



REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF COMMUNICATIONS AND INFORMATION TECHNOLOGY
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Ms Z.E. Tshabalala
The Chairperson of the Board
SABC
Private Bag X1
Auckland Park
2008

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By fax 011-714 2404

Dear Ms Tshabalala

DTT STB CONTROL

1. The judgement of the Honourable Pretorius CGC, AJ under case number 34694/2012, during December 2012 in the matter between e.tv (Pty) Ltd, the Minister of Communications and Others makes it clear that the Minister has no legal power to prescribe or make binding decisions relating to set-top-box control [paragraph 38]. Pretorius CGC, AJ ordered that the South African Broadcasting Corporation Limited and other free-to-air broadcasters are responsible for the set-top-box control system for free-to-air digital terrestrial television.
2. The Department will now embark on a process to amend the Broadcasting Digital Migration Policy, as amended ("the Policy") in terms of section 3 of the Electronic Communications Act, 2005, aimed at complying with the judgement. The Department obtained legal advice on which provisions of the Policy should be amended or deleted to remove any direct or indirect provisions on set-top-box control to the extent that such provisions are inconsistent with the judgment. A proposed amendment of the Policy will be published in the Government Gazette for comment in the next few weeks. The SABC is invited to submit comments during this process.

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- 3. In a meeting between the Department, SABC, ICASA and e.tv on 28 January 2013 the SABC stated that a set-top-box control vendor will be appointed by 15 March 2013. The Department mentioned the possibility of abandoning the requirement for set-top-box control at the time. The Department is now considering a decision to make set-top-box control non-mandatory. A decision of this nature is considered necessary due to the slow progress with the appointment of a set-top-box control vendor by the SABC and e.tv that is causing unreasonable delays for the implementation of digital terrestrial television, with significant prejudice to the Department and the Government of the Republic of South Africa
- 4. Another reason why the Department is considering making set-top-box control non-mandatory is the fact that the proposed SABC/e.tv tender process is not representative of other free-to-air broadcasters. The failure by SABC and e.tv to include all free-to-air broadcasters goes against the judgement, which introduces further risk to the roll-out of digital terrestrial television. 10
- 5. Please take note of the proposed decision to make the requirement for a control system for set-top-boxes procured by the Department through the set-top-box manufacturing tender, non-mandatory. To the extent that you may have any rights or expectations that may be affected by this proposed decision, you are invited to make written representation to the Department within 14 calendar days of the date of this letter. Similar consultative letters will be directed to other free-to-air broadcasters. 20
- 6. Please address your written representation to -

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| The Director-General, Department of Communications; For attention: Mr. T Phiri, The Deputy Director-General: ICT Policy Development First Floor, Block A3, IParioli Office Park, 1168 Park Street, Hatfield, Pretoria Private Bag X860, Pretoria, 0001 Themba@doc.gov.za; (012) 4277757 / 7718 / 8000 |
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- 7 The Department undertakes to duly consider representations received and to announce its final decision on the matter as soon as reasonably possible.

Yours sincerely,

MS DINA PULE, MP
MINISTER OF COMMUNICATIONS
DATE: 19-06-2013

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