SABC SUBMISSION TO THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

ON DISCUSSION DOCUMENT ON THE MARKET INQUIRY INTO SIGNAL DISTRIBUTION SERVICES IN SOUTH AFRICA

---

28 June 2022

1 Introduction

1.1 The SABC would like to thank the Independent Communications Authority of South Africa ("the Authority") for the opportunity to make representations on the discussion document on the market inquiry into signal distribution services in South Africa ("the discussion document"). The market enquiry document was published in the government gazette on 22 APRIL 2022 with gazette number 46255. The SABC would like to be given the opportunity to substantiate its written submissions through oral hearing.

1.2 The SABC supports the Authority's intentions to conduct market inquiry into signal distribution services in South Africa. It is hoped that the information that is provided by the Corporation will assist the Authority to assess the state of competition in the provision of

signal distribution services in South Africa and also assist to determine whether or not there are markets or market segments within the signal distribution services value chain and for the Authority to assess the need to regulate the signal distribution market in the Country. The Corporation welcomes the resumption of this process which started in 2011.

1.3 As the only public broadcaster within the Republic of South Africa charged with a specific mandate set out in Chapter IV of the Broadcasting Act, 1999 (Act No. 4 of 1999), as amended, the Public Broadcasting Service Charter not only obliges the SABC to provide radio and television programming that informs, educates, and entertains, but further states that these are to be made available throughout the Republic. This places a unique obligation on the SABC, which requires extensive use of signal distribution services to fulfil this mandate.

1.4 The SABC is in the business of making content and programs. For the programs to get to the premises of our Audience (Listeners and Viewers), the SABC employ the services of Sentech to transmit and distribute the signals. Sentech owns the transmission sites throughout the country. Most of the transmission sites are built on high sites. A competitor will find it difficult to find high sites to build its masts. The sites receive the signal directly and indirectly from the SABC and transmit the signals to the premises of our Audience.

In your opinion, is the above approach to market definition by the Authority appropriate in defining the relevant markets? Motivate your response by providing reasons and any supporting evidence or data, as far as possible.

1.5 The SABC will largely confine its submission on the market enquiry to areas which pertain to its business as the public broadcaster.

2 SABC's responses to specific consultative questions

2.1 Market Definition

2.2 Question 1

The Corporation supports the Authority's directions and probes in defining the signal distribution market. In order to assist the Authority in supplying the definition of signal distribution market, it might be important to list the various services of which Sentech provides to the SABC:

- FM services via 18 radio stations;
- ATV services (SABC 1, SABC 2 and SABC 3) to 4 provinces that have not completed analogue switch off (ASO);
- DTT services (Radio and TV) to South African (SA) audiences;
- DTH services (Radio and TV); and
- DAB+ services.

Each of these services is explained further below.

2.3 FM radio transmission and distribution services

FM is a very old and extremely mature technology that is used to transport radio content throughout the country. Sentech uses a network of High Power, Medium power, Low power, and Low Cost Low Power transmitters to cover close to 90% of the country with FM services.

2.4 ATV services

These services are being phased out via the ASO processes and only four provinces are still using these services namely: Gauteng, Eastern Cape, Western Cape, and KwaZulu Natal.

2.5 DTT TV service

This is the digital replacement of terrestrial ATV services as distributed by Sentech.
Like FM and ATV, Sentech is unparalleled in its capacity to supply this service in South Africa.
The current terrestrial footprint of the DTT signal in SA is 84% population coverage, which is achieved with 182 transmitters. However, the satellite gap filler has 100% coverage in the country. The SABC has reduced the DTT footprint to 100 transmitters, which reduces the coverage footprint to about 64% of the land mass. The 100 DTT transmitters will predominantly be in the high populated and metropolitan areas of the country. The sparsely populated areas (countryside) will be covered by DTH satellite services. This mirrors the terrestrial coverage of eTV and Multichoice. (Sentech also supplies digital terrestrial service for Multichoice and eTV on the Multiplex 2 (MUX2).

2.6 DTH satellite services

All SABC radio and TV services are carried on Sentech DTH satellite platform on the IS20 satellite. This is also referred to as the Gap Filler as directed by the BDM policy.

2.7 DAB+

Digital audio broadcasting is still being trialled by Sentech in Gauteng as a digital replacement for FM services.

There are no substitute for Sentech services locally due to Sentech owning the infrastructure and at the various strategic positions such as high sites. It must also be noted that Sentech inherited the transmission equipment and the high sites from the SABC, when the Sentech Act, (Act 63 of 1996) was passed by Parliament and signed into law by the President.

3 Effectiveness of competition (including entry barriers, market shares and significant market power)

3.1 Question 2

Do you agree with the Authority's approach regarding the evaluation of effective competition? If not, motivate your response by providing comprehensive reasoning thereof.

The accounting obligation of a Service provider will be an important addition to the list that has been provided by the Authority.

3.2 In 2019, as a result of the absence of any regulations on the signal distribution tariff structure and sensing that the Sentech tariff might be too high, the Corporation embarked on a project called "chart of accounts". The Sentech charges to the SABC are hardly transparent. It is suspected that the SABC is even paying more as compared to other commercial broadcasters for the same transmitter power level.

3.3 Details of the various costs per service were requested from Sentech with the objective of understanding how the structure of the cost for each service and at each transmitter was derived. The age of each transmitter would have also helped to determine the structure and manage its life cycle. However, Sentech could only provide the average age of all of its transmitters for FM, Short wave and for TV. Other details could not be obtained.

3.4 The various details of which the transmission part of signal distribution cost and as provided by Sentech is based upon are as follows:

- Base transmission cost;
- Low Power;
- Telemetry;
- Dedicated Rental;

- Double feeder cable;
- Full Passive standby;
- Half Passive standby;
- Emergency power;
- Standby generator TV;
- C-Band Downlinking;
- Facility fee C-Band;
- S-segment C-Band Video; and
- Video channel.

Each of the SABC's service stations have signal distribution cost that comprises of a set of the above details. Sentech was further requested to provide some key details that were still missing. These include the following:

- the age of each transmitter and standby generator,
- electricity cost per transmitting station, and
- labour costs associated with each site.

In summary, Sentech provided the following:

For the age of each transmitter, Sentech provided the average age as follows:

- FM: average age is 14.5 years
- Analogue TV: average age is 16years
- Medium Wave (MW): average age is 3.5 Years
- Network Support Infrastructure: average age 10.5 Years
- Masts and Buildings: average age is 37.1 Years

For electricity consumption, the average are as follows:

- High Power Sites (1kW to 50kW): average consumption is R2.2m with maximum of R8.8m and minimum of R638K

- Medium Power Sites (100W to 1kW): average consumption is R600K with maximum being R1.8m and minimum of R60K
- Low Power Sites (0 to 100W sites including Low Power Low Cost): average consumption is R134K with maximum of R261K and minimum of R4K

The information provided could not be used to determine the actual total costs associated with a site for each service station.

3.5 The age of the transmitter and the standby generators should be used to manage the life cycle of the equipment. The equipment is to be replaced by Sentech if they have reached their useful life without cost to the SABC. This will reduce a number of network breakdowns. The management of this will have a positive effect of maintaining a healthy transmission network.

3.6 In the absence of specific cost such as labour and Electricity cost, it will be difficult to determine the true cost associated with signal distribution services per station per site. Also the age of the equipment will be useful in managing its life cycles as mentioned.

According to section 7 of the Electronic Facilities Leasing Regulations of 2010 (the Regulations) agreements of facility leasing should have a Service Level Agreement (SLA) and with penalties for any failures to meet such service levels. The SABC has had difficulties with Sentech in putting in place an SLA for its radio services. Sentech does not believe in SLAs that have penalties. This is tantamount to monopolistic tendencies.

3.7 Section 10 of the same Regulations stipulates that charges must be sufficiently unbundled. The Sentech charges to the SABC are hardly unbundled – not much is known on "how much of a transmission fee is for the various related services".

It is important that Sentech's charts of accounts detailing transmission charges are opened up to the Authority for further analysis in order to help the Authority to develop the tariff regulations. For example, it is a known fact that digital transmitters use less than 50% of the electricity that analogue transmitters of the same power level uses. However, the SABC realises only less than 20% reductions in signal distribution costs when it migrated to digital terrestrial broadcasting. As an example, the cost of electricity used for transmissions for analogue services needs to be compared with

that of digital services. The SABC should pay for exactly the cost of the electricity that it uses for the service. If not, then Sentech is trading in electricity. According to Section 8(1)(c) of the Electricity Regulation Act, (4 of 2006) no person can trade in electricity unless the person is a holder of a licence. Arguably, Sentech is not licenced to trade in electricity.

4 Significant Market Power

4.1 Question 4

The merger of broadcasting and the telecommunication was to be able to combine the transmission of both systems onto one reception device for the consumer.

The Digital Migration Policy requires the use of DTT and the Policy even goes to the an extent that even the coverage percentages to be achieved by the DTT technology was specified in the Policy and the Regulations.

Do you agree with the Authority's preliminary view with regard to the retail market for the provision of analogue television and radio broadcast content to end-users? Please provide reasons for your response

4.2 Whereas the Electronic Communications Acts, 2005 (Act No. 36 of 2005), as amended (ECA) and the Broadcasting Act (higher sets of Legislations) advocates for technology neutrality in licencing framework the Digital Migration Policy and the DTT Regulations (lower sets of Legislations) are going against the other higher Legislations.

4.3 It is time that the DTT Regulations be withdrawn or amended and adhere to the technology neutrality as enshrined the ECA and the Broadcasting Act.

4.4 How about Direct-to-Home technology and the 5G technology? Due to the rapid changes in the technological front the Acts were forward looking, whereas the Digital Migration Policy and the DTT Regulations were backward looking.

4.5 These laws are making it difficult for effective competition in the signal distribution market place. The fact that the DTT multiplexers are licenced to Sentech makes it increasingly difficult to attract other competitors.

4.6 The Licencing of DAB+, DRM30 and DRM+ should take lessons from these past mistakes. The Multiplexers of these platforms should not be licenced to just one entity or it should follow a competitive bidding process or it should take the future signal distribution platforms of such technology and health of competition in the industry into accounts.

5 Significant Market Power

5.1 Question 15

5.2 Sentech has monopoly of the following forms of distribution / transmission namely:

- Analogue Terrestrial Radio Transmission;
- Analogue Terrestrial Television Transmission;
- Digital Terrestrial Television ("DTT") Transmissions; and

Do you agree with the Authority's view that Sentech has significant market?

- Direct-to-Home ("DTH") Transmissions.

5.3 The tariffs in the above categories is regulated in terms of section 62(3)(b) of the Electronic Communications Act, 2005 ("ECA").

5.4 Section 62(3)(b) of the ECA provides that an electronic communications network service licensee that provides broadcasting signal distribution or multi-channel distribution services must in determining its tariffs, duly take into account the following:

- the different categories of broadcasting service licenses referred to in sections 49, 50 and 51; and

- the nature and technical parameters of the service provided to each broadcasting licensee with a view to ensuring that the different tariffs are appropriate to and commensurate with the various broadcasting services to which they relate;

6 Recommendations

- Section 62(3)(c) of the ECA further provides that a common carrier must carry public broadcasting services, including educational, commercial and community services.
- The SABC is of the view that Sentech tariffs are not appropriate or correct and that led to the initiative of the chart of accounts project.
- The details of the various costs per service and per transmission site have been requested from Sentech with the objective of understanding how the structure of the cost for each service was derived. Sentech has not been cooperative in this regard for the past 2 years.
- The SABC is of the view that Sentech's conduct contravenes section 62(3)(b) of the ECA, which provides that in determining its tariffs, Sentech must duly take into account the nature and technical parameters of the service provided to each broadcasting licensee with a view to ensuring that the different tariffs are appropriate to and commensurate with the various broadcasting services to which they relate.
- Sentech's conduct is unfair against the SABC and is anti-competitive.

Once again, the Corporation is thankful for the opportunity afforded to make this submission.