

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: 51159/21

In the intervention application of:

MEDIA MONITORING AFRICA	First Applicant
SOS SUPPORT PUBLIC BROADCASTING	Second Applicant

In the matter between

e.tv (PTY) LIMITED	First Respondent
MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES	Second Respondent
THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA	Third Respondent
CHAIRPERSON: INDEPENDENT COMMUNICATION AUTHORITY OF SOUTH AFRICA	Fourth Respondent
NATIONAL ASSOCIATION OF BROADCASTERS	Fifth Respondent
SOUTH AFRICAN BROADCASTING CORPORATION SOC LIMITED	Sixth Respondent
VODACOM (PTY) LIMITED	Seventh Respondent
MOBILE TELEPHONE NETWORKS (PTY) LIMITED	Eighth Respondent
CELL C (PTY) LIMITED	Ninth Respondent
TELKOM SA SOC LIMITED	Tenth Respondent
WIRELESS BUSINESS SOLUTIONS (PTY) LIMITED t/a RAIN	Eleventh Respondent
LIQUID TELECOMMUNICATIONS SOUTH AFRICA (PTY) LIMITED	Twelfth Respondent
SENTECH SOC LIMITED	Thirteenth Respondent

In re:

CASE NO: 51159/21

e.tv (PTY) LIMITED

Applicant

and

**MINISTER OF COMMUNICATIONS AND
DIGITAL TECHNOLOGIES**

First Respondent

**THE INDEPENDENT COMMUNICATIONS AUTHORITY
OF SOUTH AFRICA**

Second Respondent

**CHAIRPERSON: INDEPENDENT COMMUNICATION
AUTHORITY OF SOUTH AFRICA**

Third Respondent

NATIONAL ASSOCIATION OF BROADCASTERS

Fourth Respondent

**SOUTH AFRICAN BROADCASTING CORPORATION
SOC LIMITED**

Fifth Respondent

VODACOM (PTY) LIMITED

Sixth Respondent

MOBILE TELEPHONE NETWORKS (PTY) LIMITED

Seventh Respondent

CELL C (PTY) LIMITED

Eighth Respondent

TELKOM SA SOC LIMITED

Ninth Respondent

**WIRELESS BUSINESS SOLUTIONS (PTY) LIMITED
t/a RAIN**

Tenth Respondent

**LIQUID TELECOMMUNICATIONS SOUTH AFRICA
(PTY) LIMITED**

Eleventh Respondent

SENTECH SOC LIMITED

Twelfth Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the applicants intend to apply at the hearing of the main application under Case No. 51159/21 for an order in the following terms:

- 1 Media Monitoring Africa and SOS Support Public Broadcasting are granted leave to intervene as parties in the main application under Case No. 51159/21 as second and third applicants respectively.

- 2 Media Monitoring Africa and SOS Support Public Broadcasting granted the following relief:
 - 2.1 It is declared that, prior to the determination by the Minister of the analogue switch-off date and the date for completion of digital migration, the Minister is required to undertake a process of consultation with affected parties, including, but not limited to, Media Monitoring Africa and SOS Support Public Broadcasting regarding the date of the analogue switch off date and the date for the completion of digital migration and whether appropriate measures are in place to ensure that those in South Africa who are reliant on analogue broadcasting are not deprived of their right of access to information by means of receiving free-to-air broadcasts as a consequence of the determination by the Minister.

 - 2.2 It is declared that the digital migration process may not be completed, and/or the analogue switch-off date may not be proclaimed by the Minister unless and until the Minister has complied with her constitutional obligations and public promises to provide those South Africans who are presently reliant on analogue broadcasting with alternative means to access terrestrial broadcasting services on a free-to-air basis.

2.3 To the extent that the Minister has taken a final decision in relation to the determination of the date for digital migration's completion and analogue switch off, or takes such a decision prior to the determination of this application ("*the determination decision*");

2.3.1 The determination decision is declared to be unlawful and invalid;

2.3.2 The determination decision is reviewed and set aside.

2.4 The Minister is directed to file a Report to this Court within one (1) month of the date of this Order, or such other period as this Court should determine to be appropriate and just and equitable, setting out the steps that have been taken to ensure that:

2.4.1 members of the public who are currently reliant on analogue broadcasting services are provided with access to set-top boxes and/or reception devices to enable them to continue to be in a position to access free-to-air broadcasts without subscription or charge following digital migration;

2.4.2 adequately resourced call-centres are operational to process viewer queries sufficiently and effectively;

2.4.3 an effective viewer information campaign has been conducted; and

2.4.4 sufficient Sentech resources have been allocated to action the switch-off of transmitters.

3 Such further and/or alternative relief as this Court considers necessary, just and equitable.

4 If the application is opposed, the respondents so opposing are ordered to pay the applicant's costs, such costs to include the costs of three counsel.

TAKE NOTICE FURTHER that the founding affidavit of **WILLIAM BIRD** and supporting affidavits of **SYDNEY LINDER PETZER** and **WALTER STANDER** annexed hereto will be used in support of this application.

TAKE NOTICE FURTHER THAT Media Monitoring Africa and SOS Support Public Broadcasting have appointed the address of their attorneys of record mentioned below at which it will accept notice and service of all documents in these proceedings.

TAKE FURTHER NOTICE this application is to be determined together with the main application in accordance with the Directive of His Lordship Mr Justice Fourie of 5 October 2021, and that any party that opposes the relief sought in this application is:

a. to file a notice of intention to oppose within 10 days of service of this notice of motion, and, in the notice, appoint an address within 15 kilometres of the office of the Registrar of this court at which it will accept notice and service of all documents in these proceedings; and

b. to file its answering affidavit, on or before 19 November 2021.

TAKE NOTICE FURTHER that if you do not give notice of your intention to oppose this application, it may be enrolled for hearing without any further notice to you.

DATED at JOHANNESBURG on this 29th day of OCTOBER 2021



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**TO:
THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA**

AND TO:

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1st Respondent's Attorneys

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AND TO:

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AND TO:

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AND TO:

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AND TO:

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11th Respondent's Attorneys

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MAKDA CULL KOTZEE INC

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[SERVICE BY E-MAIL]

AND TO:

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Honeydew

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