National Association of Manufacturers in Electronic Components

Honourable Minister Of Communications
Department of Communications
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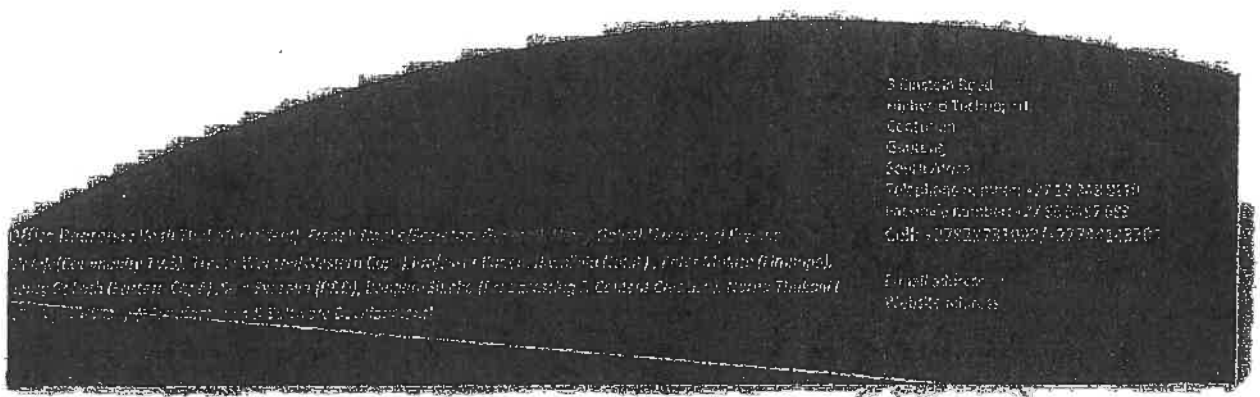
Hatfield
Pretoria
0001
25 November 2013

By email: claudia@doc.gov.za

RE: NAMEC ENGAGEMENT ON DIGITAL MIGRATION PROCESS

NAMEC (National Association of Manufacturers in Electronic Components) convened a Multi-stakeholder Workshop on Tuesday 16th April 2013 held at The Park Inn Hotel in Sandton. The meeting was attended by the then Minister of Communications, Department Officials, MKMVA, SANCO, CONTRALESA, Progressive Women's Movement of SA, to mention a few. At this meeting, NAMEC and its social partners as alluded above resolved to object to the inclusion of Conditional Access (CA) in the set top box. This resolution was forwarded to the office of the Minister and the Director General's Office.

NAMEC and its social partners then met with the new Minister of Communications (Mr. Yunus Carim), and in this meeting informed the Minister of the position of NAMEC and its social partners on the issue of CA. The Minister promised to arrange a meeting with NAMEC after a ten days period. We would like to put it on a record that this meeting has never happened.



NAMEC
National Association of Manufacturers in Electronic Components

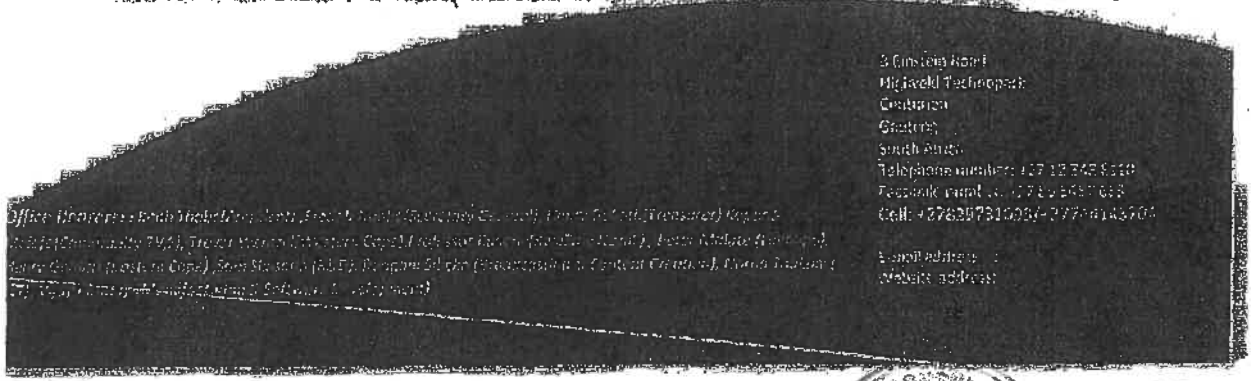
We have learnt though media statements attributed to the Minister that the Minister is going to table a recommendation to the Cabinet Committee and Cabinet, his position in as far as Conditional Access. We would like to put on record that this goes against the discussions and the spirit of engagements that we have had with your office thus far. As NAMEC we were not kept abreast of the developments save for seeing in the media the process that the Minister is planning to follow.

We would like the Minister to take note that NAMEC and its social partners, under the auspices of Black Business Council met again on the 18th of November 2013, to reflect on the CA issue, and also the implication of the court judgment in the matter between ETV and Minister of Communications. The meeting resolved once more not to support the inclusion of Conditional Access in the set top box.

In the matter of eTV / The Minister of Communication and Others, the court declared that only and the SABC and other FTA broadcasters are responsible for the STB control system for FTA DTT. The court with reference to the EC Act concluded "that the Minister has no legal power to prescribe or make binding decisions relating to set top box control" and that "the Minister does not have the power to prescribe to FTA broadcasters how they should manage set top boxes".

A legal opinion was sought and it confirmed that the Minister as a result of the decision of the High Court cannot opine on set top box control nor make any binding policy decision on the matter.

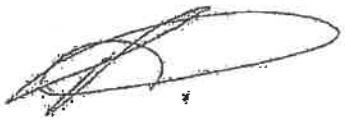
Given this opinion, its strange to us that cabinet is now being called upon to make just such a decision. If the Minister is legally not able to make a binding decision in policy, a decision by



cabinet would also suffer the same fate. This is potentially embarrassing for cabinet and it's not clear why the Minister is creating this liability for cabinet.

As NAMEC we would like to make the Minister aware that his stance on taking the matter to cabinet goes against the Court decision and we will be left with no other option but to approach the courts in our quest to seek justice on this matter.

Yours truly,



President

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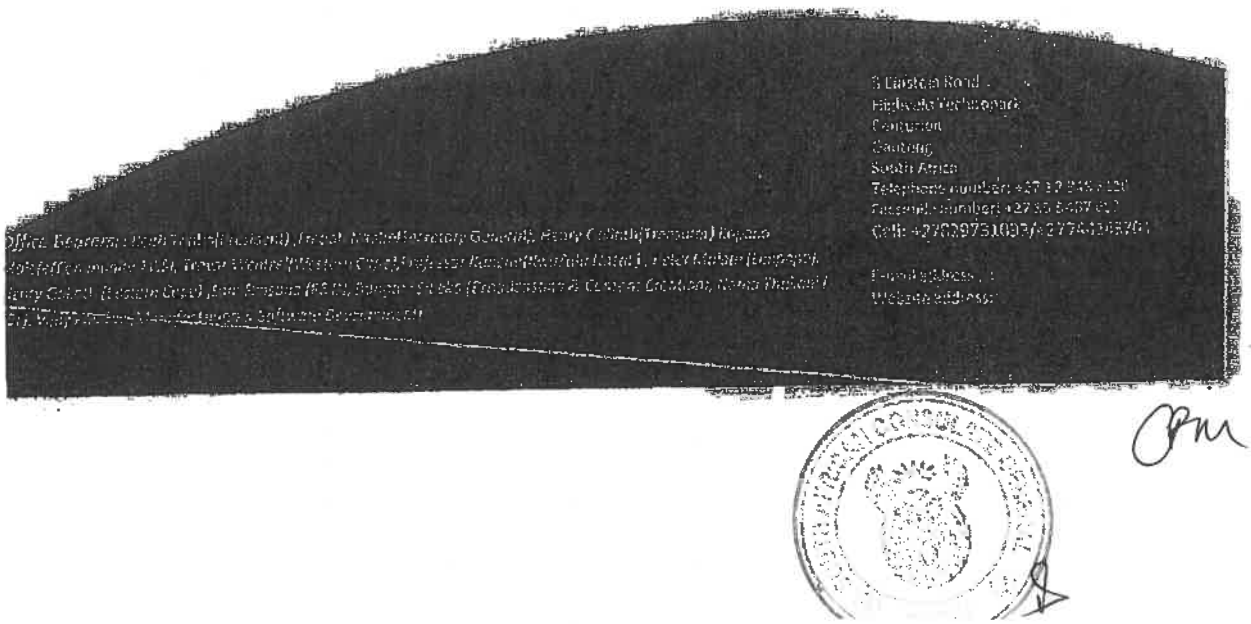
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