SUBSCRIPTION BROADCASTING SERVICES INQUIRY QUESTIONNAIRE 2023

Annexure B – Questionnaire for Content Holders

Instructions

Participants are required to complete the questionnaire in full and must provide accurate information. All data should be provided electronically in Microsoft Excel. When providing written responses, as well as supporting evidence and data, indicate clearly to which question the information pertains to.

The information requested is to be provided within forty-five (45) working days from the date of the publication of *Notice of Further Consultation with Stakeholders with respect to the Inquiry Into Subscription Television Broadcasting Services* as published in the Government *Gazette* on 10 November 2023.

Kindly address all enquiries and questions of clarification to the Chairperson: Subscription Inquiry into Television Broadcasting Services Council Committee via email at subscriptioninquiry@icasa.org.za

Confidential information

Should a participant be of the view that the information submitted is confidential, the participant must apply for confidentiality in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000).

Contact Details of the Participant

Please complete the table below. Where there is more than one contact person, please include the full details of the additional contact person/s in the format provided below.

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Glossary of Terms

Audio-visual content	electronic media with or without sound and a visual component of moving images, such as, films or television programs, which in the case of an audiovisual media service, constitutes an individual item, irrespective of its length, within a programme schedule or a catalogue.
Video on Demand	Electronic audio-visual media wherein the user selects when to view the content
OTT	the delivery of audio-visual content to viewers over the Internet

Questions

1. **Describe your company's ownership structure. If your company is a subsidiary, please provide details of the parent company and its ownership structure.**

The National Soccer League ("NSL") which was established in 1985, is a duly-constituted private association, that is responsible for the administration, control, organisation and governance of all professional football (also known as soccer) in South Africa. It is a special Member of the South African Football Association ("SAFA"). The NSL is the only body in charge of professional soccer in the country. For the sake of convenience, the NSL and the Premier Soccer League ("PSL") will be used interchangeably in this document. The NSL has 16 professional member clubs in the Premier Division known as the DStv Premiership and 16 professional member clubs in the National First Division, known as the Motsepe Foundation Championship.

The mandate and responsibility of the NSL is to ensure that South Africa has leagues and competitions to provide and cater for domestic professional soccer. The NSL derives its mandate from its Handbook. The main objectives of the NSL as prescribed in the Handbook are, inter alia to:

a. Promote, organise, control and administer professional football;
b. Co-ordinate and facilitate the development of professional football;
c. Promote the interests of the member clubs;
d. Foster friendly relations amongst officials, member clubs, teams and players of the League;
e. Concern itself with matters affecting professional football;
f. Utilise its funds in the pursuit of its objectives.

As alluded to above, the NSL administers the DStv Premiership; the Motsepe Foundation Championship, as well as Cup Competitions known as the Nedbank Cup, the MTN8 and the Carling Knockout Cup. Whilst the DStv Premiership and the Motsepe Foundation Championship competitions are played on a home-and-away basis, the various Cup Competitions have their own competition-specific rules and regulations. In recent years, the PSL in partnership with MultiChoice, has been able to establish a National Reserve League (the DStv Diski Challenge)

which is aimed at academy youth development, is highly competitive and which now enjoys a significant public following. The DStv Diski Challenge has already produced a number of young players who are promoted to and feature in Premier Division, National First Division teams and National Teams, and are succeeding at this level. A number of these players have recently featured in the national senior men's team, Bafana Bafana, at the African Cup of Nations.

The NSL meets its objectives and responsibilities through its Handbook; its obligations within South African law and the mandatory prescripts of its various controlling bodies, being the Federation of International Football Associations (FIFA), the Confederation of African Football (CAF) and SAFA.

As part of meeting its obligations to these various controlling bodies, the NSL has embarked on an intensive process of significantly improving its corporate governance and bringing it in line with international best practice. This includes:

a. The corporatisation of the NSL with the focus on improved transparency and accountability;
b. Its Compliance Manual which includes a Club Safety and Security Manual;
c. Club Licensing Regulations

These objectives and responsibilities mean that member clubs have to meet a wide range of requirements which require significant financial resources.

2. Describe your company's value chain from content production to final broadcast/release. Indicate your role in each stage.

2.1. List all the role players along the value chain and describe your relationship with them.

The PSL is responsible for, amongst other responsibilities, the administration, control, governance and development of professional football in South Africa. It organises and invests in several competitions, and manages the administration of matches that fall under its auspices. These include (a) the top-flight league, currently known as the DStv Premiership; (b) the National First Division, currently known as the Motsepe Foundation Championship; (c) the MultiChoice Diski Challenge; (d) the MTN8 Cup; (e) the Nedbank Cup; (f) the PSL Promotion/Relegation Playoff matches; and (g) the Carling Knockout Cup. Football content is created when teams in any of the PSL's competitions play matches

against each other. For these matches to be played, various requirements must be met and several stakeholders are involved including:

a. Member clubs that need to employ a wide variety of employees including playing staff, administrative staff, technical staff (e.g. analysts) and all the playing support staff (medical staff, coaching and training staff, etc). Member clubs also need playing facilities, training facilities, including soccer academies and are required to operate and sustain a professional football club that is on par with best international practice. It must be noted that South African member clubs do not own key facilities such as the stadiums that they use for their matches and training facilities, meaning that they must spend significant amounts of money on rentals of these facilities. Without member clubs, there would be no PSL content.
b. Soccer players who play in various PSL competitions, deriving a livelihood from income generated by their member clubs.
c. Match officials who officiate at each match and derive a livelihood from football.
d. Owners of stadiums who derive income from the PSL and its member clubs for the use of their stadiums during matches.
e. Hospitality services providers from whom the member clubs derive no income, unlike other codes of sport.
f. The PSL and its member clubs must comply with regulations including those related to the Safety at Sports and Recreational Events Act (SASREA), the Club Licensing Manual etc. Compliance with the SASREA, for example, imposes significant costs on member clubs who have to incur significant upfront costs before a soccer match can even be played.

The PSL sells rights to broadcast matches to these competitions to broadcasters and OTT services who may be interested in including the content in their services via different distribution technologies, including analogue, DTT, satellite, and the internet. Broadcasters use the content to attract consumers and to generate advertising and subscription revenues. The PSL requires bidders with the necessary broadcast experience to comply with technical requirements related to broadcast quality and the broadcast of matches.

The income derived from the sale of broadcast rights to PSL competitions is distributed to the member clubs and forms a critical part of the funding of the league, its member clubs and competitions. Member clubs in South Africa face significant challenges, including not having significant sponsors, and as such have limited sources of funding while faced with significant operating costs.[1] Most member clubs in South Africa are owned and operated by historically disadvantaged persons.

3. Do you consider the content production market to be competitive? If so, provide reasons.

3.1 If not, what are some of the impediments to competition in this market?

There is a wide variety of content available to broadcasters. The PSL has observed that some broadcasters even operate without investing in sports content and/or choosing to buy other sports content (e.g. English football and German football) rather than bidding for the PSL content. The PSL has even experienced an instance where PSL matches were not broadcast live while a broadcaster chose to instead broadcast live matches from football competitions in England. Within sports, there are various sports competitions and leagues available to broadcasters. The PSL has to make sure that its own content is of a high quality and is attractive enough for broadcasters to want to buy the broadcast rights for a significant fee and undertake the necessary investments required to continue to develop the sport and the competitiveness of the league compared to other content.

4. Provide a list of the firms that you consider to be your main competitors in content production.

The PSL considers suppliers of alternative content that broadcasters can turn to instead of buying the PSL's content as competitors in providing content to broadcasters. It is for this reason that the PSL requires that the successful buyers of its broadcast rights meet minimum technical broadcasting criteria so that its content is broadcast at a quality that is competitive by global standards. In Question 3 above, we have explained the PSL's experiences with broadcasters: (a) operating without buying its content meaning that they have alternatives to

[1] https://farpost.co.za/2023/03/07/the-monthly-cost-of-running-a-psl-club/

its content (sport and non-sport) or (b) choosing to broadcast sports matches from other competitions than broadcast PSL matches during the prime live sports times, meaning that for the purposes of attracting audiences and advertising revenues, the broadcasters see such content as an alternative to the PSL's matches.

5. **Provide your estimated market share in the production of content for the period 2019 to date. Provide the market share based on:**
   - **5.1. Annual Turnover**
   - **5.2. Any other measurement with a full explanation of the unit of measurement.**

The PSL does not estimate any market share. It does not have any information relating to other content suppliers. Because of the nature of the PSL's business, its primary focus is on ensuring that its content is of a high quality. This is achieved through investment in the product, which heavily relies on the income derived from the sale of broadcast rights, given the limited funding opportunities available to the PSL and its member clubs.

6. **What is the impact of the OTT services on your business over the period 2019 to date?**

OTT services present an avenue for the PSL to sell its content. In the period 2019 to date, the PSL's broadcasting rights are held by SuperSport, with sub-licensing to the SABC. The PSL's content is currently accessible to consumers on the streaming services of the successful bidder as well as through the SABC's streaming service as a sub-licensee. This enables the PSL's content to be watched by those consumers who do not watch content via traditional means. Historically, Vodacom submitted a bid for the streaming package but was not successful in the bidding.

7. **Does the OTT service provide a viable alternative route to reach consumers if you are unable to get full value for your rights from traditional broadcasters?**
   - **7.1. If so, please provide examples of when OTT has been a viable alternative for the period 2019 to date.**

OTT services present an avenue for the PSL to sell its content. In the period 2019 to date, the PSL's broadcasting rights are held by SuperSport, with sub-licensing to the SABC. Historically, Vodacom submitted a bid for the streaming package but was not successful in the bidding. Given the increasing changes that are taking place in how consumers engage with content, it can be expected that streaming will increasingly become an important mechanism for consumers to watch content.

8. What kind of content do you provide?

The PSL provides professional soccer content.

9. Do you own the content you supply? If not, who owns it and what is the nature of your rights to the content?

The PSL owns the broadcast rights to the content that it sells to broadcasters.

10. What method do you use to supply content e.g. bidding, beauty contest, 1st come 1st served, etc.

The PSL uses a competitive, non-discriminatory tender process to sell its broadcast rights. The tender process does not impose any restrictions on potential bidders to encourage competition across the board in the various packages on offer. This increases the overall levels of competition for the broadcast rights, helping to avoid undervaluation of the PSL's content for broadcast rights packages.

11. Provide a list of broadcasters and OTTs that you have supplied with content over the period 2019 to date. Please provide copies of the contracts.

The PSL awards its rights to the successful bidder for a limited period of 5 years. In the period covering 2019 to the current season, the PSL's broadcast rights were already under contract to SuperSport, which in turn has a sub-licensing agreement with the SABC. The SABC and SuperSport had access to the PSL's content.

12. Do you have partnerships or agreements with specific broadcasters or platforms for content distribution?

If the PSL understands the question correctly, for completeness and as already explained above, the PSL currently supplies its content to SuperSport with a sub-licensing requirement that enables the SABC to have a significant number of PSL

matches, including the matches between the most popular member clubs, being broadcast by the SABC on its own platforms.

13. Are there any exclusive content agreements that limit the availability of your content to specific platforms?

If the PSL understands the question correctly, as explained above, the PSL currently supplies its content to SuperSport which in turn has sub-licensed a significant number of matches to the SABC.

14. Do you allow the sub-licensing of your content?

Yes, subject to ratification of the sub-licensing agreement by the PSL. The PSL has required the successful bidder to sub-license content to free-to-air broadcasters. The sub-licensing requirement covers a significant number of matches including those between the most popular member clubs in South Africa. This means that the SABC (as the historical sub-licensee) has access to the cream of the PSL's matches.

In the event where a free-to-air broadcaster should secure the PSL broadcast rights, there will be an obligation to, similarly, enter into a sub-licence agreement with a subscription broadcaster; subject to ratification by the PSL.

15. Do you sell your content on an exclusive basis?

The PSL has on several occasions explained how it sells its broadcast rights. This has been in the context of several submissions made by the PSL as part of this inquiry over the last eight years as well as in the context of the Sports Broadcasting Regulations. Those submissions remain relevant and should be read together with this submission.

The PSL sells its broadcast rights through a competitive, non-discriminatory tender process. The PSL's historical approach and the current approach as well as the demonstrable benefits stemming from the current approach are summarised in **Annexure A**. The PSL sells its broadcast rights using various packages and allows for exclusive acquisition of rights, subject to sub-licensing to free-to-air broadcasting of a significant number of matches including matches between the most popular member clubs in South Africa.

There is no absolute exclusivity on broadcast of the PSL's content in South Africa.

In South Africa, there is no absolute exclusivity on the broadcasting of the PSL's content as a significant number of matches (including those top matches between the larger member clubs) were and are broadcast on SABC channels, free-to-air. The SABC has access to all matches played against each other by the three major member clubs. This is by virtue of the PSL's requirements for sub-licensing. Exclusivity is also diluted by the Sports Broadcasting Regulations relating to National Sporting Events. Key matches including quarter-finals, semi-finals and finals relating to the PSL's cup competitions, namely, the Nedbank Cup, the Carling Knockout and the MTN8 are also broadcast on SABC.

15.1. If so, please provide reasons for exclusivity.

The PSL has on several occasions explained the importance of exclusivity to sports federations such as the PSL and to broadcasters. This has been in the context of several submissions made by the PSL as part of this inquiry over the last eight years as well as in the context of the Sports Broadcasting Regulations. Those submissions remain relevant and should be read together with this submission.

The PSL summarises below some of the reasons for the importance of exclusivity and the implications of diluting it.

Exclusivity plays an important role in the commercialisation of broadcast rights as well as in encouraging investments that are required to develop and sustain the sport, and to develop and produce high quality broadcast content. As explained above, sports organisations such as the PSL and their members require funding in order to invest in the development of their sport, to make it competitive enough to be on par with peers in other parts of the world, and to commercialise it in a manner that attracts sustained investment. As shown above, revenue from the sale of broadcast rights is an indispensable component of the PSL's funding and exclusivity is a major driver of the revenue generated from the sale of broadcast rights. The fact that exclusive broadcast rights are generally more valuable compared to non-exclusive broadcast rights is recognised internationally. Gerry Boon of Deloitte & Touché Sports estimated in August 2002 that the value achieved from exclusivity could be anywhere between 40% and 100%, and the PSL estimates that exclusivity contributes up to 80% of the value of broadcast rights. Sports bodies also use exclusivity to ensure that much-needed investments are undertaken by the buyers of their broadcast rights.

On the part of broadcasters, exclusivity is important to encourage and protect investments as well as to allow the broadcaster to recoup some of the costs of the broadcast rights, commercialise the broadcast rights and generate a return on that investment. Part of the requirements of the PSL's competitive, non-discriminatory tender process is that it requires broadcasters to achieve minimum performance requirements and these require investment. Examples include the need to invest in the capacity, equipment and facilities required to broadcast the matches at the highest quality, promote and market the content to enhance its popularity and competitiveness with other content, etc.

15.2. What is the average length of the exclusive contract?

The PSL's contracts are for five years. Any successful bidder obtains this duration, allowing them to recoup their investments and make a return. It also allows the PSL to have consistent cashflows for five years, allowing the PSL to budget, plan and administer football more sustainably. This is particularly important for the PSL given the limited funding opportunities available to member clubs.

16. Is there competition between purchasers to license your content?

The PSL sells its broadcast rights using a competitive, non-discriminatory tender process. Bidders who have a genuine interest in the PSL's rights have the opportunity to bid for the PSL's content regularly when the PSL runs its tender process. Historically, the SABC, SuperSport and Vodacom have bid for the PSL's content.

17. Please explain the concepts of channel exclusivity vs platform exclusivity and indicate the model you use.

The PSL has in previous submissions and above explained how it sells its broadcast rights.

18. Would you give access to your content to a new entrant in the market? Please fully elaborate on your answer.

Yes. The new entrants must meet the requirements of the tender aimed at ensuring that the PSL obtains high quality broadcasts, marketing and promotion. The entrant must also demonstrate their willingness to invest in improving the product and its value as opposed to just extracting commercial value for itself.

19. How do you determine the value of content produced? For instance, why would one 45-minute show be cheaper/more expensive than another?

The PSL does not value its content as suggested in the question. The price/value that the PSL obtains for its broadcast rights is the outcome of a competitive, non-discriminatory tender process. The PSL has designed its competitive, non-discriminatory tender process to ensure that there is competition for its broadcast rights across all the packages available and to avoid being exposed to less income if there are no bidders for certain packages.

20. How do you determine the type of content to produce in any certain point in time?

20.1. Do you consider consumer viewing patterns?

As indicated above, the PSL is in the business of local football, in which it administers various competitions under its auspices. This is the content that the PSL produces and supplies. Over time, some cup competitions have been discontinued (e.g. the Telkom Cup) while others have been launched (e.g. the Carling Knockout Cup).

21. What barriers to entry do you envisage new entrants would encounter when entering your market? Describe the type of barrier, including but not limited to:

21.1. legal/regulatory,

21.2. Cost of capital and Sunk Costs,

21.3. Customer behavioural

21.4. Economies of scale or scope

21.5. market dynamics. Share your own experience if applicable.

There is a wide variety of sports content available to broadcasters from several parts of the world. In addition to this, there is non-sports content that is available to broadcasters. Most of this content is produced by companies with significant resources.

22. Does your company have any concerns or comments regarding the subscription TV market? Give a detailed explanation of your concerns/comments?

The PSL does not have concerns about the subscription TV market. It is, however, concerned about the significant levels of uncertainty created by this process and the implications of this process on its ability to generate income and sustain the PSL, its member clubs and competitions. There are also significant policy processes underway in which the PSL is a participant, and it is not clear to the PSL what the implications of those processes are on this inquiry.

ANNEXURE A: EXPLANATION OF THE PSL'S HISTORICAL AND CURRENT APPROACH TO SELLING ITS RIGHTS AND THE BENEFITS OF THE CURRENT APPROACH

The core asset owned by the PSL which it can commercialise and monetise to generate the much-needed funding it requires to administer professional football is its broadcast rights – sports content. The sale of broadcast rights as a critically important source of revenue is not unique to South African soccer but also applies to other sports across the world. Given the indispensability of revenue from the sale of broadcast rights to the commercial viability of operating professional soccer in South Africa, the PSL pays keen attention to the optimal way to generate revenue from its only core asset while also ensuring that consumers have access to high quality soccer content.

Historically, all of the PSL's rights were sold to the SABC on terms that favoured the SABC at the expense of the PSL. In fact, the contract with the SABC was drafted and determined by the SABC. This resulted in the dual effect of the PSL being under-funded whilst their product was not receiving significant exposure as a result of the SABC's inability to broadcast a significant volume of live matches. The PSL faced a conundrum, either the broadcast rights continued to be significantly undervalued or the PSL takes corrective measures to completely overhaul how it sold its rights. This overhaul included the decision by the PSL on how to package (i.e. the packages and whether there is and the extent of exclusivity) and sell (the tender process) its broadcast rights.

a. Historical approach to the packaging and sale of the PSL's broadcast rights

As stated previously, the PSL has historically sold its broadcast rights to the SABC. The last direct agreement with the SABC as the successful bidder was signed in 2004 for the 2002/2003 to 2006/2007 seasons. Under this 2004 agreement, the PSL and the SABC had an agreement in which the SABC had the exclusive rights to the PSL content, covering transmission across all broadcasting mediums, that is, terrestrial transmission (radio and television), direct-to-home (DTH, also known as satellite), whether on free-to-air or pay television as well as any other media developed during the term of the agreement. In other words, the SABC acquired exclusively all PSL broadcast rights for both television and radio and for

both free-to-air and pay (terrestrially and satellite delivered), regardless of the fact that it did not have a pay television business.

The agreement covered all matches (including repeat broadcasting) for the: (i) premier division; (ii) the various cup competitions that the PSL ran during the time; (iii) national first division league as well as highlights packages in respect of all PSL club games. The 2004 agreement lasted five years covering the soccer seasons running from the 2002/2003 season to the 2006/2007 season. The SABC also had the right of first refusal and last matching rights for offers made by third parties for the purchase of these broadcast rights.

Under the 2004 agreement, the SABC was obliged to broadcast:

i. At least 36 premier league matches subject to a maximum of 52 matches.
ii. All matches relating to the then BP Top Eight Cup Matches.
iii. 15 matches relating to the then Coca Cola Cup matches, with the exception of the 2003/2004 season where the number of matches was 12. At least 15 matches relating to the then ABSA Cup, with the exception of the 2003/2004 season where the number of matches was 12.
iv. At least 3 matches relating to the then Charity Spectacular competition.
v. At least 5 First Division league matches.

The SABC was only required to use its best endeavours to broadcast at least 2 matches per week on its television channels during each season. Further to this, the SABC also did not have strict requirements on the broadcast quality of the matches; only being required to use its reasonable endeavours to ensure the high quality of the production of the matches and that the number of cameras at the matches will be sufficient to meet the high standard of the production. It is important to highlight and emphasise that ensuring high quality broadcasts is imperative and indispensable to ensuring that the content is attractive to the television viewing consumers and this in turn, affects the current and future attractiveness of the broadcast rights. It is important to attracting interest in the content and the future value of the content. Soccer content is competing with other content for a share of viewership and of the budgets of broadcasters. As such, it is of utmost importance to ensure that the PSL content is as attractive as possible and strives to be better than other content in order to stimulate demand for the content.

This situation resulted in the PSL experiencing a myriad of challenges including significant underfunding; low levels of investment, development and competitiveness; low levels of global, regional and national appeal; and a low number of matches were broadcast. The 2004 agreement entitled the SABC to on-sell and sub-license the broadcast rights to other broadcasters on the SABC's terms and conditions, and the SABC was entitled to keep the revenue generated therefrom. However, despite its limited broadcast of live matches, the SABC only sub-licensed a small number of matches to SuperSport. It is unsurprising that the PSL then took a decision to review the way we sold our broadcast rights, opening up the process to a system that ensured that there is a competitive non-discriminatory tender process which allowed the market to more appropriately value its broadcast rights. This is the current approach that the PSL uses which it instituted starting in 2007.

The next section provides a brief explanation of the key features of the competitive tender process that the PSL uses as well as the impact that it has had.

b. The PSL's current approach to the sale of its broadcast rights

Given the dire situation that the PSL found itself in and the impact on soccer, the PSL decided to change the way it sold its broadcast rights. The PSL elected to make the process of selling its broadcast rights competitive and requiring minimum broadcast quality and market-related investments from the successful bidder. The PSL also ensured that under the competitive, non-discriminatory tender process, the successful bidder would not have a right of first refusal as had been the case with the SABC.

i. Key features of the competitive, non-discriminatory tender process

The competitive, non-discriminatory tender process followed by the PSL was first implemented in 2007 and owing to the successful outcomes that it generated, it was implemented again in 2012 and 2017. The competitive, non-discriminatory tender process provides opportunity for any potential bidder who meets the terms of the ITT to bid for the PSL's broadcast rights compared to the previous process that gave the SABC a right of first refusal and an opportunity to match offers of other bidders in the event that the SABC had not taken up its right of first refusal. Under the current competitive tender process, the PSL:

- has various packages designed to give potential bidders different options of individual packages and combinations of packages. The PSL imposes no restrictions on which packages any bidder can bid for to ensure maximum participation and competition across the board while protecting the value of the broadcast rights. This can be expected to enhance competition for the rights, allowing the outcome to better reflect the market value of the broadcast rights.
- requires the successful bidder to meet a minimum level of performance requirements which are, inter alia, related to production and broadcast quality requirements, and investment in the development and promotion of PSL brands and its competitions. These requirements are used to: (i) ensure that high quality content is produced and broadcast; (ii) ensure that the PSL's content can compete with the best content available; (iii) build short and long-term value for the PSL's content; and (iv) provide a high quality experience for consumers. For example, the requirements to have a minimum number of cameras at stadiums when broadcasting matches allows for different angles of the soccer match to be captured and for the broadcasts to be closer to the positioning of the ball on the soccer field at different times. This enhances the experience and enjoyment of the soccer match for the fans who watch the games on television. It also enhances the quality of the analysis of the matches during and after the games.
- historically required that the successful bidder sub-licenses some content for free-to-air broadcasting ensuring wider access to the PSL content. A significant number of these matches have historically related to those matches between the most popular member clubs in South Africa, meaning that the SABC had access to the cream of the PSL matches. The ITT allows the successful bidder to sub-license the PSL's content subject to ratification by the PSL. Sub-licensing is of course, subject to agreement between the successful bidder and the sub-licensee on commercial terms and the scope of the sub-licensed content.
- goes out of its way to ensure that every potential bidder has an opportunity to bid for and acquire the broadcast rights. The PSL publishes its invitation to bid for the broadcast rights, delivers invitations to bid to potential bidders and provides an equal opportunity for all potential bidders to bid.

- applies the same terms and requirements to all bidders, and as such does not
- discriminate against any potential bidders. For instance, any successful bidder will enter into a contract with the PSL for the same 5-year duration, must meet the same minimum requirements, etc. This is markedly different to the pre-2007 period where the SABC made loose commitments as to broadcasts and quality, leading to lower quality and few broadcasts.

This current approach has produced immense, pro-competitive benefits for the various stakeholders that are linked to soccer in South Africa, that is, the PSL (including its member clubs, their employees and families), soccer development in South Africa, businesses in the soccer and broadcasting value chains, consumers and the fiscus. Some of these benefits are explained below.

ii. Positive impact of the competitive, non-discriminatory tender process

The competitive, non-discriminatory tender process that is used by the PSL in selling its broadcast rights has generated and continues to generate immense, tangible and demonstrable benefits which are summarised below.

- The improved financial situation has resulted in increased investment and development of soccer in South Africa as well as a stable financial environment for the PSL and its member clubs. The revenue generated by the PSL and member clubs from both the sale of broadcast rights and sponsorships increased significantly. For example, the revenue from both broadcast rights and sponsorships was R165.9m in 2006, increasing to R932.6m in the 2020 financial year. Owing to improved coverage, quality of the broadcasts and of the content, sponsorship revenue rose from below R110m per annum in 2007 to around R345m in the 2020 financial year. The commercial competitiveness of the PSL and its cup competitions has increased significantly. Prior to 2007, the PSL was ranked outside the Top 30 commercial football leagues in the world by revenue. The PSL's ranking improved to be in the Top 10 by 2018. This has in turn resulted in increased investment in and development of soccer in South Africa. The PSL's self-regulating compliance processes including its Club Licensing Regulations, have been praised by CAF and FIFA as a role model for Africa.

- Member clubs in South Africa are now more financially stable. As an example, member clubs in the Premier Division[2] which previously received service fees of R400,000 per month were by the 2022/2023 season receiving service fees of R2.0m per month plus an annual service fee of R8.5m. In total, member clubs in the Premier Division received R32.5m in the 2022/2023 season. The improvements in the financial situation did not only apply to the premier division member clubs, it also applied to the member clubs in the National First Division,[3] that is, the tier immediately below the premier division. National First Division member clubs previously received a grant of R50,000 per month. With the changes in the approach to selling broadcast rights, the service fees rose to R500,000 per month plus an annual service fee of R2.5m in the 2022/2023 season, generating income of R8.5m. This funding received by the member clubs has enhanced the value of the clubs and their ability to compete in an otherwise tough environment.
- Member clubs are now able to attract and retain talent from other parts of the world, including beyond the continent of Africa. This is because of improved quality and competitive remuneration from playing soccer in the PSL relative to other parts of the world. This in turn contributes to increased competitiveness of the PSL and its competitions. Member clubs are now able to better look after the welfare of their employees including in the following ways:
    - average wages for footballers have increased significantly, from R3 000 - R5 000 per month to R40 000 - R60 000 per month and the top footballers' income bracket has moved from R80 000 per month to over R400 000 per month. Players can also now have longer playing careers as older players are now affordable to member clubs participating in the National First Division. Foreign-based South African players have returned to play in South Africa, as they can now get competitive

[2] The topflight league where member clubs such as Mamelodi Sundowns compete for the league title.
[3] The second-tier league where member clubs compete for the National First Division title and for the opportunity to be promoted to the Premier Division.

salaries. This contributes to raising the standard of football generally.

- the League contributes over R15m per season to the Players Medical Insurance Fund. More member clubs have been able to offer medical aid cover to players and their families.
- the South African Football Players Union has been given over R16m by the League as part of a Collective Bargaining Agreement, where previously they failed to get a recognition agreement signed.

o Member clubs are now able to and do invest in youth academies which are key to the development and continued sustainability of soccer in South Africa. The PSL member clubs now have teams playing in the Reserve League which gives the youth players much needed opportunities to develop their talent, gain exposure and creates a pipeline of talent for the Premier Division, the First Division and the South African national teams. It also benefits these young players who are predominantly from historically disadvantaged backgrounds. Many member clubs also pay for the schooling, accommodation and training of young soccer players in their academies. This has direct benefits to their families, especially those coming from poverty-stricken homes.

- The increased investment and development has led to the introduction of new competitions, particularly those aimed at youth development ensuring a pipeline of talent is produced for the future competitiveness, attractiveness and sustainability of soccer in South Africa. These include the Reserve League known as the DStv Diski Challenge and the DStv Diski Shield. These competitions are also broadcast creating employment opportunities not just in the soccer value chain, but also in the broadcast value chain. It also creates additional content, expanding the pool of content available to the benefit of soccer-loving consumers.
- The change in the broadcast rights selling process to a competitive, non-discriminatory tender process resulted in increased broadcast of soccer in South Africa. Prior to the change in 2007 approximately 130 PSL soccer matches were broadcast on television in South Africa. As a result of the increased investments that derived from the new model, currently over 280

PSL matches are broadcast in South Africa per season. As indicated above, the introduction and broadcast of the Reserve League (the DStv Diski Challenge) has also added to the number of PSL matches broadcast in South Africa.

- The quality of broadcasts of soccer in South Africa has improved significantly and in turn, has enhanced the quality of experience for consumers especially when taken together with the increased availability of a greater number of matches. Consumers now access and benefit from having access to a greater number of higher quality soccer content. The improved quality has been derived from improved broadcast graphics, increased number of cameras per match, enhanced editing and presentation, improved match analysis before, during and after games, all of which are critical to developing and enhancing the value and attractiveness of the content.
- The improved competitiveness of the PSL has not only benefitted consumers who watch soccer on television, but also those who watch soccer at stadiums.
    - The PSL's current approach to selling its broadcast rights enables it to keep match tickets affordable for consumers as member clubs are less reliant on gate fees for funding. The PSL has mainly managed to maintain gate fees to its league matches at R40.00 per adult, while children under the age of 12 are allowed free entry. Access to soccer is the most prevalent and it is also the most affordable for spectators. As a result, the PSL has historically recorded year-on-year growth rate of stadium attendance of about 20%.[4] Interfering with the PSL's funding model would undermine the ability to maintain such affordable gate fees, denying consumers in some provinces access to football at stadiums in their localities, to possibly consider charging gate fees for Reserve League matches.
    - Furthermore, under the current model, supporters in provinces and areas where there is no top flight team can also watch top flight soccer at major stadiums in their localities. This contributes to wider

[4] Covid-19 has affected attendance.

access and the utilisation of stadium infrastructure that would otherwise be unused.

  - Additional benefits for consumers stem from football that they now have access to through the Reserve League, which is accessible at smaller local stadiums free of charge for consumers.
  - The increase in stadium attendance has knock-on benefits for local communities and the small businesses who generate incomes from economic activity that accompanies soccer matches. All of these businesses are owned by historically disadvantaged persons. According to research conducted by Grant Thornton in 2014 on the economic impact of professional soccer in South Africa, the sport contributed towards the creation or sustainment of approximately 10,400 temporary and permanent jobs in the national economy. If the average income of these jobs were to be annualised, the payroll would amount to R956.9 million a year, according to Grant Thornton.

- The SAFA development fund has received in excess of R150m since 2007. The PSL has spent about R27m on Training Programmes and Development Workshops for SAFA referees; assistant referees; fourth officials and match commissioners including electronic headsets and communication devices to assist refereeing standards to be globally competitive. The PSL has also set up infrastructure which allows referees to have post-match access to recorded matches to assess referees' performances. Referees and match officials' fees have also increased by 400 percent. The PSL has introduced Ground Maintenance Training Programmes for stadium and facility managers throughout the country.
- Community television stations also benefit immensely with free access to the broadcast of the Reserve League matches (live and non-live matches), highlights packages and the Diski Challenge Magazine Show.