

ICASA wants SABC/MultiChoice deal investigated

The Independent Communications Authority of South Africa (ICASA) has recently requested the Competition Commission to investigate a possible restrictive horizontal practice between the SABC and MultiChoice on their July 2013 agreement, whereby the SABC would have to provide a 24-hour news channel on MultiChoice' DSTV platform.



(Image: Wikimedia Commons)

News reports at the time indicated that the agreement also contained an obligation relating to set-top-box control in which the SABC is alleged to have agreed that it will transmit its free-to-air channels without encryption.

In the context of the ongoing public dispute between e.tv and MultiChoice over whether free-to-air TV services should utilise set-top-box control, the question arises as to whether the agreement between the SABC and MultiChoice, as it affects the issue of set-top-box control, may constitute a form of restrictive horizontal practice in the television market.

ICASA has requested both the SABC and MultiChoice to provide a copy of the agreement but both parties have failed to honour that request. This failure has made it difficult for the Authority to verify the claim put forward by MultiChoice that 'any contractual obligation upon the SABC to continue to transmit its free-to-air channels in the clear (i.e. without encryption) is an incident of the distribution arrangements agreed upon by the SABC and MultiChoice. Such obligation, as indicated forms part of an agreement between parties in a vertical relationship and is not, as alleged, a horizontal restrictive practice'.

The issue of restrictive horizontal practices falls within the scope of Section 4 of the Competition Act.