

**08 September 2023**

**TO: Mr Calvo Mawela**  
Chief Executive Officer of MultiChoice

**Mr Marc Jury**  
Chief Executive Officer of MultiChoice South Africa

**Mr Teix Texeira**  
Acting Chief Executive Officer of Supersport

**Cc: The Honourable Mr Zizi Kodwa**  
The Minister of Sport, Arts and Culture

**The Honourable Mr Mondli Gungubele**  
The Minister of Communications and Digital Technology,

**The Honourable Mr Ebrahim Patel**  
The Minister of Trade and Industry and Competition

**Ms Doris Tshepe**  
The Competition Commissioner of South Africa

Dear Messrs Mawela, Jury and Texeira

1. As you are aware, MultiChoice has secured the exclusive broadcasting and streaming rights for the Rugby World Cup. This is an event that the Minister of Sport, Arts and Culture has indicated is of national significance given the fact that it *“has the potential to unite our people, to foster social cohesion and national unity. We have seen this in the times that the Springboks have won the Rugby World Cup”*.

**Directors:** JA Copelyn\*\*\* (Chairman), MKI Sherrif\* (Chief Executive Officer)  
TG (Kevin) Govender\*\*\*, HJ Carse\*\*\*, NJ Williams\*\*\*, VE Mphande\*\*, AS Lee\*  
\*Executive, \*\*Independent Non-Executive, \*\*\*Non-Executive

**Company Secretary:** HCI Managerial Services

2. It is understood that following the intervention of the Minister of Sports, Arts and Culture, the SABC announced this morning that it had reached an agreement in principle to sublicense the free-to-air broadcast rights to the Rugby World Cup.
3. It was announced that:

The SABC can confirm that the Corporation has in principle concluded an agreement with MultiChoice to broadcast all the Springbok games. A total of 16 games will be broadcasted on the SABC channels. This agreement will unfortunately exclude OVHD (eMedia) platform because of the restrictive conditions that MultiChoice is placing on the sub-licensing agreement for the Free-to-Air rights for the RWC 2023. This condition cuts off approximately 3.2 million South African households.

The SABC regrets this irrational decision by MultiChoice, especially in light of Minister Zizi Kodwa's emphasis that "rugby plays a critical role in nation building and social cohesion". The SABC hopes that in the interest of nation building and social cohesion, MultiChoice will remove this restrictive condition to enable all South Africans to get behind the Boks.

4. It bears emphasis that under the leadership of the Minister of Communications and Digital Technology, South Africa is in the midst of the process of digital migration that involves the move from analogue broadcasting to digital broadcasting. The SABC, the national public broadcaster, is a free-to-air broadcaster and a significant proportion of its viewers accessed the SABC through analogue signal.
5. As part of the process of digital migration, analogue viewers are in the final stages of being migrated to being able to access television through digital means. This includes DTT as well as through satellite. More than 3 million SABC viewing households currently access the SABC **solely** through OpenView (being a satellite platform). In certain provinces, analogue transmission by the SABC has largely been switched off (Free State, Limpopo, Mpumalanga, the North West and the Northern Cape). This means that in these provinces, many viewers are only able to access the SABC through OpenView or DTT where it is available (and where the viewer has access to a DTT set top box). It bears emphasis that OpenView does not earn any money from the advertising that is placed on the SABC channels as this accrues solely to the national broadcaster.
6. This means that the restrictive (and overtly anti-competitive) action of MultiChoice in requiring the SABC not to broadcast the Rugby World Cup matches through the OpenView platform undermines the national imperative of digital migration. It means

---

**Directors:** JA Copelyn\*\*\* (Chairman), MKI Sherrif\* (Chief Executive Officer)  
TG (Kevin) Govender\*\*\*, HJ Carse\*\*\*, NJ Williams\*\*\*, VE Mphande\*\*, AS Lee\*  
\*Executive, \*\*Independent Non-Executive, \*\*\*Non-Executive

**Company Secretary:** HCI Managerial Services

that millions of SABC viewers are unjustly and unjustifiably being precluded from watching the Rugby World Cup, because of the conduct of MultiChoice in restricting the ability of the SABC to reach its viewers. This undermines consumer welfare and is contrary to the public interest.

7. The Rugby World Cup is, as the Minister of Sport, Arts and Culture has indicated, an event of national importance. It is of such significant importance that the Minister has intervened to facilitate the reaching of an agreement and that a significant amount of money has been paid by the national broadcaster (public funds) to ensure that South Africans are all able to watch this event on a free-to-air basis.
8. Yet MultiChoice in conduct that can only be viewed as being a further blatant attempt to undermine the competitive position of its only meaningful rival in the basic satellite market has precluded this objective from being achieved and so not only undermined consumer welfare and the public interest, but also the Government policy of encouraging migration from analogue to digital.
9. Moreover, from a competition law perspective, it is abundantly clear that MultiChoice's objective in restricting the SABC's ability to broadcast the Rugby World Cup matches through the OpenView platform is intended to undermine the platform's ability to compete with MultiChoice's DStv platform.
10. In essence, this conduct is intended to send a message to channel providers and to viewers that key public interest programming will not be available on the OpenView platform, despite the fact that the SABC's channels are available on the platform in the ordinary course. In circumstances where, once digital migration has been completed, the only available platforms for television broadcasting (apart from streaming services such as Netflix) will be the DStv platform and the OpenView platform, together with a much smaller contribution from DTT, this conduct is simply a mechanism to undermine MultiChoice's only viable competitor and impair the commercial relationship between Openview and its channel providers. As such it contravenes various sections of the Competition Act including sections 5 (1), 8(c) and 8 (d) (i). In short it is simply another example of Multichoice abusing its dominant

---

**Directors:** JA Copelyn\*\*\*(Chairman), MKI Sherrif\*(Chief Executive Officer)  
TG(Kevin) Govender\*\*\*, HJ Carse\*\*\*, NJ Williams\*\*\*, VE Mphande\*\*, AS Lee\*  
\*Executive, \*\*Independent Non-Executive, \*\*\*Non-Executive

**Company Secretary:** HCI Managerial Services

position in a manner which is contrary to the public interest and severely detrimental to consumer welfare.

11. Furthermore, MultiChoice's conduct in this regard is also not consistent with section 60 (1) of the Electronic Communications Act, nor the Sport Broadcasting Regulations.

12. Section 60 (1) of the Electronic Communications Act provides as follows:

*“60. (1) **Restriction on subscription broadcasting services.**—(1) Subscription broadcasting services may not acquire exclusive rights that prevent or hinder the free-to-air broadcasting of national sporting events, as identified in the public interest from time to time, by the Authority, after consultation with the Minister and the Minister of Sport and in accordance with the regulations prescribed by the Authority.”*

13. The Rugby World Cup is identified as a Listed National Sporting event in regulation 5 of the regulations.

14. Regulation 6(1) of the regulation provides as follows:

*“Subscription broadcasters who have acquired rights in terms of Regulation 5 **must inform free-to-air service licensees within five (5) days of acquiring such rights, of the opportunity to tender for same.**”*

15. In breach of this regulation, e.tv, as a free-to-air broadcasting service licensee, was not informed by Multichoice that it had acquired the broadcasting rights to the Rugby World Cup, nor was e.tv given the opportunity to tender for these rights.

16. We point out that non-compliance with regulation 6(1) is an offence in terms of the regulations.

17. It is also abundantly clear from recent media articles that the SABC is dissatisfied with MultiChoice's restrictive conditions that preclude its viewers from seeing the Rugby World Cup matches on OpenView, because it significantly undermines the SABC's ability to reach its 3-million household audience through the OpenView platform and also that it has undermined its ability to monetise the investment that it has made in procuring these rights from MultiChoice. It would appear that this conduct by MultiChoice aligns with previous conduct that is already the subject of a complaint by the SABC to the Competition Commission.

---

**Directors:** JA Copelyn\*\*\* (Chairman), MKI Sherrif\* (Chief Executive Officer)  
TG(Kevin) Govender\*\*\*, HJ Carse\*\*\*, NJ Williams\*\*\*, VE Mphande\*\*, AS Lee\*  
\*Executive, \*\*Independent Non-Executive, \*\*\*Non-Executive

**Company Secretary:** HCI Managerial Services

18. The net effect of MultiChoice's conduct in this regard is that approximately 3 million SABC viewing households will be deprived of being able to access a key national sporting event broadcast by the SABC as a consequence of this restriction. This conduct is entirely prejudicial to consumer welfare and to the interest of ordinary South Africans.
19. In the circumstances, we require MultiChoice to agree to remove the current restriction placed on the SABC in relation the SABC's broadcast of the Rugby World Cup and to permit the SABC to broadcast the matches on the OpenView platform.
20. Given the urgency of this matter, we require a response by MultiChoice by no later than 6 pm today, 8 September 2023.
21. eMedia's rights in regard to this matter are expressly reserved.

Yours sincerely



---

**Khalik Sheriff**  
**Group CEO**

---

**Directors:** JA Copelyn\*\*\*(Chairman), MKI Sherrif\*(Chief Executive Officer)  
TG(Kevin) Govender\*\*\*, HJ Carse\*\*\*, NJ Williams\*\*\*, VE Mphande\*\*, AS Lee\*  
\*Executive, \*\*Independent Non-Executive, \*\*\*Non-Executive

**Company Secretary:** HCI Managerial Services