



PRESENTATION

ICASA'S SUPPLEMENTARY DISCUSSION DOCUMENT : INQUIRY INTO THE SUBSCRIPTION BROADCASTING SERVICES

11 July 2025

The Team

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 - e.tv, a licensed free-to-air broadcaster; and
 - e.Sat the holder of a subscription television licence.

Introduction

- The Authority's misguided about-turn in the Supplementary Discussion document is factually unsound and based on speculation rather than fact.
- Had the Authority complied with its legislative obligations, this Inquiry would have been finalised many years ago. The market in which one player has been able to monopolise is still protected.
- In the almost ten years it has taken the Authority to revive this hearing, eMedia and its subsidiaries have suffered substantial prejudice.
- The failure to act entrenches MultiChoice's monopoly and harms viewers and competitors.

eMedia's Core Message

- ICASA's proposed *single* market for Premium Subscription Services and OTT is realistically and economically unsound.
- eMedia submits that DStv Premium sits in a **separate, regulated, SMP market**; OTT is an **unregulated adjunct (complement)**.
- The Supplementary Discussion Document, in its attempt to convince all parties that TV and OTT are in the same market is fundamentally flawed for the following reasons:
 - Currency
 - Similar but different markets through practice
 - Behavioral outcomes

**FEB
2025**

DAILY TIME SPENT WATCHING TELEVISION (YOY)

THE AVERAGE AMOUNT OF TIME (IN HOURS AND MINUTES) THAT INTERNET USERS AGED 16+ SPEND WATCHING ANY KIND OF TV CONTENT

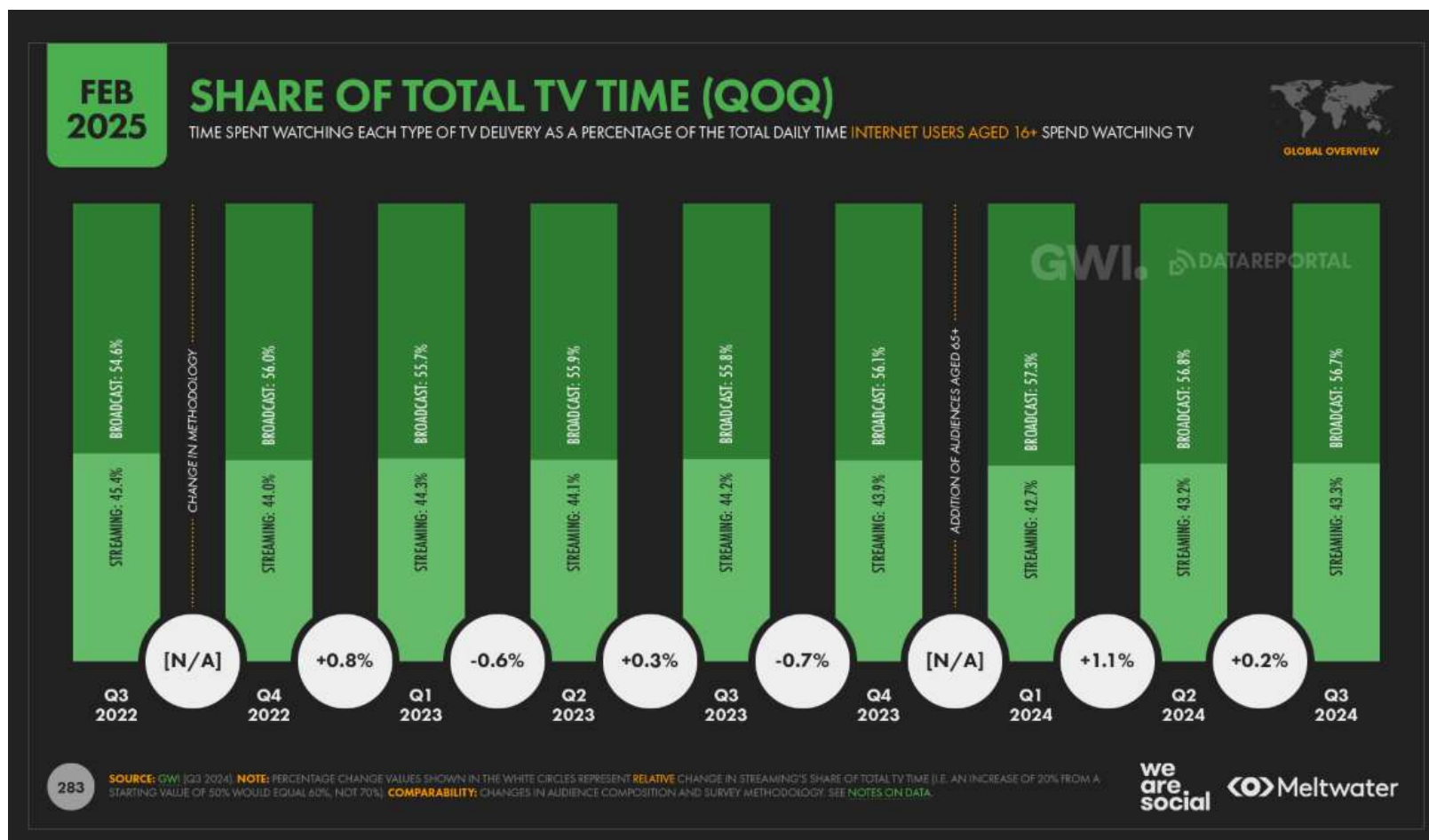


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SOURCE: GWI (Q3 2024). **NOTE:** VALUES REPRESENT COMBINED DAILY TIME FOR ALL FORMS OF TV CONTENT DELIVERY, INCLUDING: BROADCAST TERRESTRIAL TV, CABLE TV, STREAMING AND VIDEO-ON-DEMAND, AND TV CONTENT SAVED TO A RECORDING DEVICE (E.G. DVR). **COMPARABILITY:** CHANGES IN AUDIENCE COMPOSITION AND SURVEY METHODOLOGY. SEE [NOTES ON DATA](#).

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Meltwater



Prejudice to eMedia

- Lack of **transparency** undermines procedural fairness
- ICASA's reliance on undisclosed, confidential information from Multichoice, without granting access to other stakeholders, raises serious concerns about procedural fairness and accountability
- ICASA has based important conclusions on **confidential submissions** by Multichoice that eMedia and others have **no access to**.
- Without access to the underlying data or justifications, **meaningful participation** by other stakeholders is **undermined**.

Background

- An objective of the Broadcasting Act is to develop a broadcasting policy in the public interest ensuring fair competition in the market (section 2(h))
- Even if the Authority stands by its new position taken almost 10 years after this inquiry started, it does not preclude the Authority from regulating MultiChoice whether by means of an amendment to its licence or otherwise if it can be shown that their conduct in the market has prejudiced any other broadcasters.
- Such prejudice has been shown to exist. The Authority has accepted that this is so.

- The question the Authority must therefore ask is:

“Has the manner in which MultiChoice has operated in any way hampered the entry into the subscription broadcasting market of other licensees or resulted in their failure; and have Multichoice's practices impacted other broadcasters, including FTA broadcasters”

- The overwhelming answer is yes. The Authority must therefore regulate the market or impose pro-competitive license conditions on MultiChoice irrespective of its sudden about turn.
- We will show why.

Significant events between 1999 and 2025

- Wikipedia was launched
- Facebook was founded
- YouTube and Twitter were launched
- The iPhone was launched
- South Africa has had four Presidents
- There have been seven Olympic games and six Soccer World Cups
- South Africa has won the Rugby World Cup three times
- AI was introduced and became a reality
- There have been six national elections
- CellC was founded
- Covid19 resulting in a lockdown has come and gone

Significant non-events between 1999 and 2025

- ICASA has not completed any inquiry in relation to the monopolistic practices in the subscription broadcasting market, having not right-sized the unfair playing fields of different regulated, licence-holding competitors in the market

What has ICASA done in the last 27 years?

- **1997 – Position Paper:** “It is the Authority’s view that Pay TV should not also have unrestricted access to advertising revenue.”
- **1998 White Paper:** “Fair competition between broadcasting services should prevail.... [and] should be subject to a regulatory scheme”.
- **1999 – IBA Discussion Paper recognised** that there was a need to regulate competition in that market.

- **2000** – ICASA was formed and inquiry stops due to lack of continuity of councillors.
- **2004** – First **Discussion Paper into Subscription Broadcasting – Acknowledges barriers to entry** including long-term contracts for premium programming. - *“The Authority is tasked with ensuring that fair market conditions exist, such that all participants are able to compete on an equal footing.”*
- **2005** – **Subscription Broadcasting Services Position Paper** - *“Protecting and growing free-to-air terrestrial broadcasting services ... requires the restriction of advertising on subscription broadcasting services.*
- **2007** – **Applications for Subscription Broadcasting Licences** - five licences were awarded, including MultiChoice and eSat.

2007 to 2016 -The Authority does **nothing**. New entrants therefore struggle to survive or do not launch. MultiChoice grow its subscriber base and eats into the FTA advertising pie.

2016 – Inquiry commences - Need to assess competition in the subscription broadcasting market given failure of new licensees.

2017 – Discussion Document for public comment objective to determine whether pro-competitive conditions need to be imposed in the market.

2018 - Public hearings - Competition Commission reveals five complaints against MultiChoice centred around MultiChoice abusing its dominant position.

2019 – “Draft” Findings Document in April 2019.

2021 - 19 months pass until public hearings in **January 2021**.

2022 - Authority deems further consultation required.

2023 - Further delays before issuing questionnaire to stakeholders.

2024 – February responses to questionnaires received .

2025 - 11 months later the Supplementary Discussion document is published for comment.

2025 - Here we sit today but 9 years later there is still no end in sight.no end in sight.

The 2007 application process

- MultiChoice sat through the hearings gaining access to all other applicants business plans.
- e.Sat argued that the Authority impose certain Regulations creating a standstill so that MultiChoice could not gain a further unfair advantage by adopting its offerings to inhibit new entrants successfully entering into the market.
- This was ignored.
- Initially MultiChoice was only engaged in the top tier market. Shortly after the hearings MultiChoice started tiering its services to cover all price points which new entrants into the market wanted to charge.

During the application process e.Sat argued:

- Regulations needed to be introduced to constrain the incumbent from engaging in anti-competitive behaviour by regulating:
 - exclusive agreements
 - the non-exclusivity of pass-through channels,
 - tiering.
- In its reasons for its decision to award five licences, the Authority simply overlooked eSat's arguments. This speaks volumes.

What about ICASA?

- ICASA Act - The Authority must publish a finding on the subject matter of an inquiry within 180 days from the conclusion of the inquiry.
- Reminders from eMedia of this obligation have been ignored.
- Nine years but still no findings.
- The Authority has acted in dereliction of its duties. This has favoured the dominant player.
- An **institution** unable to fulfil its mandate and act in the interests of all those licensees rather than just one of them.
- Obligation to act efficiently or face removal from office

eMedia's position on the Supplementary Discussion Document

General Comments on the Supplementary Discussion Document

- The Authority wanted to conduct independent research and told the Portfolio Committee that the delay in finalising the inquiry was as a result of being able to make such an appointment.
- Yet there is still no independent research to justify its conclusions.
- The SDD relies on desktop research but quotes selectively from studies to justify its 180-degree turn.

- Its approach is speculative and not fact based. Conclusions cannot be based on intuition rather than facts or independent studies.

Paragraph 2.4.10.6 of the SDD “Intuitively it appears that those subscribers who cancelled their MultiChoice subscriptions for whatever reason end up choosing OTT’s based on the growth of OTT’s in recent years. Therefore, the Authority is of the view that premium-tier subscription television is substitutable with SVOD offered by OTTs.”

- It posits and relies on the conclusion that MultiChoice’s loss in subscribers is directly correlated with the growth in subscribers to OTT platforms without concrete **evidence** to justify this conclusion. This underlies its entire findings.

- The Authority references an increase in advertising by OTT services such as Netflix/Amazon when this does not occur in South Africa.
- Although overseas based OTT services broadcast sport, this does not extend into South Africa. Rather conditions enable MultiChoice to almost exclusively broadcast sport and purchase FTA rights which it cannot use and to do so for many years to come.
- It approaches the inquiry with no institutional memory.
- The Authority MUST go back in time and read ALL eMedia's previous submissions.

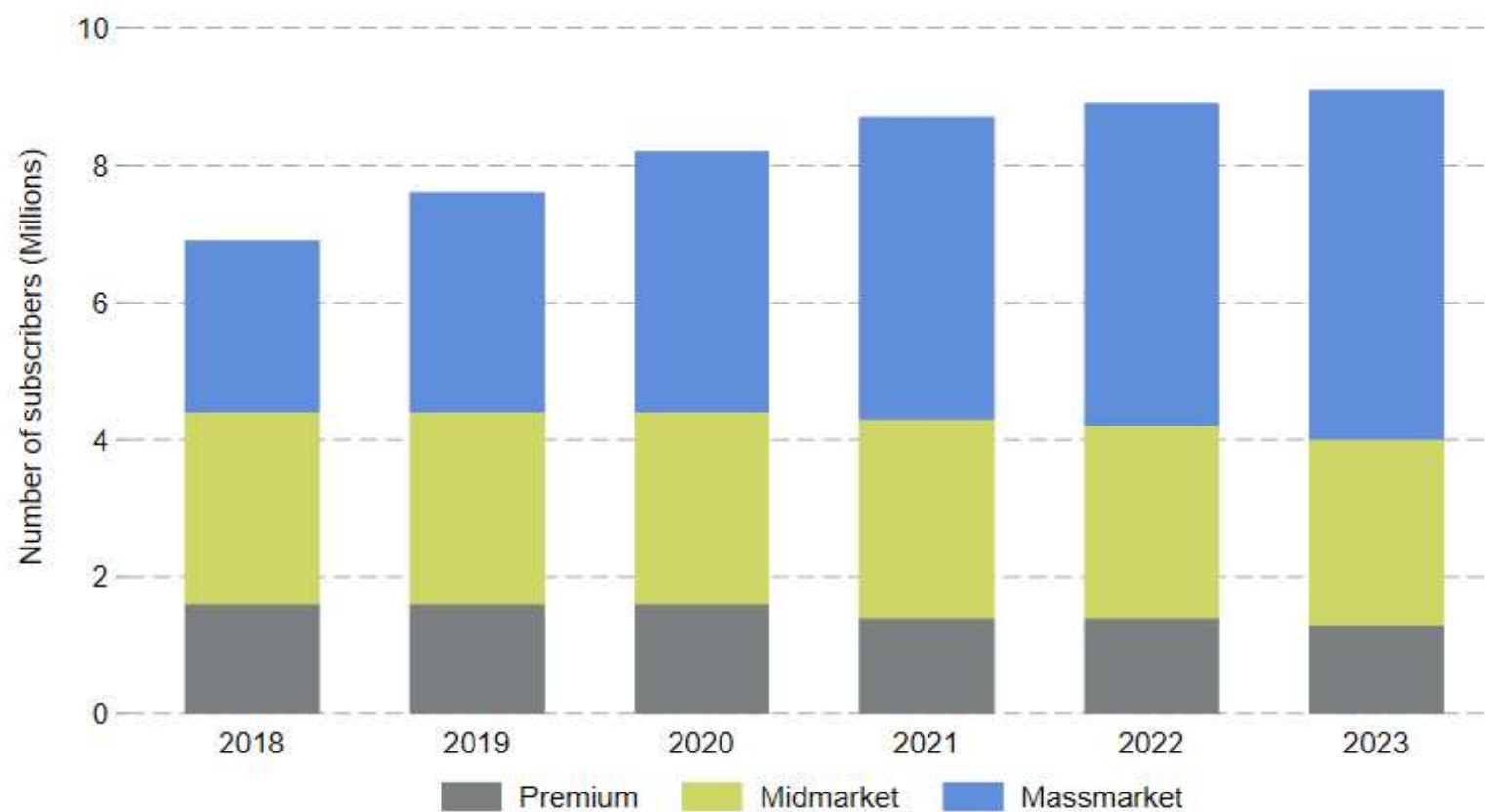
What “Multi-homing” Really Shows

- eMedia’s fundamental submission is that DStv and OTT are **complements**, not substitutes
- 89 % of households **keep** DStv *and* an OTT app – they stack, they don’t switch (Nyarenda survey, p. 40).
- PwC corroborates this: cord-stacking is the norm, not cord-cutting (p. 42).
- Such high overlap = clear evidence of complementary demand, not substitution between competing offerings.

Subscriber Facts

- The SDD says in various paragraphs that that MultiChoice has **lost subscribers** since 2019 (see, for example, para 2.4.5.13)
- But DStv base in fact **grew** from 6.8 m → 9.0 m (2018-2023) despite OTT surge (Fig 1, p. 44).
- And so called “premium-market” attrition in those years = just **-150 k** (-3.6 %) once Compact is treated as mid-market (p. 46-48).
- MultiChoice’s “existential threat” narrative collapses, if regard is had to such figures.

Subscriber Facts



ICASA Relies on Secret Data

- Authority cites *confidential* MultiChoice numbers (¶ 2.4.10.6) yet withholds them from stakeholders.
- Basic administrative-justice test: **no secret evidence**.
- eMedia proposes disclosure or exclusion.
- On the other hand, there are questions that ICASA needs to answer.
- ICASA's classifications appear **circular and ungrounded** – are they based on price, content, market strategy, or something else?

Package	Monthly Price	Channels	LSM
DStv Premium	R949	265	9-10
DStv Compact Plus	R659	191	8
DStv Compact	R419	123	5-7
DStv Family	R339	65	4-7
DStv Access	R139	53	4-5
DStv EasyView	R30	30	4-5

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Source: Monthly price and number of channels as per DStv website

What is “Premium” – the confusion

- DSTV Premium – MC Premium
- DSTV Compact Plus – MC Premium
- DSTV Compact – ???
- DSTV Family – Basic
- DSTV Access – Basic
- DSTV EasyView – Basic

The point is that without knowing where DSTV Compact is situated, it is impossible to assess whether the alleged “Premium” market has lost significant subscribers

ICASA - Compact in Premium

- ICASA's definition/s appears to put DSTV's compact bouquet in "Premium".
- This is not Multichoice's definition.
- The numbers provided simply do not speak to this difference.
- Clarity is critical.

Why Households Add OTT

- In essence: mobility, binge-control, 4K quality.
- Satellite TV's linear nature means viewers have a linear, scheduled experience, whereas streaming offers active choice and binge-watching at one's own pace. These formats appeal differently across demographics. For example, younger generations have gravitated toward the flexibility of streaming and often eschew traditional cable/satellite entirely.
- Importantly, none of these features replace live sport/news delivered by satellite.
- OTT growth = new *incremental* viewing hours, not diversion from linear bundles.

Live Sport: Irreplaceable

- Netflix's handful of novelty events & US-only NFL slots **do not** meet ICASA's "premium sport" definition (p. 21-24).
- By contrast DStv carried **34 490 live events** in FY-24, incl. 20+ SuperSport channels (p. 25-26).

News & Local Content Gap

- DStv Premium offers 20+ 24-hour news channels, incl. eNCA, SABC News, Parliamentary TV (p. 25-27).
- None of the major OTTs stream SA news live.
- This editorial mandate is a regulatory burden **and** a competitive differentiator.

Summary - content is materially different

Content	DStv premium	OTTs
Live sports	<ul style="list-style-type: none"> • At least 24 dedicated live channels • Over 34 000 live events • More than 49 000 hours just on Supersport Schools 	<ul style="list-style-type: none"> • Only a handful of live events • Live sports not aimed at local market
Live news	More than 20 live and dedicated news channels	None on large OTT platforms
On-demand TV and movies	<ul style="list-style-type: none"> • Limited content on Catch Up (25 shows from subscribed channels only) • Limited to 110 hours of recorded content • Limited content on Box Office available for 48 hours after purchase 	<ul style="list-style-type: none"> • 3628 movies and 2020 TV shows available on Netflix • 7 269 movies and 1103 TV shows available on Amazon Prime Video

MultiChoice's Own Conduct

- Bundles Netflix/Amazon inside DStv decoders (CEO Mawela, Aug 2020).
- Aggressively cross-selling revamped Showmax (NBCU/Sky JV, p. 54-57).
- A firm does **not integrate a true substitute**; it aggregates complements.

Complementarity – Bottom Line

- Multi-homing + content differentials + MultiChoice strategy = **separate but complementary markets**.
- ICASA recognised this in 2019.
- Nothing material has changed since 2019.

eMedia submits

- There has been growth in a (separate) market for OTT since 2018.
- Between 2018 and 2024, there has not been a *corresponding* decline in active DStv subscribers, either to MultiChoice as a whole, or even to the Premium segment.
- Given this growth in the OTT market (i.e. given the number of new consumers of OTT services), the Authority cannot uncritically conclude that consumers are *substituting* DStv for OTT services, i.e. *switching*.
- The data is **not** evidence of *substitution*.
- Rather, it appears to be clear evidence of growth in the relatively new, but *separate*, market for OTT services.

Regulatory Asymmetry

- Satellite TV bears licences, local-content quotas, must-carry rules (p. 34-37).
- OTTs face **zero ICASA oversight**.
- Legal barriers alone defeat “easy supply-side substitution”.

Pricing Question Redefined

- Relevant test: **cost to replicate a full DStv experience.**
- Not the cost to stream two or three Netflix movies a month.
- eMedia submits that this means access to broadband + data sufficient for at the least >40 hrs/month family viewing a month.

Data Reality Check

- A consumer needs sufficient data required to replicate the DSTv experience.
- According to Netflix - HD streaming requires 3 GB/hr → **125 GB/month**; 4K streaming requires 7GB/hr = 300 GB /month (p. 60-61).
- Cheapest throttle-free fibre/LTE?
- On one metric, LTE \geq R2 000 p.m. (Authority's own table, ¶ 2.4.9.2, confirms this).
- There is no analysis of the extent of penetration of these types of data services, but what is clear is that they out of reach for the vast majority of South Africans

Apples-to-Apples Comparison

- DStv *Stream* Premium R799 (incl. Showmax).
- Versus OTT “true-cost” bundle \geq R2 100 (data + apps).
 - Note this assumes **NO** other use of data.
- OTT clearly **does not constrain** DStv pricing.

Cellophane Fallacy Ignored

- Premium bouquet already priced at monopoly levels.
- This is an example of the Cellophane Fallacy (Whish, p. 62-64).
- Observed 'cancellations' reflect *affordability crisis*, not availability of substitutes.

Macro-economic Headwinds

- Indeed, MultiChoice itself blames inflation, interest-rate spikes & loadshedding for 5 % subscriber dip (Annual Report FY-24, Submission p. 52).
- No mention of OTT competition in risk factors.

Market-Power Signals

- DStv Stream still **8×** cost per concurrent stream of Netflix (see pricing table, p. 28-29) yet retains customer base.
- Such pricing latitude is the hallmark of **significant market power**.

Ad Markets Still Two-Sided

- DStv Media Sales sells inventory across Satellite & DSTV Stream.
- Netflix/Prime have *no South-African ad tier* (p. 65-66).
- Different monetisation model = different market.

Evidence

- The evidence is overwhelming.
- OTT and satellite **co-exist**, (they are complements) they don't converge.
- ICASA must finish the job, reinstate 2019 four-market structure, regulate Multichoice's dominance.

Delays, delays, delays

- ICASA's 9-year delay already violates section 4C(6) ICASA Act (timeline pp. 66-75).
- Re-defining markets now would **restart the clock** and gift MultiChoice further regulatory holiday.

Tiering

- MCA complains of declining revenues. But it is MCA who has enabled viewers to churn down to lower tiers. It therefore has itself to blame should there be any decline in subscription revenue.
- eMedia has repeatedly asked the Authority to regulate Multichoice's ability to tier their packages. We again urge the Authority to not ignore the impact that tiering has on the FTA market and the limitation it creates for new entrants into the subscription broadcasting market.
- In our view, the lowest-end tier of a subscription television licensee should not cost less than 35% of its top-end/premium tier. This would only preclude MCA from broadcasting DStv Access and Easyview.

What are we supposed to believe?

- We are supposed to believe that:
 - OTT services exert a significant competitive constraint across the entire market including the basic tier; and
 - The competitive interaction between Multichoice and FTA services extends beyond the lower tier.
- eMedia disputes these submissions entirely.

The muddied waters – where are the subscribers going?

- MCA now alleges that cumulative subscriber loss over last 2 years has been 1 m subscribers.
- But Netflix since inception has around 1.2 m subscribers in SA.
- Even adding in Amazon/Disney+, there is no real evidence that subscribers are leaving DStv for OTT services. Rather evidence shows many viewers are adding an OTT service as a complementary service not necessarily as a replacement.

- Multichoice suggests that there is “significant evidence” that OTT services are gaining prominence in both the premium and basic tiers and hence there is “effective” competition in those markets.
- They argue OTT’s are investing in local content and hence there is effective competition.
- This is completely misplaced.
- The evidence shows that Multichoice is still the biggest investor in local content compared to both FTA broadcasters and OTTs.
- Multichoice has significantly more revenue compared to FTA and hence can pay significantly higher cost per minute for content compared to FTA.
- FTA will always be limited in the amount of local content it can produce as it does not have subscription revenue.

- FTA broadcasters have started offering AVOD services as a complementary service for its linear offering.
- FTA's were also forced to provide certain content online as the government started switching off ASO transmitters but failed to introduce another platform for viewers to migrate to.
- Evidence shows that the FTA viewer (LSM 4-8) does not have access to fibre internet. Viewers are still constrained by high data costs.
- OTT will never be able to replace the linear television market

- Multichoice relies on the Draft White Paper to argue that the audio-visual sector has “expanded”.
- But the Draft White Paper is aiming to regulate OTT’s as a separate licence not within the same market or the same licence as FTA or subscription television broadcasting.

- Multichoice suggests that FTA broadcasters have an additional revenue stream from DTT
- This is a misrepresentation.
- While DTT may provide for some additional audience this is limited due to the limited size of the DTT platform (currently only about 1m viewers)
- But high costs of signal distribution on DTT will outweigh any commercial benefit from having 4 channels on DTT.
- eMedia cannot even replicate all of its channels on DTT as the capacity of the platform is limited.
- Multichoice had the opportunity to also be on DTT but intentionally chose not to be.

What can ICASA do?

- Recognise the need to take steps to level the playing fields.
- Stand by its previous findings contained in the 2019 Draft Findings Document and regulate the market.
- Issue a Findings Document within 180 days and immediately thereafter, prepare Draft Regulations.
- Failing this, regulate current anti-competitive practices whether by licence conditions or otherwise even if it stands by its views in the Supplementary Discussion Document if there is conduct which prejudices other licensees and inhibits competition. The Authority has the power to do so.

- Section 8(3) of the ECA:

“The Authority may prescribe additional terms and conditions that may be applied to any individual licence ... Taking into account the provisions of chapter 10.”

- Section 10(1) of the ECA enables the Authority to amend an individual licence for purposes of ensuring fair competition between licensees or if the Authority deems the amendment necessary to achieve the objectives of this Act including ensuring fair competition.
- Section 67(1) of the ECA - if a licensee engages or intends to engage in an act that is likely to substantially prevent or lessen competition, the Authority *“may direct the licensee, by written notice, to cease or refrain from engaging in such act”*.

The Authority – Perceived Favouritism

The Authority

- Failed to meet objects of the ECA to promote competition in the ICT sector.
- Failed ignored its statutory obligations relating to concluding inquiries
- Acted inefficiently and demonstrated an inability to regulate broadcasting.
- Failed to regulate the subscription broadcasting market despite recognising the need to do so.
- By failing to finalise the inquiry favored MultiChoice enabling it to entrench its dominant position preventing new entrants from successfully entering the market permitting it to eat into the advertising pie of FTA broadcasters notwithstanding its subscription revenues amounting to billions of Rand.

The relationship between Multichoice and ICASA

	Role at ICASA	Role at MCA now
Person 1	Senior Councilor	Senior non-executive
Person 2	Councilor	Head of Department
Person 3	Divisional Manager	Senior Executive
Person 4	Senior manager	Head of Department
Person 5	Senior manager	Head of Department
Person 6	Councilor	Senior non-executive
Person 7	Senior Executive	Head of Department
Person 8	Senior Councilor	Senior Executive
Person 9	Councilor	Head of Department
Person 10	Compliance	Head of Department
Person 11	Compliance	Compliance

e.Media Investments wishes to thank the Authority for the opportunity to make this presentation and would welcome any questions concerning the presentation

Thank you