KWESÉ

PRESENTATION TO ICASA

10 MAY 2018

Presentation Overview

1. Overview of Econet Media
2. Legal issues
3. ICASA, Econet and MultiChoice’s positions on core issues
4. Market failure in pay-TV
5. Role of ex-ante regulations / ICASA
6. Market definitions
7. Pro-competitive remedies

INTRODUCTION

Panel

- **Zolile Ntukwana -** *Executive: Regulatory and Government Affairs*
- **Ziyanda Buthelezi -** *General Manager: Regulatory Affairs - Southern Africa*
- **Prof Nicola Theron** – *Econex Competition Economics and Applied Economics*
- **Helanya Fourie -** *Econex Competition Economics and Applied Economics*
- ***Laura MacKenzie*** *– Head of Business Affairs – Entertainment*
- ***Jeroen Oerlemans*** *– Chief Executive - Sports*

KWESÉ

OVERVIEW OF ECONET MEDIA

KWESÉ

OVERVIEW OF ECONET MEDIA LIMITED

- Econet Media was established in 2015 and is a member of the Econet Group, a pan-African diversified telecommunications firm with operations in Africa, Europe, South America, North America and the East Asia Pacific Rim.

- The Econet Group traditionally offered mobile, fixed telephony, broadband, internet, satellite and fibre optic networks.

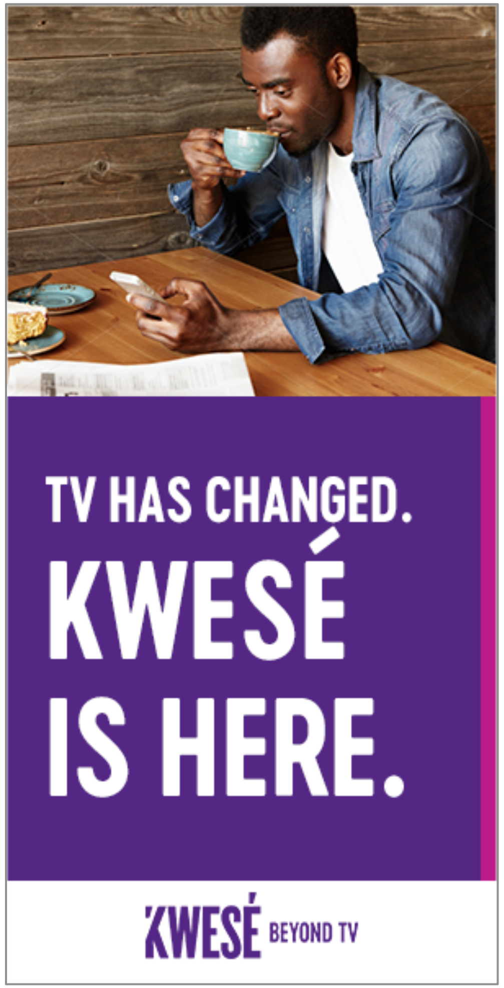
- Econet Media provides free to air (23 countries) and pay-TV (13 countries) services via satellite direct to home, online and terrestrial rebroadcasting platforms, under the Kwesé brand.

- In South Africa, Kwesé content is available on Kwesé Play and OpenView HD in association with Liquid Telecom (a sister company) and E-TV respectively.

OVERVIEW OF ECONET MEDIA

Telecoms	Media	Technology

OVERVIEW OF ECONET MEDIA



- Kwesé is a truly Pan-African media brand
- Over 500 employees with a hub in Johannesburg, South Africa
- Exclusive African partner to major global brands such as iflix and Netflix
- Distribution network across Africa in partnership with telco companies

OVERVIEW OF ECONET MEDIA

- In selecting the territories for the launch of our television services, the over-riding business considerations were:

  1. The ease of doing business - in particular the licensing or regulatory regime of the prospective market;

  2. The vibrancy of each prospective market from a competition point of view - In particular barriers to entry and/or expansion.

- South Africa currently does not meet our internal minimum conditions of entry. However, we remain interested in this market should the conditions change as a result of improved policy.

- Prudent policy interventions in South Africa will also contribute to a more robust and competitive African media sector in general.

THE EMPOWERING LEGAL FRAMEWORK

- We commend the Authority for conducting this process with the necessary transparency.

- Read together, the Broadcasting Act 4 of 1999 ("Broadcasting Act"), the Electronic Communications Act 36 of 2005 ("ECA"), the Independent Communications Authority of South Africa Act 13 of 2000 ("ICASA Act") provide clear legal authority for the contemplated inquiry.

- In particular, we support the Authority's reliance on section 4B of the ICASA Act read with section 67(4) of the ECA as the empowering provisions for the initiation of the inquiry.

- The purpose and parameters of the inquiry is also clear: i.e. to establish factors that have contributed to new subscription broadcasting service licensees not being able to successfully launch their services and/or attract a fair number of subscribers.

CORE ISSUES

Summary of ICASA, Econet and MultiChoice's positions on core issues

POSITION IN RELATION TO DIFFERENT CORE ISSUES

Issue	ICASA	Econet	MultiChoice
Definition of premium content	"…valuable content that is acquired on an exclusive basis and made available on high end, premium bouquets." (para 5.7.17)	**Content which has a wide appeal, has <u>no substitutes and is time-critical in terms of its attractiveness to audiences</u>**	• There is no relevant distinction between 'premium' and 'non-premium' content. • The term 'premium' is vague and not derived from an analysis of competitive constraints on a hypothetical monopolist and therefore does not provide a reliable basis for the market definition • No clear and objective means of determining if the content in a genre is 'premium' • May change over time (para 390)
Premium content in South Africa	Consists of live sport, blockbuster movies, latest local and international series (para 5.7.18)	**Agree, but:** • **Other types of content may also become 'premium' in the future** • **Local content especially has become important in the South African context**	• There is no value in defining content as 'premium' for the purposes of the Inquiry (para 363)
Definition of retail market for subscription television services in South Africa	Separate markets for retail supply of premium subscription-TV channels and basic-tier subscription-TV channels (para 5.7.22)	**Agree, but should refer to premium and basic-tier *bouquets* rather than *channels***	Should rather be the market for all electronic audio-visual services including all distribution technologies (para 382)

KWESE

POSITION IN RELATION TO DIFFERENT CORE ISSUES (cont.)

Issue	ICASA	Econet	MultiChoice
Market definition: retail supply of pay-TV and FTA	Separate markets due to differences in price points, content and quality (para 5.7.4)	Agree with ICASA	• Both included in the market for all electronic audio-visual services. (para 382)
Market definition: pay-TV and OTT	Separate markets due to limited internet penetration, low data speeds and high data costs in South Africa (para 4.9.2 – 4.9.5)	Agree with ICASA • Also, total cost of OTT (subscription + internet access) exceeds price of most pay-TV packages	• Both included in the market for all electronic audio-visual services • OTT services are a significant and growing constraint on other services in the market (para 382)
Definition of wholesale supply market	Separate markets for wholesale supply of premium subscription-TV channels and basic-tier subscription-TV channels (para 5.8.8)	Agree with ICASA	• There is no market for the wholesale supply of channels • A hypothetical monopolist of wholesale channels cannot profitably increase prices by a small amount due to significant direct and indirect constraints from non-linear content • The alternative available to retailers to acquire content directly from content owners and self-supply the content aggregation and channel packaging also constrains the hypothetical monopolist (para 437-438)

KWESÉ

POSITION IN RELATION TO DIFFERENT CORE ISSUES (cont.)

Issue	ICASA	Econet	MultiChoice
The nature of bargaining power between independent wholesale channel suppliers and broadcasters	"The wholesale supply of television channels involves bargaining between broadcasters and channel providers on the terms and conditions for the distribution of television channels to viewers." (para 5.8.2)	• MultiChoice has buyer power due to incumbency, and long-standing relationships with content providers – can likely negotiate better prices than competitors • Multichoice has 'deeper pockets' and can pay more for premium content as well as buy a bundle of channels – reduces transaction costs • DStv's large subscriber base provides more certainty and hence lower risk in terms of producing its own content • Much of the premium content available on DStv is produced by M-Net or SuperSport (affiliated with MultiChoice) – this limits other broadcasters' opportunity to bargain for it	• Bargaining power of wholesale channel suppliers have always been limited since retailers have always been able to acquire content directly from content owners rather than buying pre-packaged channels on a wholesale basis • Bargaining power of wholesale channel providers has decreased further due to the development of OTT distribution platforms since content owners can distribute directly to consumers using OTT distribution (para 439–440)
Definition of contents market	Separate markets for acquisition of: (i) first-window subscription television broadcasting premium movies; (ii) premium live soccer matches; (iii) premium live rugby matches; (iv) premium live cricket matches; (v) other premium content (including series and premium local content); and (vi) non-premium content, all for retail television distribution in South Africa (para 5.9.18)	Agree with ICASA	• Disagree with ICASA • All content genres are included in the same relevant upstream market (p. 198–199)

POSITION IN RELATION TO DIFFERENT CORE ISSUES (cont.)

Issue	ICASA	Econet	MultiChoice
Barriers in acquisition of content	• Scarcity and high cost of premium content (including the threat of a strategic competitive response from an incumbent by undercutting or introducing new offerings that compete with a new entrant) • Long-term exclusive contracts which creates a vicious cycle whereby new entrants cannot acquire premium content, therefore not attract subscribers, limiting their budget for acquiring content • The incumbent can take advantage of the lack of competition by forming strong relationships with suppliers, advertisers and viewers (para 6.3.2 – 6.3.9)	• Econet has experienced significant barriers to entry in accessing premium content due to MultiChoice's ability to exclusively control the acquisition and distribution of premium content; existing exclusive arrangements between Multichoice and Hollywood studios, various independent content suppliers and channel providers; and acquiring local content since a large proportion is either owned by MultiChoice or is licenced exclusively to MultiChoice • Major content suppliers often require the payment of upfront minimum guarantees in respect of minimum subscriber numbers, or other forms of financial guarantees in respect of payment of licence fees – increases costs and does not affect MultiChoice. This leads to the 'vicious cycle'. • MultiChoice ties non-premium content to premium content, making its packages more attractive to subscribers and advertisers • MultiChoice has content supply agreements with community television broadcasters which gives them first option on channels/content produced, preventing other broadcasters from accessing the content on equal terms	• No entry barriers exist to acquiring any content which cannot be overcome by well-resourced and efficient entrants since no content is essential for entry and expansion in the retail market, and popular content is now neither scarce nor necessarily costly. Well-resourced and efficient entrants can still compete for the acquisition of expensive rights • The success in contesting rights of entrants (such as global OTT services, local telcos, large regional pay-TV services and well-established FTA services) contradicts the 'vicious cycle' proposed by ICASA (p. 368–369)

POSITION IN RELATION TO DIFFERENT CORE ISSUES (cont.)

Issue	ICASA	Econet	MultiChoice
Definition of market for technical services	"…there is a market for the wholesale provision and acquisition of technical services required for operating a subscription television broadcasting service." (para 5.10.3)	• **Recommend that district markets for technical services should be defined for different transmission platforms, i.e. separate markets for the wholesale provision and acquisition of technical services required for operating a satellite or digital terrestrial subscription television broadcasting service**	• ICASA's proposed market is unclear • Not founded on consideration of competitive constraints on a hypothetical monopolist • If ICASA intends to limit the market to technical services required for the provision of linear channels to TV sets, the definition is too narrow (para 447)
Does the nature and extent of vertical integration in subscription television likely harm competition?	• Can be a legitimate business model with internal efficiencies and economies of scope • Can be used to foreclose competitors • Vertically integrated incumbent has the incentive to leverage its market position downstream to gain market power in the upstream market for content (para 6.3.15)	• **Agree with ICASA** • **Not necessarily the nature of vertical integration *per se* that limits effective competition; rather the <u>barriers to entry</u> in the market for content / wholesale channels, specifically in relation to premium content**	• "[V]ertical integration is not a feature of the market which impacts on the effectiveness of competition in the retail market nor raises any particular concerns." (para 617)
Which measure should be used to estimate market share?	• ICASA uses the number of rights that a broadcaster has access to, across all categories of premium content.	• **Market shares must be calculated within each of the markets for premium content** • **Variation in the value that a broadcaster can derive from the rights and is therefore willing to pay** • **Rather estimate market shares based on the value (cost) of the rights held in each of the categories**	• Incorrect and incapable of providing a meaningful analysis of the effectiveness of competition • No distinct market for 'premium' content, but even if there was, there is no clear, objective and unitary means of determining the boundaries of such a market (p. 371–372)

THE ECONOMICS OF THE PAY-TV SECTOR

Market failure – Factors contributing to dominance

The role of or need for ex ante regulations

KWESÉ

FACTORS THAT CONTRIBUTE TO MARKET FAILURE IN THE PAY-TV SECTOR

- Pay-TV as a two-sided market:
  - In two-sided markets the market power of incumbents are typically constrained by two sets of customers (in this case, advertisers and viewers). However, if high barriers to entry limit the threat of potential competition the two-sided nature of the market does not constrain the incumbent’s market power.
- Select barriers to entry in pay-TV
  - Access to content
  - High switching costs (e.g. set-top boxes)
  - Bundling premium and non-premium content
  - Bundling different platforms (e.g. satellite television and OTT)
  - SA’s slow transition to digital terrestrial television (DTT)
- Advertising revenue
  - Pay-TV attracts more advertising revenue which crowds out the primary source of revenue for FTA channels

ROLE OF / NEED FOR EX ANTE REGULATIONS

- Evidence of market failure requires ex ante regulations to introduce competition in a sector

- European Commission lists three criteria that need to be met in order to identify a market in need of ex ante regulation:

  - The presence of high and non-transitory barriers to entry. These may be of a structural, legal or regulatory nature;
  - A market structure which does not tend towards effective competition within the relevant time horizon. The application of this criterion involves examining the state of competition behind the barriers to entry;
  - The insufficiency of competition law alone to adequately address the market failure(s) concerned.

[Source: Commission Recommendation of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (2007/879/EC)]

ROLE OF / NEED FOR EX ANTE REGULATIONS

European Commission Criteria	Status quo in South Africa
High and non-transitory barriers to entry	Various barriers to entry have been identified and listed on slide 16.
Market structure does not tend to effective competition in the relevant time horizon	Since Multichoice's entry into the market, no other pay-TV broadcaster has managed to grow into an effective competitor.
Competition law alone insufficient to address market failure	Competition law is not the appropriate tool with which to address the market failure evident in the pay-TV sector.

MARKET DEFINITION

- Economic theory: the SSNIP test
- Premium & non-premium content
- Pay-TV and FTA
- Pay-TV and OTT services

KWESÉ

IDENTIFYING THE RELEVANT MARKET: THE SSNIP TEST

- The Small but Significant Non-transitory Increase in Prices (SSNIP) test defines the relevant market by determining whether a given increase in product prices would be profitable for a monopolist in the candidate market.
  - Typically consider a 5%-10% price increase
- There are no large competing subscription broadcaster that subscribers can turn to in the event of a small price increase
- Cellophane fallacy:
  - Where there is an incumbent provider with market power, there is a strong probability that prices for the relevant product – pay-TV television services – have already been increased to monopoly levels. At such high price levels, products that are not substitutes and do not form part of the relevant market could appear to be substitutes
- With MultiChoice's dominance in the South African market, the SSNIP test must be supplemented with further evidence in determining the relevant market definition

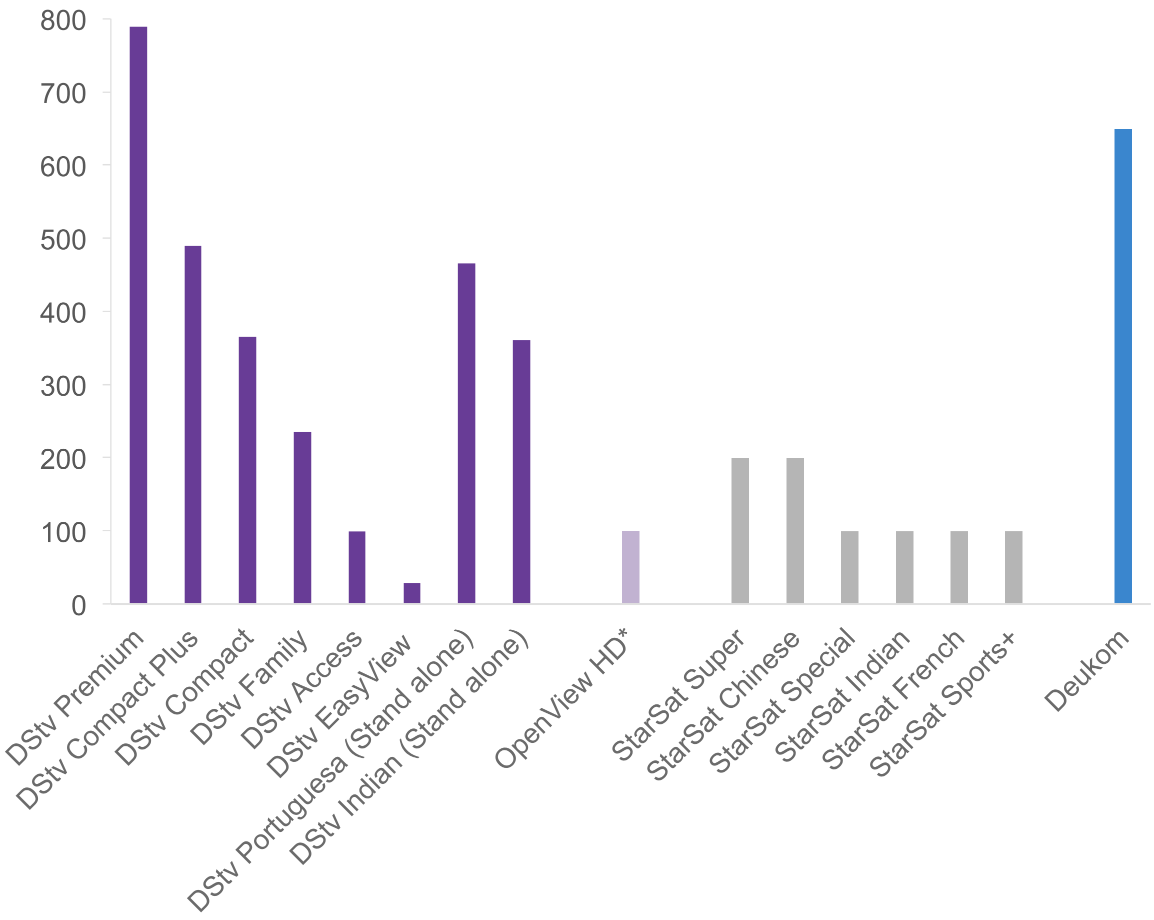
MARKET DEFINITION

PREMIUM & NON-PREMIUM CONTENT

KWESÉ

ECONET GENERALLY AGREES WITH ICASA

- While Econet agrees in principle with ICASA's definition of premium content, it proposes the following alternative definition: <u>content which has a wide appeal, has no substitutes and is time-critical in terms of its attractiveness to audiences</u>
- Existing contracts between suppliers and pay-TV services make it difficult to acquire content for new entrants (OTT and pay-TV)
- The price differentials of a single supplier's bouquets indicates that it values certain content more highly than others, i.e. considers it premium



KWESÉ

* Assuming the cost of a dish, decoder and installation is spread over 12 months (no subscription fees)

MARKET DEFINITION

PAY-TV & FTA

ECONET AGREES WITH ICASA'S DEFINITION

- ICASA: pay-TV and FTA are in separate markets (para 5.7.4)
  - There are significant differences in FTA and pay-TV's price points, content and quality
  - FTA viewers are therefore unlikely to see pay-TV as a substitute
  - Pay-TV viewers also will not substitute with FTA content in the case of a small but significant price increase in subscription fees
  - Given the growth in the number of pay-TV subscribers there is no evidence suggesting reverse substitution from subscription to FTA services

- Econet agrees with ICASA that pay-TV and FTA are in separate markets

CASE PRECEDENT PAY-TV AND FTA

Case	View of merging parties	European Commission's ruling	EC's ruling applicable to South Africa?
NewsCorp/Telepiù merger (2003, Italy) (COMP/ M/2876)	Same market since there is interaction between pay-TV and FTA and the strength of FTA broadcasters is an effective constraint on pay-TV operators.	While there is interaction and FTA could offer a constraint, it is in separate markets since content considered premium are only available via pay-TV broadcasters, although this may change in the future due to changes in technology.	Yes: Also the case that most premium content is only available on pay-TV channels
SFR/Télé2 France merger (2007, France) (COMP/M.4504)		A distinction must be made between pay-TV and FTA channels since the programmes offered on FTA channels are not sufficiently attractive to generate enough profit. Pay-TV and FTA retails service offerings are not very substitutable from a demand side perspective due to the difference in financing.	Yes: Also a difference in financing (free v. subscription fee payable by consumers).
NewsCorp/Premiere merger (2008, Austria and Germany) (COMP/M. 5121)	The product market includes provision of pay-TV and FTA channels via all distribution means, as well as provision of non-linear services (e.g. VOD) since in Austria and Germany pay-TV and FTA compete directly i.t.o. similar offerings, convergence through digitalisation and convergence of business models in Austria and Germany.	No conclusion, but discusses responses from TV operators in Germany and Austria. Operators considers pay-TV and FTA to be in separate markets: different type of content and program schedules (e.g. first window broadcasts on pay-TV), most consider pay-TV complementary to FTA, and have different business models which implies there's limited supply-side substitutability.	Yes: Also different type of content and program schedules, and FTA and pay-TV have different business models (which are also enforced by regulation).
NewsCorp/BSkyB merger (2010, UK and Ireland) (COMP/M. 5932)	Same market in the UK and Irish context, convergence between pay-TV and FTA due to technological changes, and the differences in content type and programme schedules decreasing.	Separate markets since the majority of pay-TV and TV channels surveyed considers it to be in separate markets.	No: EC's conclusion based on a survey specific to the UK and Ireland context.

OFCOM INVESTIGATION

Ofcom findings	Reasons	Applicable to South Africa?
Premium sports channels are in a <u>separate market</u> from FTA and basic-tier pay-TV channels	• While there are attractive sports content on FTA and basic-tier pay-TV channels, premium sports pay-TV channels offers much more programmes and exclusive access to content for which there are limited substitutes.	Yes: Some sport content is broadcast on FTA channels, but the majority of premium sports content are broadcast on Supersport channels.
Premium movie channels likely to be in a <u>separate market</u>	• No single product market that is likely to be a close substitute to premium movie pay-TV channels • Must be wary of the cellophane fallacy	Yes: First window-movies are all broadcast on DStv channels. Must also be wary of the cellophane fallacy in the South African context.
Stand-alone basic-tier pay-TV likely to be in <u>separate market</u> from FTA	• FTA is the closest competitive constraint on retailing of basic-tier pay-TV packages, but are different in important respects: pay-TV offers content not available elsewhere and a greater number and choice of channels • Survey evidence indicates that some consumers will switch from basic-tier pay-TV to FTA in response to 5%-10% price increase in pay-TV subscription, but unclear if it is enough consumers to make the price increase profitable	Yes: Pay-TV channels also offer content that is not available elsewhere as well as many more channels than FTA, even on DStv's basic bouquets.

SOUTH AFRICAN CONTEXT

Sport content

- For FTA to be a sufficient constraint on pay-TV in terms of sport content, sufficient sport content must be available on FTA channels on an on-going basis
  - Once-off events which generate high viewership will not sufficiently constrain pay-TV
  - Sport has a time-critical factor live sport broadcasts more attractive to consumers than delayed broadcasts
  - MultiChoice holds the majority of exclusive premium sports rights, thereby precluding FTA channels from being a competitive constraint in terms of sport content

Licensing

- Broadcasters are issued with either a FTA, community or subscription broadcasting licence
- Licences are not freely available and is only issued when the Authority issues an Invitation to Apply (ITA)
- From a regulatory, supply-side substitutability point of view, FTA and pay-TV are therefore in separate markets

MARKET DEFINITION

PAY-TV & OTT SERVICES

ECONET MEDIA AGREES WITH ICASA'S POSITION

- ICASA: separate markets
  - OTT services rely on access to high speed, good quality and affordable internet services, but South Africa has limited internet penetration, low data speeds and high data costs (para 4.9.2 – 4.9.4.)
  - "The impact of OTT is expected to remain small but noticeable in the foreseeable future" (para 4.9.5)

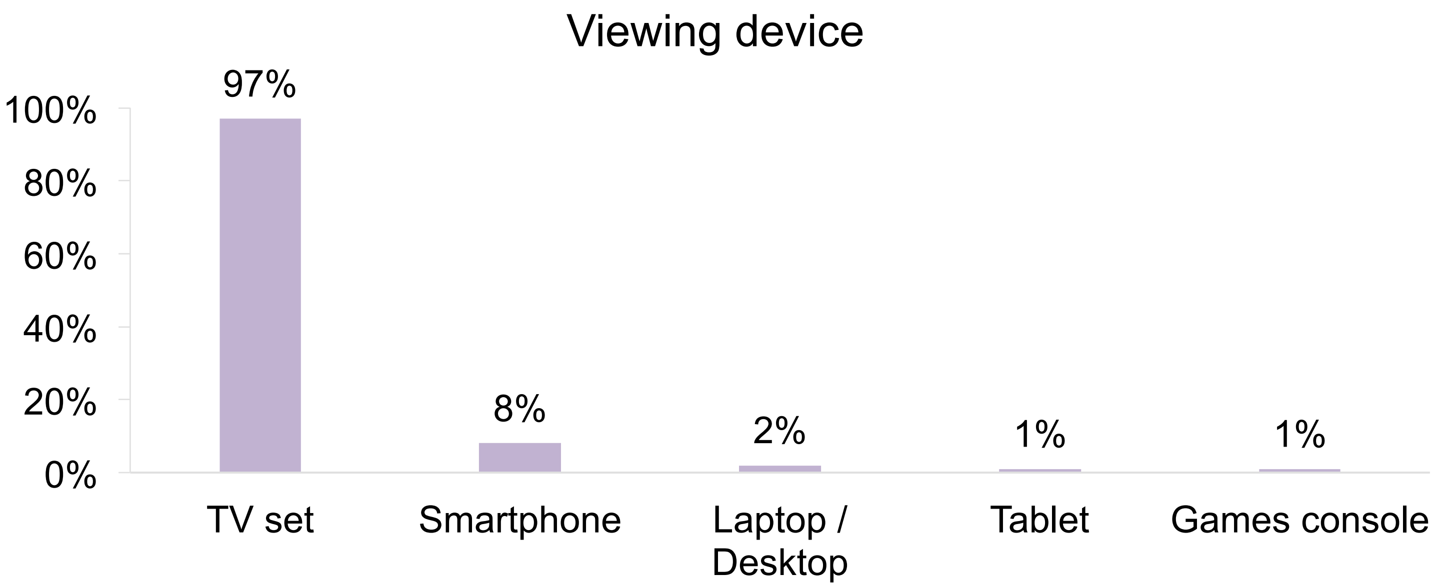
KWESÉ

ECONET AGREES WITH ICASA'S POSITION

- **Pay-TV and OTT services are in separate markets**
  - UK Competition Commission's 'Movies on pay TV market investigation' (2012) found sufficient rivalry between OTT and traditional pay-TV *movie* services
    - This does not apply to South Africa:
    - ICASA's inquiry is considering all content, not just movies
    - The UK's broadband market is much more developed than in South Africa
    - Cannot subscribe only to premium film content in South Africa since MultiChoice bundles premium film content, premium series content and non-premium content
    - Content are made available in different release windows in OTT and pay-TV
    - Limited supply side substitutability since a subscription TV licence is necessary for pay-TV while VOD is unregulated
  - The data indicates South Africa does not have sufficient internet penetration, too slow internet and data is too expensive for consumers to be able to afford and easily switch from pay-TV to OTT
    - Expected to remain this way in the short to medium term

WHICH VIEWING DEVICES ARE USED TO WATCH TELEVISION CONTENT?

- The vast majority (97%) of South Africans watch television programmes on a television set
- Only 9% of households have an internet enabled television set, with only 2% of households using this functionality (BRC TAMS Update, October 2017)
- Therefore it is most likely that households are watching broadcasts on their television sets, and not using a television to watch OTT content

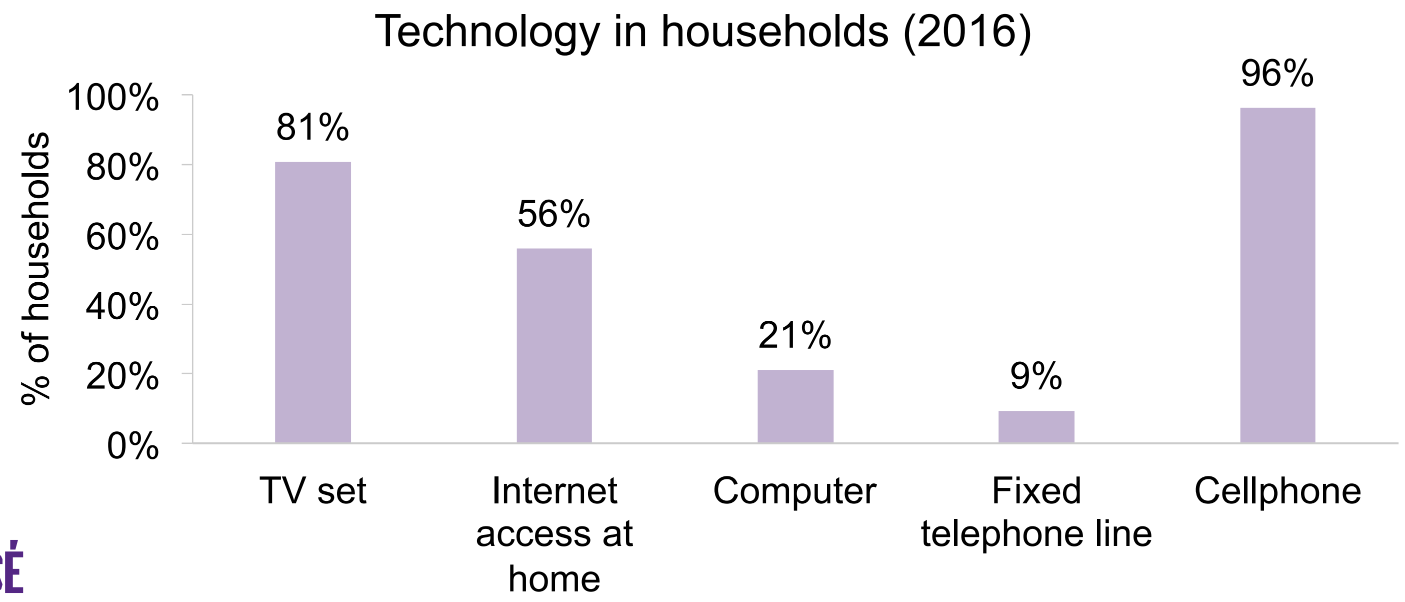


KWESÉ

The Broadcast Research Council of South Africa (BRC): The Establishment Survey, October 2017 Release

TECHNOLOGY PENETRATION

- 98% of people watch television in their own / someone else's home (BRC: The Establishment Survey, October 2017 Release)
- A much larger proportion of households have a television set than internet access at home, a computer or fixed telephone line (necessary for ADSL/ DSL)
- Few households are able to substitute broadcast content on a television set with OTT content since they do not have internet access at home



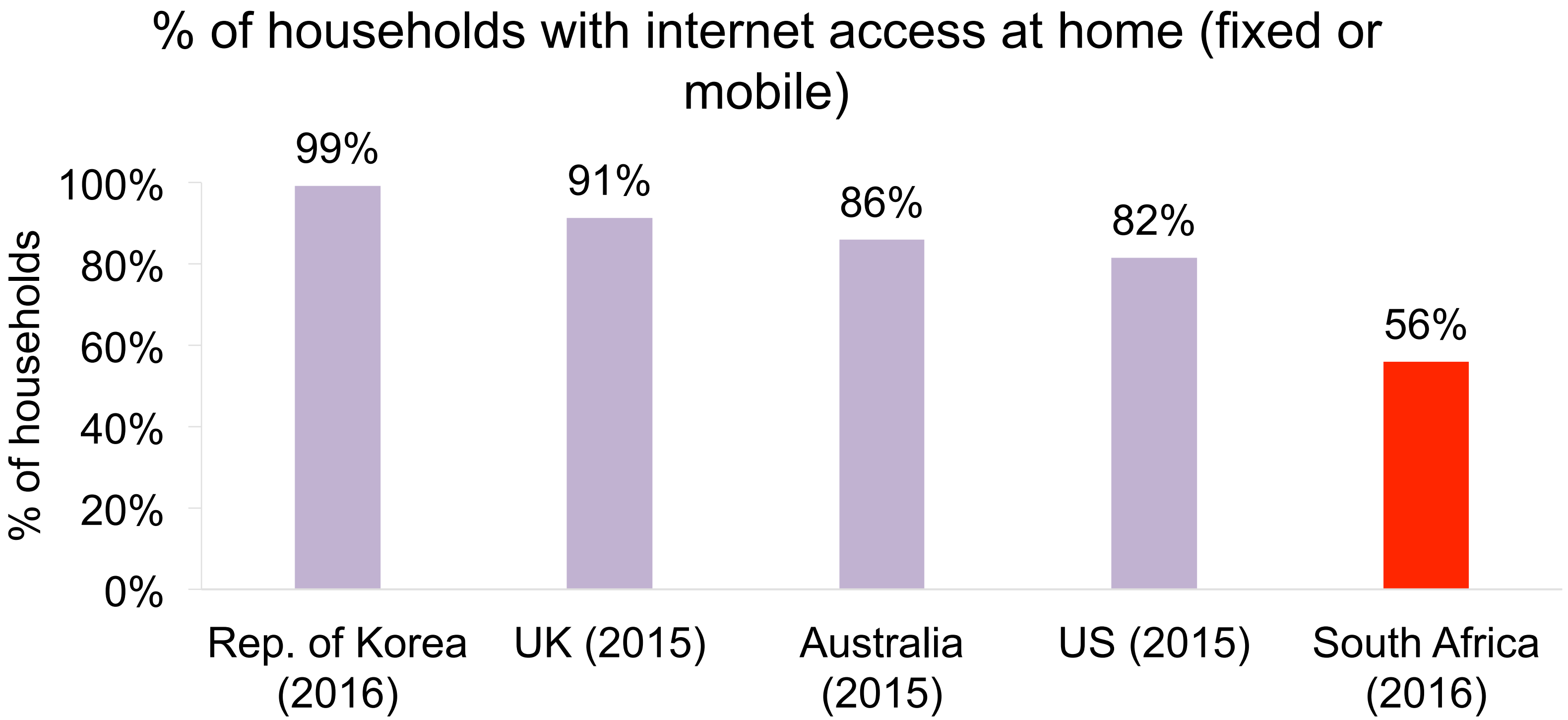
- TV set = device capable of receiving broadcast television signals, using popular access means such as over-the-air, cable and satellite
- Internet access at home = using any device, on a mobile or fixed network
- Computer = desktop, laptop or tablet
- Fixed telephone line = telephone line connecting a customer's terminal equipment to the public switched telephone network and which has a dedicated port on a telephone exchange

International Telecommunications Union (ICT): Core household indicators

KWESÉ

LOW INTERNET PENETRATION

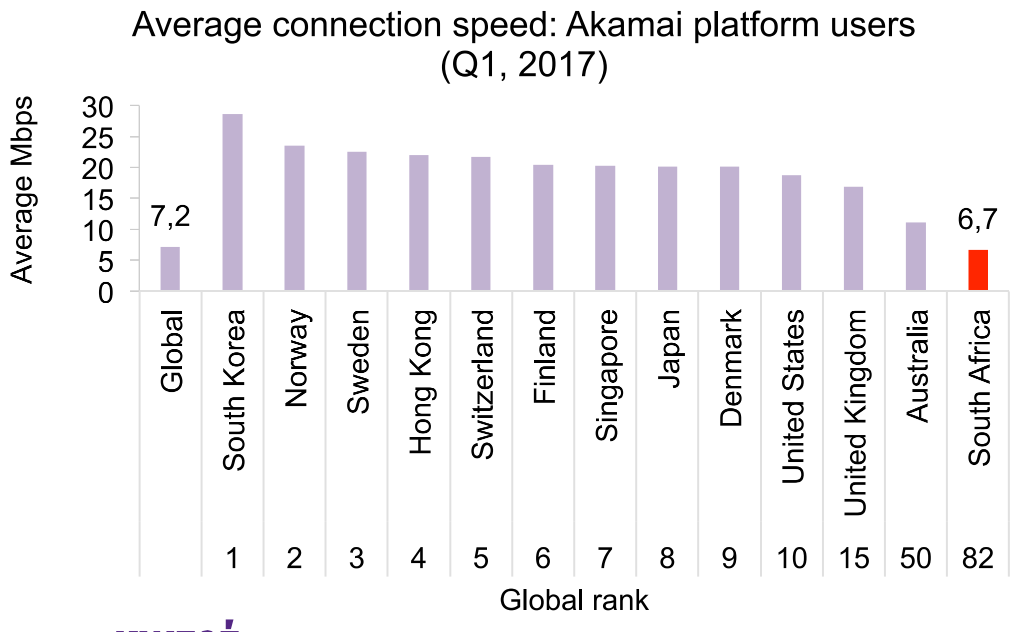
- Compared to other countries with OTT content, South Africa has a much lower proportion of households with internet access at home
  - Fewer households are able to watch OTT content at home

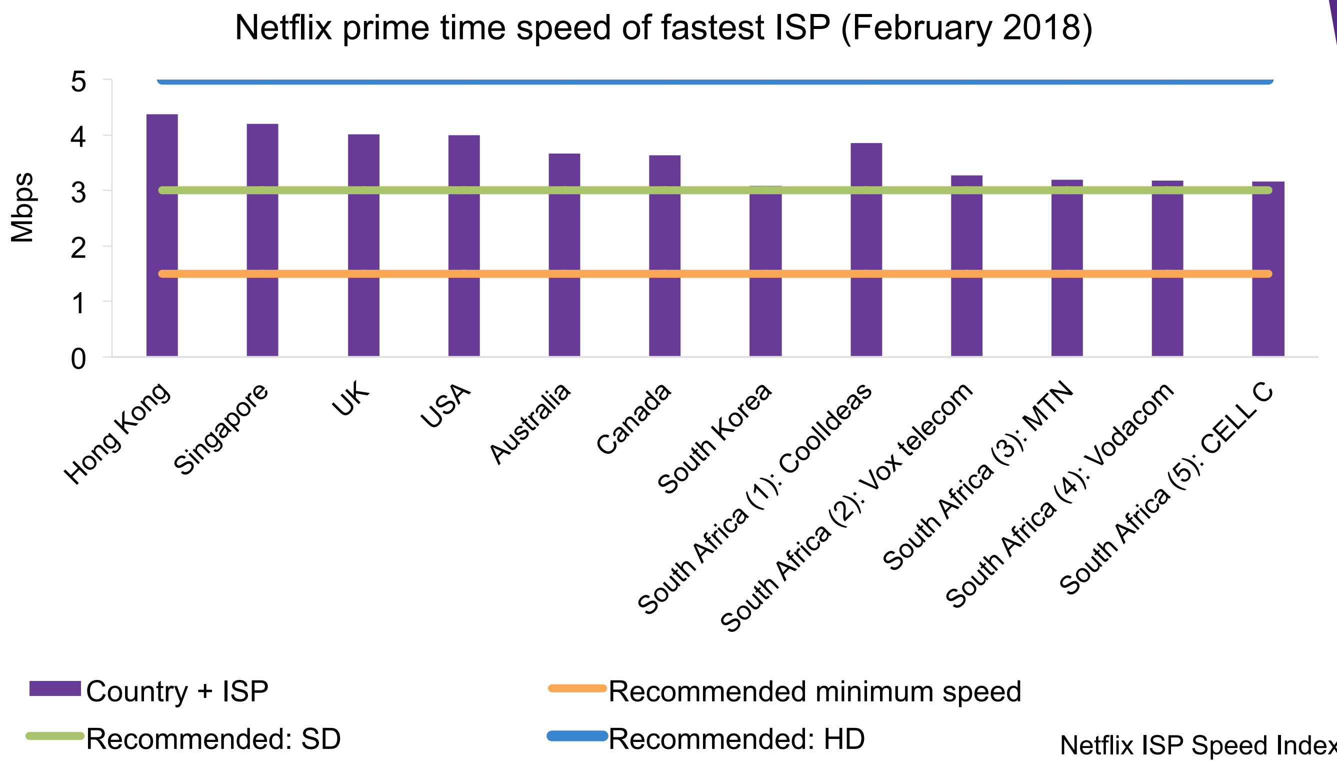


International Telecommunications Union (ICT): Core household indicators

SLOW INTERNET

- For those South African households that do have internet access, the speed is low
- A comparison of the average connection speed of Akamai platform users shows South Africa's internet is much slower than other countries and the global average, even though these users are likely to be the relatively faster South African users (e.g. firms)
- The Netflix prime time speed for South African users is just above Netflix's recommended speed for standard definition (SD) streaming
  - Users of most South African internet service providers (ISPs) have much lower speeds than the fastest providers in other countries



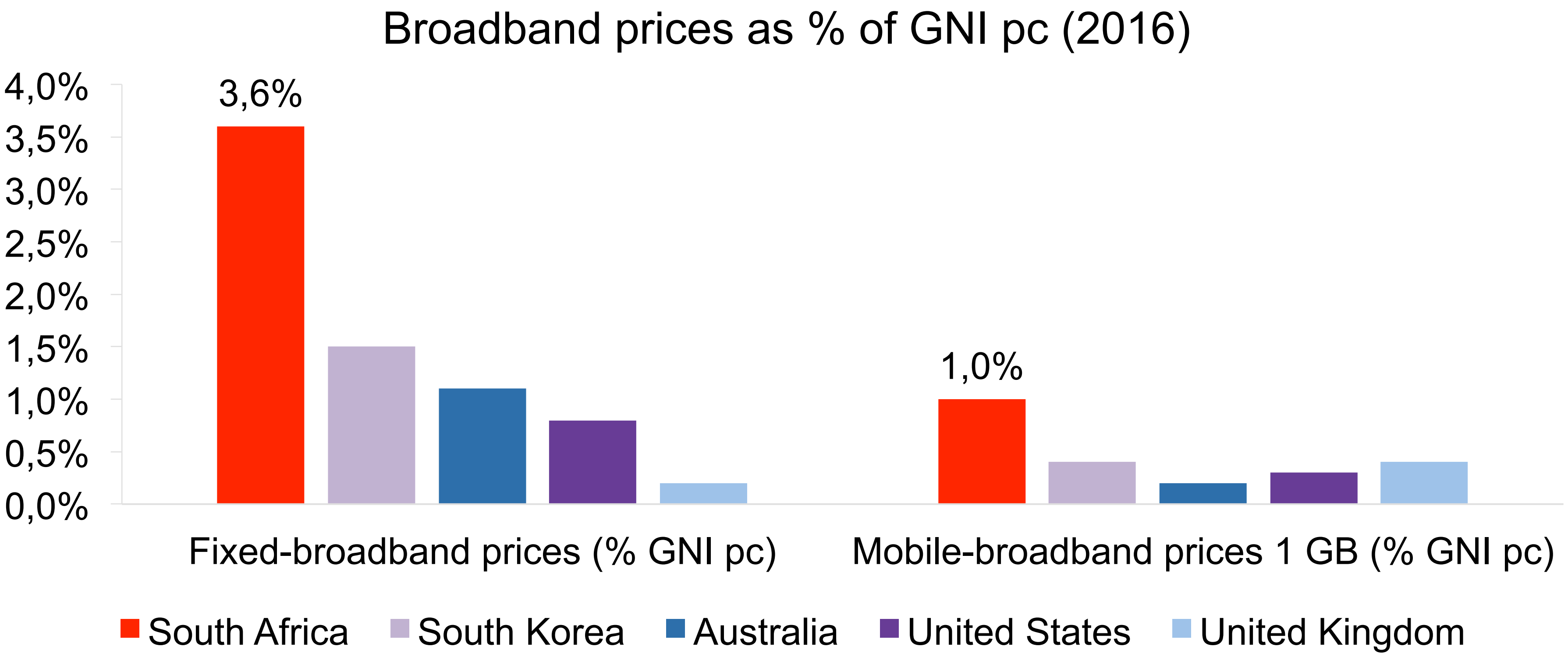


Akamai: State of the Internet Report – Q1 2017

Netflix ISP Speed Index

INTERNET ACCESS IS EXPENSIVE

- For both fixed-broadband and mobile-broadband South African prices are higher than other countries when expressed as a proportion of gross national product per capita (GNI pc) (takes relative currency strengths and varying living costs into account)



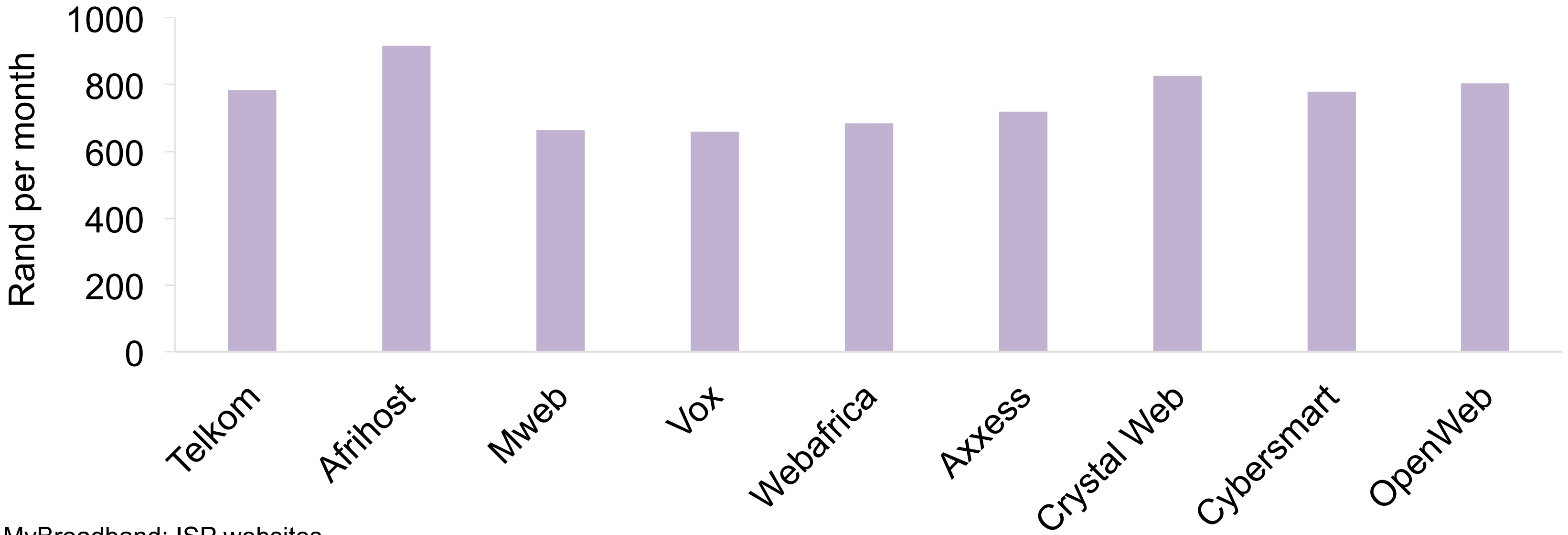
KWESÉ

International Telecommunication Union (ITU): Measuring the Information Society Report, Volume 2 ICT Country profiles 2017

ADSL USED TO STREAM CONTENT

- 51,5% of the 1,587 respondents to MyBroadband's Piracy and Streaming Survey for 2017 report using ADSL to stream content
- Figure shows a comparison of the total price per month for the most popular ISPs used by the respondents:
    - Uncapped data
    - 4 Mbps data speed and 4 Mbps ADSL/ DSL line (standard speed for watching SD videos) from the relevant ISP
    - Telkom landline rental (R199 p/m)

ADSL price per month (uncapped data + 4 Mbps data and ADSL/ DSL line + Telkom line rental)



MyBroadband; ISP websites

KWESÉ

COMPARISON OF TOTAL COST: OTT COMPONENTS

- OTT monthly subscription

Showmax		R 99,00
Netflix	Basic	R 96,28
	Standard	R 120,38
	Premium	R 144,48
Amazon Prime		R 72,18

Exchange rate: 1 USD = 12,05 ZAR (as at 19 March 2018)

- Monthly internet: assumptions
  - ISP with the lowest cost (not necessarily the best value for money)
  - Home ADSL, uncapped data, 4 Mbps data and ADSL/DSL line: Vox (R658)
    - Telkom fixed line rental: R199
  - Home ADSL, capped at 20 GB p/m, 4 Mbps line: Axxess (R334)
    - Showmax estimates usage of 18,1 GB p/m for 6 hours of streaming per week with medium bandwidth capping
      - 20 GB is the minimum available
    - Telkom fixed line rental (R199)
  - Fibre, uncapped data, line rental: Vumatel (R599)
  - Mobile data, capped at 10 GB p/m: Vodacom (R329)
    - Showmax estimates usage of 9 GB/ month for 7 hours of streaming per week at low bandwidth capping (low video quality)
  - Wireless LTE, capped at 10 GB p/m, router: Telkom (R269)
- Excludes:
  - Installation and setup costs
  - Devices, e.g. router, unless stated otherwise

COMPARISON OF COST: PAY-TV

- Monthly subscription

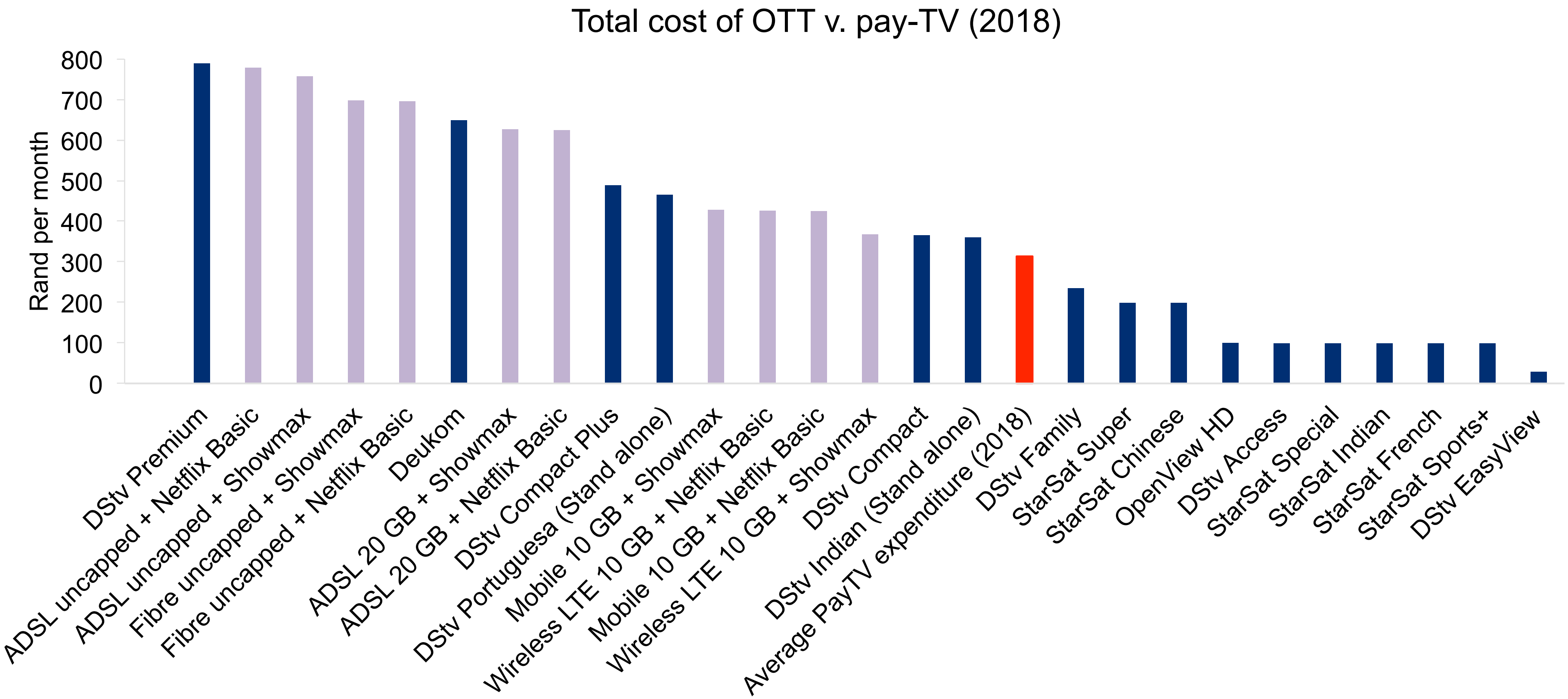
DStv	Premium	R 789,00
	Compact Plus	R 489,00
	Compact	R 365,00
	Family	R 235,00
	Access	R 99,00
	EasyView	R 29,00
	Portuguesa (Stand alone)	R 465,00
	Indian (Stand alone)	R 360,00
StarSat	Super	R 199,00
	Chinese	R 199,00
	Special	R 99,00
	Indian	R 99,00
	French	R 99,00
	Sports+	R 99,00
OpenView HD		R 99,92
Deukom		R 649,00

- OpenView HD: Assuming the cost of a dish, decoder and installation is spread over 12 months (no subscription fees)
- Excludes:
  - Television set
  - Devices (e.g. satellite dish, decoder) and installation
  - Monthly PVR fee (only 8% of households in the BRC's Establishment Survey (October 2017 release) have a PVR decoder)
  - Decoder insurance
  - Add-on channel packages

KWESÉ

COMPARISON OF COST: OTT V. PAY-TV

- Comparison of the cost of pay-TV with the total cost of OTT (Showmax/ the cheapest Netflix package available + total internet cost)
- Estimated average monthly expenditure on pay-TV in 2018: R313,47 (PwC Entertainment and Media Outlook 2017)
- Even when lower cost internet and OTT packages are compared to pay-TV, the total cost of OTT is higher
    - Most households will not be able to switch from pay-TV to the more expensive OTT



KWESÉ

HOUSEHOLDS WITH INTERNET

- 56% of households in South Africa had internet access at home in 2016 (using any device, on a mobile or fixed network) (International Telecommunications Union (ICT): Core household indicators)
- It is <u>wrong</u> to assume that for all these households the only 'additional' cost of subscribing to OTT content is the subscription fee and that households with both internet access and pay-TV subscriptions are more at risk of substituting pay-TV subscriptions with OTT subscriptions
  - Only some of these internet connections will be <u>fast</u> enough to stream OTT content
    - Those households with too slow internet will either not be able to switch to OTT, or will have to pay to upgrade to a faster internet connection
  - Only some of those with internet access have enough <u>data</u> to stream OTT content
    - Those with very limited data will either not be able to switch to OTT, or will have to pay for a higher data cap/ uncapped data
  - The internet access may be on a <u>device</u> that is not optimal for watching OTT content, e.g. a smartphone
    - These households can continue to watch it on these 'non-optimal' devices or spend money to buy the necessary devices; in some cases they may chose to set up a whole new means of accessing the internet, e.g. a household with only mobile internet access may install a new telephone and ADSL line, router and pay the monthly fee on top of their mobile internet fees

- **In summary, for households with internet access and pay-TV, the choice is <u>not</u> simply between the subscription fees of pay-TV providers and OTT providers**

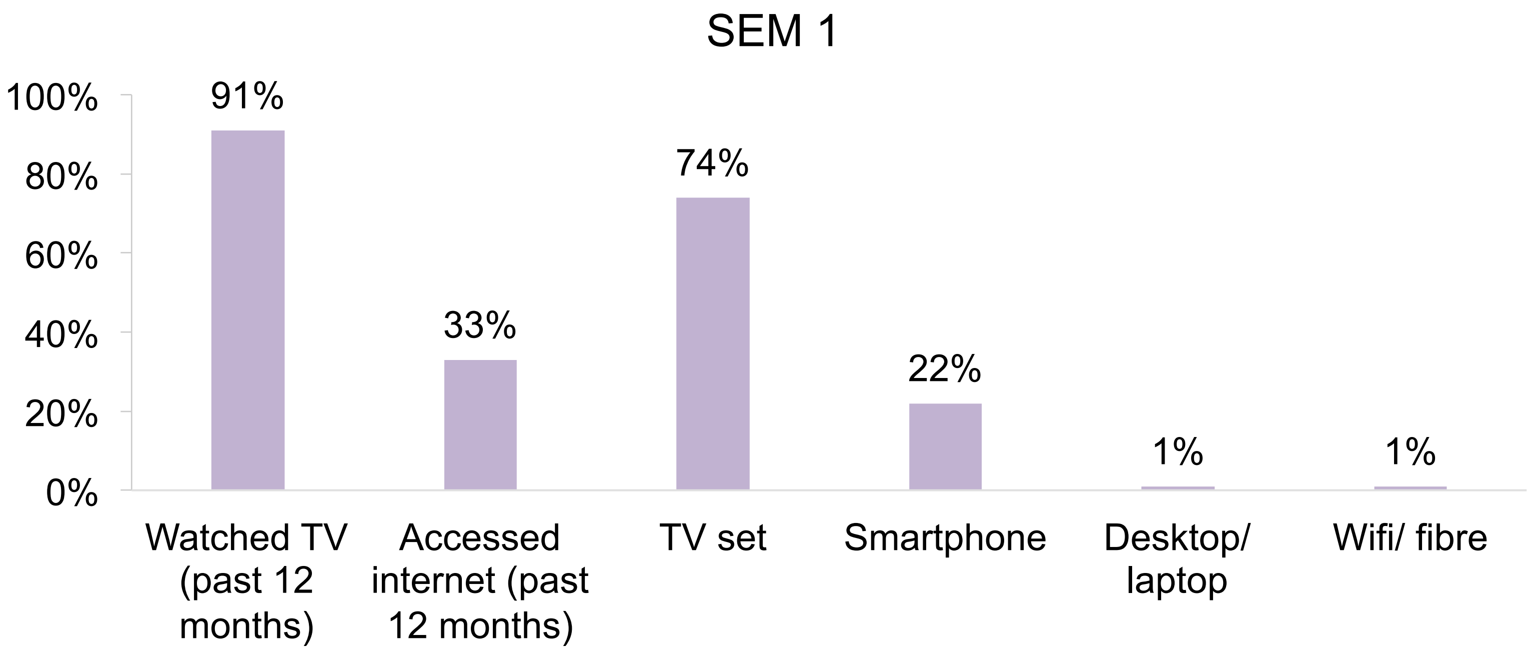
KWESÉ

COMPLEMENTARY NATURE OF PAY-TV & OTT/VOD

- Cord cutting = cancelling of pay-TV subscription
  - Some of these households substitute pay-TV with OTT
- Cord shaving = downgrading of pay-TV bouquet
  - Some of these households ‘compile’ their own bouquets with a mixture of lower-end pay-TV and OTT packages
- Research suggests OTT content is more likely complementary to pay-TV rather than a substitute, with households having both services
  - US (Parks Associates, 2017; L.E.K. Consulting, 2015)
  - Mexico (Camargo, 2017)
  - Flanders (Baccarne, Evens & Schuurman, 2013)
- The supplementary nature is also recognised by industry, with many traditional pay-TV services launching VOD and OTT services
  - For example, HBO has launched HBO Now and HBO Go, and Sky has launched NOW TV
  - In South Africa, MultiChoice has launched Showmax, which complements their traditional linear programming

TELEVISION IN POOR HOUSEHOLDS

- A large proportion of households in SEM 1 watched television in the past 12 months
- Much larger proportion watched television than accessed the internet
- Much more likely that poorer households watch broadcast content (FTA and pay-TV) rather than OTT content



The Broadcast Research Council of South Africa (BRC): The Establishment Survey, October 2017 Release

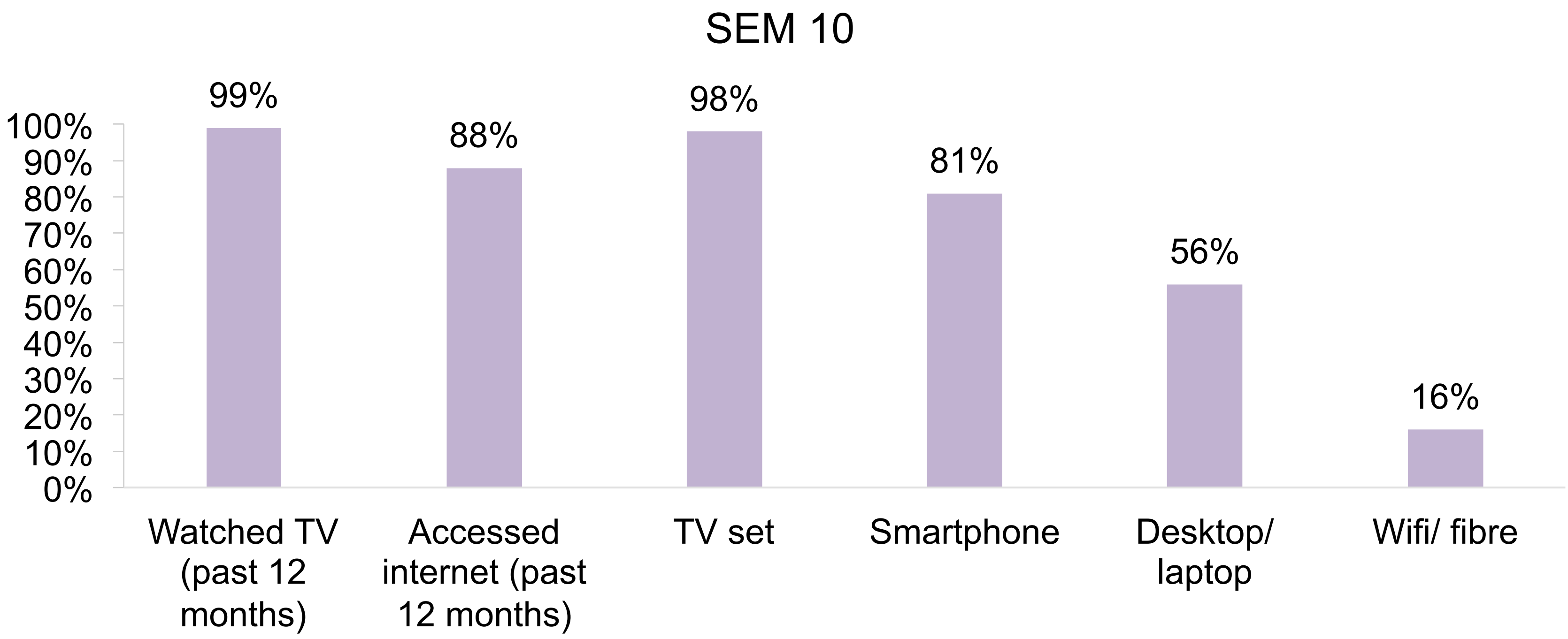
Socio-economic measure (SEM): South Africans segmented according to ownership of durables (e.g. washing machine), where they live (e.g. police station nearby) and what kind of structure they live in (e.g. roof material)

PAY-TV IN POOR HOUSEHOLDS

- Average monthly income of Pay-TV subscribers: R16,882 (BRC: The Establishment Survey, October 2017 Release)
  - Between the average monthly household income of SEM 7 and SEM 8
- However, there are pay-TV subscribers from the lower SEM categories:
  - Nat Geo Wild is available on all DStv subscriptions from DStv Access (R99 p/m) upwards
  - About 1,5% of viewers of the DStv channel Nat Geo Wild fall in SEM 1, about 3% in SEM 2 and about 6,5% in SEM 3 (BRC: The Establishment Survey, October 2017 Release)
- Some pay-TV subscribers (especially those on the lower-priced bouquets) will not be able to afford switching over to the more expensive OTT (subscription and internet costs)
  - Especially since many of these households would have to acquire the necessary technology (e.g. desktop/ laptop) in addition to the monthly costs

TELEVISION IN RICH HOUSEHOLDS

- Even in the richest households (SEM 10), a larger proportion watched television in the last 12 months than accessed the internet
- A larger proportion of rich households have a TV set than have a smartphone, desktop/ laptop or wifi/ fibre that would enable them to access the internet
    - Some households would need to buy the necessary hardware, e.g. a desktop/ laptop, and pay the monthly internet costs to switch to OTT



KWESÉ

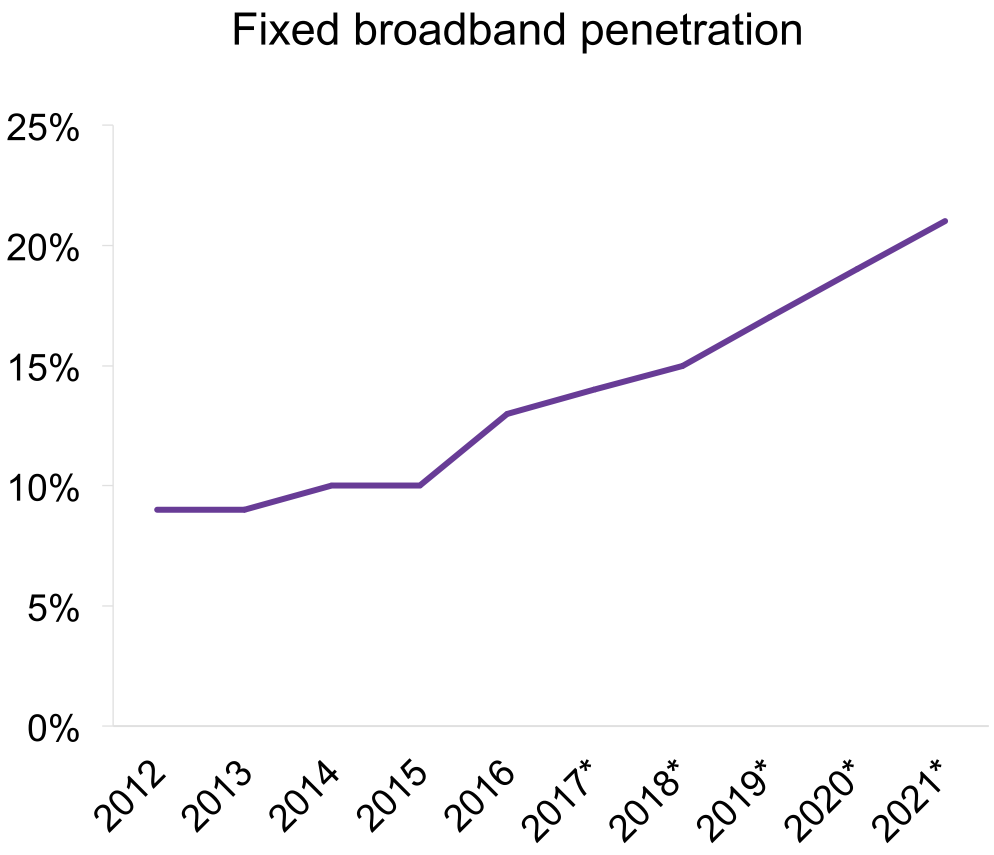
The Broadcast Research Council of South Africa (BRC): The Establishment Survey, October 2017 Release

IN SUMMARY

- More households have television sets than the proportion that have the internet access necessary to be able to switch to OTT
- South Africa has low internet penetration: not many households have the internet access necessary to switch to OTT
- For the households that do have internet access, the internet speed is generally too low to watch OTT content with a high video quality
- South Africa’s internet is expensive relative to other countries
    - Some consumers cannot afford to switch to OTT due to the high internet costs
- When the total cost of OTT (subscription fee + internet) is compared to the cost of pay-TV (subscription fee) it is higher than most pay-TV packages, even when using conservative estimates for OTT costs
- Even for households that already have internet access, the choice is not only between subscription fees of pay-TV and OTT because not all current access is fast enough, is enough data, or is via the ‘ideal’ device for viewing for OTT content
- OTT are seen as a complementary service to pay-TV
- A large proportion of poor households watch television
    - Some of these are pay-TV subscribers
    - For some of these the total cost of OTT will be too high to switch
- Not all rich households have the devices necessary to switch to OTT
    - Some of these households will not want to spend the additional money
- **Not enough consumers will switch to OTT when the price of pay-TV subscriptions are raised by a small percentage, causing a price increase in pay-TV to be profitable**
- **THEREFORE: Pay-TV and OTT are <u>not</u> in the same market**

THE FUTURE – POSSIBILITY OF SUBSTITUTION UNLIKELY TO INCREASE

- Currently only 3% of households watch online television (BRC TAMS Update, October 2017)
  - Will this change in the future, and specifically, will more people substitute pay-TV with OTT?
- Fixed broadband penetration not expected to increase to international levels in the short term
  - Many consumers will still not have the internet access necessary to switch to OTT
- While data prices are expected to decrease, it is unknown whether and at what point in time the price for consumers will decrease by enough to make OTT services affordable for households to switch from pay-TV to OTT
- **Pay-TV and OTT are expected to remain in separate markets in the short-term**



PwC Entertainment and Media Outlook 2017
* Indicates estimates

THE FUTURE – RE-EVALUATION OF REGULATION

- Technological markets are fast-moving and ever-changing
- We recognise that the distinction between television broadcasting and OTT are becoming blurred through convergence, defined by the EC as “[t]he ability of different network platform to carry essentially similar kinds of services and the consequent coming together of consumer devices such as the telephone, television and personal computer.”
- Regulation must be forward looking
  - Use past trends to inform the forward-looking regulation
- However, cannot wait indefinitely to address the market failures
- Use past trends to inform the forward-looking regulation, re-evaluating the market at regular, set intervals (as mentioned in para 2.1.9)
- **ICASA should re-evaluate subscription television broadcasting regulation at regular intervals to assess if the market failure has been addressed.**

PRO-COMPETITIVE REMEDIES

KWESÉ

SUGGESTED PRO-COMPETITIVE MEASURES TO IMPROVE STATE OF COMPETITION

- If is found that the incumbent possesses significant market power as contemplated by section 67(4) of the ECA, we proposes the imposition of the following pro-competitive licence conditions:

- The term or duration of exclusive content agreements should be limited-3 years has been considered acceptable internationally;
- A operator with smp must be limited to only entering into output license agreements and volume licensing agreements with no more than two of the seven Hollywood studios;
- A operator with smp (including its affiliates) must be prohibited from entering into output licensing agreements with independent content suppliers;
- Premium sports rights must be made available by way of an open tender process in unbundled separate packages across a variety of platforms;
- Wholesale 'must offer' remedies in terms of which operator with SMP is required to offer its channels or channel packages to rivals on regulated terms

SUGGESTED PRO-COMPETITIVE MEASURES TO IMPROVE STATE OF COMPETITION

- Operator with SMP must make available, on regulated terms, certain technical services such as conditional access systems ("CAS"), application programming interfaces ("API"), electronic programme guide ("EPG"), access controls as well as access to all associated hardware and software to rivals.

THANK YOU

KWESÉ