

APPENDIX B:

RESPONSE TO QUESTIONS RAISED BY ICASA AND MEMBERS OF THE PUBLIC

Please see the attached.

APPENDIX B: RESPONSE TO QUESTIONS RAISED BY ICASA AND THE PUBLIC AT MULTICHOICE'S ORAL REPRESENTATIONS ON 11 MAY 2018

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PART A: COMPETITION IN SA FROM OTT AND FTA COMPETITORS

INTRODUCTION

- 1 During MultiChoice's oral representations before ICASA on 11 May 2018, ICASA requested evidence that OTT and FTA compete with Pay TV in SA. MultiChoice deals with ICASA's request in this document.

- 2 However, MultiChoice wishes to point out that in its comprehensive submission in December 2017, in response to the Discussion Document, it demonstrated, with evidence, that Pay TV competes with OTT and FTA in SA, and how MultiChoice had responded to that competition. To assist ICASA, some of that evidence already cited in the original submission is repeated here, since it is apparent from the hearing that ICASA does not appreciate the vast amount of evidence that had already been provided. This is supplemented with additional evidence where available.
- 3 The further evidence cited below, together with that contained in MultiChoice's December 2017 submission, responds to all the questions raised by ICASA at the hearing pertaining to constraints from OTT and FTA. This document must be read together with the document by Genesis Analytics and Charles River Associates dealing with the principles applicable to the analysis of constraints, marked Appendix A.
- 4 The responses to the other questions raised by ICASA are addressed in Part B of this document.

COMPETITION WITH OTT

Growth in the broadband ecosystem in SA

- 5 ICASA seems to suggest that there are broadband limitations in SA (in terms of usage and affordability) which limit the constraint faced by MultiChoice from OTT. This is clearly not the case for a number of reasons.
- 6 First, what matters for determining the extent of constraints faced by MultiChoice is not the average broadband penetration for SA as a whole, but broadband penetration amongst DStv households, which is high and is increasing.

6.1 The MultiChoice December 2017 submission showed that in 2016,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹

6.2. This survey was taken in 2016 and so the proportion of households with fixed broadband would have increased since then. This is particularly because FTTH companies target DStv households, since they know that these are the households that demand electronic audio-visual services and have the ability to pay for it.

*"In 2016, Fibrehoods, an eight-month-old player in the fibre business, said it saw a high-speed fibre line as a replacement for a DStv subscription, not just an ADSL line."*²

7. Second, what matters is the actual cost of broadband for electronic audio-visual services - not the costs of broadband generally. Telcos are supporting audio-visual content through zero-rating data costs (i.e. providing free data for video services) or providing it at highly discounted rates. Through these initiatives, the telco offers consumers a convenient way of accessing OTT services and these audio-visual services help differentiate the telco provider or match other competitive offerings. These bundles make it easier for consumers to afford OTT video services and provide a convenient one-stop purchase for consumers. Since data for audio-visual content is provided at rates that are significantly discounted, the cost of broadband generally is not applicable to the cost of broadband for audio-visual services.

7.1. Telkom LIT provides Telkom data subscribers with access to audio-visual services (including Google Play, Showmax and DStv Now) on a zero-rated basis with respect to data.³

¹ MultiChoice December 2017 submission, para 90

² Fin24, 4 May 2017, The fibre land grab: <http://www.fin24.com/Finweek/Featured/the-fibre-land-grab-20170504>

³ MultiChoice December 2017 submission, para 141

- 7.2 MultiChoice's presentation to ICASA showed that Cell C Black provides users with unlimited free data to watch a range of audio-visual content.⁴
- 7.3 MTN provides "social bundles" that are significantly cheaper than standard data packages for use on platforms like Facebook and also YouTube.⁵
- 7.4 Vodacom has responded with its new "Social Tickets": products which provide discounts of up to 50% on data for use on social media, video, music and gaming. With respect to video in particular, Vodacom customers can get 100MB for YouTube, Netflix, Showmax, DSTV and Vuclip for one hour at R5, or 250MB for one day at R8.⁶
- 7.5 Within one week of MultiChoice's presentation at the ICASA hearings, Vodacom announced that in the upcoming weeks it will launch a new video service, also at discounted data rates. The offering will include a variety of genres and types of content, as well as access to other streaming services, including Netflix and Showmax. Vodacom CEO Shameel Joosub announced that:

*"(T)he service would offer rich video content at attractive price points, and confirmed that Vodacom would make the platform more accessible to customers through discounted data usage options."*⁷

(emphasis added)

- 8 In addition to the heavily discounted rates that apply to data for audio-visual content, consumers of audio-visual data currently make use of public WiFi and broadband connections at work to stream content or download to view later.

⁴ MultiChoice's presentation to ICASA (11 May 2018), slide 44

⁵ <https://mybroadband.co.za/news/cellular/258761-social-data-bundles-compared-mtn-vs-cell-c-vs-telkom-vs-vodacom.html>

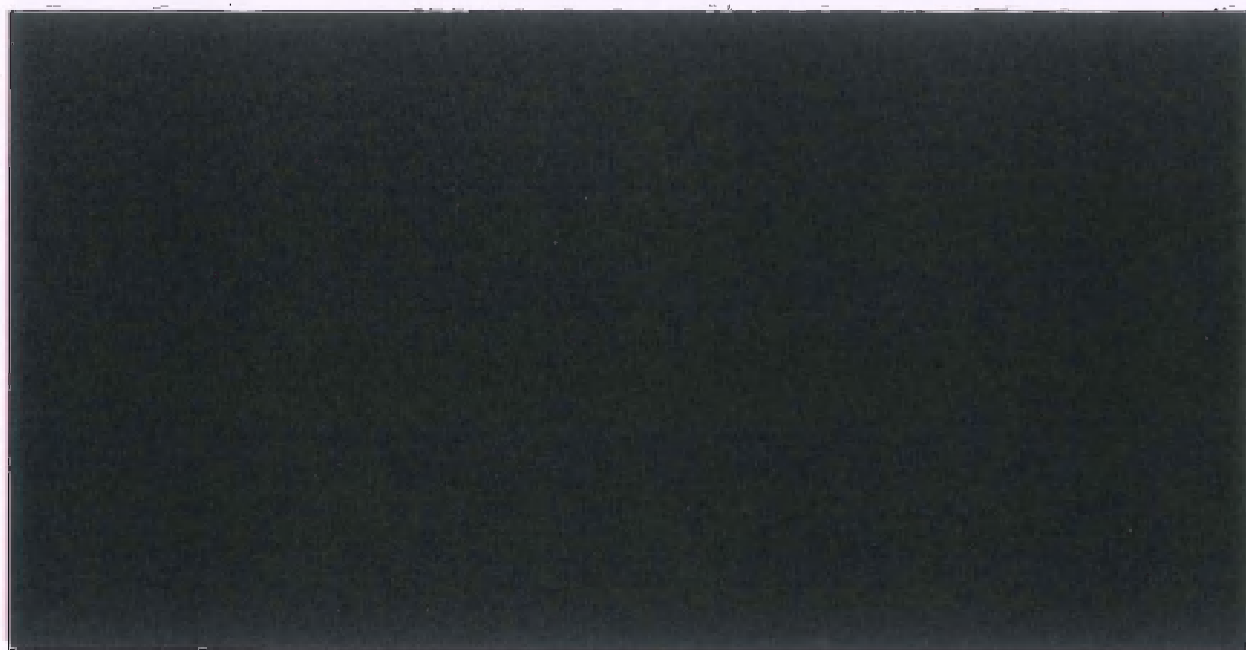
⁶ <https://mybroadband.co.za/news/cellular/258869-vodacom-social-ticket-launched-save-up-to-50-on-data.html>

⁷ <https://mybroadband.co.za/news/cellular/260015-vodacom-to-launch-new-video-content-service-soon.html>

Broadband access is therefore not only limited to those consumers who have a broadband connection at home. WiFi is becoming widespread and will continue to expand, particularly as the roll-out of free WiFi countrywide is a key objective for the government.⁸

- 9 Many OTT platforms, including DStv Now, Showmax and Netflix, allow users to download video for consumption offline. The Figure below shows that a high proportion of downloading activities for DStv Now occurs during the daytime (between 8am to 2pm). This suggests downloading takes place during the day at a place of work or public WiFi spots for consumption at a later time. In addition, YouTube Go is designed as an offline-first way to access YouTube videos and will launch in SA soon.⁹ These innovations improve the experience of watching video on slower networks and provide the consumer more control over data costs.

Figure 1: [REDACTED]



- 10 Improvements in compression technology mean that the data requirements for streaming video will become lower in the future. In particular, the latest AV1

⁸ <https://www.techcentral.co.za/free-wi-fi-must-be-rolled-out-countrywide-anc-resolves/80398/>

⁹ <https://advanced-television.com/2017/12/01/youtube-go-going-live-in-south-africa/>

technology improves capacity by 30%, resulting in the improvement in bandwidth requirements for video content.¹⁰ This means that significantly less data is required to deliver video, making the provision of audio-visual content via broadband even more widely accessible to South Africans.

11 Finally, there is no doubt that this ecosystem is developing rapidly and data costs are coming down.

11.1 The MultiChoice presentation to ICASA cited ICASA's own statistics on the development of broadband in SA, showing that fixed broadband subscriptions nearly doubled in 2017 and that the number of smart phone subscriptions increased from 24 million in 2016 to 42 million in 2017.¹¹ This shows the rapid growth in broadband and device adoption in SA.

11.2 ICASA and Wireless World Research Forum (WWRF) recently hosted the 5G Huddle. The focus of the conference was on the 2020 commercial roll-out of 5G technologies, to identify what needs to be done from a policy and business perspective so that the objective of delivering an all-inclusive 5G infrastructure is met.¹² As indicated in MultiChoice's submission, 5G is the next standard for high-speed wireless communication for mobile devices which will make speeds significantly faster, allowing downloads of feature length HD films in seconds.¹³

11.3 MultiChoice's December 2017 submission demonstrated the decline in the average price per MB of data for Vodacom up until financial year 2017.¹⁴ This trend has continued with the recent results for Vodacom

¹⁰ <https://aomedia.org/av1-features/>; <https://aomedia.org/the-alliance-for-open-media-kickstarts-video-innovation-era-with-av1-release/>

¹¹ Slide 29 of MultiChoice's presentation to ICASA (11 May 2018)

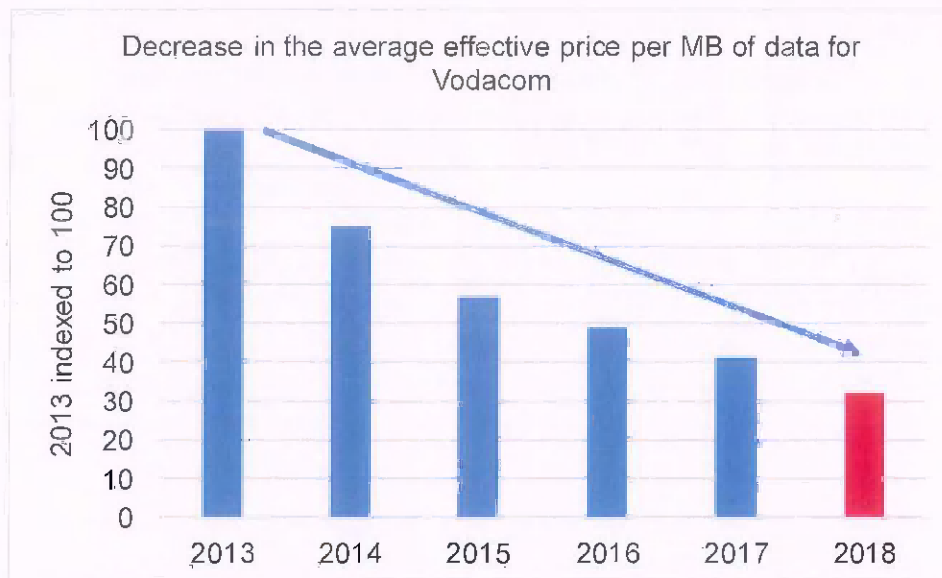
¹² <https://www.icasa.org.za/news/2018/wwrf-5g-forum-in-durban>

¹³ MultiChoice submission, p45, para 89.4 and p228-9, para 490.

¹⁴ MultiChoice December 2017 submission, Figure 4

(financial year end March 2018) announcing that its effective price per megabyte was reduced by a further 21.6% for the year.¹⁵

Figure 2: Decrease in average effective price per MB of data for Vodacom

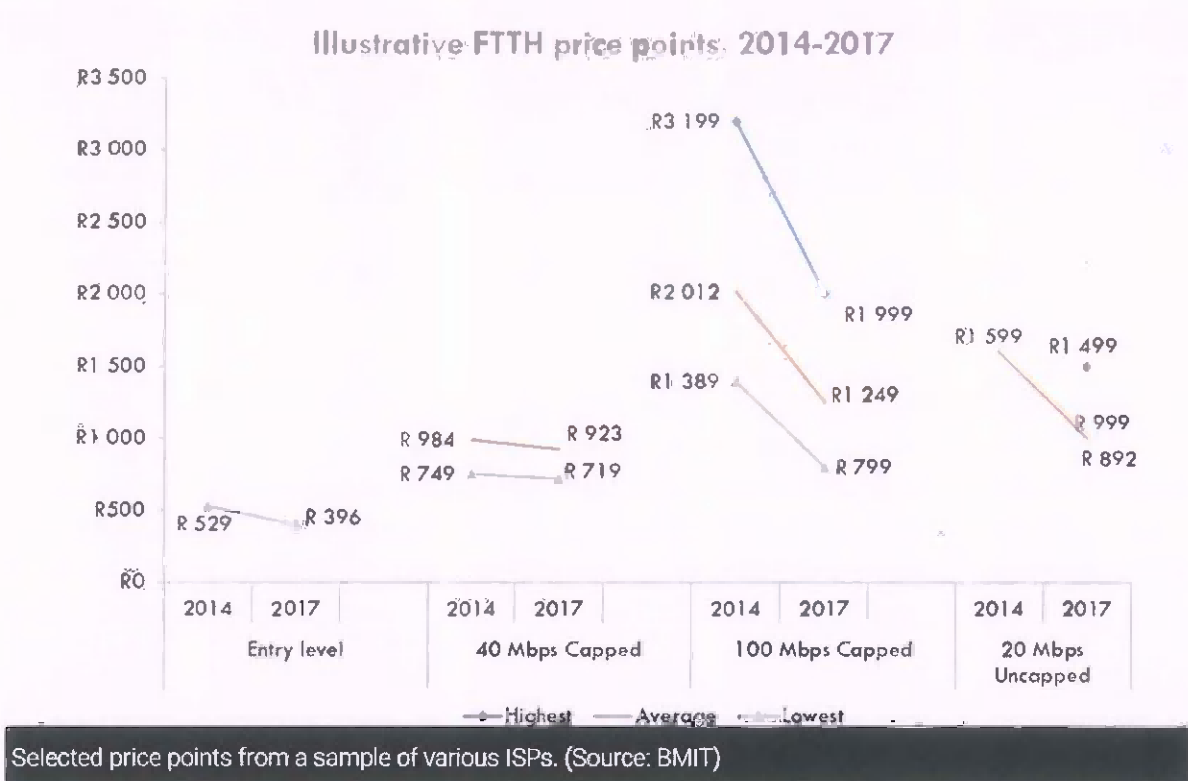


- 12 The decrease in data costs is also observed in respect of fixed broadband. The Figure below shows the fall in prices for FTTH over the past four years (2014 to 2017) across a number of ISPs. According to BMIT, entry-level prices *"have declined to the extent that they are now affordable to most broadband households"*. They observe that there has been a large shift in prices at the upper level of the market, *"both for very high-speed capped services and for typical 20Mbps uncapped services, where average prices have fallen by a third"*.¹⁶

¹⁵ <http://vodacom.com/pdf/sens/2018/annual-results-for-the-year-ended-31032018.pdf>

¹⁶ <https://www.itweb.co.za/content/VKA3WwqdmWZvrydZ>

Figure 3: Decrease in FTTH prices for a sample of ISPs (2014 – 2017)



Source: BMIT, as reported in <https://www.itweb.co.za/content/VKA3WwqdmWZvrydZ>

- 13 All available indicators show that the downward trend in data prices is expected to continue, which will further support the uptake of OTT services in SA. This is based on a number of considerations, including:

- 13.1 MultiChoice has observed various initiatives and offers by telcos to reduce the price of data and there are no indications that these initiatives or similar such initiatives will not continue into the future. An example of large price discounting includes Telkom's recently announced offer of 450GB of Night Surfer LTE data for R59.¹⁷ Similarly, other operators have introduced aggressive data offers driven by competitive pressures.¹⁸ MultiChoice regards these initiatives to be clear indicators of telcos' eagerness to reduce data prices and does not foresee this trend abating into the future.

¹⁷ <https://mybroadband.co.za/news/cellular/259731-telkom-monice-night-surfer-lte-data-450gb-for-r59.html>

¹⁸ <https://mybroadband.co.za/news/broadband/248142-big-data-deals-vodacom-vs-mtn.html>

- 13.2 The imminent licensing of spectrum for mobile broadband as a result of digital migration will expand capacity and reduce costs on mobile networks. ICASA itself has listed "Licensing of Broadband (IMT) spectrum" as a key programme for 2018/19.¹⁹
- 13.3 The reduction of data prices is a clear government priority. Minister of Economic Development, Ebrahim Patel, has stated that bringing data prices down will be a priority for the government in 2018, with the competition market inquiry into data services already underway.²⁰ Similarly, President Cyril Ramaphosa has stated that lower communication prices are *"high on this agenda"*. ICASA has also indicated its intention to conduct a market review under s67(4) of the ECA,²¹ with markets involving the provision of fixed and mobile broadband identified as priority markets. MultiChoice regards these and other similar statements as being strong indicators that various interventions will be introduced in the near future to reduce data prices.
- 14 The reduction in data prices that is likely to continue as a result of competition between telcos, and possibly also regulatory intervention, can be expected to increase the uptake of broadband in SA. This will support the growth of OTT services, particularly when such services are offered as part of unlimited or discounted data packages (as they already are by some providers).

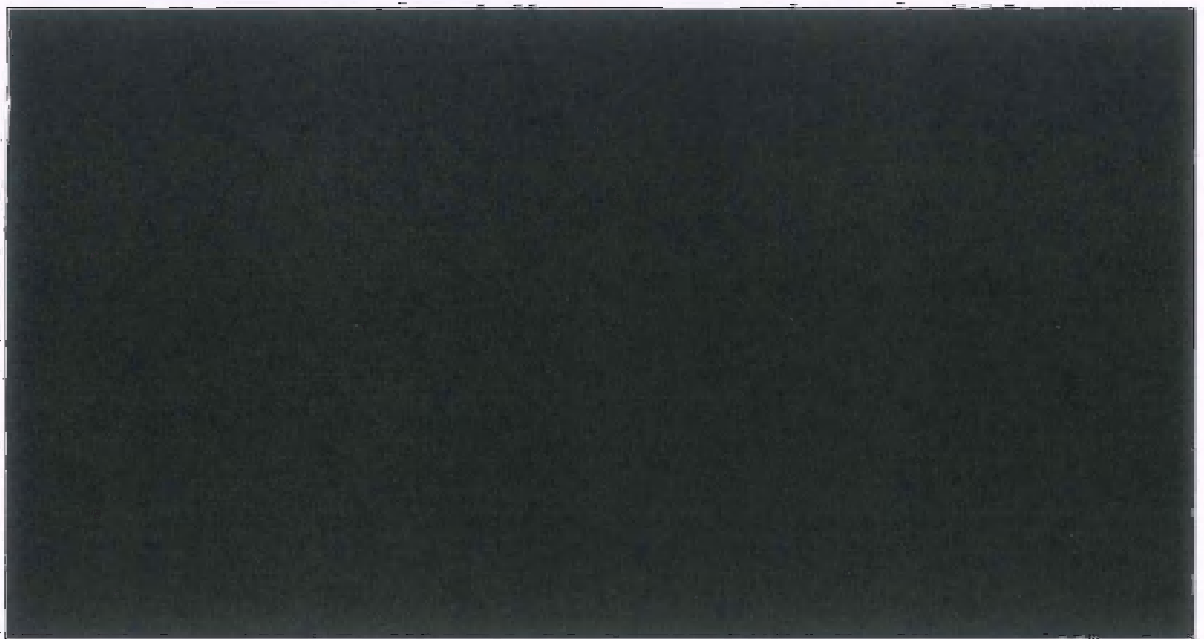
¹⁹ ICASA presentation to the Parliamentary Portfolio Committee on Communications (18 April 2018), slide 40

²⁰ <https://mybroadband.co.za/news/government/249329-we-will-bring-data-prices-down-in-south-africa.html>

²¹ ICASA presentation to the Parliamentary Portfolio Committee on Communications (18 April 2018), slide 32

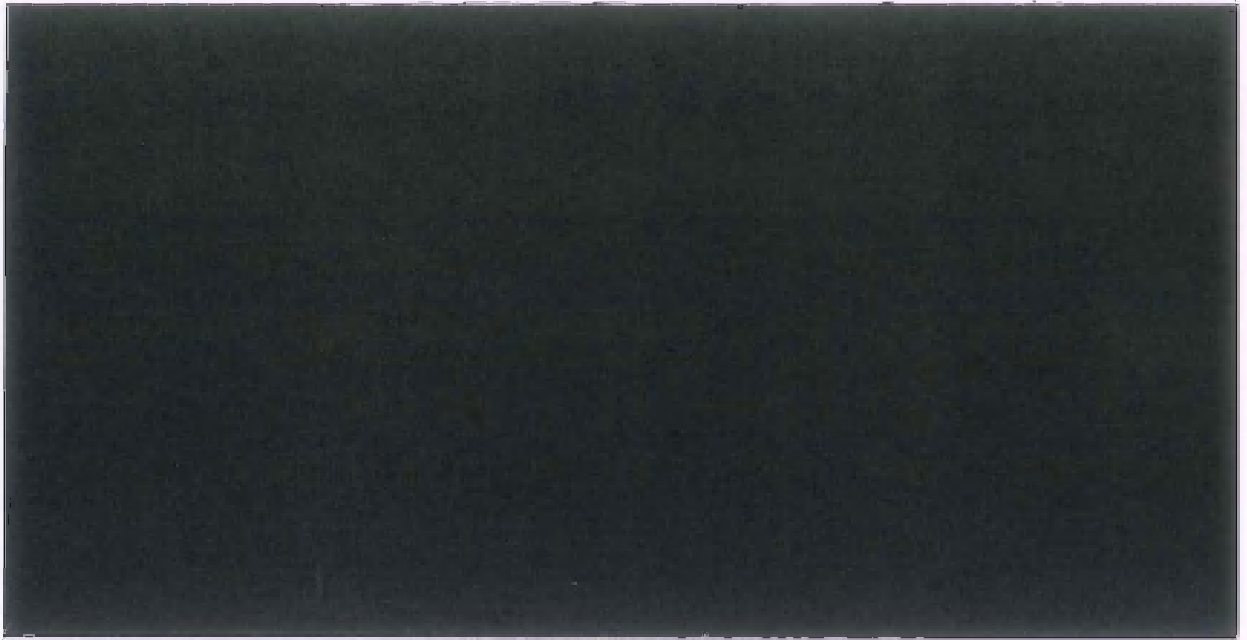
- 15 Indeed, FTTH is replacing DSL at a fast pace and fixed broadband connections are predicted to grow. FTTH connections are predicted to double within the next few years, reaching [REDACTED] connections by 2021.²² Vumatel and Telkom have already experienced a doubling of FTTH connections in the eight-month period from June 2017 to February 2018. Telkom has indicated its intention to focus on high-speed broadband alternatives, including fibre, VDSL and (fixed-wireless) LTE going forward. Telkom has already reported that the 10Mbps user base on Telkom fibre has increased by 25%, while experiencing a 54.5% growth in the take-up of its uncapped fibre offering.²³ Fixed wireless solutions are also predicted to grow at a rapid rate, and are a viable alternative to fibre, as these solutions are priced competitively against fibre and are capable of delivering audio-visual signals to TV sets.

Figure 4: [REDACTED]



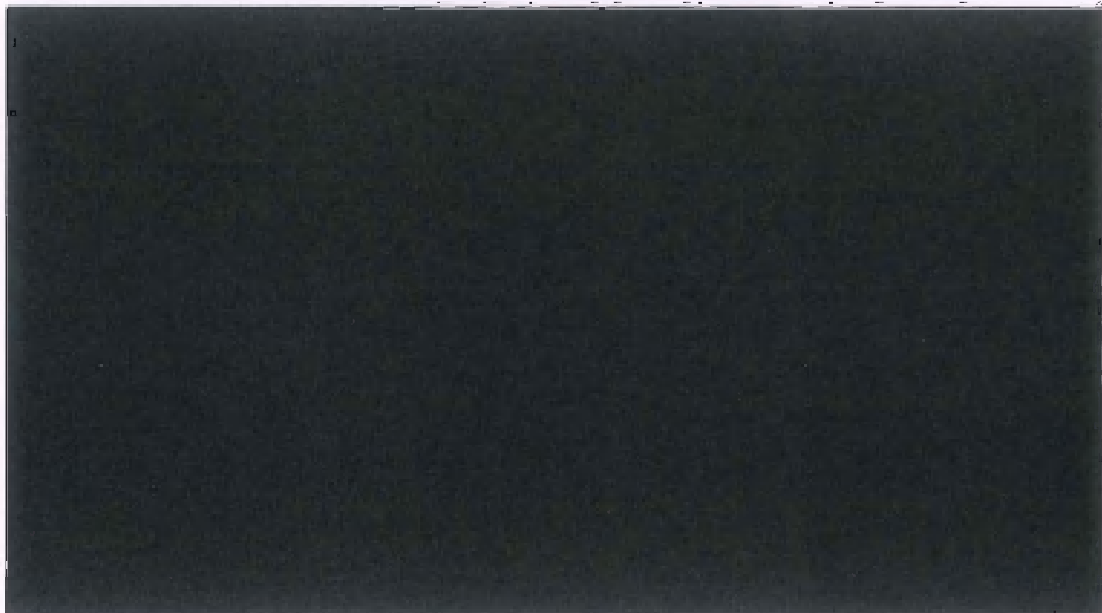
²² BMIT forecast a FTTH High and FTTH Low scenario. The forecast provided is the high growth scenario for FTTH. The other scenario predicts the same total fixed broadband connections each year to 2022, but less FTTH and more DSL

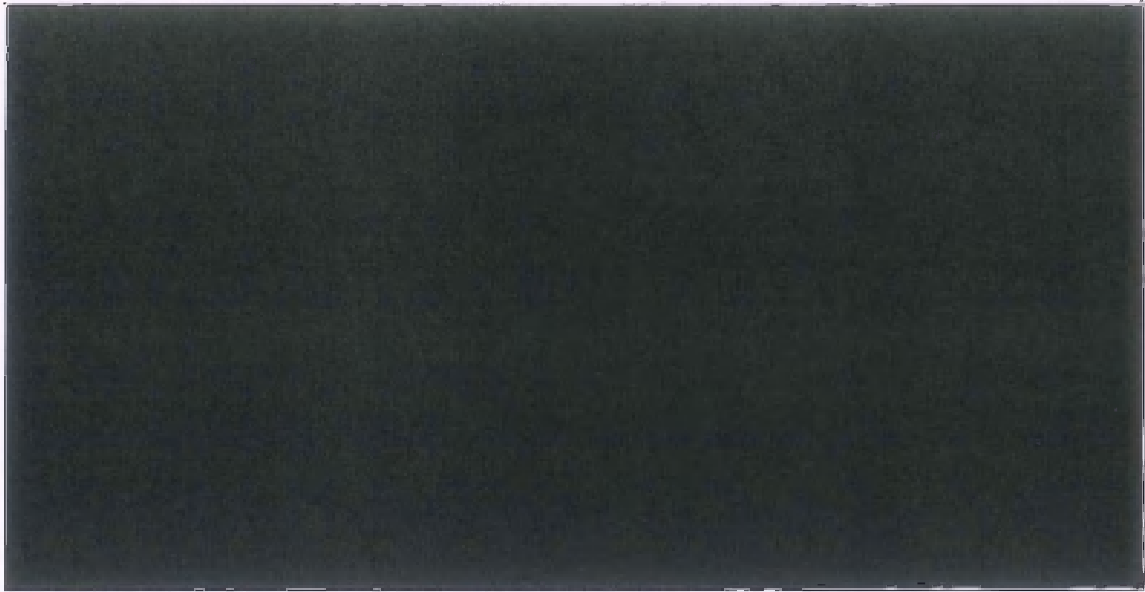
²³ <https://mybroadband.co.za/news/broadband/261997-telkom-adsl-vs-fibre-vs-lte-subscribers-2016-to-2018.html>



16 Mobile broadband is also expected to grow. Mobile coverage is already ubiquitous in SA. The Figures below show that smart phone penetration has been increasing (as ICASA's own figures show) and is predicted to grow significantly going forward. It is estimated that twelve million subscribers already have LTE.

Figure 5:





Changes in audio-visual consumption

17 The consumption of electronic audio-visual content has changed from viewing on traditional TV sets to other devices (in particular mobile devices) and from linear to non-linear. This is generally evident amongst South African consumers of audio-visual content.

17.1 Data revenue exceeds voice revenue for telcos and is increasing every year. MultiChoice demonstrated this for Vodacom,²⁴ and the same is highly likely to apply to other telcos. This trend is driven by the increase in the viewing of audio-visual content and shows the propensity of South Africans to consume audio-visual content beyond traditional TV.

17.2 The popularity of the YouTube video app, with 3.7 million unique visitors in SA in a month,²⁵ demonstrates the popularity of alternative sources of audio-visual content in SA that is not consumed on a regular TV or in a linear fashion.

²⁴ MultiChoice's presentation to ICASA (11 May 2018), slides 27 and 28; MultiChoice December 2017 submission, Figure 2

²⁵ MultiChoice's presentation to ICASA (11 May 2018), slide 41. Figures based on SimilarWeb data

Figure 6: YouTube statistics for SA



- 17.3 YouTube enjoys the highest traffic share of entertainment websites by far, with over 60% of traffic in April 2018. Netflix has the second highest share, of 7%.

Figure 7: Top arts and entertainment websites (April 2018)

APRIL 2018

	Domain	Traffic Share	Avg. Monthly Visits	Avg. Visit Duration	Category
1	youtube.com	61%	73,151,905	00:33:24	TV and Video - AVOD
2	netflix.com	7%	8,075,149	00:13:14	SVOD
3	dstv.com	5%	5,410,318	00:10:23	Pay-TV
4	imdb.com	2%	2,649,949	00:04:43	Movie database
5	blogspot.co.za	2%	2,152,863	00:03:32	Blogging platform

Source: Similarweb

- 17.4 Citing a study on OTT in SA, the MultiChoice presentation to ICASA shows that:

"Consumers in SA spend nearly as much of their daily viewing time watching free digital video sources such as YouTube and Facebook, as they do on linear television. Those aged 18-24 spend [...] more time with free digital video than people above their age".²⁶

²⁶ MultiChoice's presentation to ICASA (11 May 2018), slide 45, based on GfK study on urban South African adults (Techcentral, 2 May 2018)

17.5 MultiChoice has referenced the Ericsson Consumer Lab survey, which includes SA,²⁷ and shows that audio-visual services are increasingly being viewed on devices other than TV sets, and that this is especially the experience amongst younger consumers.²⁸ This trend is in fact of particular relevance to SA, where SA has a young age profile (65% of South Africans are under 35 years).²⁹

1.8

[REDACTED]

18.1

[REDACTED]

²⁷ Based on the following 22 countries: Australia, Brazil, Canada, China, Colombia, Dominican Republic, Germany, Greece, India, Italy, Mexico, the Netherlands, Poland, Portugal, Russia, South Africa, South Korea, Spain, Sweden, Taiwan, UK and US

²⁸ MultiChoice's presentation to ICASA (11 May 2018), slide 30

²⁹ MultiChoice December 2017 submission, Figure 15

³⁰

[REDACTED]

Figure 8:

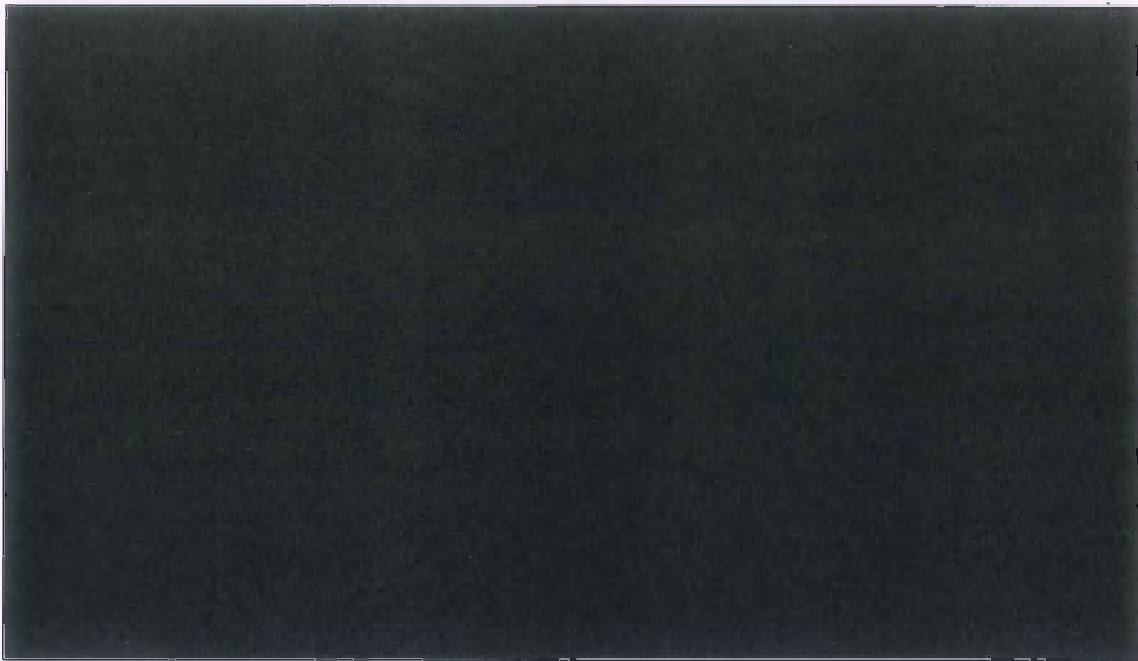
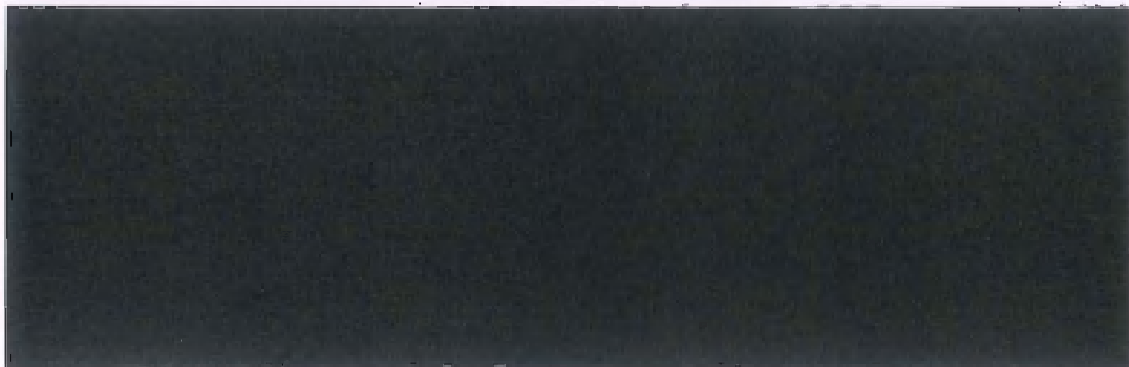


Figure 9:



18.2

[REDACTED]

[REDACTED]

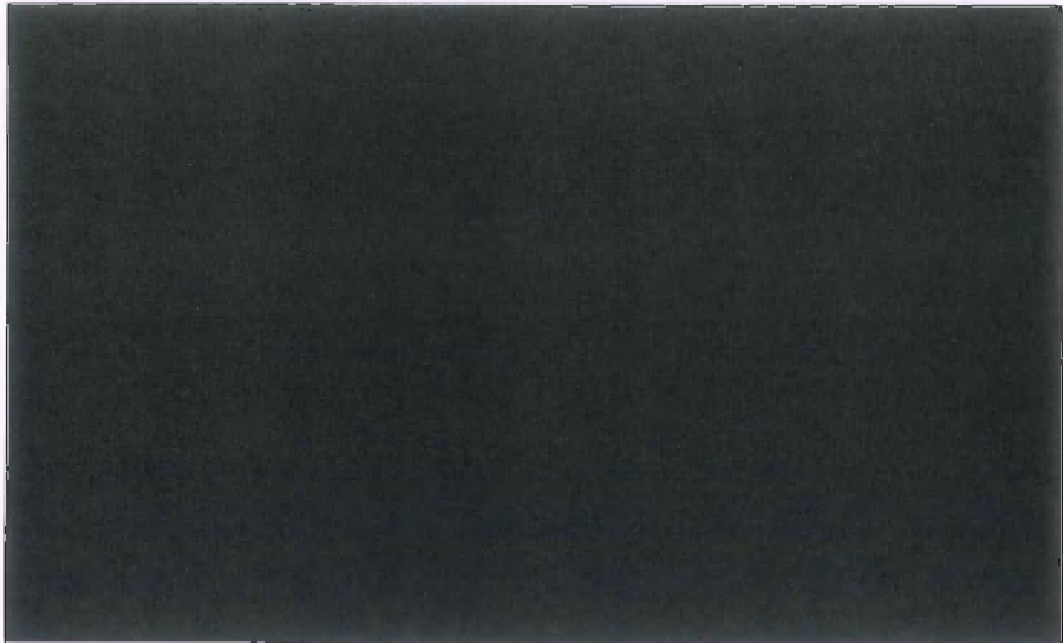
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Figure 10:



- 19 The focus of this document is on SA and MultiChoice. However, it would be incorrect for ICASA to ignore international trends, which were canvassed in full in MultiChoice's December 2017 submission (and are not repeated in this document). MultiChoice is constantly tracking trends from abroad, precisely because they are relevant to understanding how the electronic audio-visual services landscape is likely to develop in SA and to ensure that MultiChoice is in a position to respond. The international trends remain relevant for this Inquiry and ICASA should have regard to these trends when determining how the market is likely to develop in SA as part of the forward-looking analysis it is obliged to undertake.

Prevalence of OTT competitors in SA

- 20 MultiChoice competes against a large number of OTT services. These services are responding to the shifts in patterns of audio-visual consumption, providing on-demand content that can be accessed conveniently on a variety of devices. MultiChoice's OTT competitors in SA include the large global OTT subscription giants (e.g. Netflix, Amazon), global ad-based OTT giants (e.g. YouTube,

Facebook), a number of regional players (e.g. Kwesé) and local telcos (e.g. Cell C's Black) as illustrated in the image below:³¹

Figure 11: OTT competitors present in SA



21 Given the ease of entry of OTT, the list of OTT competitors active in SA continues to expand, with new electronic audio-visual services being launched almost monthly to draw viewership and spend away from the MultiChoice service.

21.1 As described above, within a week of the ICASA hearing, Vodacom announced that it would launch its own video streaming service in the next few weeks.³²

21.2 Vox Telecom has announced its intention to launch a specialist Internet VOD service targeting niche markets by the end of 2018. Its product will be based on an app for smartphones, tablets and smart TVs, meaning there is no need for a STB.³³

³¹ MultiChoice's presentation to ICASA (11 May 2018), slide 38

³² <https://mybroadband.co.za/news/cellular/260015-vodacom-to-launch-new-video-content-service-soon.html>

³³ Refer to Appendix A of MultiChoice's presentation to ICASA which provides a summary of recent developments since 4 December 2017

- 22 MultiChoice's December 2017 submission provided extensive details on each of the OTT competitors that have entered SA, which detail is not repeated in this document.³⁴ It is, however, important for ICASA to appreciate the nature of the OTT rivals and the very serious competitive threat they pose.

22.1 MultiChoice is competing against global giants which are active in SA. They are able to acquire subscriber/users on a global scale and have enormous content budgets which increase every year. Globally, these players have disrupted the markets they have entered within a short space of time, growing exponentially once they are established. This is already the experience in SA, where Netflix has entered with a fully developed content offering (with all of its popular originals it has developed over the years) and has experienced rapid growth which will only escalate as they focus their efforts on international markets, including SA. South African local content is already being streamed on Netflix in SA,³⁵ with Netflix also recently engaging in above the line advertising in SA, all of which demonstrates its clear intention to focus on expanding in this market. Examples of some of its recent advertising campaigns in SA are shown below and includes an extensive branding campaign at O.R. Tambo International Airport as well as the pervasive use of billboards and street-pole advertising.

³⁴ Refer to MultiChoice's December 2017 submission: pgs57-84; pgs228-256; pgs345-348 and Appendix 2, which is dedicated entirely to describing the growth and competitiveness of OTT services

³⁵ <https://www.businesslive.co.za/bt/business-and-economy/2018-05-26-netflix-frees--bantustan-broadcasting>

Figure 12: Examples of Netflix advertising campaigns in SA



- 22.2 The observed entry (including intentions to enter) by telcos in SA reflects the global trend where telcos have been powerful entrants, given the complementarities with their existing business (provision of audio-visual content reduces churn and drives data revenue growth). The large telcos have the advantage of deep pockets, a large existing subscriber base and the ability to offer triple-play or quadruple-play options to customers. For all of these reasons, MultiChoice takes competition from domestic telcos seriously, and justifiably so, given the entry in quick succession of Telkom, Cell C and Vodacom.
- 22.3 In addition to the global, regional and local OTT players, a number of the global content providers which currently provide channels to the DStv bouquets are already providing electronic audio-visual content direct-to-consumers.³⁶ Disney and other direct-to-consumer content

³⁶ Refer to Appendix A: New developments in the electronic audio-visual markets since 4 December 2017 which provides details on the latest direct-to-consumer offerings

providers have indicated that when MultiChoice's current rights expire their content will not be provided on the same basis as before.

- 23 Numerous other submissions made in response to the Discussion Document have also indicated that OTT services are a relevant factor for consideration (including Vodacom, Telkom, SABC, e.tv, SOS/MMA, ACT-SA and Kwesé). For ICASA to ignore the growth of OTT services is to ignore the reality of what is happening in SA today.

Impact of OTT competitors on MultiChoice

- 24 ICASA has requested evidence of the impact of OTT on MultiChoice to test the veracity of the claim that Pay TV competes with OTT. During the hearings, MultiChoice explained that the extent of competition faced by MultiChoice cannot be measured simply by how many subscribers or revenue it may have lost. Rather, the extent of competition is demonstrated by the strength of actual and potential competitors and their ability to expand rapidly, as well as MultiChoice's response to the competitive threat posed. (This is discussed later in this document).
- 25 Nevertheless, despite extensive efforts by MultiChoice's to respond to the threats posed by OTT services, OTT has impacted MultiChoice's subscriber numbers, as described in this section.
- 26 The global trend towards "cord nevers", "cord-cutting" and "cord-shaving" is already evident in SA. The propensity for DStv subscribers to cord-cut or cord-shave is high. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

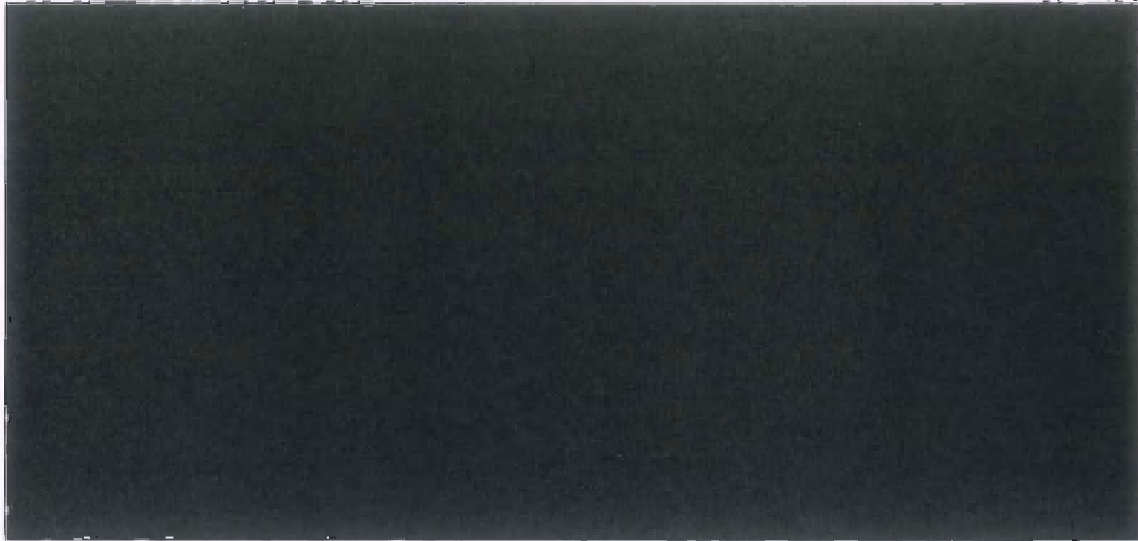
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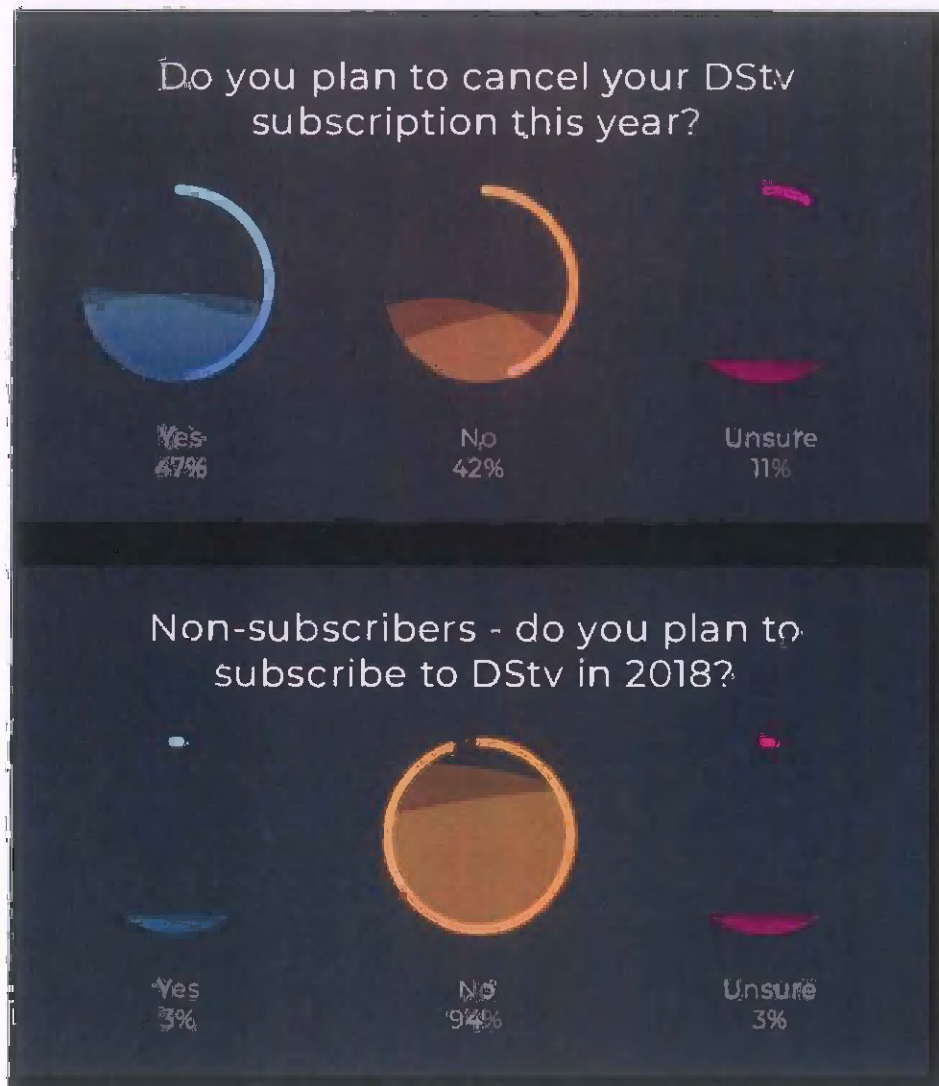
³⁷ MultiChoice December 2017 submission, para 163

Figure 13:



- 27 A recent survey by MyBroadband (of 9,857 MyBroadband readers and forum members, who are mostly subscribed to the Premium bouquet) also suggests that a high proportion of those South African consumers that are most likely to be able to access OTT services are contemplating cancelling their DStv subscription: 47% of those surveyed indicated that they plan to cancel their DStv subscription this year, with an additional 11% unsure. As evidenced later in this document, MultiChoice must work hard to retain these subscribers through the offer of higher quality services at lower quality-adjusted prices. It must work even harder to sign up new DStv subscribers, who are becoming increasingly more difficult to attract. As evidenced below, of those respondents to the MyBroadband survey that did not have DStv, only 3% indicated that they plan to subscribe to DStv in 2018.

Figure 14: MyBroadband survey results on DStv subscriptions



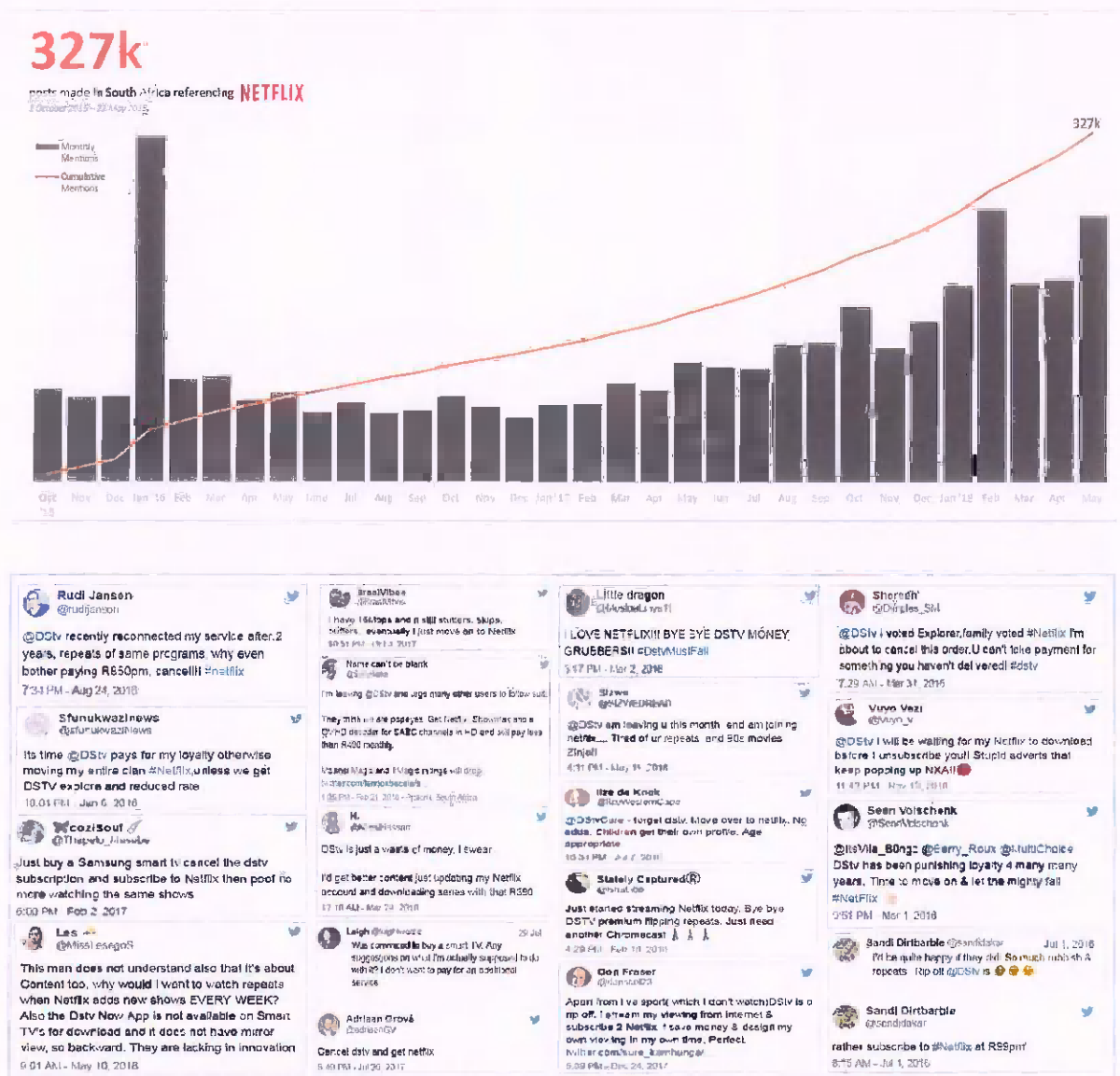
Source: <https://mybroadband.co.za/news/broadcasting/262683-people-love-complaining-about-dstv-premium-but-they-still-subscribe-to-it.html>

Figure 15:



- 29 The loss of subscribers to OTT providers such as Netflix will continue. MultiChoice tracks conversations on social media as a source of market intelligence. It does so to understand consumer sentiment in the market and their susceptibility to switch away from DStv. The Figure below shows the significant increase in the number of posts that reference Netflix since its entry in SA. A steep increase is observed for 2018. Examples of conversations citing Netflix are also provided below, showing how Netflix is regarded by these users as an alternative, either on its own or in combination with other services such as Showmax and OpenView.

Figure 16: Number of posts that reference Netflix and examples of social media conversations regarding switching from DStv to Netflix



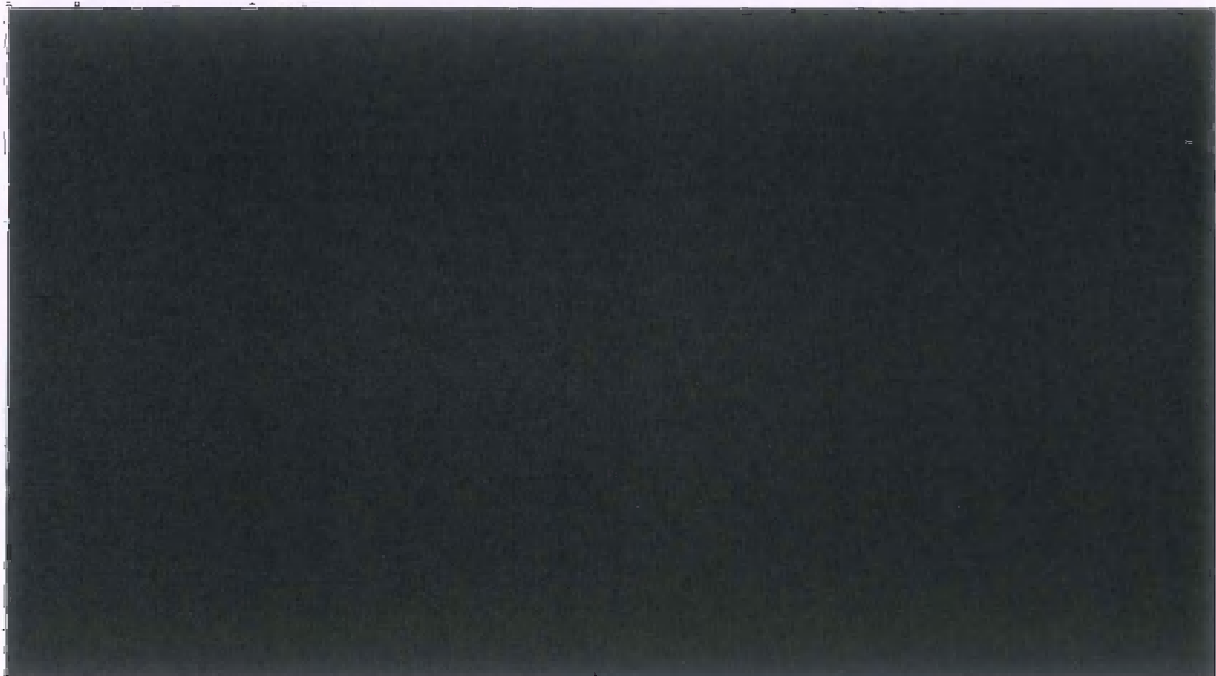
30

31

[REDACTED], given changing demographics, with the younger generations becoming much more familiar and satiated regarding their audio-visual needs by using OTT services such as You Tube rather than traditional TV. As can be seen in the Figure below, teenagers in SA between the ages of 13 and 16 are already more engaged with sites such as You Tube than they are with traditional TV. This trend will play out with large proportions of this generation rejecting DStv in favour of OTT when they reach the age at which they start their own households.

Figure 17: [REDACTED]

[REDACTED]



COMPETITION WITH FTA AUDIO-VISUAL SERVICES

- 32 MultiChoice competes with FTA, including FTA TV and free OTT services. The MultiChoice December 2017 submission explained that when consumers decide whether to subscribe to paid-for services, their first consideration is whether their viewing requirements are adequately satisfied by free services and other alternatives (e.g. out-of-home viewing or pirated content). There is consequently intense competition for viewers between paid-for services and free services.

- 32.1 Free services are typically funded through the sale of advertising airtime (which is based on the number of viewers) and therefore the FTA providers have to compete intensely to attract large audiences to their services, which they do through airing attractive content.
- 32.2 Similarly, in order to attract FTA viewers to its Pay TV service, MultiChoice has to offer attractive content and functionality at a competitive price point to increase the willingness of consumers to actually pay for audio-visual content.

Competitive interactions with traditional FTA TV in SA

- 33 FTA TV is a particularly strong constraint on Pay TV services in SA, given its strong competitive offering. The strength of the FTA TV offerings was demonstrated fully in MultiChoice's December 2017 submission:³⁹
- 33.1 Both of the established FTA TV broadcasters, the SABC and e.tv, offer extensive, popular local content, in a context where South African viewers have particularly strong preferences for high quality local content. The SABC 1 channel, in particular, has entrenched its position as the country's most viewed channel across platforms, with local soap operas and drama featuring as the most popular genres.
- 33.2 The SABC also broadcasts a wide range of popular local and international sport. This includes a high proportion of PSL games – the SABC holds exclusive rights to 50 PSL matches and non-exclusive⁴⁰ rights to a further 69 PSL matches through a sub-licensing arrangement with SuperSport. With a multi-channel DTT environment, the SABC will be in a position to broadcast more of the rights that it currently holds.

³⁹ Refer to MultiChoice's December 2017 submission: pgs102-110; 84; pgs116-118; pgs257-267 and Appendix 4, which provides the details of the local content and sports offerings on FTA TV in SA

⁴⁰ These matches are usually broadcast simultaneously, but not always, as the SABC sometimes broadcasts matches on a delayed basis, even though the SABC is entitled to broadcast them live

33.3 OpenView, a multi-channel FTA digital satellite DTH service, was launched in 2013. With a number of channels across a range of genres, OpenView is not dissimilar to the lower-priced bouquets offered by MultiChoice. OpenView continuously seeks to improve its offering and attractiveness in the market as is evident from the recent announcement that eMedia will be launching Open News in the last quarter of 2018, and a 2-hour block of Afrikaans programming on eExtra.⁴¹

34 MultiChoice has already provided ICASA with evidence that FTA TV services constrain MultiChoice in SA. This is summarised and amplified below:

34.1 Around the time that OpenView was launched in 2013, MultiChoice introduced two new bouquets, EasyView and Access. Both bouquets saw a 50% or so increase in the number of channels between March 2013 and March 2014. Despite this increase in content, prices for those bouquets in nominal terms remained constant at R29 per month and R99 per month for EasyView and Access respectively. [REDACTED]

34.2 Since 2014, MultiChoice has continued to add additional channels to these lower-priced bouquets, but has not adjusted the price, [REDACTED]

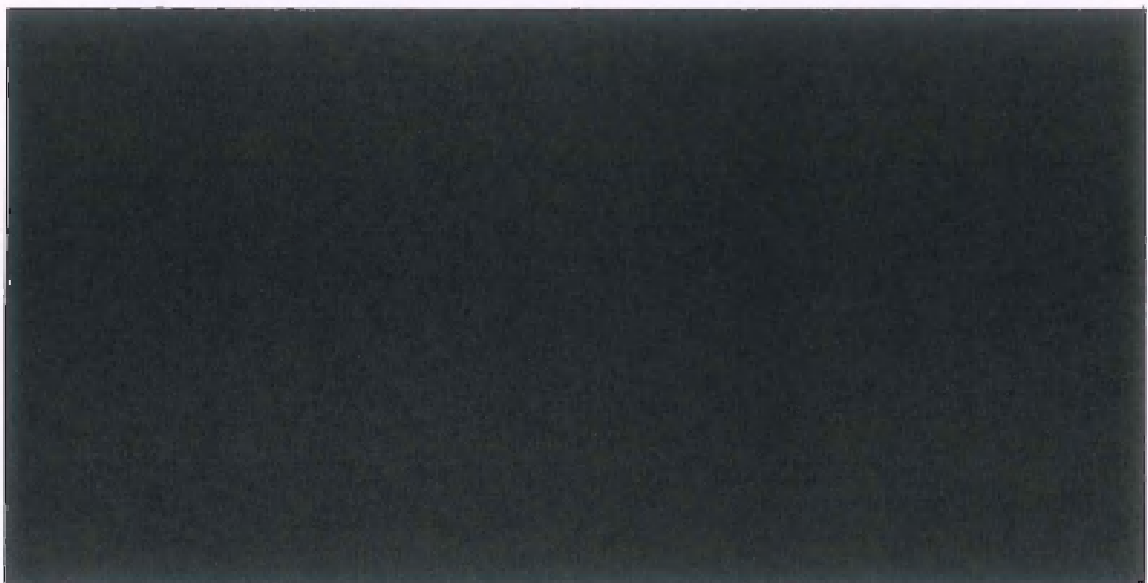
[REDACTED] The fact that the lower-priced bouquets have seen no price adjustment since launching, despite the large increases in content and improved platform services reflects the constraint placed by FTA on MultiChoice.

34.3 In fact, when MultiChoice attempted to increase the subscription price for EasyView to R39 per month, it was forced to reduce the price back down to R29 [REDACTED]. The Figure below shows how the price increase in April 2015 resulted in a

⁴¹ <https://www.enca.com/south-africa/sa-media-landscape-opening-up-as-emedias-launches-opennews>

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] These reflect changes to the
OpenView offering which occurred around the same time (discussed
next).

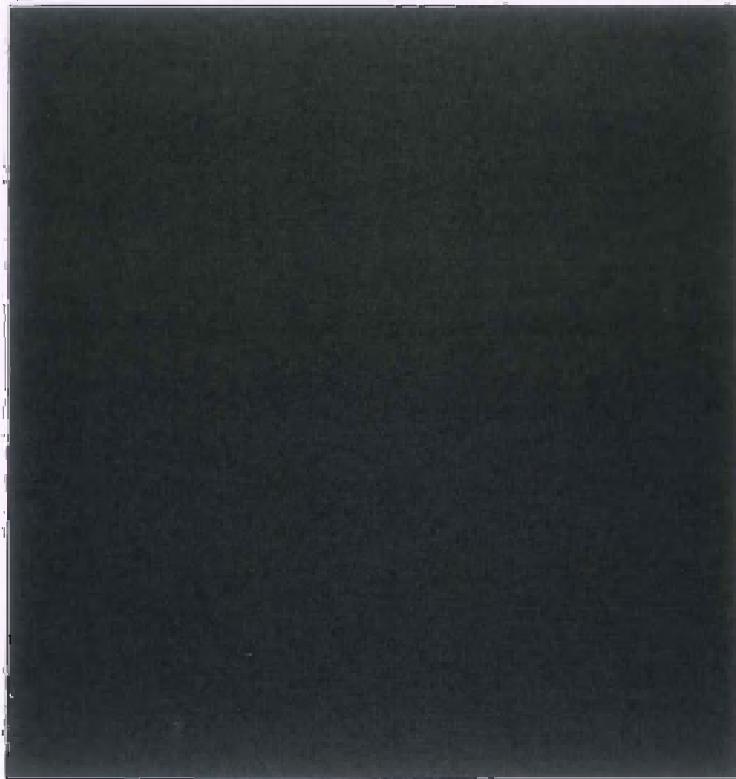
Figure 18: [REDACTED]



34.4 Observed changes in OpenView's own offering has also had a
noticeable effect on EasyView's subscriber numbers. The Figure below
shows [REDACTED]

[REDACTED]
[REDACTED]

Figure 19:



- 35 The competitive interactions between FTA and Pay TV is also recognised by the FTA broadcasters themselves. The FTA broadcasters stated in their oral representations to ICASA that they see themselves in competition with MultiChoice. OpenView clearly sees itself as a competitor to Pay TV, having noted in August 2017 that the tough economic environment in SA is making consumers and TV viewers rethink the costs of entertainment, which makes OpenView *"a viable alternative"*.⁴² e.tv's response to ICASA's questionnaire was that the price/quality offering of the lower-priced Pay TV packages is likely to be constrained by the FTA offering and vice-versa.⁴³
- 36 Finally, whilst it is clear that FTA directly constrains the lower-end bouquets, it also constrains the higher-priced bouquets indirectly. MultiChoice's December 2017 submission showed that changes in the lower-priced bouquets during 2013 had a ripple effect through all the tiers as channel numbers were increased

⁴² TV with Thinus, 16 August 2017, eMedia Investment's OpenView HD reaches a tipping point as the free satellite TV service will reach 1 million decoder activations by mid-September 2017: <http://teeveetee.blogspot.co.za/2017/08/emedias-investments-openview-hd-reaches.html>

⁴³ e.tv response to question 1.3 of the Questionnaire

considerably – a real increase in value – but where price increases were in line with inflation and hence flat in real terms.

- 36.1 DStv Family was introduced in the tier above Access and launched in April 2013 with 49 channels at R175.⁴⁴ The Family bouquet saw channel numbers rise rapidly to 64 channels by March 2014 for only a further R10 increase in price.
- 36.2 The Compact bouquet saw a 25% increase in the number of channels over the same period, but with an increase in price of only 1% above the inflation rate.
- 36.3 The Extra (now Compact Plus) bouquet was also introduced in June 2013 in the tier above Compact. Originally it had 86 channels for R380,⁴⁵ but this rose to 102 channels by March 2014 for only an inflationary increase in price.
- 36.4 This in turn affected the Premium bouquet, which saw a 16% increase in the number of channels over this period, but only an inflationary increase in price.

Competitive interactions with ad-based OTT services

- 37 In addition to traditional FTA TV, there is a growing selection of audio-visual content available for ad-based online via OTT services. This includes linear and catch-up services of FTA broadcasters (South African and international) and free audio-visual services provided by the big tech global giants with advertising-based business models (Google/YouTube, Facebook, Twitter and Snapchat).
- 38 As a result, many consumers are increasingly finding that their electronic audio-visual content needs can be satisfied very cheaply, without subscribing to any paid-for services. This serves as an important growing constraint on paid-for electronic audio-visual services, as Pay TV services are compelled to provide an

⁴⁴ DStv Forum, 19 March 2013, MultiChoice launches DStv Family pack and additional channels: <http://forum.dstv.com/showthread.php?t=18766>

⁴⁵ Channel24, 26 June 2013, DStv launches cheaper bouquet: <http://www.channel24.co.za/TV/News/DStv-launches-cheaper-bouquet-20130626>

attractive offering to retain or move consumers to their platform in an environment where there are large amounts of free electronic audio-visual content over the Internet.

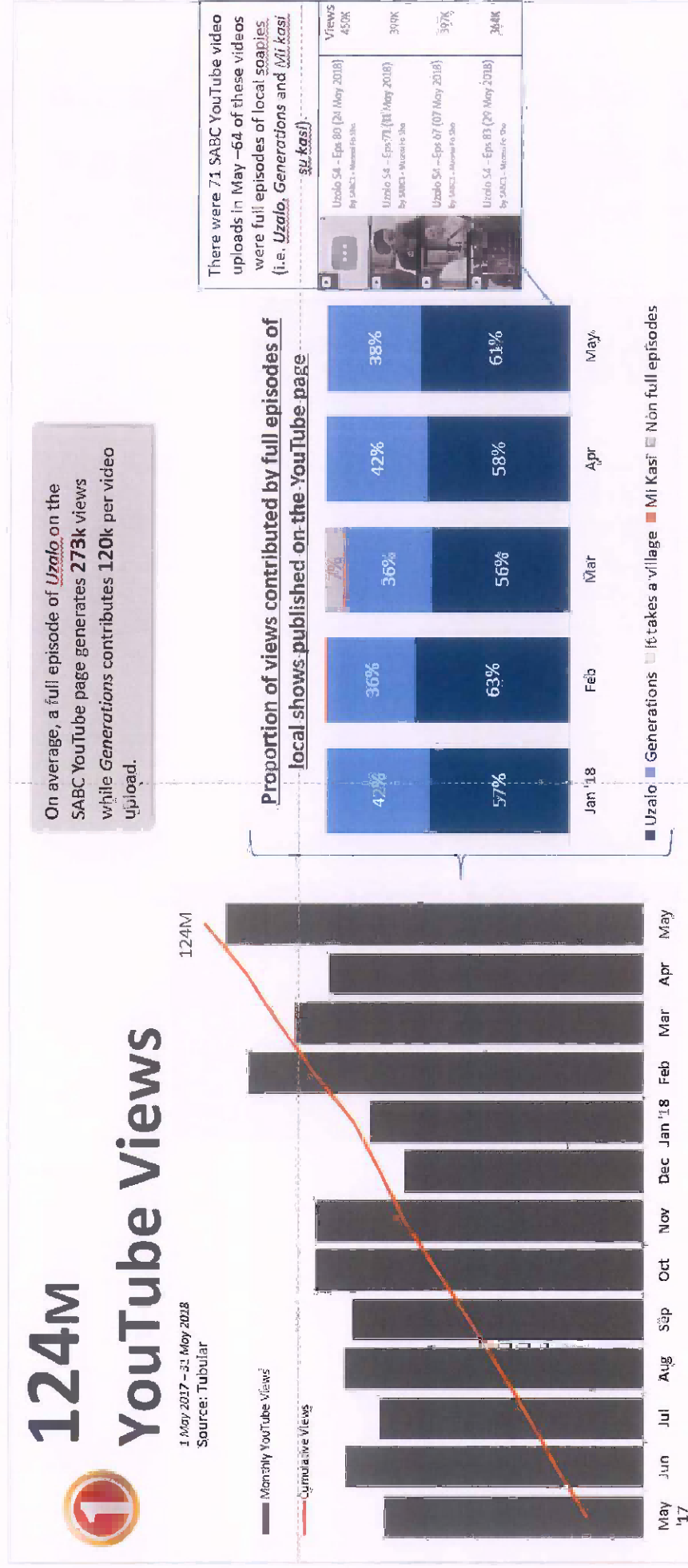
- 39 This document has already shown the popularity of free OTT services, like YouTube, which has 3.7m unique visitors in SA each month. The Interactive Advertising Bureau (IAB) has also found that social media is playing a huge role in online audio-visual content in SA, with over half of South Africans finding video content on social media platforms:

*"Interestingly, social media now consumes the second highest amount of bandwidth globally after online video, and the two are very closely linked – the IAB survey points out that 53% of South Africans found video content via social media. Some 13 million South Africans are on Facebook – which now places huge emphasis on video content – with 77% of them accessing the site via mobile. This gives marketers and advertisers access to a huge and targetable audience."*⁴⁶ (emphasis added)

- 40 Linear and catch-up services of FTA broadcasters are also enormously popular in SA, enabling their viewers to view their content on-demand. The Figure below provides catch-up services using YouTube for certain SABC and e.tv programming. It is evident that YouTube is used extensively for catch-up services by FTA viewers, and that its usage is increasing every month. On average, a full episode of Uzalo on the SABC YouTube page generates 273 000 views while Generations has 120 000 views per video upload.

⁴⁶ The Media Online, 8 July 2016, SA showed second highest growth in mobile video globally: <http://themediainline.co.za/2016/07/sa-showed-second-highest-growth-in-video-globally/>

Figure 20: YouTube views for select SABC and e.tv programming

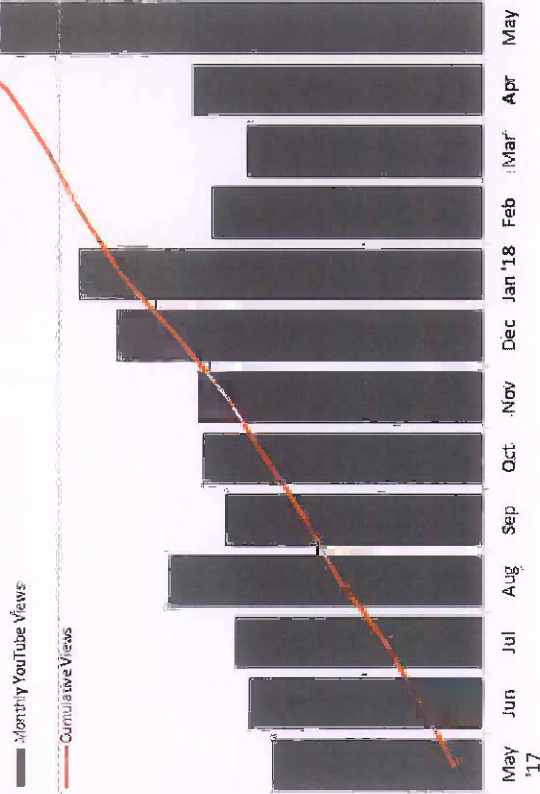


51.5M



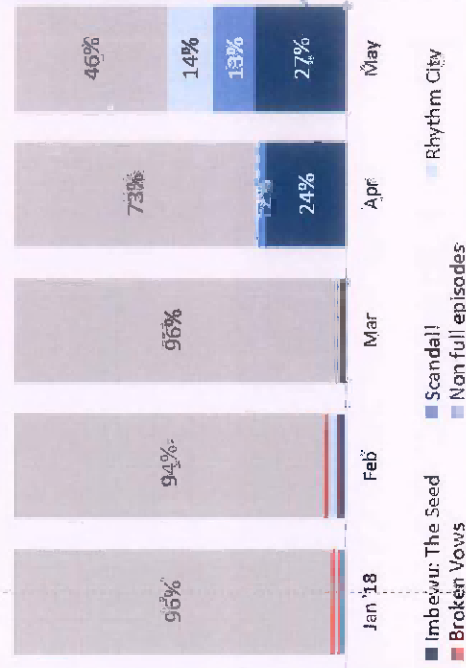
YouTube Views

1 May 2017 - 31 May 2018
Source: Tubular



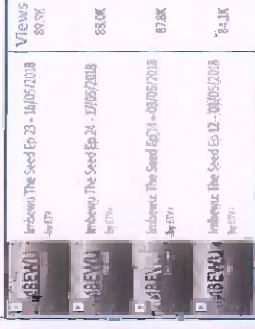
On average, a full episode of *Imbewu: The Seed* on the e.TV YouTube page generates **48.5k** views while *Scandal!* contributes **7.0k** per video upload.

Proportion of views contributed by full episodes of local shows published on the YouTube page



80% of all e.TV video uploads in May were full episodes of owned shows -- specifically *Imbewu: The Seed*, *Scandal!* and *Rhythm City*.

Since April more full episodes of local shows were uploaded on the e.TV YouTube platform -- causing video views to increase tremendously.



Source: Tubular

- 41 MultiChoice's December 2017 submission showed that TV advertising revenues have for the first time started to decline in nominal terms in SA.⁴⁷ This is consistent with the global trend in more developed markets where digital advertising has already passed television advertising revenues.

COMPETITIVE RESPONSES FROM MULTICHOICE

- 42 The competitive pressure from the multitude of operators in the electronic audio-visual services market has meant that MultiChoice has had to respond competitively to retain its subscriber base and grow. Some of the key initiatives are highlighted in the sections below. MultiChoice submits that these initiatives, taken together with the evidence of actual and potential competitive threats discussed in the preceding sections, provide direct evidence that competition in the electronic audio-visual services market is far from ineffective. In particular, our competitive responses demonstrate that MultiChoice does not have market power, that is, the ability to behave independently of competitors and customers. As such, regulation is not warranted.
- 43 MultiChoice's December 2017 submission already demonstrated that this response has occurred across all bouquets and all dimensions on which electronic audio-visual service providers compete, including price, content type and mix, technical platform/services, retention efforts and customer services.⁴⁸ This is consistent with our submissions that the business faces constraints from a combination of competitive threats across its entire range of offerings.
- 44 This section shows how 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

⁴⁷ MultiChoice December 2017 submission, para 501

⁴⁸ MultiChoice's December 2017 submission, pgs279-296

customer service team. These efforts are all a direct response by MultiChoice to competition in SA.

Content offering

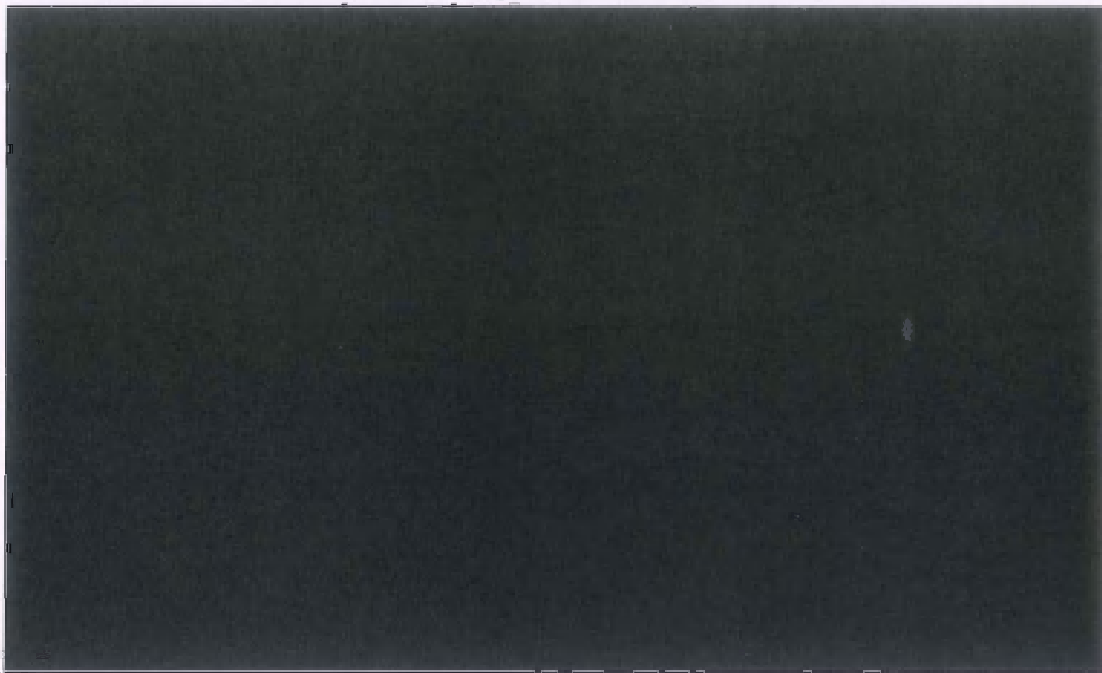
45 MultiChoice's December 2017 submission explained that it invests considerable time and effort in continually reviewing the attractiveness of channels/content available on its bouquets relative to alternatives in the market. Changes to bouquets are typically made to improve the attractiveness of the 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/channels are also added or removed to reflect those changes. Where content gaps exist, such as local content, MultiChoice has invested in developing that content through its sister company, M-Net.

46 MultiChoice's largest spend is on content, with content spend [REDACTED] as MultiChoice constantly seeks to improve its value offering to its subscribers (existing and potentially new subscribers) in an environment where there are so many alternatives for consuming audio-visual content. The increase in value for consumers is reflected not only in the increase in content spend without commensurate bouquet price increases, but also the enormous effort MultiChoice puts in to ensure that the content is attractive and packaged in a way that is valued by subscribers.

47 M-Net has invested substantial amounts in commissioning local content, such that it is now the largest investor in local content in the country. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Figure 21:



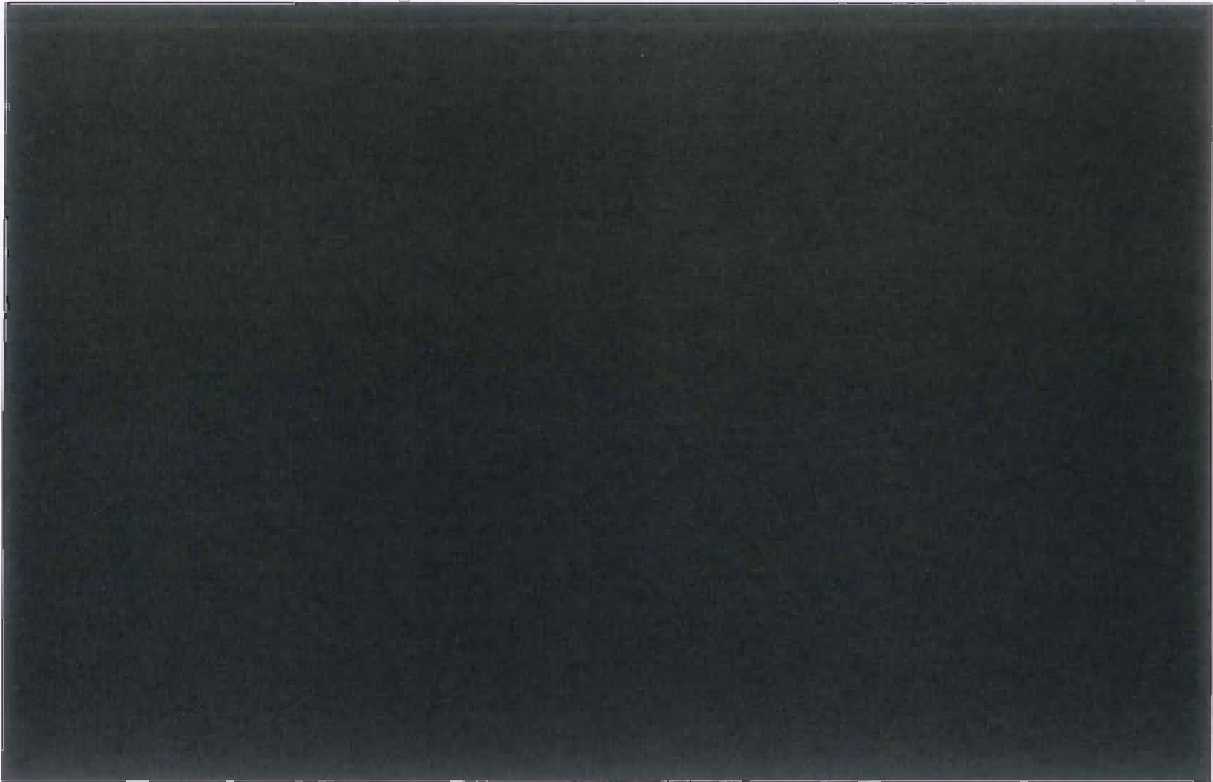
48. Dedicated local content channels produced by M-Net include: kykNET, kykNET & Kie, Mzansi Magic, Mzansi Wethu and Mzansi Bioskop. In 2018, 1Magic was launched, which is focused on local content, including local dramas, telenovelas, reality shows, and movies. This focus on local content is in response to consumer demand for such content as well as the competitive behaviour of MultiChoice's rivals who have successfully developed popular local content.

48.1 For example, Isibaya, a popular local drama which originally launched in 2013, was extended to five days a week in 2014. It is available to Premium, Compact Plus and Compact subscribers on Mzansi Magic. Other popular local content shows that have been produced by M-Net over this period and are available on all of these three bouquets on Mzansi Magic include: Big Brother Mzansi, Date My Family, Idols, The Queen, Clash of the Choirs, Living the dream with Somizi, Igasi, Utatako, Saints and Sinners, Rockville, Zabalaza, The Hustle, Greed and Desire, It's Complicated, Diski Divas, Rich Kids, Pappa Penny, Mzansi Footballers and Mzansi Comedy Nights.

- 48.2. Subscribers on the lower-priced bouquets, including Access, also benefit from the development of the shows included on Mzansi Magic, which are all shown in the second-run window on Mzansi Wethu.
- 48.3 Over this period, M-Net has also produced shows specifically for the Premium bouquet (The Voice, My Story, My Kitchen Rules, Survivor and Dancing with the Stars), as well as shows that were also extended into Compact Plus (Suidooster, Boer Soek 'n Vrou and eNuus).
- 49 The effort to improve the content offering is also made with respect to third party channels.
 - 49.1 MultiChoice works with its third-party channel providers to assist them in repackaging their channels to make them more relevant to domestic audiences. This may include the mix of content and its scheduling, such as with Universal Channel and Fox.
 - 49.2 MultiChoice may also encourage those third-party channel providers to include additional local programming (e.g. Comedy Central has continually expanded its local content programming with the support of MultiChoice, and the BBC produces local shows for inclusion on its channel and are a shareholder of a South African production company, Rapid Blue).
 - 49.3 MultiChoice is constantly assessing its offering to identify gaps that can be covered with additional third-party content. Over this period, MultiChoice added additional third-party channels, including the successful BET. As genres become popular, MultiChoice will ensure that more of this content is included in its bouquets. For example, as telenovelas became more popular, MultiChoice launched the dedicated "Telemundo" channel in 2014, which would have local appeal.
 - 49.4 MultiChoice imposes performance requirements on these channel providers to ensure that the quality remains high, with regular reviews of content and performance.

- 50 MultiChoice has also been innovative in its use of pop-up channels and festivals, which provide subscribers with a range of content carefully curated around a specific theme for a short period of time. In 2015, MultiChoice introduced the first two pop-up channels over the December summer holiday season and six more pop up channels were broadcast in 2016. Pop-up channels became thematic, with Star Wars and Bond pop ups broadcast during 2017. This was made possible by further investments by MultiChoice with the content owners.
- 51 The efforts to improve the offerings is not just reflected in additional content, but also in how the content is packaged. For example, to reduce repeats, the movie offering was rationalised in 2017 and series repeats were moved to a dedicated time delayed channel. This measure was taken in response to consumer feedback of dissatisfaction with repeats.
- 52 The Figure below summarises the spend on content for the last five years, as well as some of the initiatives taken by MultiChoice over the period. These sorts of efforts – that increase every year – reflect MultiChoice's continued drive to "keep the customer satisfied" and to go further to exceed customer expectations, so as to minimize dissatisfaction and churn. MultiChoice sees these sorts of initiatives as part of its retention activity in the context of compelling alternatives for subscribers. A firm that was not subject to significant threats of losing customers to competitors would not put such effort and increase investment into its products, year after year.

Figure 22:



Decoder and platform innovation

53 The provision of audio-visual entertainment services extends beyond just the content that consumers have access to. It also includes the platform and technology over which such services are provided. To enhance its competitive position relative to its rivals and to enhance the consumption experience of customers given evolving consumer preferences and habits, MultiChoice has improved its technical platform and provided a range of additional services. These investments are directed at responding to OTT services, as well as changing consumer demand patterns and include the following initiatives:

- 53.1 Value added services like DStv Catch Up and BoxOffice, as well as DStv Now (an online content service), have been added specifically to provide online VOD-type services to DStv subscribers. While these additional services have been rolled out first to the higher-priced bouquets, MultiChoice has now rolled these out to all bouquets.

- 53.2 The improvements to the STBs include functionality and user experience enhancements, as well as incorporating VOD capabilities to provide these value-added services.
- 53.3 The reduction in STB retail prices (and resulting 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.

Value added services

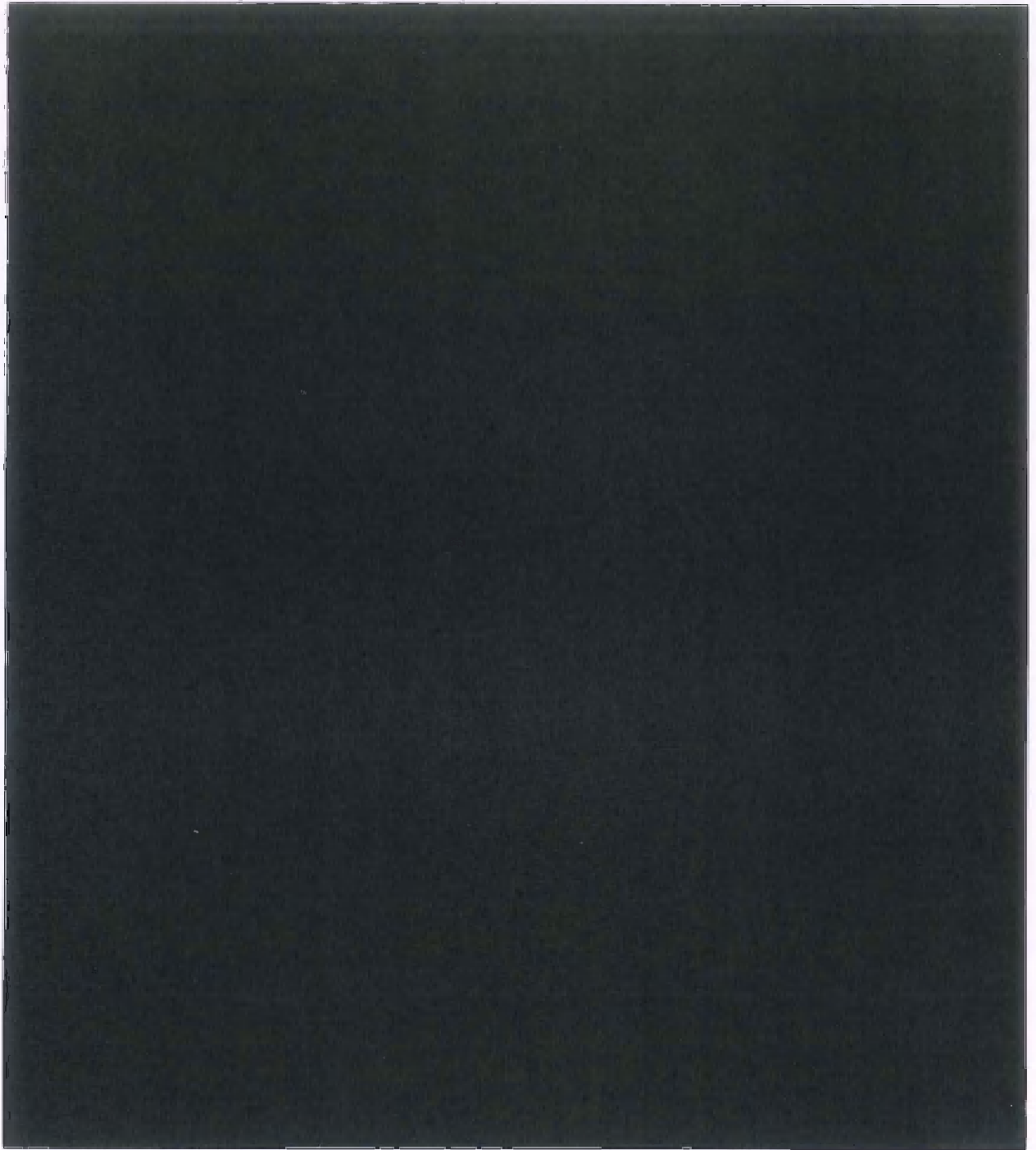
- 54 The value-added services provided by MultiChoice include the following, which provide online and VOD options to subscribers.⁴⁹
- 54.1 The DStv Catch Up service is a "push" VOD service currently available to DStv Premium, DStv Compact Plus and DStv Compact subscribers at no extra cost. Select content from the linear channels is pushed to the STB where it can be viewed at the subscriber's convenience. This is a globally innovative service, where satellite technology and a local hard drive is used to allow for the consumer trend to watch VOD. Since it was launched, a growing proportion of MultiChoice's Explora customers have connected their Exploras to the Internet to take full advantage of the wider catalogue that Catch Up Plus offers.
- 54.2 DStv Catch Up Plus is a more extensive "pull" VOD service available to DStv Premium, DStv Compact Plus and DStv Compact Subscribers at no extra cost. The service is accessible via the DStv Explora STB using an Internet connection in the home. The catalogue of content is much larger than DStv Catch Up because it is not restricted by the hard drive storage capacity of the subscriber's PVR. Premium subscribers can access Catch Up and Catch Up Plus via the Explora STB as well as on devices through DStv Now.

⁴⁹ Further details can be found in the MultiChoice December 2017 submission, paras 579-580

- 54.3 BoxOffice is a TVOD service, whereby movies that are rented can be downloaded or streamed on a TV set (accessed via a STB) or a device like a PC, tablet or smartphone. A DStv subscription is not required to be able to rent movies through the BoxOffice website. However, if movies are to be rented via the DStv PVRs, a DStv subscription is required.
- 54.4 Showmax is an SVOD service that provides unlimited access to more than 25 000 movies and series for R99 per month. The audio-visual content is delivered over the Internet and is accessible on a wide range of devices, namely smart TVs, smartphones, tablets, PCs, media players, games consoles and the DStv Explora. For DStv Premium subscribers, Showmax is being made available at no extra cost. Subscribers to DStv Compact Plus and DStv Compact bouquets get Showmax for a discounted price of R49.00 per month.
- 54.5 DStv Now is MultiChoice's Internet streaming service available to all DStv subscribers at no extra cost. With an Internet connection, subscribers can stream from an offering of all of the 140 DStv linear channels, or watch the latest Catch Up content on their PC, tablet or smartphone.
- 54.6 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] MultiChoice will also launch a streaming-only version of DStv in the near future.⁵⁰ This version of DStv will not require a satellite dish but will instead rely on the Internet to deliver channels and on-demand content. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁵⁰ <https://techcentral.co.za/dstv-to-launch-streaming-only-option/81195/>

Figure 23: [REDACTED]



55 [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] These costs are steadily increasing as more content becomes available online, and as more subscribers access these value-added services.

STB functionality and innovation

56 MultiChoice also continuously invests in STB development, with continual software upgrades to improve performance and the user interface. Reflecting the fast pace of technological improvements with respect to STBs, more new model decoders have been introduced in the last five years than in the decade before. Many of the improvements to the STBs are related to enhancing their VOD capabilities to provide the value-added services described above.

56.1 In 2013, MultiChoice launched a new model PVR, the DStv Explora, with a two-terabyte hard-drive. This allowed the number of hours of content on the Catch Up service to increase to over 200, subscriber recording space to more than double, and the number of BoxOffice movies available for rental at any given point in time to increase from 15 to 30. In 2015, DStv's Premium Explora customers were among the first to experience streaming services as DStv provided an extended library of series, movies and documentaries on the Explora. To connect these Exploras to the Internet, MultiChoice launched a simple plug and play WiFi connector. The DStv Explora was named the 2015 Satellite Television Product of the Year⁵¹ and was named the TV Gadget of the Year in 2016 by Stuff magazine.⁵²

56.2 In 2016, as high definition (HD) televisions started to become more affordable, MultiChoice expanded its HD service to single view decoders with the addition of a new HD single view decoder at the same retail price as the standard definition decoder it replaced.

56.3 The new Explora 2 was launched in 2017 at the same low retail price as Explora 1, but with better data compression and streaming technology. The new Explora 2 is especially suited to streaming content, providing connected customers with Catch Up Plus, available for the first time in 2017. Subscribers with access to Showmax can also view this content on their connected Explora (in addition to the web,

⁵¹ <https://www.channel24.co.za/TV/News/DStv-Explora-wins-another-award-20150528>

⁵² <https://www.dstv.com/en-za/news/dstv-explora-wins-stuff-award-20170424>

app and smart TV app). A new back lit remote control was also launched in 2017, which is much easier to use in low light, or for customers with impaired sight. The Figure below shows the range of improvements to the DStv Explora in 2017 alone.

Figure 24: Upgrades to the DStv Explora in 2017 (Figure 69 of the MultiChoice December 2017 submission)

Explora Roadmap			
2017			
Q1 (Jan - Mar '17)	Q2 (Apr - Jun '17)	Q3 (Jul - Sep '17)	Q4 (Oct - Dec '17)
<ul style="list-style-type: none"> • Showmax Logout fix • VOD Monitoring • Recording Restoration 	<ul style="list-style-type: none"> • New episodes indicator • More posters in a row • Visible Get connected banner • Rename Other to Shows • User selected Sort Options • WIFI Connectivity Wizard • Enhanced Connectivity Checker • DStv-i logging Improvements & Expansion to Africa territories • CA Error Fixes (phase 1) • Smart Ads • Launch USB WIFI Connector 	<ul style="list-style-type: none"> • Channel Navigation • Featured Recommendations • Channel logos • New episodes indicator • Download Speed Test • MAL Self-Service Error Messages • CA Error Fixes (phase 2) • New WIFI Connector 	<ul style="list-style-type: none"> • Recording Icon Updates • Playlists • Channels • Recently Watched TV Shows • Important Notices (without Video) • ShowMax Personalized Recommendations • QR Installation Birth Certificate • ShowMax Watched tick Performance update • Default ErrorMessage changes • DStvHD 5U/S decoder launch

56.4

STB pricing and subsidies

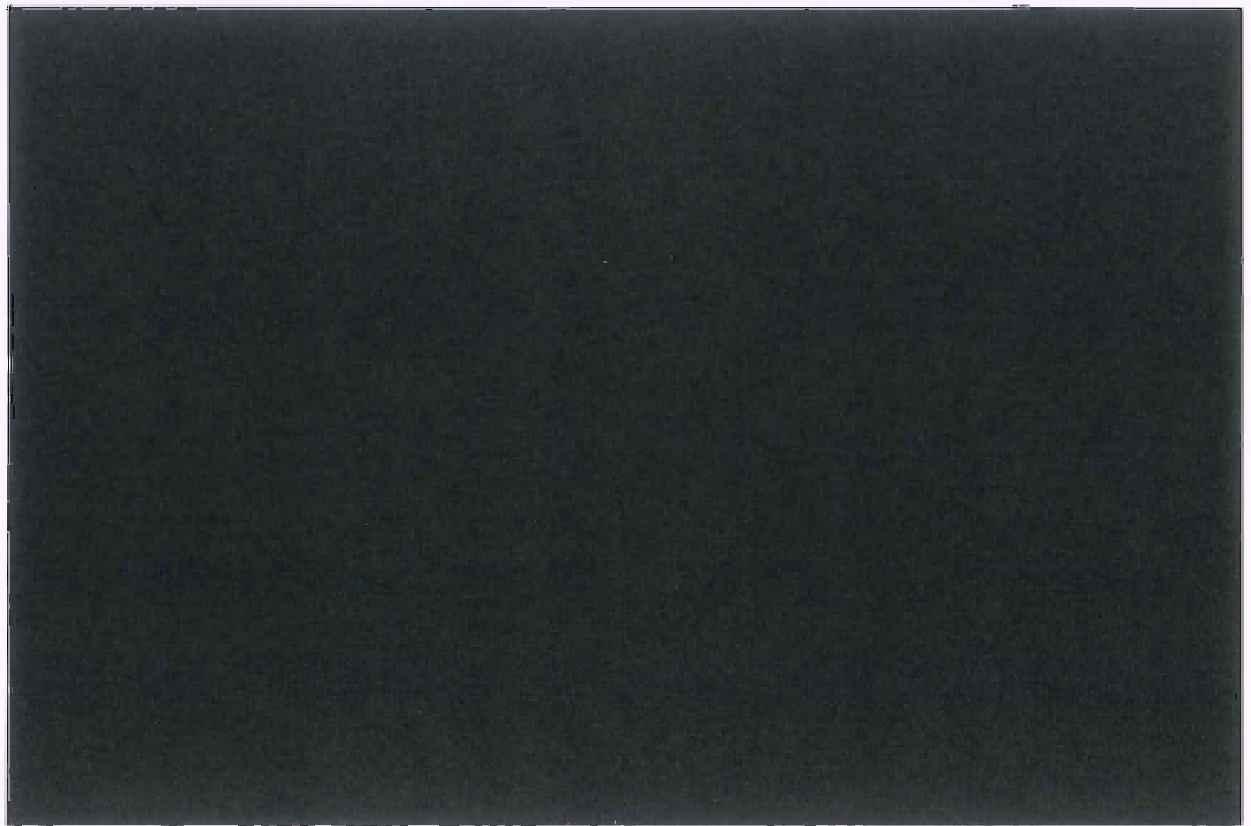
57 A further aspect to competition between electronic audio-visual service providers is the upfront costs to consumers of connecting to the service. For traditional Pay TV broadcasters this involves the cost of the STB, and in the case of DTH, the added costs of the satellite dish and installation. Other platforms are generally cheaper for consumers to access (e.g. OTT services operate off an existing broadband connection), and MultiChoice has therefore had to bring the procurement cost of STBs down and extend subsidies in order to keep its STB prices low. As a result, the cost of subsidies to new customers has increased by [REDACTED] from 2014 to 2018. In respect of STB prices and promotions over the past few years:

57.1 In 2015, MultiChoice dropped the price of its flagship DStv Explora to make it accessible to more South Africans. Whereas the DStv Explora STB was originally launched in 2014 at a price of R2999, the latest Explora 2 model currently sells in the region of R999 at many national retailers.

57.2 The DStv standard HD STB launched with a retail price of R700, but currently sells for as little as R379 at some national retailers.

58 Such investments, continual and increasing over the period as shown in the Figure below, entirely consistent with a firm anxious to attract customers who have numerous competing alternatives (i.e. in an intensely competitive environment).

Figure 25:



Customer service

59 MultiChoice has always focused on delivering excellent customer service to subscribers. MultiChoice's customer-focused mindset has been sharpened even further in recent years as competition has intensified, so as to put the DStv customer first in a very deliberate and tangible way. This document has already described how this culture has manifested itself with respect to content and the observed improvements in the technical platform. These increased efforts are also reflected in customer services, where investments have been made in improving the user experience when interacting with MultiChoice's service team. This has all been done in light of the competitive threats and driven by the need to remain competitive. MultiChoice's commitment to provide an efficient and effective service is reflected in increased spend on customer services each year.

59.1 MultiChoice has invested extensively over this period in improving its systems and processes. In 2015, MultiChoice introduced a new billing system that offered a host of new customer friendly options not previously available. MultiChoice also developed a comprehensive "Voice of Customer" framework in 2015. This framework is designed to elicit customer opinion on our service delivery across 30 crucial touch points and to act on complaints and recommendations. It also provides MultiChoice with a satisfaction score (CSAT) against which the success of the service delivery can be measured. In 2018, MultiChoice deployed IBM Watson, the best of breed AI (Artificial Intelligence), to handle everything from simple self-service transactions to complex process automation. Later this year, voice analytics will be added which will allow MultiChoice to monitor every customer engagement as it happens.

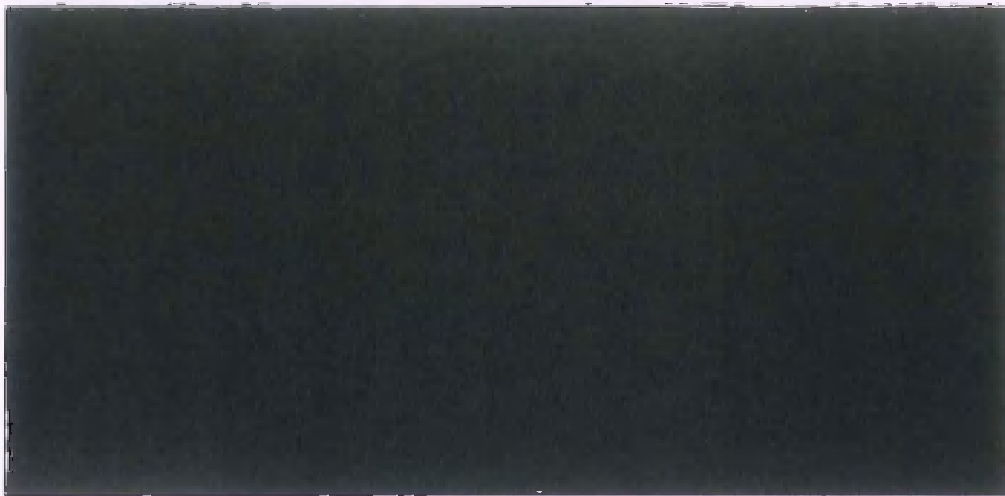
59.2 MultiChoice also shifted its organisational structure to a more customer-centred business model. The organisation aligned people and processes to more readily reflect a customer's journey with DStv, creating the "Customer Group" in 2016, where all customer interfacing teams now form part of a single team. Reflecting the central importance of the customer to its business, MultiChoice then appointed its very first

Chief Customer Officer, who assumed responsibility for the Customer Group.

- 59.3 In 2017, MultiChoice was among the first in SA to offer self-service on social media platforms like Facebook and Twitter. This forms part of a larger strategy to offer services to customers on their preferred platform. As a result of MultiChoice's self-service initiatives, over the past two years the proportion of calls to the call centre as a proportion of the subscriber base has reduced from [REDACTED]. In April 2018 the self-service offerings expanded to include WhatsApp.
- 59.4 Expanded points of payment were also introduced over this period, with the purpose of offering convenient locations for customers to make payments. For example, subscribers can now pay for their subscriptions at all major banks, food retailers (e.g. Pick n Pay and Shoprite), clothing retailers (e.g. Ackermans and Pep), as well as kiosks set up at various locations.
- 60 Year on year, MultiChoice's customer satisfaction continues to improve, not only reflected in the satisfaction measure, but also reflected in the decreasing number of service escalations from the subscriber base. This is as MultiChoice has sought to fundamentally shift its approach to customer service and experience, not just in relation to its call centre, but also in relation to its installers, stores, and in the way MultiChoice designs its products, delivers projects and develops systems. This shift has produced measurable results.

60.1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Figure 26: [REDACTED]
[REDACTED]



60.2

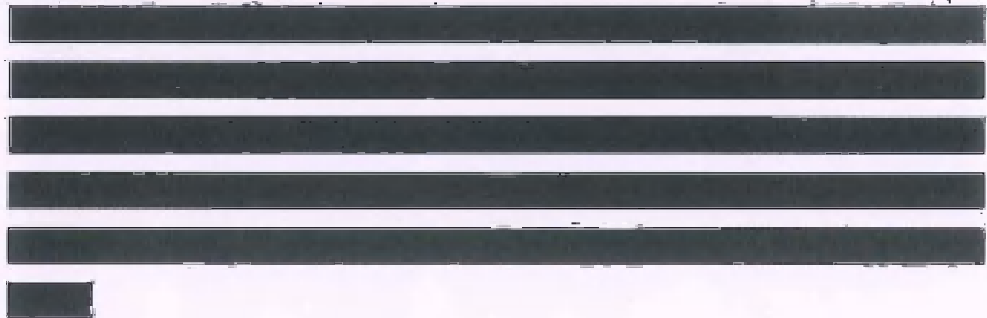
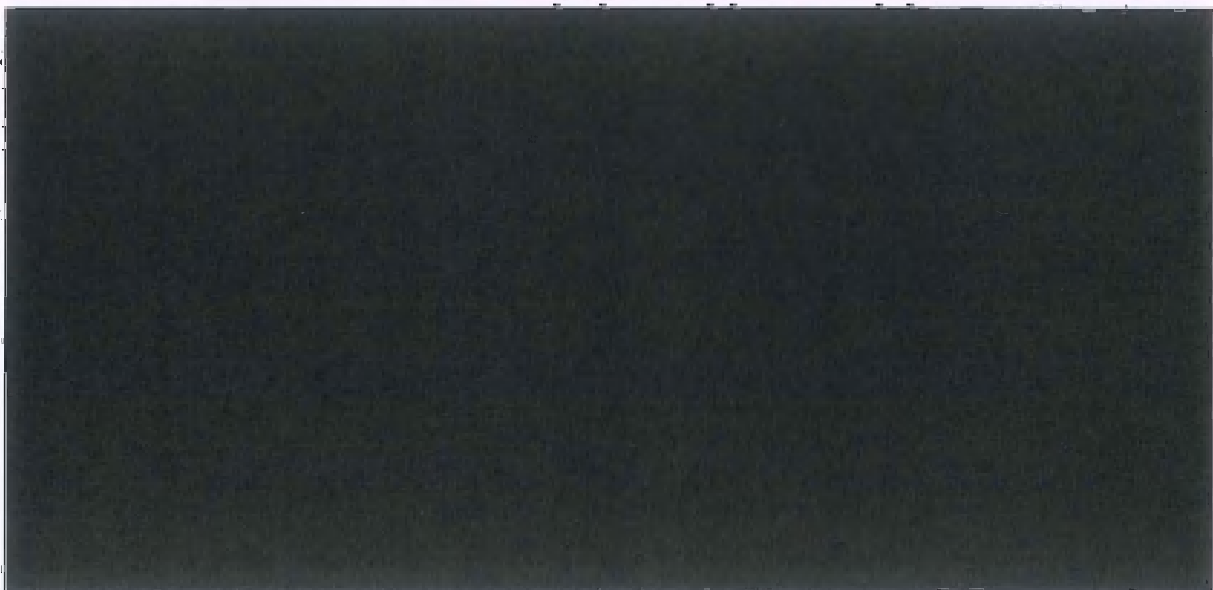


Figure 27: [REDACTED]
[REDACTED]



60.3

[REDACTED]
[REDACTED]
[REDACTED]

61 Reflecting MultiChoice's commitment to excellent customer service, MultiChoice's inbound call centre is consistently recognised internationally, having won awards for the past three years.

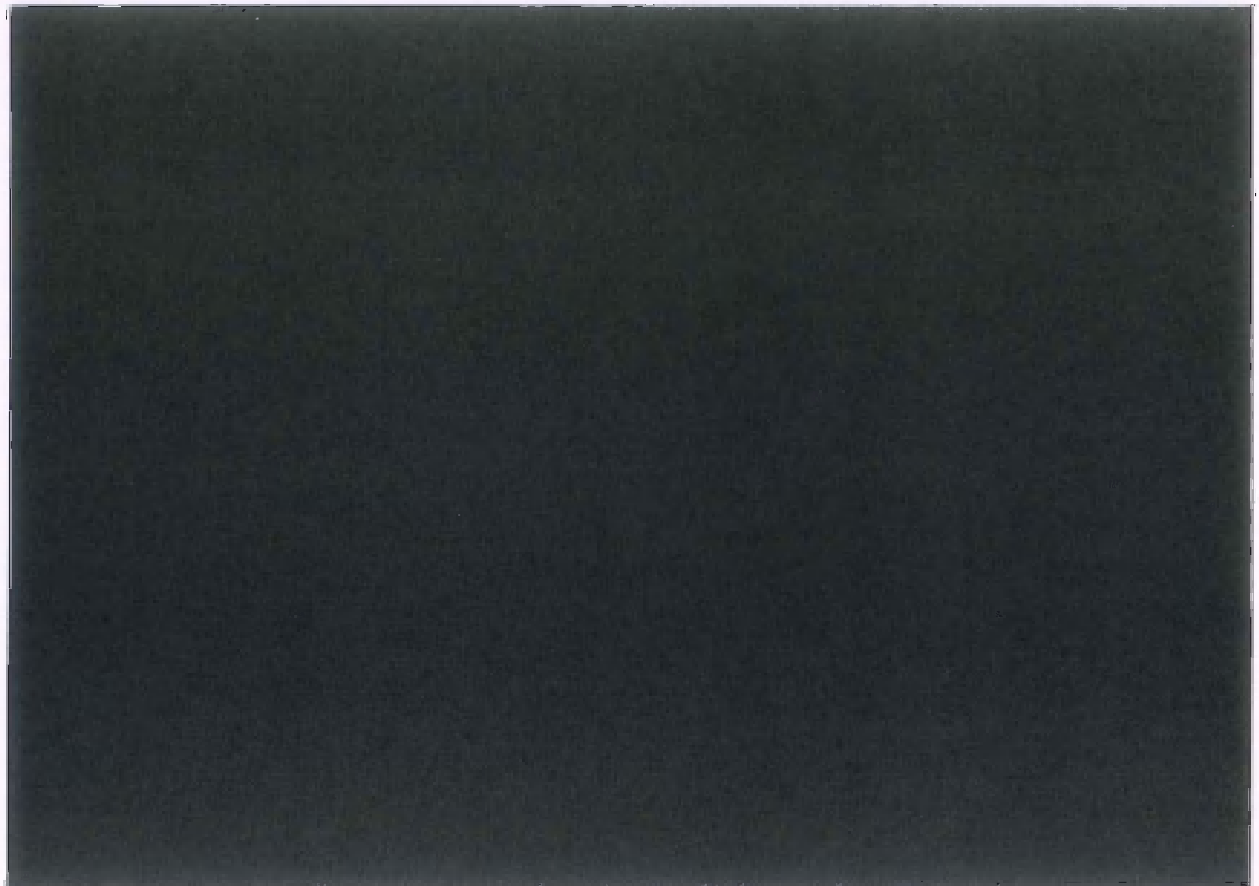
61.1 It won "Best in the World" accolades in 2015 and 2017 in several disciplines including Best Contact Centre in the World.

61.2 In 2017, the Customer Experience team won awards at the CX Africa Awards in Cape Town.

61.3 In 2018, MultiChoice won the World Contact Centre Awards in Europe and the CX Professionals Association in the USA.

62 The Figure below shows the increase in investment over this period, from [REDACTED]
[REDACTED] Such investments in customer service excellence – and the measurable results associated with this – reflect MultiChoice's efforts to keep subscribers satisfied in an intensely competitive environment where subscribers can easily switch to alternative providers.

Figure 28:



Retention efforts

63 In the face of increased competition, MultiChoice is constantly having to put effort into retaining existing subscribers, particularly since DStv subscribers are not locked into long-term contracts. In fact, South African customers have a degree of flexibility which is seldom found in more developed markets. MultiChoice subscribers are able to churn in or out of their subscription on a monthly basis and can also move between bouquets on a monthly basis. Nor are MultiChoice subscribers typically bound to contract periods in exchange for subsidised STBs, which is the case in many markets.⁵³

⁵³ Customers can select Price Lock in exchange for a 24-month agreement, but this is at their election and forms a negligible part of the subscriber base

64 These efforts around customer service, improved content and technical platform enhancements both entice new subscribers onto the platform and retain existing customers. MultiChoice also engages in certain further activities which are specifically focused on customer retention. MultiChoice's retention efforts have seen a fundamental shift in recent years, where this has now become a focus area for the business. With this identified as a key focus area, MultiChoice searched internationally and appointed a retention expert from Sky in 2015 to provide strategic guidance on how to manage the shift in the business' approach to retention. This has all been done in response to competition and an attempt to retain subscribers in an ever-increasing competitive environment.

65 Since 2014, MultiChoice has invested [REDACTED] on activities specifically focussed on retention of subscribers. This investment has increased every year – in 2018, [REDACTED] was spent on retention efforts alone, which is three times the amount spent in 2014. MultiChoice's investment in retaining subscribers includes the following major initiatives over the period:

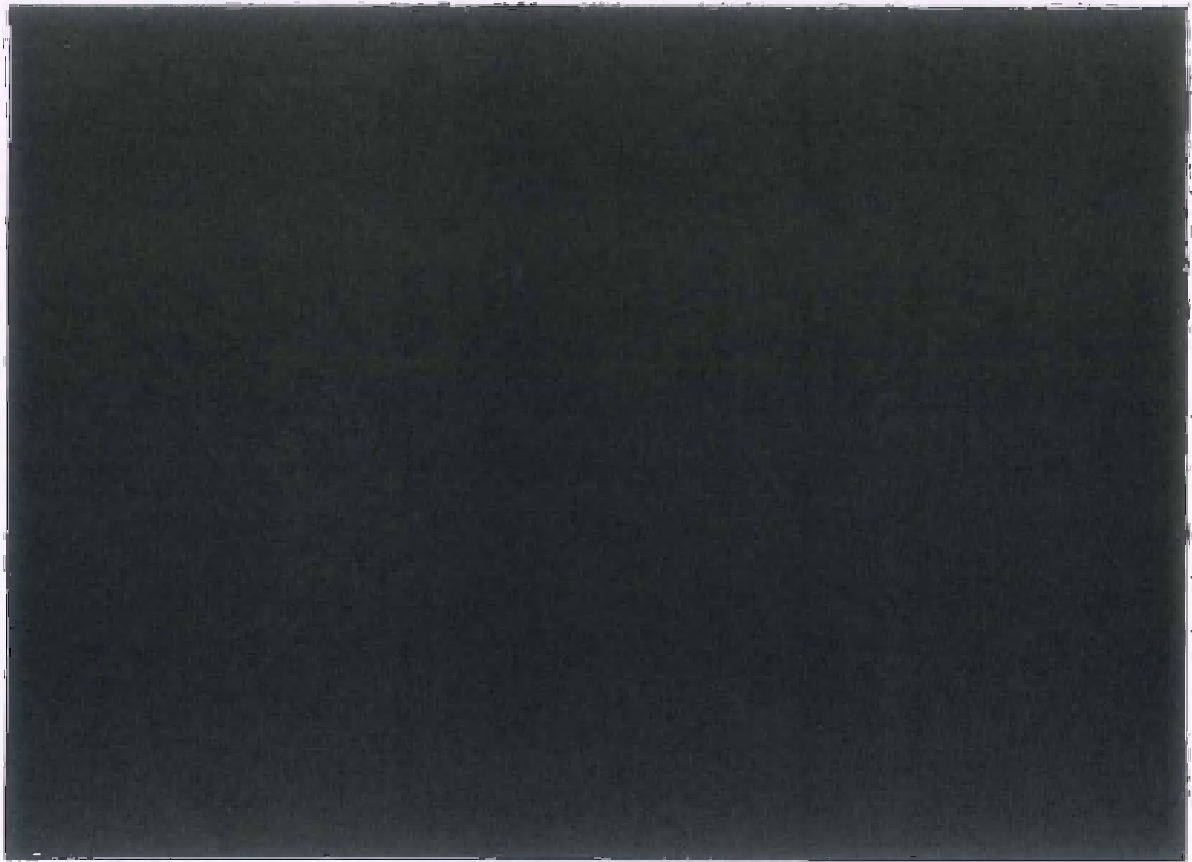
65.1 MultiChoice recognised the need for active outbound retention, which means actively calling disconnected/dormant subscribers or subscribers who are identified as having a high propensity to churn. With this, an outbound Customer Retention Management (CRM) calling team was established in 2015 and has since grown rapidly to

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- 65.2 MultiChoice has invested heavily in retention (Microsoft CRM Dynamics) and analytics (SAS) tools. With the investment in processes, MultiChoice designed and delivered bespoke welcome messaging for new customers across every bouquet, sharing the critical information new customers need when they join DStv. MultiChoice expanded the use of its analytics tools to include dynamic offers to customers designed to suit their needs. With SAS analytics, the "next best action" for each individual subscriber is provided, saving them from unnecessary email and SMS communications. Microsoft CRM Dynamics manages how these messages are sent –customers now receive only messages they need, and using their preferred method of communication (email, voicemail, SMS, MMS or outbound call).
- 65.3 MultiChoice launched "DStv Moments" in 2017, a rewards programme for long-standing customers. "Moments" surprises customers with exclusive offers, discounts and access to exclusive DStv events. Examples of Moments campaigns include tickets for events (e.g. DStv Delicious festival and the Cape Town Jazz Festival), music concerts (e.g. Bryan Adams, Johnny Clegg) and sports matches (e.g. the Soweto Derby, Super Rugby). This is an ongoing campaign and is being expanded to include more subscribers each year.
- 65.4 To improve the DStv offering and retain subscribers who might otherwise leave the platform, MultiChoice has added services to the DStv bouquets for existing subscribers. In 2017, Showmax was offered to DStv's Premium subscribers, first at a discounted rate, and later as part of their Premium subscription. Showmax is offered at a discounted rate to Compact Plus and Compact subscribers. DStv Now became available to all subscribers from 2018 whereas previously it was only available to DStv Premium subscribers. The fact that MultiChoice is now rolling these services out to all bouquets reveals the extent of competition from OTT providers across MultiChoice's subscriber base.

- 65.5 MultiChoice has invested significantly in STBs for existing subscribers. Since 2014, the investment in decoders and technology specifically for existing customers has increased by [REDACTED]. MultiChoice also began offering the DStv Explora at a discounted rate on a 24-month agreement to its Premium subscribers, with an option to include an upgraded satellite dish installation if required. This "Price Lock" deal gave existing customers with ageing decoder technology the opportunity to own the DStv Explora in return for the 24-month contract, so that the cost of the STB could be recovered over that period. The Price Lock deals have expanded to include Compact and Compact Plus packages, with options for included installation and Wi-Fi connectors.
- 66 All these retention-related activities – as summarised in the Figure below – are a direct indication of the intensity of competition faced by MultiChoice, as new electronic audio-visual services are being launched almost monthly which can draw subscribers away from MultiChoice. [REDACTED]
[REDACTED]
[REDACTED]

Figure 29:



Falling prices (in quality-adjusted terms) and little change in real prices.

- 67 The increasingly competitive landscape has pressured MultiChoice to contain real price increase across all bouquets, whilst at the same time increasing consumer value – through continuing to add more channels and content, innovating its offerings by providing value-added services (specifically any-device, on-demand capabilities to respond to the OTT threat), and improving technological elements of its services. All of these developments have been described in detail above and result in substantial additional costs to MultiChoice, which are not reflected in subscription fees.
- 68 MultiChoice showed in its December 2017 submission that between March 2014 and December 2017, in real terms prices for its bouquets increased only modestly and sometimes decreased, despite the significant additional costs incurred by MultiChoice and the significant increase in value enjoyed by subscribers from its services. This implies a significant decrease in quality-

adjusted prices, reflecting MultiChoice's need to compete to retain and attract subscribers when faced with combined OTT and FTA threats.

- 68.1 Between March 2014 and December 2017, there has been a substantial increase in the number of channels across all bouquets,

[REDACTED]

[REDACTED]

[REDACTED] These cost increases tend to be more concentrated on channels included in the higher-priced bouquets because they contain the more expensive content which is subject to price escalations, and in general more expensive channels are added to give more value to subscribers (including HD channels).

- 68.2 The range of HD channels available on the DStv Premium bouquet has expanded from 14 in 2013 to 46 in 2017, many of which are also available on Compact Plus and Compact. These channels offer an enhanced viewing experience, but come at additional cost to MultiChoice, since they require considerably more transponder capacity in that they require more bandwidth and upgrades to the technical infrastructure.

- 68.3 Despite these increases in content value to subscribers, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Even in a competitive market, prices can be expected to rise at least in line with increases in input costs. In this case, input costs have risen significantly, without commensurate bouquet price increases. Consumers across all bouquets have been receiving real benefits from improvements to the offerings for limited or no real increase in prices.

Figure 30:

Bouquet	Channels		
	Apr-14	Current	Real % increase
Premium	131	144	10%
Extra (now Compact Plus)	102	124	22%
Compact	86	104	21%
Family	64	79	23%
Access	51	60	18%
Easyview	25	34	36%

Notes: Programming expenses compare the year end March 2017 with the year end March 2014, deflated by the March CPI figures for those respective years. Current bouquet prices are deflated using the August 2017 CPI index relative to the March 2014 CPI index

Cost efficiencies

- 69 The focus on improving customer value along all these dimensions whilst also containing the prices paid by consumers has meant that MultiChoice has also had to focus on improving its operational efficiency and contain operational costs over this period. As discussed during MultiChoice's presentation to ICASA, it would be wrong for ICASA to look for declining profits as a means of determining the impact of increased competition on MultiChoice. This is because MultiChoice has responded to competition by improving value for consumers and containing prices, while at the same time engaging in a concerted effort to cut unnecessary costs out of the business. These outcomes are entirely consistent with a highly competitive environment.

70 In particular, in June 2014 MultiChoice launched a cost savings drive, in response to, and in anticipation of:

- 70.1 stronger competition from both traditional players and new online entrants from across the entertainment value chain;
- 70.2 escalating content costs due to both increased competition for content and the impact of depreciating exchange rates on dollar-based content and other spend;
- 70.3 increased investment requirements in a changing landscape as described above; and
- 70.4 a need to limit price increases to customers, despite significant pressure on the cost base.

71 The efforts to reduce costs have taken several forms in the past few years:

- 71.1 The cost savings drive was called [REDACTED] as MultiChoice, M-Net, SuperSport and DSTV Media Sales were asked to review their spend and find areas where they could make significant savings. In that financial year, which ended in March 2015, [REDACTED]
[REDACTED]
- 71.2 By the next financial year (FY16, ending March 2016), the focus on cost savings evolved into a programme called [REDACTED]. The point of this exercise was to offer more value to subscribers, but at a lower cost. Cost savings were built into the budgets to ensure they were achieved. [REDACTED]
- 71.3 [REDACTED] continued in the 2017 financial year (ending March 2017). The savings target of [REDACTED] was one of the top seven business objectives for the group and was achieved. A company-wide competition called [REDACTED] was launched to identify more savings and to foster a culture of saving among all staff.

- 71.4 By the end of 2017, the Executive Committee decided to re-examine the business operating model and try to unlock even more savings by looking at spend across business units, and not just within business units. As a result, a programme called [REDACTED] was launched in January 2017. [REDACTED] is transforming MultiChoice's operating model to ensure the business is streamlined, customer focused and ready for a digital future with more competition. It also places significant emphasis on sustainable cost savings. The internal audit team audits savings to ensure that they are true and sustainable.
- 71.5 In the 2018 financial year (which ended in March 2018) the business banked a total of more than [REDACTED]
- 71.6 In the current financial year (FY19), the business, through [REDACTED]
[REDACTED]
- 72 Given the extent to which costs have already been taken out of the business, the cost savings focus is shifting to also include the avoidance of incurring of additional costs, and to limit spend and inflationary increases. A central procurement team that was established at the start of 2018 supports and enables this drive.
- 73 In summary, the savings targets across the five years for MultiChoice is provided in the table below. Importantly, these savings reflect operational savings to drive efficiencies in the business. On features that are valued by consumers, like content and technology, MultiChoice has increased spending, as reflected in the section above. These are substantial savings and reflect the competitive environment in which MultiChoice operates.

Figure 31:



PART B: RESIDUAL QUESTIONS FROM ICASA AND THE PUBLIC

74 This Part B responds to the remaining questions posed by ICASA and members of the public during the hearings that have not already been responded in Part A.

With regard to slide 61 of MultiChoice's presentation (which shows Starsat's growth in Africa), what trends has MultiChoice observed from OTT and DTT players in Africa?

Strength of DTT in the rest of Africa

75 As reflected in our written submission,⁵⁴ MultiChoice has observed that DTT has been a catalyst for rapid Pay TV expansion in the rest of Africa.

76 The substantial market opportunity for lower-priced bouquets and the popularity of local content has provided a significant opportunity for the entry of Pay TV offerings on the continent. The growth of these players has been facilitated by digital migration.

77 In Appendix 3 of MultiChoice's December 2017 submission, we detailed the activities of various broadcasters in the rest of Africa, including DTT players. We show that StarTimes has leveraged off the digital migration process occurring across Africa and is now broadcasting in 14 countries. StarTimes has also stated that it anticipates that it will be able to grow further as more countries in Africa

⁵⁴ MultiChoice's December 2017 submission, para 539.1

migrate to DTT.⁵⁵ The graph on slide 61 is an independent estimate by Digital TV Research of StarTimes' growth in the leading African markets.⁵⁶

- 78 In summary, MultiChoice has observed that both the DTT and the DTH platforms perform well in the rest of Africa and there is no reason why the successes cannot be replicated in SA.

Growing importance of OTT in the rest of Africa

- 79 MultiChoice has observed that there are a range of OTT services available in the rest of Africa and that many traditional FTA TV broadcasters have sought to respond by providing a variety of OTT offerings.⁵⁷ Among the free, ad-based offerings, YouTube is the most significant player.
- 80 The launch of OTT services by local broadcasters show that local broadcasters in the rest of Africa are attempting to respond to the influx of competition from OTT players. Kwesé has also recently announced partnerships with telecommunications companies include Vodacom in Tanzania⁵⁸ and Safaricom in Kenya.⁵⁹ These partnerships have been enhanced through the use of innovative dedicated Kwesé TV data bundles. In other countries such as Zimbabwe, Econet, the parent company to Kwesé is the leading mobile telecommunications provider and has indicated that they would increase data capacity to drive broadband and video-on-demand services given the expectation that about 60% of all data will be driven by mobile video.⁶⁰ It is important to note that in South Africa, Econet through Liquid Telecom acquired Neotel's telecommunications business including its spectrum which can be used to provide wireless data services. It already offers Kwesé Play data bundle

⁵⁵ Quartz Africa, 4 August 2015, A Chinese media company is taking over East Africa's booming pay-TV market: <https://qz.com/470166/a-chinese-media-company-is-taking-over-east-africas-booming-pay-tv-market/>

⁵⁶ Digital TV Research 2017

⁵⁷ See, for example, Figure 114 of MultiChoice's December 2017 submission.

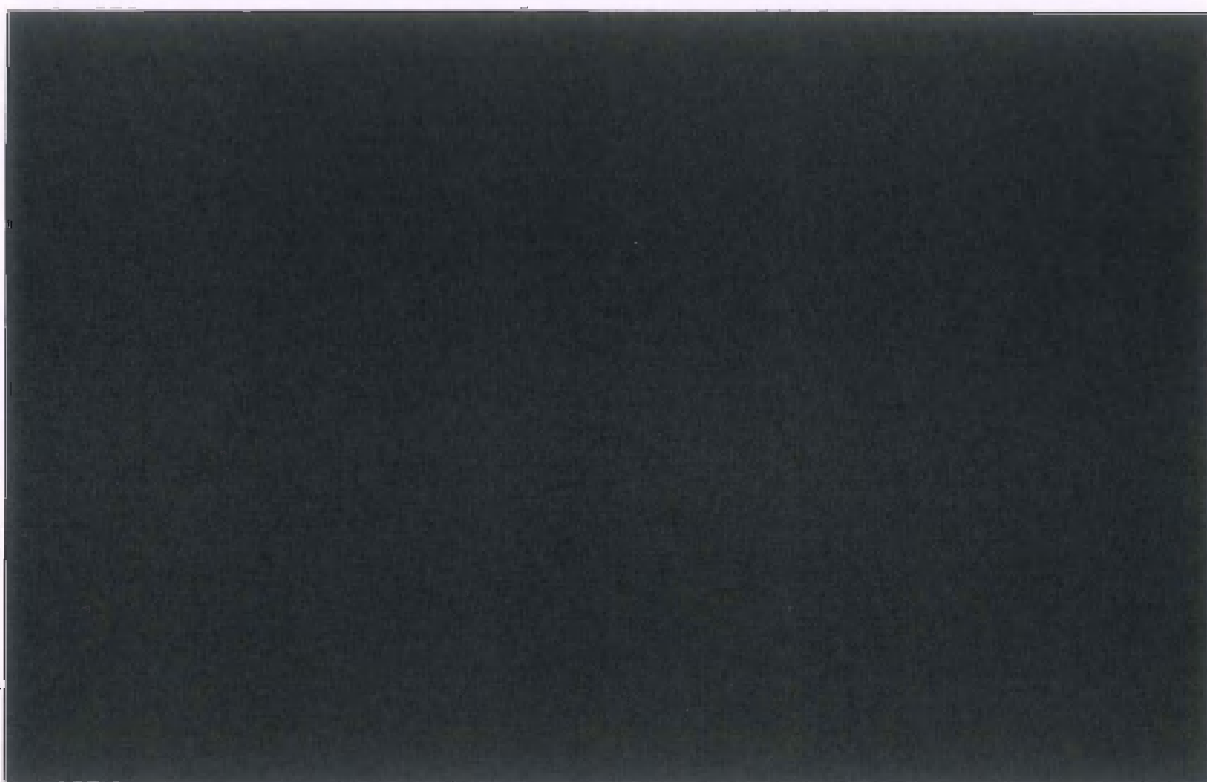
⁵⁸ See, <https://www.kwese.com/news/830547/vodacom-tanzania-and-kwese%C3%A9-lead-way-revolutionise-mobile-video> and https://vodacom.co.tz/en/kwese_tv/

⁵⁹ See, <http://www.econetwireless.com/press-releases-details.php?url=safaricom-and-kwese%C3%A9-tv-announce-video-distribution-partnership>

⁶⁰ See, <http://www.itwebafrica.com/zimbabwe/244310-econets-data-strategy-pays-off>

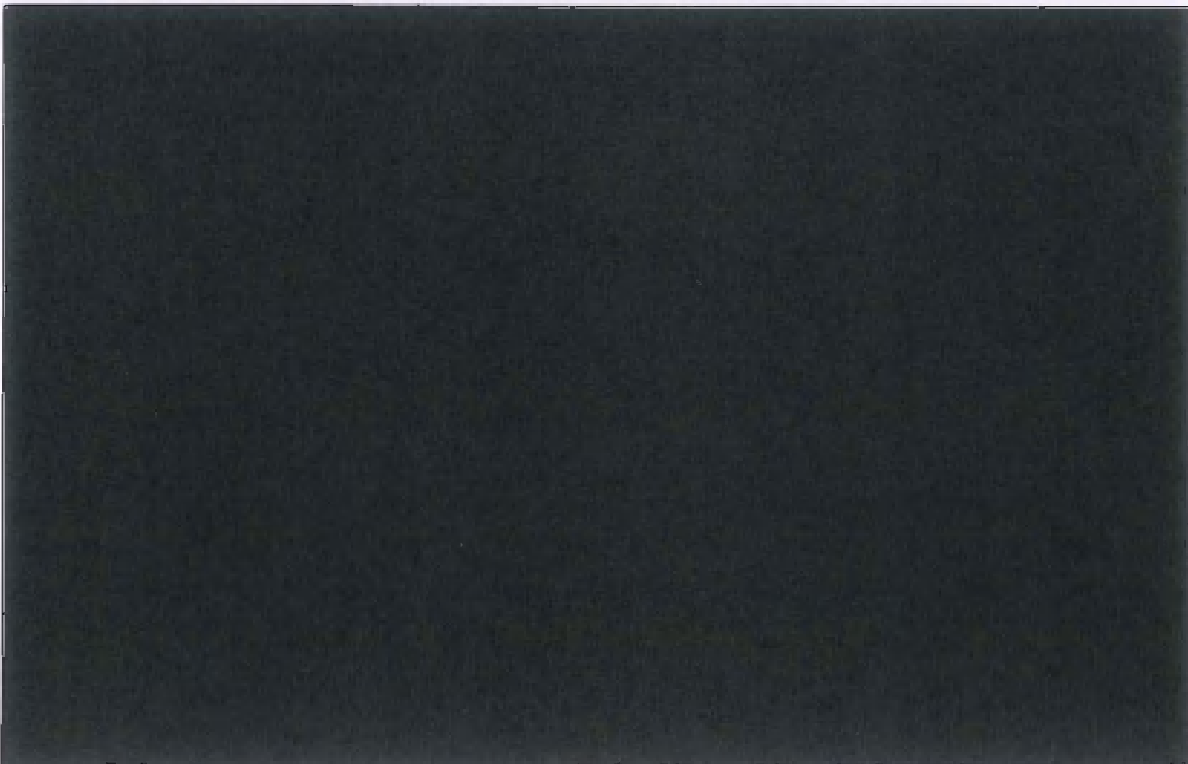
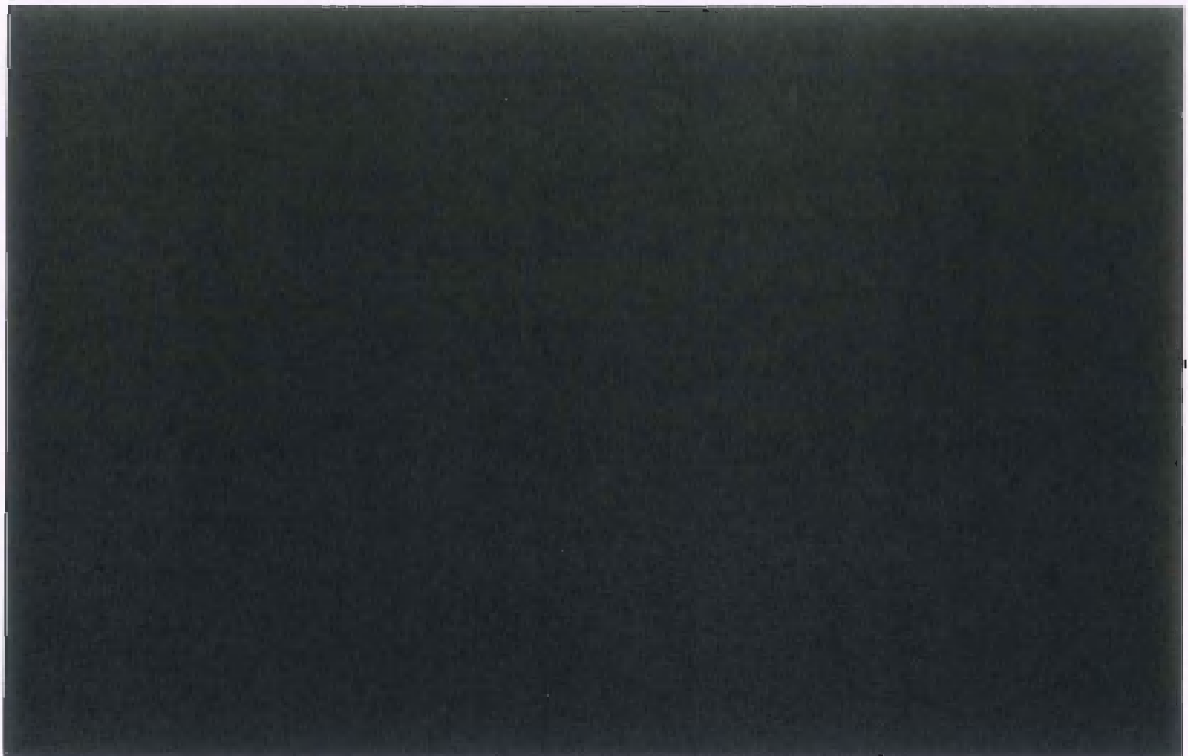
offerings.⁶¹ However, in spite of the responses of local broadcasters, MultiChoice estimates that Netflix is the largest among OTT providers in many of the leading markets in the rest of Africa, including SA. The following graphs reflect MultiChoice's estimate of share of online video traffic amongst the main paid-for OTT operators in certain other African countries based on estimated daily unique visitors and demonstrates that Netflix has the greatest share of volume in each country.

Figure 32: [REDACTED]



⁶¹ See, https://www.neotel.co.za/wps/zeus_consumer/portal/#/

⁶² [REDACTED]



- 81 This does not reflect usage of YouTube in each of these countries, because YouTube is a free online video offering and is therefore not tracked in the above data. Nevertheless, as indicated in MultiChoice's submission, YouTube is a constraint on PayTV operators within the electronic audio-visual services market.

MultiChoice does not have access to data regarding YouTube usage in these countries, but it is expected to be high, as is the case in SA (see paragraph 17.3 above).

- 82 In summary, MultiChoice has observed that OTT video services are already a reality in the rest of Africa and we expect they will grow in importance. Netflix in particular appears well-positioned to benefit from this growth.

ICASA has been looking at MultiChoice's offering in Tanzania and Zambia and noticed that, in Zambia in 2017, MultiChoice reduced its pricing dramatically throughout the bouquets, yet in SA prices are increasing instead of reducing. What is the rationale?

- 83 At the outset, MultiChoice notes that pricing in different territories is not determined on a uniform basis. Rather, it takes into account relevant country dynamics and conditions, such as the content offered, local tax requirements, licensing regimes, country-specific subscriber management costs, and currency considerations. Accordingly, it is misleading to compare prices across countries without factoring in these differences.

- 84 Pricing in Zambia reflects precisely these kind of considerations, since the price decrease which ICASA refers to was directly linked to currency fluctuations. In particular, between May and November 2015, the Zambian Kwacha depreciated by approximately 93%.⁶³ As a consequence, in November 2015 MultiChoice Africa increased the price of the majority of its bouquets, with prices increases of 29% to 31%.⁶⁴

- 85 Subsequently, between November 2015 and March 2017, the Zambian Kwacha appreciated, this time by about 31%.⁶⁵ MultiChoice Africa reduced prices of certain of its bouquets, with price reductions ranging from 2% to 16%. This

⁶³ Measured relative to US\$

⁶⁴ The prices of two DTH products were not increased (GoTV Max and GoTV Lite IP1). The prices of the remaining six bouquets offered by MultiChoice Africa were increased

⁶⁵ Measured relative to US\$

illustrates that the price decreases referred to by ICASA were related to country-specific considerations which do not apply in SA.

- 86 As regards the suggestion that MultiChoice's prices in SA have been increasing, this is not correct. MultiChoice's December 2017 submission reflected MultiChoice's price increases since April 2014 and demonstrated that price increases for some bouquets [REDACTED]

[REDACTED]⁶⁶ The submission also indicated that these moderate price increases in real terms were accompanied by significantly enhanced value/content, the increased costs of which were not passed on to consumers.⁶⁷ Therefore, on the basis of the relevant metric of quality-adjusted prices, prices for all bouquets have fallen significantly.

⁶⁶ MultiChoice December 2017 submission, p284 Figure 64

⁶⁷ MultiChoice December 2017 submission, pgs280-284, paras 568-573. Also see MultiChoice presentation to ICASA (11 May 2018), slide 81

Does MultiChoice agree that the purpose of windowing is to maximise value, and to do that MultiChoice relies on price discrimination. Therefore, MultiChoice needs distinct markets. If that is the case, does MultiChoice persist with the view that Netflix, et al, are all further down the chain?

87 At the outset, this question is misplaced in at least three fundamental respects.

87.1 First, MultiChoice does not determine the content windows. Instead, these are determined by rights-holders based on such considerations as those rights-holders (particularly Hollywood studios) consider relevant to receiving the maximum return from their investment in the development of their content. MultiChoice – like other suppliers of electronic audio-visual content – is required to bid for these rights according to such terms, including as to the window periods, as the rights-holders determine. It is therefore inaccurate to ascribe to MultiChoice a reliance on "price discrimination" or a "need" for "distinct markets" in order to "maximise value".

87.2 Second, it is not MultiChoice's view that Netflix and other OTT service providers "are all further down the chain". On the contrary, MultiChoice's submissions have been the following:

87.2.1 Netflix offers Netflix originals which are effectively equivalent to the theatrical release of a Hollywood movie; so, if anything, Netflix originals are first "in the chain" in terms of release windows compared to first Pay TV windows acquired by Pay TV broadcasters.

87.2.2 In any event, windows are shrinking, meaning that the duration and value of early window periods are being substantially reduced, particularly with the advent of online means of delivery of audio-visual content. First window rights have been declining in importance. This in turn reduces

incentives of rights-holders to dogmatically apply traditional windowing rights;⁶⁸ and

87.2.3 SVOD and TVOD rights now overlap with traditional movie and Pay TV rights windows, allowing new content to be acquired, particularly by OTT operators, during window periods which previously would have been reserved for cinema and Pay TV broadcast.⁶⁹ These points are also acknowledged by Kwesé in its submissions at paragraph 6.3.6, p.33.

87.3 Third, the mere fact that prices and content differ does not necessarily mean that the retail products using that content are in separate markets. As outlined in the MultiChoice submission, consumers are willing to make trade-offs where price differences are as a result of quality differences. In respect of movie windows specifically, the UK Competition Commission in its Movies on Pay TV investigation, found that *"consumers care about range and price as well as having access to the recent content of major studios"*.⁷⁰ This demonstrates that consumers are willing to trade off access to the latest content against a lower price or greater range of content.

88 Furthermore, it has become evident from the written and oral submissions of a number of parties that there is a fundamental misunderstanding of the windowing of content, which we address below.

89 It is important to point out at the outset that there is a difference between the duration of an agreement between an audio-visual service provider and a content rights owner, on the one hand, and the windows applicable to the rights that are the subject of the agreement between the parties, on the other. By way of example, a traditional Pay TV provider may conclude an agreement with a

⁶⁸ MultiChoice December 2017 submission, pgs323-325, paras 643-646.3

⁶⁹ MultiChoice presentation to ICASA (11 May 2018), slide 71

⁷⁰ UKCC, 2 August 2012, *CC Confirms Views in Pay-TV Movies*, Competition Commission Press Release: <http://webarchive.nationalarchives.gov.uk/20140402145741/http://www.competition-commission.org.uk/media-centre/latest-news/2012/Aug/cc-confirms-views-in-pay-tv-movies>

Hollywood studio (e.g. Warner Brothers) for a period of three years, which grants it the right to the individual programmes or titles (in this case movies), produced by that studio during the period of the contract. Each individual programme or title produced (movie) is, however, subject to the practice of windowing as described below. At the end of the window (which is open 12 to 18 months after the theatrical release of the movie), the title becomes available to others, regardless of the fact that the window may come to an end whilst the agreement is still in force.

- 90 The primary purpose of windowing or versioning of content⁷¹ is to enable content rights owners to maximise their returns on their intellectual property rights. Windowing enables content rights owners (not MultiChoice) to price discriminate between different groups of customers for maximum revenue generation whilst simultaneously balancing the ability of each group of customers to monetise their investment in the content in question. The traditional windowing cycle for movies is as follows:



⁷¹ Ranaivoson, De Vinck and Van Rompuy, "Analysis of the Legal Rules for Exploitation Windows and Commercial Practises in EU Member States and the Importance of Exploitation Windows for New Business Practises" : A Study Prepared for the European Commission DG Communications Networks, Content and Technology

- 91 It is important to point out that the rights acquired for the TVOD window are non-exclusive, hence any audio-visual service provider, including the likes of Cell C Black and MultiChoice's Box Office, can acquire these rights and provide the title to viewers before the first Pay TV window. Further, in practice in SA, the second Pay TV window does not apply as these rights are increasingly not being acquired by audio-visual service providers. This means that other Pay TV providers can acquire the titles at the end of the first Pay TV window, and also that the content becomes available to FTA services much sooner.
- 92 A key feature of content creation is that it is hugely costly to produce an original work. However, its re-creation and distribution, particularly with the advent of digitisation and the Internet, is very easy and significantly less costly. This ease of copying of digital content and of distributing it over the Internet has dramatically increased the risk of piracy. This is true of both movies and series. Coupled with changing consumer viewing behaviours and the emergence of online platforms of delivery of audio-visual content, this has necessitated changes in the traditional windowing strategies, primarily through:
- 92.1 the shortening of traditional windows e.g. the theatrical window for movies and the periods between each window for series;
 - 92.2 with regard to series, the simultaneous release of episodes across a number of geographic territories;
 - 92.3 the introduction of new windows e.g. the premium VOD window which runs parallel with the theatrical release of movies; and
 - 92.4 the overlapping of windows (e.g. primarily for series), as a result of the ability and practice of subscription VOD service providers of acquiring content in earlier windows, whereas they historically acquired the content in the FTA or library windows.

- 93 The introduction of subscription VOD services such as Netflix, Amazon Prime and Hulu, which have global footprint and scale, has further spurred on changes in the acquisition of rights to series. These SVOD services typically require first window rights and exclusivity globally in respect of certain "big statement"⁷² content that they acquire and for lengthy periods of time. This is fundamentally disrupting the traditional windowing models.⁷³ Because they are willing to pay a premium for global exclusivity, SVOD services are able to acquire content which then does not become available to any other platform or territory for the duration of the exclusivity. An example is the popular series, "Star Trek" which MultiChoice had previously acquired the rights to, but which is now exclusively available on Netflix which holds the SVOD rights. In instances where these SVOD services do not have exclusivity, global OTTs are also able to utilise their buying power to compel content rights owners to impose contractual restrictions which limit the terms on which other audio-visual service providers provide content to their subscribers (e.g. restrictions on the ability of traditional Pay TV providers to make all episodes of a series available on its on demand/catch-up services).
- 94 Notably, as long as a SVOD service provider such as Netflix, Showmax, Cell C Black and Kwesé Play is willing to pay the price required by the content owner, it can acquire any content that is available for this platform.

In the recent 2016 case with Caxton the concept of premium content played a significant role. Please comment.

- 95 MultiChoice understands that ICASA is referring here to the proceedings instituted by Caxton and CTP Publishers and Printers Limited and others, against

⁷² This phrase refers to signature shows such as "House of Cards" and "Orange is the New Black" on Netflix

⁷³ G Doyle, Digitization and changing windowing strategies in the television industry: negotiating new windows on the world (CREATE Working Paper 2017/01, January 2017)

MultiChoice and the SABC, for an order declaring that a channel supply agreement between MultiChoice and SABC constituted a notifiable merger.⁷⁴

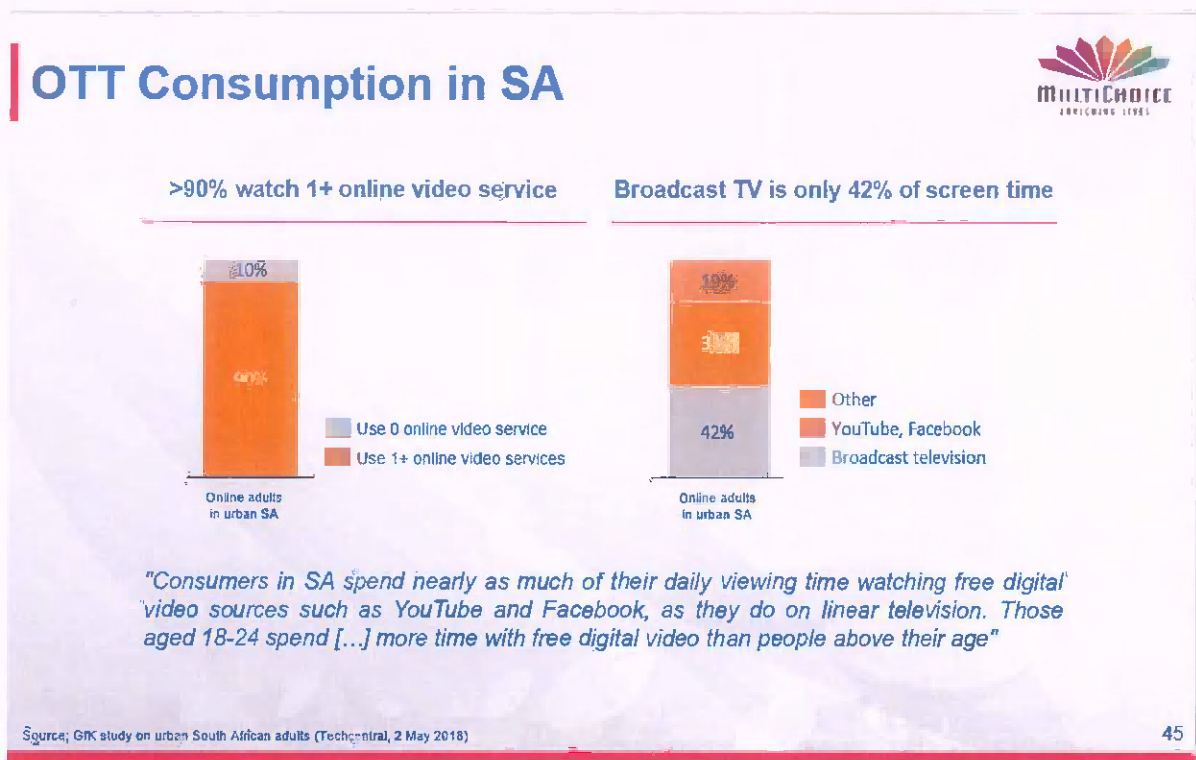
- 96 This matter involved allegations that a vertical supply agreement constituted a merger and, in that context, the applicants raised a wide range of allegations, many of which were disputed or simply irrelevant to the proceedings. In particular, the applicants sought to elevate the alleged relevance of certain terms contained in the channel supply agreement through allegations that these terms had a bearing on the SABC's future ability to acquire "premium" content. These allegations were simply not relevant to the issue of whether the agreement conferred on MultiChoice an element of control over the SABC. Furthermore, these allegations were in fact denied by the SABC and were not considered in any detail by the Competition Tribunal or the Competition Appeal, since they were irrelevant to the proceedings.
- 97 Given their irrelevance to the proceedings, MultiChoice did not deal with the allegations regarding "premium" content. It would accordingly be inappropriate for ICASA to place any reliance on references to "premium" content in those proceedings.

With regard to slide 45 of MultiChoice's presentation, please provide the missing legend for the graph on the right hand side

- 98 Please see below an image of slide 45 of MultiChoice's presentation which now includes the relevant legend on the right hand side of the graph.

⁷⁴ *Caxton and others v Multichoice Proprietary Limited and others* (Competition Tribunal Case No. OTH201Feb15). Caxton's application was dismissed by the Tribunal. This culminated in an appeal by Caxton to the Competition Appeal Court, which was also dismissed. (Competition Appeal Court Case No. 140/CAC/Mar16)

Figure 33: Slide 45 of MultiChoice's presentation to ICASA at the oral hearings



Please provide a written response to why MultiChoice uses the term "premium" to distinguish its high end from its low end bouquets.

- 99 DStv's flagship bouquet has been branded as "Premium" since inception of the DStv service, at a time when it was the only bouquet available. The term "Premium" was therefore not used to differentiate it from any "low-end" bouquets.
- 100 The use of the word "Premium" in the branding of DStv's flagship bouquet does not have any relevance or bearing on the manner in which the term "premium" has been used by ICASA and some third parties in these proceedings, i.e. to denote certain "must-have" content. For further information in this regard, MultiChoice refers ICASA to what was stated in its December 2017 submission.⁷⁵ In summary, the notion that content which is available on the DStv Premium

⁷⁵ P175, paras 357 to 360

bouquet may assist in identifying what constitutes "premium" content is misguided since —

- 100.1 DStv's Premium bouquet includes all the channels broadcast on lower-priced bouquets as well as additional channels in each genre;
- 100.2 library movies, typically inexpensive to acquire, are packaged into some of the M-Net Movie channels which are only included within the DStv Premium bouquet;
- 100.3 certain sports genres which are relatively less expensive to acquire (for example, golf, tennis, cycling, motorsports, athletics and swimming) are generally only available within the DStv Premium bouquet;
- 100.4 conversely, certain content which is relatively expensive to acquire within a genre (such as local and international soccer) are not unique to the DStv Premium bouquet; and
- 100.5 the appeal of content also evolves over time with changes in consumer preferences and the emergence of new content, so that content which is popular one year may not be the next.

Provide information on the parameters and methodologies taken into account by MultiChoice in arriving at its estimate of 400,000 Netflix subscribers in SA

- 101 This is a best estimate from MultiChoice, since Netflix does not publicly disclose its subscriber base. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In para 465 of MultiChoice's submissions, it intimates that, in order to assess effectiveness of competition, ICASA must prove significant harm to consumers. Is this truly required under the ECA, in particular in light of s67(4A)

102 s67 of the ECA requires that ICASA determine competition in the relevant market to be ineffective if it is to proceed to regulate a market. Para 465 simply points out that this is not an abstract exercise, such as the structural one that the Discussion Document seeks to engage in, but rather has as its purpose identifying where consumers are being harmed by a lack of competition such that regulation may improve outcomes for consumers. Therefore, an important consideration in making the determination on whether competition is ineffective or not, is whether consumers are being harmed by the current outcomes in the relevant market and will continue to be so harmed on a forward-looking basis, given developments in the relevant market.

Is MultiChoice averse to a structural analysis for effectiveness of competition? What is MultiChoice's view in this regard given that s67(4A) makes reference to structural considerations?

103 MultiChoice's view on how to assess the effectiveness of competition is laid out extensively in its submission of December 2017. For the reasons laid out in that submission (pgs215-225), MultiChoice is averse to a structuralist assessment of competition. A purely structuralist approach has been discredited in the economics literature and is uninformative of the actual state of competition in a market. Whilst s67(4) makes reference to market shares, this is simply one factor that requires consideration and is not alone determinative of the effectiveness of competition – as explained in MultiChoice's submission.

Does MultiChoice believe that PayTV broadcasters must be limited in terms of advertising revenue. Can MultiChoice give examples of PayTV broadcasters in other territories that command such a broad proportion of advertising revenue?

104 At the outset –

- 104.1 MultiChoice is bound by and will comply with the existing restrictions on advertising revenue in terms of s60(4) of the ECA ; and
- 104.2 as indicated in paragraph 217 of Appendix D, the submissions made by third parties regarding MultiChoice's alleged advertising revenue are

exaggerated and not accurate. ICASA is in possession of information which enable it to verify MultiChoice's actual advertising revenue.

- 105 As regards advertising revenue earned by PayTV operators in other territories, MultiChoice does not have access to the confidential advertising revenues of these third parties. Where public financial information is available regarding some PayTV operators, this public information generally does not seem to contain a breakdown of their advertising revenue. Accordingly, MultiChoice is unable to respond to this question further. However, as explained in paragraph 219 of Appendix D, MultiChoice submits that the issue of advertising revenue is beyond the scope of this inquiry.

In MultiChoice's December 2017 submission it states that the reason for failure by new entrants is due to bad management and lack of skills. Would MultiChoice agree that there is lack of skills in the Pay TV sector, and what bad management is it referring to?

- 106 MultiChoice does not agree that there is a lack of skills. South Africa has ample talent within the broadcasting sector, and personnel or consultants can also be recruited from various other jurisdictions around the world. MultiChoice has, where appropriate, recruited employees from other jurisdictions while Kwesé has developed a large, skilled team within a short period of time.
- 107 Appendix 5 of MultiChoice's December 2017 submission sets out in detail the various reasons why other Pay TV licensees have failed to launch or failed to launch successfully. The reasons listed in Appendix 5 include changes in strategic direction made by the shareholders of those licensees; lack of necessary capital and expertise, poor business planning, poor execution, mismanagement and regulatory delay. Importantly, the reasons listed are not MultiChoice's opinion, but rather are statements made by the licensees themselves or reasons reported in the press.

108 For example, StarTimes stated (in ODM's business rescue plan⁷⁶) that reasons for ODM's failure to launch successfully included that it had no experience in the Pay TV business and lack of business management experience:

*"Without previous experience in and a deep understanding of the pay-TV industry and a general lack of business management experience, the TopTV management team implemented an unrealistic operation strategy and business development plan. In addition, overall management incurred high remuneration, purchasing and operation cost."*⁷⁷

109 Despite StarTimes' identification of various deficiencies in the ODM business, StarTimes itself failed to rectify those deficiencies and subscriber dissatisfaction continued. The public opinion on the failure of the TopTV/StarSat service is set out in MultiChoice's December 2017 submission.⁷⁸

110 As regards the other Pay TV licensees:

110.1 As stated in MultiChoice's December 2017 submission, the failure of Telkom Media to launch were largely as a result of a change in strategic direction.⁷⁹ Furthermore, and as reported in the Sunday Times, senior staff at Telkom Media were apparently paid large bonuses despite any significant progress being made towards launching a Pay TV service and broadcasting equipment worth millions of rands purchased by Telkom Media sat idle in warehouses,⁸⁰ all signalling a mismanagement of funds.

110.2 e.SAT made it clear in a presentation to ICASA that its intention to launch a Pay TV service was conditional upon the number of Pay TV

⁷⁶ A copy of ODM's business rescue plan can be accessed at: http://www.ondigitalmedia.co.za/index.php?option=com_content&view=article&id=281:business-rescue-plan&catid=68:business-rescue-documents&Itemid=366

⁷⁷ ODM Business Rescue Plan, p24, para 3.4.7.7

⁷⁸ MultiChoice December 2017 submission, pgs562-563, paras 1191.1-1191.7

⁷⁹ MultiChoice December 2017 submission, p565, para 1197

⁸⁰ Sunday Times, 18 January 2009, No work pays off at Telkom Media

licences ultimately issued by ICASA.⁸¹ Following ICASA's issuing of five licences after the first round of licensing, the eMedia Group announced its decision to rather focus on content aggregation and channel supply.⁸² e.SAT repeated this, as a reason for not launching a Pay TV service, during its presentation to ICASA at the oral hearings on 10 May 2018.

110.3 It would appear that Siyaya's current business model is not to launch a Pay TV service, but to rather produce and package channels. However, as stated in MultiChoice's December 2017 submission, many in the industry were of the view that Siyaya had paid an excessive amount to SAFA for the rights to all the senior national team's matches, which then limited its ability to spend on other content and its distribution platform.

111 As regards other licensees (WoW TV and Close TV), MultiChoice's December 2017 submission does not contain any comments in this regard, recording that it is not clear why have not yet launched a Pay TV service.

Has MultiChoice or M-Net supplied content or channels to South African broadcasters other than SABC? Can MultiChoice confirm that it does not provide content to third parties. If no, then why? If yes, the does MultiChoice consider that content to be premium content? (internal ref: Q27)

112 MultiChoice notes that this question was raised by a member of the public, but the information pertains to MultiChoice's confidential commercial arrangements.

113 Nevertheless, MultiChoice's December 2017 submission set out details regarding content sub-licensed to third parties.⁸³ Furthermore, MultiChoice has,

⁸¹ e.SAT presentation entitled "Over Licensing and The Promotion of Competition in the Pay Television Environment"

⁸² Business Report, 14 December 2007, e.SAT decides to supply channels rather than fight MultiChoice for subscribers: <https://www.iol.co.za/business-report/companies/esat-decides-to-supply-channels-rather-than-fight-multichoice-for-subscribers-722132>

⁸³ See, for example, MultiChoice December 2017 submission, p366, para 710.1 and Appendix 4, paras 1149-1161 and the table below para 1166

in its response to third party submissions submitted to ICASA contemporaneously with this document (Appendix D), addressed considerations relating to the supply of content to third parties.⁸⁴

- 114 As regards the issue of "premium" content, MultiChoice has addressed this issue at length in its submission and in Appendix D filed contemporaneously with this document, indicating that this is a term of little value.

Can MultiChoice provide a breakdown of its investment of R2 billion in local sports. Is this for the acquisition of rights or spend on production?

- 115 The response to this question, which was raised by a member of the public attending the ICASA hearings, constitutes confidential information. For purposes of a public response, MultiChoice confirms that this spend includes production and rights acquisition costs.
- 116 By way of a confidential submission to ICASA in further response to this question, the precise total local spend in the 2017 financial year was [REDACTED]. Of this, local sports rights acquisition constituted approximately [REDACTED] of local content spend in the 2017 financial year, production constituted approximately [REDACTED] and the balance constituted sponsorships and other spend. This excludes MultiChoice's CSI spend on the MultiChoice Diski challenge.

⁸⁴ Appendix B to MultiChoice's consolidated supplementary submission, paras 131-133