

# Presentation on Draft DTT Regulations 6 September 2012



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# Digital migration – what is at stake?

For South Africa:

- The future viability of free-to-air television
- The delivery of free quality television to the majority of South Africans
- Preventing the ghettoisation of free-to-air television
- Bridging the digital divide – not increasing it
- Whether DStv or free TV will become the primary television platform for the majority of South Africans



# DIGITAL DIVIDE



# Digital migration – what is at stake?

For e.tv and its stakeholders (independent producers and employees)

- South Africa's only national BBBEE (Level 2) television broadcaster
- South Africa's only private commercial free-to-air (FTA) television broadcaster
- Watched by over 16 million South Africans daily (second only to SABC1)
- Only FTA television broadcaster that broadcasts two daily South African dramas (both provided by independent producers)
- 14 years of investment in South African independent production
- 14 years of investment in SA's only independent television news service in English, Zulu, Sotho and Afrikaans
- 14 years of investment in staff development and training – 5.5% of annual salary budget
- 473 employees of which 48% are African, 48% are female and 5% are people with disabilities

# Digital migration – what is at stake?

For e.tv's 16 million viewers

- 49% South African content annually – 3 200 hours per annum (licence requirement: 45%)
- 100% independent production quota (excl. news)
- 4.5 hours of original prime time South African drama per week (licence requirement: 2.5 hours per week)
- 16% of SA drama in languages other than English (licence requirement: 10%)
- 23 hours of information programming per week (licence requirement: 19 hours)
- 16 hours of children's programming per week, 40% of which is South African
- 80.5% population coverage (licence requirement: 77%)
- 6.7 hours per week of news and information programming in languages other than English – predominantly African languages (licence requirement: 2 hours)
- Sign language and sub-titling

# Digital migration – what is at stake?

For e.tv's shareholder beneficiaries:

- e.tv's holding company, Sabido Investments is majority-owned and controlled by HCI
- HCI's major shareholder is the SACTWU Investment Group, the investment vehicle for the South African Clothing and Textile Workers Union
- Ultimate shareholder beneficiaries:  
members of the South African Clothing and Textile Workers Union (SACTWU) and their families



## Digital migration – what is at stake?

- Digital migration (and the current regulatory process) has an irreversible effect on the future of free-to-air television and e.tv
- Yet, despite this, scant (if any) regard has been paid to these factors by the regulator over the past four years
- When the current Council came into being, a final set of DTT regulations was in place
- These regulations required a simple technology update to DVB-T2
- Yet this Council decided to revise the entire licensing framework
- It is well-known that this decision was based on pressure by a party who had little direct interest in the matter and who in fact had failed to participate in this process until November last year



## Digital migration – what is at stake?

- The unnecessary one-year delay caused by the current Council's decision to revise the entire licensing framework on the basis of pressure by this party has:
  - Further entrenched the dominance of the DStv platform
  - Further weakened the prospects of a successful DTT platform
  - Prevented free-to-air broadcast incumbents from competing fairly with DStv and its wholly-owned channels for audiences and advertising
- This situation has been aggravated by the persistent failure by ICASA to address the competition issues related to DStv and unfortunate references to an “SABC/e.tv duopoly” in circumstances where the biggest danger to broadcasting competition in South Africa is DStv's growing dominance

## Digital migration – what is at stake?

- In the circumstances, one would expect that the current set of amended draft regulations would take such factors into account
- Yet, not only do the amended draft regulations fail to address this situation, the Authority's explanatory memorandum fails to provide:
  - any insight into how the current proposals are rationally related to the purpose of the regulations; and
  - any reasons why the concerns previously (and repeatedly) raised by e.tv are either irrelevant or have not been taken into account
- e.tv therefore finds itself in the difficult position of having to make submissions on yet another set of draft regulations which fail to address any of e.tv's previous concerns and which introduce – **at the last minute and for the first time in 4 years** – content quotas which have a fundamental impact on e.tv's financial viability

## Yo-Yo regulation

- ICASA's role in DTT regulation started in 2008 – by then the digital migration process was already severely delayed by government indecision on policy
- Since then, we have had 5 (6?) sets of draft DTT regulations and 2 sets of final DTT regulations
- This is the 5th time in 4 years that e.tv has made a submission on draft DTT regulations to ICASA
- The latest process – following Kagiso Media's intervention with the current Council – has (despite promises to the contrary) taken almost a year and is still not finished



## Yo-Yo regulation

- Over the past four years DTT regulation has been:
  - Arbitrary and lacking in consistency
  - Dependent on who is on the Council at any point in time
  - Dependent on the whims/views of a particular Council at any point in time
  - Lacking in any policy foundation or economic analysis of the television market
  - Devoid of any rational justification
    - There are still no reasons why, for example, M-Net with under 65 000 households has been given 40% of multiplex 2 against the 50% given to e.tv (with 8.3 million households) – e.tv's household base is **128x the size of M-Net's** but its mux allocation is only one quarter more than that of M-Net
  - Erratic and hasty with no basis in any economic analysis or regard for the financial impact on incumbent broadcasters

## Yo-Yo regulation

- Effect on broadcasters who carry burden of digital migration
  - Continual business uncertainty – multi-channel business plans which take months to develop have to repeatedly be reworked according to regulatory whims
  - Ad-hoc and last-minute “regulatory ideas” cannot be properly evaluated because of unreasonably shortened timeframes: ICASA’s content quota proposal has a financial impact on e.tv of millions of rands yet it was raised for the first time in four years in the most recent draft regulations and e.tv was given 15 days to comment on it
  - Impossible to plan one’s business
  - Continuing loss of audiences and advertisers to DStv

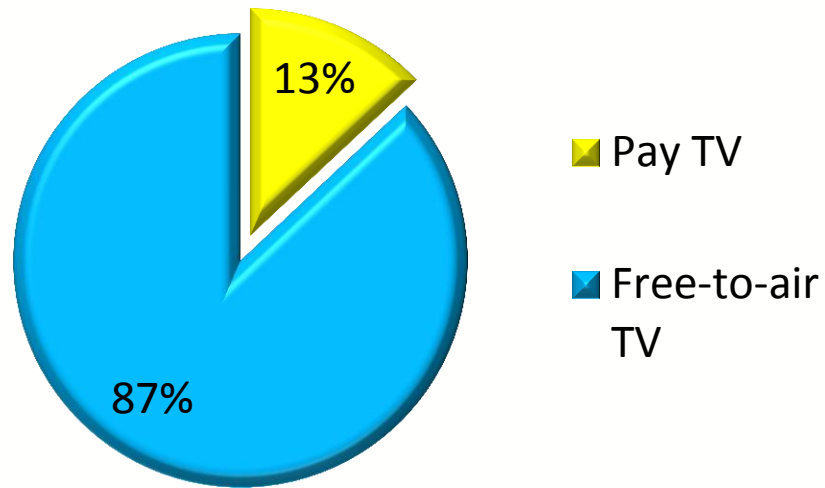
## The DStv factor

- And during all these delays and uncertainties, there is no greater beneficiary than DStv
- During e.tv's presentation on the previous set of draft regulations in March 2012, we highlighted the following points:
  - *“This debate takes place at the same time as the SA TV market is dramatically changing:*
  - ***4 years ago, 13% of SA TV households had pay TV***
  - ***Now that figure is 25% and is growing aggressively each year***
  - *The free-to-air TV market is shrinking which is affecting the revenue base available to support free-to-air channels”*

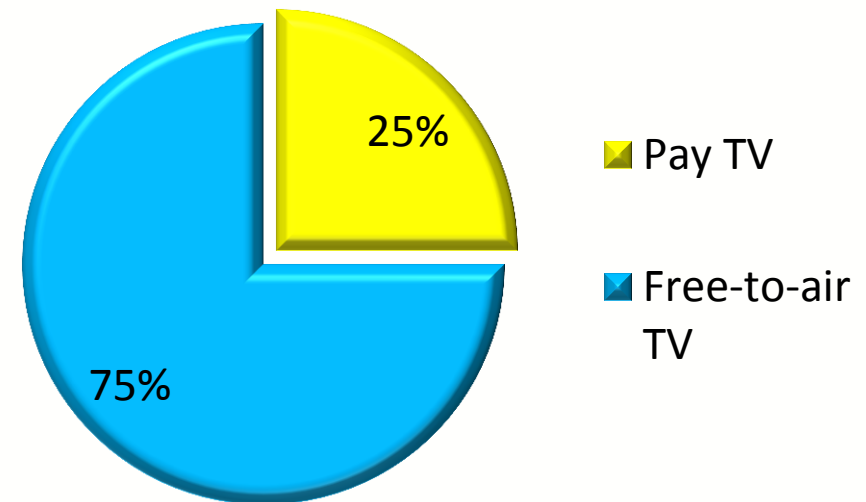
## The DStv factor

- In March this year, we showed you the following slides:

## TV households 2007



## TV households (Data as at March 2011)



Source AMPS



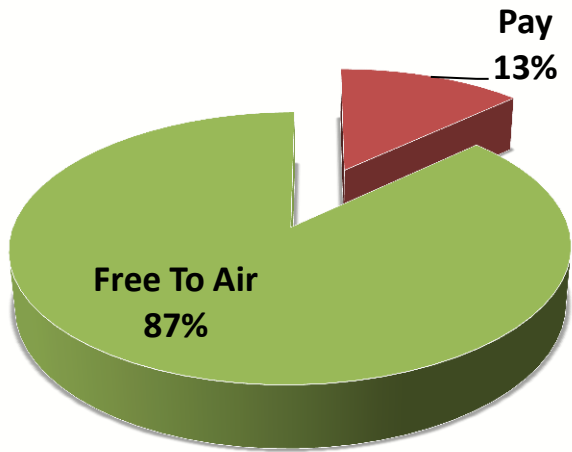
## The DStv factor

- And this is how the situation has changed since March:

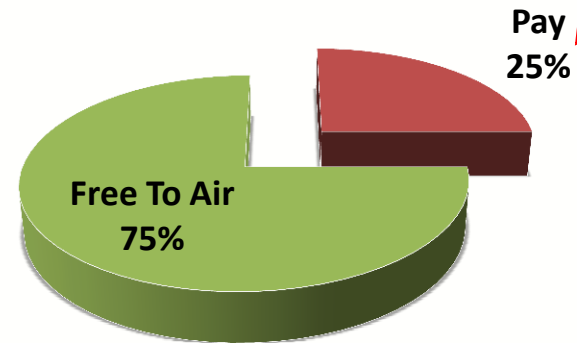
# DTT PRESENTATION TO ICASA



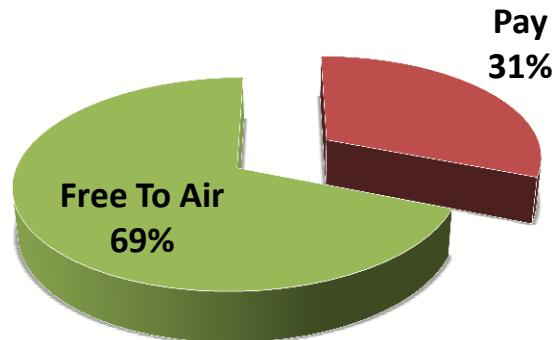
## 2007 TV households



## 2010 TV Households (as presented in March 2012)



## 2011 TV Households (New data available since March 2012)



## The DStv factor

- Now, seven months later, latest data shows the pay-TV market (DStv) has grown from 25% to 31%
- Since March this year, the audience share of DStv has grown from 23% to 25% (only SABC1 exceeds this by an increasingly narrowing margin)
- The advertising revenue share of DStv (a subscription broadcaster) is now 44%
- All of which affect the continuing viability of free-to-air broadcasting in South Africa
- All of which even further jeopardise the potential success of a free-to-air DTT platform

## The battle of the platforms

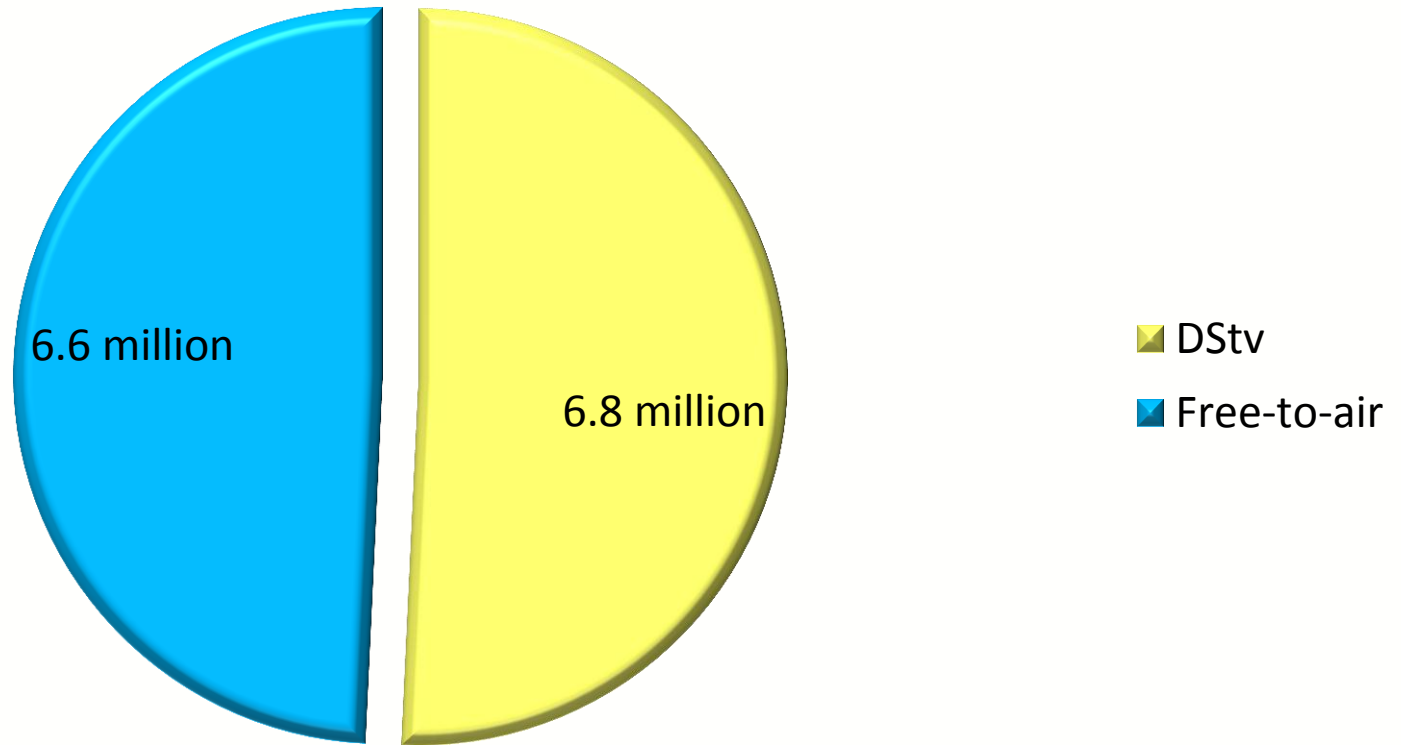
- The success of DTT will be determined by the success of the DTT FTA platform
- The only existing multi-channel platform is DStv
- The DTT FTA platform has to be at least as attractive as DStv among all audiences (not just lower income audiences) so that both the platform and the FTA channels remain viable

## Commercial realities – consumer choice

- DTT take-up will be determined in the retail outlet where the South African citizen who wants multi-channel TV must make the decision to buy one of two available set top boxes:
  - A DStv set top box:
    - R499 fully installed
    - Entry-level Easyview option available for R20 per month (virtually free - less than an SABC licence fee) with 17 TV channels and 30 radio stations
    - DStv premium = 102 channels (15 HD); DStv Compact = 59 channels
    - Great opportunity for DStv to add to the number of channels and to include HD in lower-priced (virtually free) packages to drive subscriber base
  - A free-to-air DTT set top box
    - R800+ at retail (excl. installation) (Estimated R700 (less subsidy) at SAPO)
    - At the outset a maximum of 19 SD channels (no radio)
    - No HD channels available



# DStv will continue to grow



Projected breakdown of TV households in 2017



## Commercial realities

- As stated in our March 2012 presentation:  
*“If the DTT platform is not made up of strong, viable free-to-air players, e.tv projects the majority of TV households in South Africa will become pay households”*
- The challenge for the regulator to fulfil its mandate is:
  - to prevent DStv from becoming the primary multi-channel platform in South Africa;
  - to prevent the ghettoisation of free-to-air broadcasting
- And the only way it can do that is to ensure that the DTT platform is competitive

DStv, So much more...



DTT, So much less...





## HD TV is for everyone

- HD is increasingly become the new standard for television broadcasting
- SD production equipment no longer manufactured
- In SA, 52% of all new TV sets sold are HD
- You can buy an HD TV set for just under R2 000 today
- 69% of US homes have HDTVs (52% adoption in past 5 years)
- Internationally, SD TV sets are no longer sold or significantly declining
- DStv launching 15 HD channels in October 2012

*It is evident that HD will be the standard form of television well before ASO*

# HD TV is for everyone

- But that's not all ...

## HD TV is for everyone

- All 5m SA government subsidised STBs are HD

## HD TV is for everyone

- The draft regulations envisage the possibility of HD

## HD TV is for everyone

- The “Go Digital” link on ICASA’s own website refers prominently to HD services on DTT

# DTT PRESENTATION TO ICASA



[Home](#) [About Us](#) [Consumer Protection](#) [Legislation and Regulations](#) [Faq](#) [Online Systems](#) [Careers](#)

The Independent Communications Authority of South Africa

[Home](#) - [Go Digital](#)



## What is Go Digital SA?

Go Digital South Africa is a process of taking South Africans to an era of Digital Television that also brings more choice of television channels to ordinary people who view free-to-air television as provided by SABC, e-tv and M-Net. Currently, these services are broadcast in an analogue format. The country is therefore moving these

**High definition, digital television broadcasting is no longer a privilege of those who are well-off.**

Union announced that countries in Africa and other regions must move their television broadcasting to a digital platform. Since then, the Department of Communications has been working hard to ensure that all the necessary work is done to enable a smooth transformation of our broadcasting.

Today we have started to educate and tell South Africans about this journey of taking our television broadcasting into a new era of digital broadcasting that will see them receive television of exceptional picture and sound clarity. This process is called GO DIGITAL SOUTH AFRICA, and we urge all South Africans to equip themselves with information on how this process is going to affect them. Today, using all the newspapers and other mediums, we have begun to tell and educate South African about the move to digital television.

Follow the GO DIGITAL logo! [[Click here to view more questions and answers about Digital Migration](#)]

[Click here to visit the Department of Communications Go Digital South Africa website](#)

## HD TV is for everyone

- And even the memorandum accompanying the latest draft regulations claims that the regulations are being amended so that they are future-proof (in the event of delayed ASO)

## HD TV is for everyone ... except on DTT

- Yet the licensing framework introduced by the draft regulations does not provide for viable multi- channel HD on the DTT platform
- The latest draft regulations introduce more capacity – in the form of multiplex 3
- ICASA has gone to extra lengths to identify additional spectrum for DTT
- But Mux 3 is not for purposes of ensuring that incumbent broadcasters have a fair chance of competing with the DStv platform for audiences and advertisers
- Instead, Mux 3 has been created to accommodate the demands of parties who expressed a belated interest in this process but who have no business risk in the DTT process



# HD TV is for everyone ... except on DTT ... and definitely not for e.tv viewers

- It is impossible for e.tv to provide HD services in DTT under the proposed licensing framework
- The capacity provided to e.tv on Mux 2 would enable it to broadcast only 2 HD channels including its current service (and neither of those could be sport)
- This is inadequate to enable e.tv to compete with multi-channel DStv for advertising

# HD TV is for everyone ... except on DTT ... and definitely not for e.tv viewers

- If the Authority were to proceed with the licensing framework set out in the draft regulations, this would have a dual prejudicial impact on e.tv's business
  - By breaking up the terrestrial spectrum in such a manner that only SD services can be provided, it weakens the DTT platform as a whole and directly reinforces the attractiveness of the DStv platform
  - By allocating e.tv only 50% of a multiplex in circumstances where additional spectrum has been made available by the Authority, it discriminates against e.tv as a terrestrial broadcasting licensee which competes for audiences and advertising against DStv

# HD TV is for everyone ... except on DTT ... and definitely not for e.tv viewers

- To compete fairly in the market , e.tv needs to provide a viable multi-channel service with HD capacity
- e.tv understands and accepts that terrestrial television is unable to provide the HD capacity of satellite television
- However, ICASA should be regulating, within such limitations, in a manner which enables:
  - (i) the DTT platform to be competitive as against the satellite pay-TV platform; and,
  - (ii) e.tv to be able to compete fairly in the television market for advertising

# HD TV is for everyone ... except on DTT ... and definitely not for e.tv viewers

- The Authority is obliged to ensure fair competition between licensees and to bridge the digital divide
- The Authority is failing to comply with this duty by improperly taking into account interests which are not affected by the digital migration process at the expense of incumbent broadcasters, specifically e.tv
- e.tv also notes that earlier in this 4-year process – when the option of a third mux was possible as a result of an M-Net hard migration – e.tv had been allocated 60% multiplex capacity by the previous ICASA Council

## Improved DTT licensing framework

- To level the playing field and create a fair competitive market e.tv submits that the licensing framework for DTT during dual illumination should be as follows:
  - Multiplex 1: SABC and public radio
  - Multiplex 2: e.tv and commercial radio
  - Multiplex 3:
    - 25% to M-Net to dual illuminate the M-Net channel in HD
    - The balance to be shared among incumbent pay-TV licensees
- e.tv has no objection to the licensing of new players after ASO, subject to a full and proper economic feasibility study
- The SABC's public services should be prioritised as and when more capacity becomes available

# Introduction of Original Content Quotas

# Original content quotas are unaffordable

- For the first time in four years, 5 sets of draft regulations and 2 sets of final regulations, the new draft regulations introduce an original content (including original SA content) requirement in prime time
- Interested parties were given 15 days for written submissions on a brand new regulation which would involve millions of additional costs to their business

# Original content quotas are unaffordable

- It is unclear what prompted this sudden introduction of original content quotas and what the reasons are for it
- However, the quotas are simply unaffordable and contrary to the industry standard for multi-channel television which is based on repeat ratios and formulas
- The proposed quotas have such a fundamental impact on e.tv's business planning for DTT that e.tv will have to completely revise its costings and long-term forecasts regarding the viability of the DTT channels



# The effect of the original content quotas

- The draft regulations require that every night, 50% of the period 6pm to 10pm must be original television content – i.e. 2 hours of original (not repeated) content every night
- 35% of that original content must be original SA content, i.e. 42 minutes of original (not repeated) content every night in prime time
- That means 730 original hours in prime time each year

## R100m per annum per channel for only 3 hours of prime time programming

- It would cost any channel – whether e.tv, SABC or a new service – a minimum of R100m per annum **per channel** to comply with this quota in a manner which is cost-effective but which also does not affect the audience attractiveness of its service
- The cost of these three hours alone would exceed the budgeted of the total 24-hour schedule of many of the individual DTT channels
- There is no possibility of recovering such investment from advertising – in this regard e.tv refers to all previous submissions on the advertising market
- This is particularly so in the context of ongoing uncertainty regarding STB distribution and ASO

## What are the original content quotas meant to achieve?

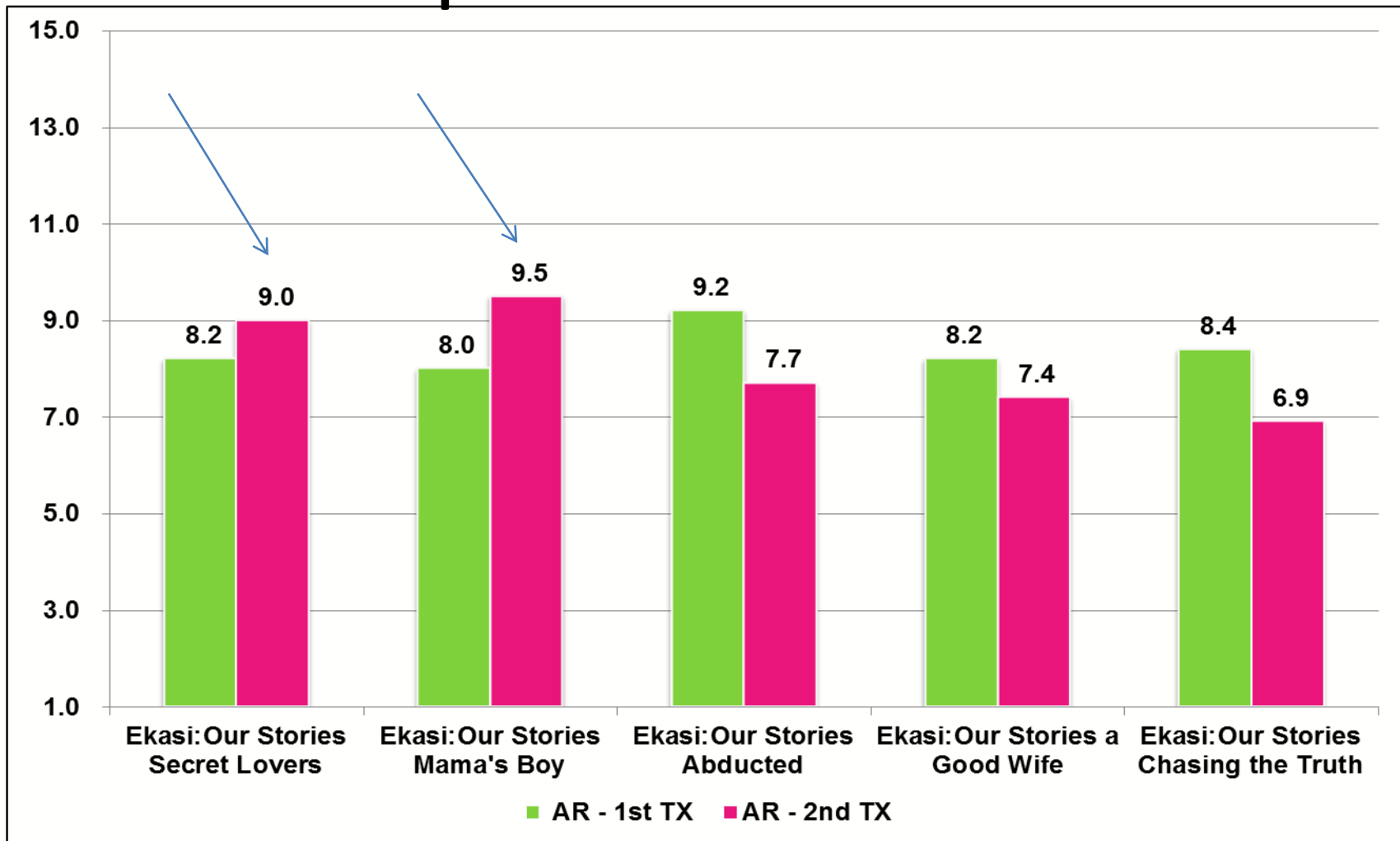
In addition to the fact that the quotas are simply unaffordable, they are irrational in that:

- They unreasonably interfere with the commercial practices of broadcasters by artificially restricting the programme schedule
- The daily broadcast requirement makes them absurdly restrictive – e.g. no channel will ever be able to broadcast two x 2 hour Hollywood movies or a 2-hour live sports event
- They reflect a fundamental misunderstanding of the nature and economics of multi-channel scheduling where prime time repeats are an international norm – and are, in fact, the only economically viable manner in which to offer a multi-channel service

## What are the original content quotas meant to achieve?

- They would have the effect of dulling the prime time channel line-up – all channels will start to look the same
- They disincentivise broadcasters from introducing a variety of services which would enhance the attractiveness of DTT
- International “pass-through” channels would effectively be banned
- They fail to take account of the fact that the DTT platform begins with a zero audience and that many factors could affect the rate of STB take-up which in turn affects when broadcasters can start selling advertising – there is a “sunk cost” of initial programming investment which can never be recovered
- They erroneously assume that audiences don’t watch repeats – e.tv’s experience over the past 14 years proves that this is untrue

## eKasi Repeats





# The original content quotas will further disadvantage DTT and e.tv against DStv

- The aggressive growth of DStv is precisely because of the variety of channels on its platform
- The original content quotas will suffocate make such variety on the DTT platform impossible
- This will further weaken the DTT platform and defeat ICASA's stated objective
- And it will further hamper e.tv's ability to compete fairly in the television market

## DStv:TV Scheduling: Prime Time Repeats

While it's understandable that some repeats are necessary to allow people to view a movie or series at a suitable time, many DStv subscribers feel that the current repeat cycle oversteps the mark of reasonable repeat frequency.

“MultiChoice doesn't schedule programmes but buys ready-made local and international channels. Each channel schedules new and recurring programmes according to a programme or movie's license specification. MultiChoice arranges the channels into DStv packages and broadcasts the channels,” said Alberts.

**“Repeats form an integral part of the pay television business model – locally and abroad. To make the service affordable, channels have to contain a mix of new and repeat programming. A single channel requires 8760 hours of content per year.”**

According to MultiChoice, repeat scheduling on each channel varies as channels have different format models and programmes have different ratings. A 24 hour channel such as M-Net schedules every hour whilst block channels such as The History Channel schedule four hour blocks which repeat within 24 hours of it premiering.

“All channels offer varying amounts of new content annually. The minimum amount of new hours on DStv is 500 hours per annum; however, the majority of channels have between 750 and 1250 new hours per annum,” said Alberts.

**“Repeats are also designed to create catch-up viewing opportunities,” Alberts concluded.**

DStv is however not the only service plagued by complaints about excessive repeats. TopTV subscribers have been growing increasingly frustrated with excessive repeats on channels like Fox Retro, Fox Entertainment and Top Crime.

Elouise Kelly, ODM's chief marketing officer, said that they are well aware of the complaints about repeats from TopTV subscribers, but says that it is “how pay TV works.”

**“Repeats over a period of time is how pay TV is structured. It's impossible for any TV channel to be repeats free. Repeats are structured and scheduled so as to make the repeating convenient for you as the viewer,”** said Kelly.

<http://mybroadband.co.za/news/broadcasting/15712-dstv-repeats-can-anything-be-done.html>



## All About Repeats – DSTV Online

- **1) MultiChoice does not schedule channel programmes**
  - MultiChoice doesn't schedule programmes but buys ready-made local and international channels. Each channel schedules new and recurring programmes according to a programme or movie's license specification. MultiChoice arranges the channels into DStv packages and broadcasts the channels.
- **2) Pay-TV business model requires repeats**
  - Internationally multi-channel platforms like DStv offer channels that have to include a mix of new and repeat programmes to make it affordable with the added benefit of creating catch-up viewing opportunities.
- **3) DStv repeat rate lower than average**
  - A single channel requires 8760 hours of content per year. DStv's repeat rate is lower than in most countries around the world. The movie repeat rate is for example up to 60% lower than similar digital television platforms abroad like SKY and DirecTV. (Source: Comsys).
- **4) Most Hollywood movies appear on DStv**
  - Film and television studios produce a limited amount of programming each year. Hollywood, for example, only produces 600 new movies annually but a single movie channel contains 8760 hours per year. Once a movie has completed its cinema and video run, the first television appearance is on M-Net.
  - To ensure a wide variety of the best content available, MultiChoice sources channels with movies and series from most top Hollywood studios like FOX, Warner Bros., Disney, Sony, NBC / Universal, CBS, Paramount, Dreamworks, MGM and independent studios like Mandate, Content Films, Summit Entertainment.
- **5) Different channels have different repeat patterns**
  - Repeat scheduling on each channel varies as channels have different format models and programmes have different ratings. A 24 hour channel like M-Net schedules every hour and block channels like The History Channel schedule 4 hour blocks which repeat within 24 hours of it premiering.
- **6) Multiplexing**
  - Multiplexing, a form of programme repetition occurs when an entire block of programming is scheduled and then repeated in sequence on the same channel or on an alternate channel. Channels like M-Net Series, M-Net Movies 1 and M-Net Movies 2 use multiplexing.

<http://www.dstv.com/Pages/News/794/All-about-repeats-on-DStv>

## Reasons for the original content quotas

- In the circumstances, e.tv requests the Authority to provide the reasons and economic analysis which underpin the last-minute introduction of these quotas into the regulations
- e.tv also requests the Authority to indicate whether the cost impact on incumbent broadcasters was evaluated prior to the introduction of this proposal and, if so, whether other (currently unknown) cost impacts on incumbents (such as transmission costs) were taken into account in this regard
- Finally, e.tv requests the Authority to indicate whether the ability of broadcasters to finance these quotas was taken into account, considering the forecast advertising for the DTT market
- At such time as the Authority makes such information available, e.tv requests a further opportunity to make submissions to ICASA

# Universal service and DTH coverage

## Regulations must include DTH

- e.tv stresses that DTH must be included in the regulations to ensure universal service owing to a variety of reasons:
  - The SKA project in the Northern Cape does not allow for terrestrial transmission within its vicinity; and,
  - It is uneconomical to reach certain parts of the country through terrestrial transmitters

## Regulations must include DTH

- This would be consistent with the “future-proofing” statement in the memorandum accompanying the draft regulations, specifically that the regulations must:

*“meet any future contingencies including the fact that analogue switch-off may not take place in 2015 ...” (at paragraph 3 of the memorandum) and that “the Authority has also considered the Ministerial Policy in ensuring close to 100% coverage for those areas that are difficult to reach, which will be covered through DTH by satellite means” (at paragraph 6 of the memorandum).*

- e.tv has made specific drafting recommendations in this regard in its written submissions

# Capacity allocation and test transmissions

# Capacity per channel is a business decision

- e.tv submits that the Authority should not define the MB/s which should make up any one channel on its capacity
- For example, an HD movie channel may require only 7MB/s while an HD sports channel would require up to 12 MB/s depending on the nature of the sport
- The bit rate allocated per channel is a business decision which should be controlled by the broadcaster concerned
- If ICASA regulates the bit rate, then again, it makes the DTT platform less attractive than DStv which has unlimited flexibility in establishing the capacity allocated per channel
- For the record, e.tv disagrees with ICASA's estimate of 1.625 MB/s per channel – this estimate came from the DTT trial and is inadequate for purposes of commercial DTT broadcasting

## Test transmissions on a national multiplex are not feasible

- The allocation of 10% of multiplex 2 for test purposes is not feasible
- There is no reason why limited capacity cannot be found in a particular geographic area to accommodate test broadcasts
- It makes no sense to do test transmissions on a national multiplex
- Technically, it is extremely difficult and inefficient for commercial licensees to accommodate a test broadcaster on the same multiplex
- Test channels will distort or disrupt the DTT platform
- What exactly would anyone be testing on a national mux?



# Conclusion

## Incumbents no longer incentivised

- e.tv set out its deep concern with the DTT regulatory process at the outset of this submission
- We wish to conclude that there has been a complete policy swing by the regulator since 2008 regarding the attitude towards incumbents in the digital migration process
- The prevailing policy has always been that incumbents:
  - (1) are carrying the burden of the digital migration process;
  - (2) will be financially prejudiced by the introduction of DTT; and,
  - (3) will therefore be compensated to some extent through incentives.
- It is apparent in the latest round of proposals by the current Council (starting in September 2011), that this is no longer the Authority's position

## Incumbents no longer incentivised

- If newly licensed players are to receive the same multiplex allocation as incumbents, what are the incentives for incumbents?
- Has the Authority discarded the policy of incentives for incumbents and, if so, what are the reasons for this?
- The Authority does not have a policy position on DTT – underpinned by sound economic principles and based on the Authority’s mandate – which would justify the current draft regulations.

# The legacy of this Council

- The future of FTA television is in the hands of the current Council
- The manner in which the regulatory process has evolved – specifically over the past year – will ensure that DTT is a weak platform and will strengthen the dominance of DStv
- It means that poor people will receive poor television
- It will increase the digital divide
- Is this the legacy that this Council wishes to leave to South Africa?



# DIGITAL DIVIDE



Thank You