



Attention: Adv Dimakatso Qocha (Chairperson)

Independent Communications Authority of South
Africa Block B, 350 Witch-Hazel Avenue
Eco Point Office
Park Centurion
South Africa

By Electronic Transmission

6th February 2021

Dear Adv Qocha

Re: Inquiry into Subscription Television Broadcasting Services

The above has reference. In acknowledgement of your letter dated the 12th January 2021 and the subsequent extension to the deadline as per the communication received on the 27th January 2021, from your office by Ms Caroline Thandi Nkosi, I wish to provide our response.

In setting out our response we would like to thank the Authority for the opportunity to make both an oral in person presentation as well as response to further questions that you have raised.

In my response I will deal with the four questions in your letter under items 3.1 – 3.4 and address these in the order presented.

1. We understand the Authorities request that SANZAR provide it with all its contracts for the ten year period, including those that are concluded outside the Republic of South Africa. If our understanding is correct, we respectfully decline to provide these contracts. Upon advice and consistent with our thinking, we are of the view that the Authority does not have jurisdiction to request these contracts nor that they are of any relevance to the issues the Authority has to determine in this inquiry
2. SANZAR has not since its inception run a tender process on the sale of its Broadcast Rights. We continue to be of the firm view that as the Rights Holder we are best placed assess the market into which we seek to sell our rights through a comprehensive analysis of the prevailing market dynamics, economic activity and competitive tension opportunities that exist and can be exploited. Following the market analysis that we undertake, rights have been sold through bilateral negotiations with interested broadcasters, who have equal opportunity to negotiate on acquisition of the rights .

We have since our inception always relied on the expertise and independence of a third-party advisor through our negotiations. The central role that the SANZAR office provides in this process together with our external advisors is one of counsel, communication and coordination throughout the process. We believe that this process provides both independence and transparency and further enables us to make the best possible decision on the sale of our rights given our in depth understanding and analysis of the markets into which we sell.

3. Copies of this correspondence is not available given our agreements date back as far as 1996. However as described above we have and continue to engage with all possible broadcasters in all markets in which we operate ensuring that at all times current legislation in relation to the listing of matches of national importance is adhered to.
4. The revenues generated from our Broadcast Rights are the most valuable assets of the Rights Holders. It is essential that we attain maximum value for these rights throughout our sales process in order to fund the sport and to meet the objectives of the organization. In doing so, we balance the need for funding, exposure and growing the talent pool. Consumer welfare is served by a vibrant sport which receives sufficient funding and investment to provide opportunity for players to showcase their talent, continued growth and quality entertainment for rugby enthusiasts. It is our view that SANZAR has struck the right balance and regulation should not in any way inhibit its ability to continue doing so. We have and continue to remain acutely aware of the obligations under the Communications Act that despite us having some exclusive rights deals they are always conditional upon ensuring that matches are made available as per the applicable regulations on Free to Air platforms and enforce this through defined contractual obligations on all our rights holders.
The ability to secure exclusivity subject to the above conditions is critical in us maximizing the right fee. All profits from this process are distributed and re invested back into the sport in each country with the benefits being passed back into provincial unions, clubs, development pathways, mass participation programmes and the payment of the players. In addition to this we have always aggregated our rights in all markets so any acquisition of the SANZAR rights in a market will comprise of all domestic, international, club and school rights across men and women for maximum value attribution and in turn re distribution.

We trust that the above answers your questions and once again thank you for the opportunity to participate in this process,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Marinos', written in a cursive style.

Andrew Marinos – for and on behalf of the SANZAAR Unions