



29 November 2017

Mr. Paris Mashile
Acting Chief Executive Officer of the Independent Communications Authority of South Africa (ICASA)
Per E-mail: PMashile1@icasa.org.za

Mr. Mashile

REQUEST TO ISSUE A NOTICE TO OBTAIN MULTICHOICE CONTRACTS AND CONDUCT INQUIRY INTO MULTICHOICE, ANN7 AND SABC RELATIONSHIP

I herewith request that a notice be directed to MultiChoice, as a licensee of ICASA compelling them to produce their contracts with African News Network 7 (hereinafter referred to as ANN7), as well as, the South African Broadcasting Corporation (hereinafter referred to as the SABC) in terms of clause 7.2 of ICASA's *Subscription Broadcasting Services Regulations*. Clause 7.2 of the *Regulations* states the following:

"A licensee may, by notice directed to him or her, be required to produce or furnish to the Authority, at a time and place specified in the notice such records, including documents, accounts, estimates, returns and information as may be specified in such notice and relating to any matter in respect of which a duty or obligation is imposed on the licensee by the Act or these regulations or by the relevant licence."

Clause 7.1.e. of the *Regulations* furthermore sets out that:

"A subscription broadcasting licence shall, to the satisfaction of the Authority, in addition to records prescribed by any other law, keep the following records relating to its broadcasting activities all contracts entered into by or on behalf of the licensee in connection with the daily operational activities of the licensee"

I furthermore request that an inquiry be conducted in terms of Section 4B(1) of the *Independent Communications Authority of South Africa Act, 13 of 2000*. This section states that:

(1) The Authority may conduct an inquiry into any matter with regard to- (a) the achievement of the objects of this Act or the underlying statutes; (b) regulations and guidelines made in terms of this Act or the underlying statutes; (c) compliance by applicable persons with this Act and the underlying statutes; (d) compliance with the terms and conditions of any license by the holder of such license issued pursuant to the underlying statutes; and (e) the exercise and performance of its powers, functions and duties in terms of this Act or the underlying statutes.

Media reports have recently been revealed that MultiChoice has been paying millions to ANN7 and that there is an alleged or suggested relationship between MultiChoice, SABC as well as the Gupta-family. Some of the so called GuptaLeaks emails revealed that Minister Faith Muthambi had been in direct contact with Sahara Computers' chief executive officer (CEO), Ashu Chawla. Exchanges between these parties included: Proclamations that were to be signed by the President, as well as Letters addressed to other Ministers pertaining to amending the Broadcasting Digital Migration Policy as can be illustrated by emails dated 29 July 2017 and 1 August 2018, attached hereto as Annexure "A" and "B". Mr Chawla then proceeded to forward the above-mentioned and other information to Tony Gupta, as reflected in an email dated 29 July 2017, attached hereto as Annexure "C".

It has been alleged that the Minister failed to endorse ANC policy but preferred to support MultiChoice in policy decisions relation to digital encryption. It has also been alleged that the current encryption policy allows MultiChoice to defend their monopoly in the broadcasting sector (as stated in the following article: <https://www.dailymaverick.co.za/opinionista/2017-11-27-multichoice-scandal-is-posing-painful-questions-about-a-corrupt-nexus.-naspers-must-answer-them./#.WhvXC1WWblU>). Furthermore, it is public knowledge that former SABC executive, Hlaudi Motsoeneng received a multimillion Rand bonus for closing contracts with MultiChoice. GuptaLeaks emails further revealed that ANN7 received a once-off R25 million increase in revenue from MultiChoice.

I have proceeded to attach hereto, as Annexure "D", one of the news articles outlining the problem. This article states that Multichoice made a *"questionable payment of R25m to the Guptas' controversial ANN7, the #GuptaLeaks show"* it further states that *"In addition, MultiChoice increased its annual payment to ANN7 from R50m to R141m"*. The article goes on to state that *"The payments came after the family seemingly assisted former communications minister Faith Muthambi in getting President Jacob Zuma to transfer certain broadcasting powers to her, something MultiChoice was lobbying the Minister for"*. The article alleges that powers that previously were vested in the Ministry of Telecommunications and Postal services were transferred to the Ministry of Communications and that Ms, Faith Muthambi issued an amendment to government's digital migration policy that went directly against her own party's stance on the matter.

Board minutes dated 6 June 2013, pertaining to a meeting which took place between MultiChoice and SABC, attached hereto as Annexure "E" also demonstrate that policy changes were discussed in order to ensure that a contract with Multichoice was secured. It is important that these various contracts and conduct by the licensees be investigated as they might constitute collusion between the various parties. We therefore call for ICASA to investigate these allegations and hold an inquiry into the implicated licensees in order to protect the public interest.

With the recent revelations in media about questionable payments made by MultiChoice to ANN7, as well as the involvement of former Communications Minister, Faith Muthambi. We therefore call for ICASA to request and to publicly release the full contracts it entered into between Multichoice and ANN7, and those between Multichoice and SABC, as well as all the records of the prior negotiations. Given the severity of allegations and the public interest in the matter we request that ICASA allow these documents to be published for public scrutiny.

Given the importance of this case, I reiterate my request, that an inquiry be conducted into the various allegations and that the various contracts be obtained and published for public scrutiny. As the urgency of this matter is evident, your prompt response and action in this regard will be most appreciated.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Phumzile Van Damme'. The signature is written in a cursive, somewhat stylized font.

Phumzile Van Damme MP
DA Shadow Minister of Communications