

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 51159/21

In the matter between

e.tv (PTY) LTD

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

Fifth Respondent

CORPORATION SOC LIMITED

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

Tenth Respondent



t/a RAIN

LIQUID TELECOMMUNICATIONS SOUTH AFRICA Eleventh Respondent
(PTY) LIMITED

SENTECH SOC LIMITED Twelfth Respondent

NOTICE IN TERMS OF RULE 16A OF THE UNIFORM RULES OF COURT

TAKE NOTICE that the following constitutional issues are raised in the Founding Affidavit in the above application:

1. This application concerns the constitutional and legal requirements for the implementation by the First Respondent (“*Minister*”) of the “*analogue switch-off*”, which is the date on which analogue television broadcasting in South Africa is “*switched off*” and is a precondition for the completion of the digital migration process.
2. It concerns two legal questions which impact on constitutional matters:
 - 2.1. The first question is about what the minimum requirements are under the Constitution and from an administrative law perspective, and in terms of the Government’s own public promises, for a lawful digital migration process and analogue switch off – and then seeking to ensure that the Minister properly follows a process by which those minimum conditions, including consultation with affected parties, are honoured in any decision-making she takes in relation to the process of digital migration.

2.2. The second legal question is whether, 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, the Minister has properly consulted with stakeholders, the public, and Cabinet both in relation to the switch-off date and regarding the minimum conditions to be met for digital migration to occur without constitutional violations and harm to the viewing public; and if not, whether any such final decision should be declared to be unlawful and invalid and reviewed and set aside.

3. The relief sought implicates a number of constitutional rights including:

3.1. the right of freedom of expression and to receive information, which is itself fundamental to a number of so-called political rights;

3.2. the right to equality;

3.3. the right to fair administrative action; and

3.4. the rights to property, trade and occupation.

TAKE NOTICE FURTHER that pursuant to the Directive of his Lordship Mr Justice Fourie J of 5 October 2021 (annexed hereto marked A), the above issues are to be determined on an expedited basis, and the parties have been directed to approach the Judge President to request a date for hearing between 31 January to 4 February 2022.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all the parties to the proceedings, given not later than 10 days after the filing of the affidavit or pleading in which the constitutional issue was first raised,

be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER 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, comply with the times agreed upon for the lodging of written argument.

TAKE NOTICE FURTHER that the terms and conditions agreed upon may be amended by the court.

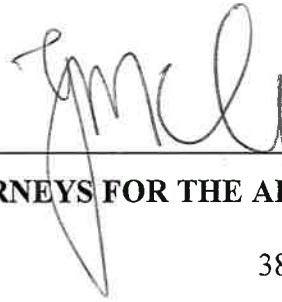
TAKE NOTICE FURTHER that if the interested party is unable to obtain the written consent as contemplated herein, he or she may, within five days of the expiry of the 10-day period prescribed above, apply to the court to be admitted as an *amicus curiae* in the proceedings. Such application shall –

- (a) briefly describe the interest of the *amicus curiae* in the proceedings;
- (b) clearly and succinctly set out the submissions which will be advanced by the *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 NOTICE FURTHER that any party to the proceedings who wishes to oppose an application to be admitted as an *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.

DATED at Parkhurst on this 12th day of October 2021.



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AND TO: MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES

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AND TO: SENTECH SOC LIMITED

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