

IN THE COMPETITION APPEAL COURT

Case no.: 248/CAC/Jul23

In the matter between:

EMEDIA INVESTMENTS PROPRIETARY LIMITED Applicant

and

MULTICHOICE PROPRIETARY LIMITED First Respondent

THE COMPETITION COMMISSION Second Respondent

MINISTER OF TRADE AND INDUSTRY AND COMPETITION Third Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Fourth Respondent

APPLICANT’S NOTICE IN TERMS OF UNIFORM RULE 16A

TAKE NOTICE THAT the Applicant hereby gives notice in terms of Uniform Rule 16A(1)(a) that it has raised a constitutional issue for determination by the above Honourable Court in its Notice of Motion dated 7 July 2023, filed simultaneously herewith.

TAKE NOTICE FURTHER that the constitutional issues raised are as follows—

1. Whether section 49C(5) of the Competition Act 89 of 1998 (“**the Competition Act**”) is irrational, unconstitutional and consequently invalid to the extent that it limits the powers of the Competition Tribunal to grant only one extension to any interim relief

granted in terms of section 49C pending the finalisation of the hearing into a complaint of a prohibited practice;

2. Whether section 49C(5) of the Competition Act unreasonably and unjustifiably limits the following rights in the Bill of Rights:

2.1. The right of access to courts and tribunals (section 34);

2.2. The right to equality (section 9);

2.3. The right to property (section 25); and

2.4. The right to freedom of trade and economic activity (section 22); and

3. The appropriate remedy to cure the constitutional defect in section 49C(5) of the Competition Act.

TAKE FURTHER NOTICE that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted therein as amicus curiae upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE FURTHER NOTICE that the written consent referred to above shall, within five days of its having been obtained, be lodged with the Registrar and the amicus curiae shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.

TAKE FURTHER NOTICE that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the

15-day period prescribed above, apply to the Court to be admitted as an amicus curiae in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective amicus curiae in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective amicus curiae, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and
- (c) Be served upon all parties to the proceedings.

TAKE FURTHER NOTICE THAT any party to the proceedings who wishes to oppose an application to be admitted as amicus curiae shall file an answering affidavit within five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

KINDLY PLACE THIS NOTICE on the notice board designated for this purpose.

Signed at Johannesburg on this 7th day of July 2023.

Melissa Steele

Nortons Incorporated

Applicant's Attorneys

1st Floor

The Reserve

54 Melville Road

Illovo

Johannesburg

Tel: 011 6667560

Ref: Mr A Norton /

**Mr A Roets / Ms M Rawlinson /
Mr A Ngwenya / Ms M Steele**
Email: anthony@nortonsinc.com /
anton@nortonsinc.com /
michelle@nortonsinc.com /
avias@nortonsinc.com /
melissa@nortonsinc.com

**To: The Registrar
The Competition Appeal Court**
Attention: Sibongile Moshoeshe
Email: sibongilem@comptrib.co.za

By email

And to: Webber Wentzel
First Respondent's attorneys
90 Rivonia Road
Sandton
Johannesburg
Tel: 011 530 5285
Attention: Daryl Dingley
Email: daryl.dingle@webberwentzel.com /
hoosein.mayet@webberwentzel.com

By email

AND TO: The Competition Commission
Second Respondent
Block C, DTI Campus
77 Meintjies Street
Sunnyside
Pretoria
Tel: 012 394 3200
Attention: Registry, Hugh Dlamini and Bakhe Majenge
Email: Samsonm@compcom.co.za /
hughd@compcom.co.za / bakhem@compcom.co.za

By email

AND TO: The Minister of Trade and Industry and Competition
Third Respondent:
77 Meintjies Street
Sunnyside
Pretoria
Email: ministry@thedtic.gov.za
Care of: State Attorney
Email: ichowe@justice.gov.za and
StateAttorneyPretoria@justice.gov.za

By email and by hand

AND TO: The Minister of Justice and Correctional Services

Fourth Respondent:

SALU Building

28th Floor

316 Thabo Sehume Street

Pretoria

Email: ministry@justice.gov.za

Care of: State Attorney

Email: ichowe@justice.gov.za and

StateAttorneyPretoria@justice.gov.za

By email and by hand