets out government's intent for, and careful consideration of, the audio-visual services landscape, incorporating expert input. It reflects government's latest thinking and appreciation of the undeniable market realities, including the fact that OTT and traditional broadcasters are not only competitors, but that the entry of OTTs to the market through different technologies has fundamentally transformed the nature of consumer demand for audio-visual content and competition to meet that demand.

192 All three policy documents mentioned above recognise that -

192.1 there is a broader audio-visual services market in which traditional broadcasters compete with OTT providers;

192.2 regulation should be technology neutral and agnostic to the technological platform adopted by a market player;

192.3 regulation should not distort the market; and

192.4 regulatory parity[157] must be ensured.

193 Indeed, the Authority itself -

> *"accepts that there are market forces such as audience fragmentation, competition with unregulated on-demand services which negatively impact on broadcasting revenue trends."*[158]

The relevance of these technology and policy developments for this Inquiry

194 It is imperative that this Inquiry take into account the realities of the modern audio-visual environment and the competitive dynamics in a digital online context, which are recognised in the forementioned policy pronouncement during the Authority's fact-finding

---

[157] Regulatory parity does not mean that OTTs or new entrants in the audio-visual sector must be heavily regulated as is the current case for traditional broadcasters. It means that regulation needs to be modernised in a manner that enables broadcasters to effectively compete with new and existing entrants who operate on online platforms. Such regulatory parity can be achieved not only by applying regulation to the online audio-visual content services, but also by removing or reducing the regulatory burden that is applied to broadcasting

[158] the Authority Findings Document on the Review of the Independent Broadcasting Authority (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999, published under notice number 959, Government Gazette number 46211, 8 April 2022, para 7.8.2

investigations, its subsequent assessment of competition and its consideration of whether the imposition of additional regulations on traditional broadcasters in terms of s67(4) of the Electronic Communications Act, 36 of 2005 would be appropriate.

195 Among other relevant market dynamics, the Authority must carefully examine and take into consideration the proliferation of OTT services, how market dynamics and competition across the value chain are evolving in light of such unprecedented disruptive change and the serious threat that these OTT giants pose for traditional local broadcasting services.

196 MultiChoice is not the only broadcaster experiencing the threat posed by OTTs.

197 In August 2023 e.tv applied to the Authority to amend its broadcasting licence. In motivating for the amendment, e.tv stated:

> *"Since the current Licence was awarded to e.tv in 2008, as a result of rapid technological changes, the broadcasting landscape has undergone a radical transformation.*
>
> *Given these technological changes, there has been a rapid growth of audio-visual content services available in South Africa including overseas services. These OTT services compete directly with traditional broadcasters. Accordingly, the licensing regime needs to cater for such changes. Indeed, this has been recognised by the publication in 2020 of the "Draft Audio and Audio-Visual Content Service Policy Framework: A New Vision for South Africa 2020" ("the White Paper").*
>
> *One of the central issues dealt with in the White Paper is the need to bring new audio-visual services into the same / similar licensing and regulatory framework as broadcasters. The idea behind this is to ensure fair competition which is a cornerstone of the Electronic Communications Act ("ECA").*[159] *(emphasis added)*

198 In its Corporate Plan FY2023/24 to 2025/26, the SABC likewise emphasised the adverse effects of OTTs on it, noting that -

---

[159] Application for amendment of individual commercial television broadcasting service licence by e.tv (Pty) Ltd, published under Notice Number 1978, Government Gazette Number 49039, 18 August 2023

"On-demand streaming has disrupted the consumption of the video and entertainment industry in general. … Meanwhile, the streaming market is very competitive and profits are being squeezed."

"Competition to the SABC does not come only from other providers of traditional media such as radio and television. OTT has made major inroads throughout Africa".[160] *(emphasis added)*

199 The Authority's market inquiry process should correctly recognise the significant competitive constraint that OTTs place on traditional broadcasters. This is critical to ensure a rational outcome of this Inquiry, which does not obstruct the path to regulatory parity, nor result in outcomes that are contradictory to the latest policy statements. Additional regulatory burdens should not be placed on traditional broadcasters that will affect their ability to compete effectively.

200 Policymakers have in fact stated that the current regulatory framework distorts competition in ways that advantage OTTs over traditional broadcasters.

Conclusion

201 In its assessment of -

201.1 the current state of competition in the provision of audio-visual services, the Authority must take careful account of the market developments recognised in policy and regulatory processes. This includes recognition of the role of new technologies and ongoing technological developments, new competition from OTT and the need for regulatory parity. The market is highly dynamic and is still undergoing change. This is of direct relevance to the Authority's investigation into, and assessment of, competition within the market; and

201.2 whether regulatory intervention by the Authority is appropriate, the Authority must similarly carefully consider the above factors and developments, recognise its

[160] SABC's Corporate Plan FY2023/24 to FY202/26, pgs 13, 23 and 24

statutory obligation to assess competition on a forward-looking basis and consider whether ex ante remedies are appropriate at all. The Authority should also take into account the uneven regulatory playing field on which traditional broadcasters compete with these OTT players. The Authority's approach and its findings following the Inquiry must align with market realities and consider the forementioned policy pronouncements (which are borne out by the evidence in this response), and must not hamper traditional broadcasters' ability to compete with global and other OTTs and to offer consumers a variety of choice.

202 Taking the above factors and developments into account, on a forward-looking basis, the Authority should conclude that regulations in terms of s67 of the ECA are not appropriate or required. The Authority should also recognise that it is impossible to reliably predict the market's trajectory in a manner that allows the Authority to develop rational, appropriate and proportionate ex ante remedies without unintended consequences.

203 We urge the Authority to consider the overwhelming evidence in our response, as well as the recent policy pronouncements and, in particular, the White Paper proposals which are due to be finalised soon.

204 The appropriate stance to adopt in this Inquiry is to recognise the underlying market realities that, in turn, inform the policy pronouncements that underpin the White Paper process under the Department of Communication and Digital Technologies.

205 The evidence overwhelmingly shows that this Inquiry has been overtaken by developments. Market forces already impose significant competitive constraints on traditional broadcasters such as MultiChoice.

206 The intervention which is most urgently required at this stage is to bring OTT services into the licensing and regulatory framework and to create regulatory parity, as proposed in the draft White Paper.

207 We respectfully submit that this evidence and government's latest thinking as articulated in the White Paper should inform the Authority's next steps in this Inquiry.

208 Failure to have full and careful regard of market dynamics in the context of relevant policy pronouncements could have serious and potentially devastating consequences for local broadcasters and the significant contributions they make to the economy. It would be

disastrous if the result of this Inquiry were to hamstring local traditional broadcasters, such as MultiChoice, from competing with global OTT giants and give the latter further unfair competitive advantage. This, on its own, could further distort competition.

Q5.1: KINDLY PROVIDE INTERNALLY AND EXTERNALLY PRODUCED STRATEGIC DOCUMENTS, INCLUDING BOARD AND COMPANY MINUTES WHERE YOUR PROVISION OF BROADCASTING, STREAMING, VOD, OR ANY OTHER AUDIO-VISUAL SERVICES WAS DISCUSSED OR RESEARCHED FOR THE PERIOD 2019 TO DATE. THIS INCLUDES, BUT NOT LIMITED TO:

Q5.1.1: CUSTOMER SURVEYS;
Q5.1.2: MARKETING SURVEYS;
Q5.1.3: GROWTH STRATEGIES REPORTS;
Q5.1.4: CONTENT STRATEGIES;
Q5.1.5: PRICING STRATEGIES;
Q5.1.6: COMPETITOR AND/OR COMPETITION ANALYSIS;
Q5.1.7: CUSTOMER COMPLAINTS; AND
Q5.1.8: SHORT TO MEDIUM BUSINESS STRATEGY.

Q5.2: SUBMIT COPIES OF AUDIENCE RESEARCH CONDUCTED PRIOR TO PRICE INCREASES OR LAUNCHING NEW SERVICES.

209 Please refer to Appendices 2.1 to 2.10 attached hereto.

APPENDIX 1 - GLOSSARY OF TERMS

Authority	Independent Communications Authority of South Africa
bouquet	The collection of linear channels, grouped together in different packages, available on MultiChoice's traditional satellite service and its streaming service, under its brand name DStv
broadband	High data rate connection to the Internet. Broadband includes several high-speed transmission technologies, such as digital subscriber line, cable modem, fibre, wireless, satellite and broadband over power lines
broadcasting	Provision of a unidirectional electronic audio-visual service to the public or subscribers over electronic communications networks
cord-cutting	The consumer practice of terminating a traditional Pay TV subscription altogether, often in favour of one or more other audio-visual services (e.g. a range of OTT services alone, or together with FTA TV services, OOH viewing or pirated content)
cord-shaving	The consumer practice of downgrading to a lower-priced traditional Pay TV service and replacing parts of that service with other audio-visual services (e.g. OTT services)
cord-stacking	The consumer practice of adding other audio-visual services, such as OTT services, to an existing traditional Pay TV service or downgrading to a lower-priced traditional Pay TV service and replacing parts of that service with other audio-visual services (e.g. OTT services, FTA TV or a combination)
downgrade	When a consumer moves from a higher priced paid-for electronic audio-visual service to a lower-priced service
DTH	Direct-to-home: Delivery of a traditional TV service to a consumer's premises via satellite
DTT	Digital Terrestrial Television is a traditional broadcasting service where the signal is in digital format and is delivered over a land-based network of transmitters
ECA	Electronic Communications Act, 2005
FTA	Free-to-air: provision of a traditional TV service to consumers without payment of a subscription fee
HD	High Definition
Inquiry	ICASA Inquiry into Subscription Television Broadcasting Services, notice of which was given by ICASA in its Initial Gazette
linear	Where content is viewed at the time that it is broadcast
LSM	Living Standards Measure is a widely-used marketing research tool which has ten segments, namely LSM1 (with the lowest living standard) through to LSM10 (with the highest living standard)
LTE	Long Term Evolution is a standard for high-speed wireless communication for mobile devices. It is often referred to as "fourth generation" or 4G
M-Net	Electronic Media Network Ltd, a subsidiary of MultiChoice SA, which has a licence to provide a Pay TV service
MultiChoice, the licensee	MultiChoice (Pty) Ltd, which has a licence to provide a Pay TV service

MultiChoice SA	MultiChoice South Africa (Pty) Ltd, the holding company of M-Net, SuperSport and MultiChoice
Multi-homing	Consumer practice of accessing more than one service to satisfy audio-visual content requirements
non-linear	Where content is viewed at a different time or on an on-demand basis, so-called 'video-on-demand' or 'VOD'
OOH	Out-of-home is viewing by consumers of electronic audio-visual services at establishments such as pubs, clubs, restaurants or the homes of friends or family
OTT	Over the Top: provision of electronic audio-visual service to consumers via the open Internet, where anyone with a broadband connection can access the service
Pay TV	Provision of a traditional broadcasting service to subscribers upon payment of a subscription fee
PVR	Personal Video Recorder: A device which enables a consumer to record electronic audio-visual content to a hard disk which is built into a STB
SD	Standard Definition
STB	Set Top Box: A device which decodes a broadcast signal for display on a TV set and which may also be used to enable authorised viewers to access content. STBs may also be used to enable a TV set to connect to the internet
stream/streaming	Use of an internet connection to "stream" or instantly send electronic audio-visual content straight to an Internet enabled device
SuperSport	SuperSport International (Pty) Ltd is a subsidiary of MultiChoice SA and an aggregator of sports content
SVOD	Subscription video-on-demand: A type of VOD service which requires payment of a subscription fee
telco	Company which traditionally has provided voice telephony and data services over electronic communications networks
traditional tv	Linear broadcasting service, transmitted via terrestrial frequencies or satellite
TVOD	Transactional video-on-demand: A type of VOD service which requires a fee for each piece of electronic audio-visual content e.g. a fee to rent a movie
upgrade	When a consumer upgrades from a paid-for electronic audiovisual service to a higher-priced service
VOD	Video-on-demand: An electronic audio-visual service where the user selects when to view the content and the content is made available only when selected by the user

CONFIDENTIAL

APPENDIX 2 - DOCUMENTS PROVIDED IN RESPONSE TO Q5.1 AND 5.2

CONFIDENTIAL

Index	
Appendix	**Description of document**
2.1	MultiChoice South Africa Strategy and Business Plan 2020 to 2022 dated April 2019
2.2	MultiChoice South Africa Strategy and Business Plan 2021 to 2023 dated March 2020
2.3	MultiChoice Group Strategy and Business Plan 2022 to 2024, adopted in 2021
2.4	MultiChoice Group Strategy and Business Plan 2023 to 2025, adopted in 2022
2.5	MultiChoice Group Strategy and Business Plan 2023 to 2026, adopted in 2023
2.6	DStv Disconnects Dashboard dated October 2023
2.7	VE Survey - November 2019
2.8	VE Survey - August 2020
2.9	VE Survey - November 2021
2.10	VE Survey - September 2022

APPENDIX 3 - DOCUMENTS REFERRED TO IN RESPONSE TO Q2.24

CONFIDENTIAL