



**MULTIChoice SOUTH AFRICA PRESS STATEMENT  
ON ITS CARRIAGE CONTRACT WITH THE TV CHANNEL ANN7 AND OF GOVERNMENT LOBBYING**

**Issued 31 January 2018**

- ***MISTAKES MADE IN HANDLING OF ANN7 – BUT NO CORRUPTION.***
- ***MULTIChoice ACKNOWLEDGES IT SHOULD HAVE LOOKED INTO ISSUES AROUND ANN7 BEFORE PUBLIC CONCERN WAS RAISED.***
- ***PROCEDURES TO BE TIGHTENED AND CONTROVERSIAL ISSUES TO BE ESCALATED TO THE BOARD FASTER.***
- ***MULTIChoice WILL NOT BE RENEWING ANN7'S CONTRACT WHEN IT ENDS IN AUGUST.***
- ***THE CONTRACT FOR A NEW, BLACK-OWNED NEWS CHANNEL IS BEING PUT OUT TO TENDER.***

**INTRODUCTION**

Concerns about MultiChoice's relationship with ANN7 and questions about how it lobbied Government were raised in the media in November 2017.

As a result, the MultiChoice Audit and Risk Committees came together to assess:

- Whether or not appropriate procedures were followed in relation to the ANN7 contract;
- the payments made by MultiChoice to ANN7; and
- whether or not there were irregularities in the submissions MultiChoice made to the Minister of Communications.

**PROCESS**

The Committee was chaired by Don Eriksson CA (SA), and comprised four non-executive directors and independent non-executive director, Advocate Kgomotso Moroka (SC), who was seconded to the Committee. The Committee undertook the review on behalf of the Board. The review was strengthened by the engagement of the services of attorneys Webber Wentzel (legal advice on lobbying and contracts) and an independent audit firm (forensics and payments)

The committee conducted a thorough and comprehensive review. They met several times, studied all relevant contracts, reviewed five years of related payments information and emails, interviewed those involved and did various objective contract and cost comparisons.

The period of review for the scope of work was determined as 1 January 2012 to 30 November 2017.

**COMMITTEE FINDINGS**

The Committee found procedural shortcomings, but found no evidence of corruption or other illegal activity. Specifically:

**On ANN7 carriage contract**

- It is common practice for a broadcaster to pay for content, including local news channels.

- The commercial terms of the ANN7 carriage contract are within acceptable parameters associated with the establishment and cost of producing a news channel.

The committee's analysis of the ANN7 contract highlighted the complexity of negotiating a start-up local news channel – a process which is very costly. The negotiations with ANN7 began at a time when MultiChoice wanted to add local black voices to reflect more diverse local news coverage on the DStv platform. In addition, annual payments to eTV had escalated substantially, heading towards R500m p.a. The commercial rationale was to assist in the development of the new ANN7 channel by contributing to their costs and allow it a reasonable term of three/five years to develop. Should it fail, MultiChoice would let the agreement lapse at the end of the period, as allowed for in the contract.

- The payments made to ANN7 were not abnormal relative to other local news channels carried on the DStv platform. MultiChoice paid an amount to ANN7 for a start-up 24-hour local news channel that was substantially lower than that paid to eTV. The terms of the agreement were renegotiated and payments increased when it became apparent that ANN7 needed to improve quality on the channel.
- In addition, the R25million upfront payment to ANN7 made on 15 September 2015 was neither abnormal nor unusual. Other channels have previously received upfront payments as part of the channel negotiations.
- The detailed data analytics exercise covering five years of payments made by MultiChoice to ANN7 validated the payments against the contract.
- The process of negotiating the ANN7 agreements was a collective MultiChoice management process and not that of an individual. In the Committee's opinion, this materially reduces the risk of corrupt activity.

#### **On MultiChoice submissions to the Minister of Communications**

- MultiChoice regularly makes submissions to regulatory stakeholders, both formal and informal. This is in accordance with acceptable practice and is a legitimate, democratic process under South African law.
- No irregularities were found in the way the regulatory submissions were made.
- No correlation was found between payments made to ANN7 and the MultiChoice lobbying effort.

#### **PROCEDURAL SHORTCOMINGS**

The Committee believes that a number of procedures can be improved:

- Historically, MultiChoice has not performed a due diligence test on any channel ownership. Given the experience with ANN7, the Committee is of the view that in future such due diligence should be instituted and be made compulsory for all new start-up channels.
- Given the fluid nature of lobbying, which is part of the broadcasting and telecoms industry globally, MultiChoice should study international best practise and formalise its lobbying process. The new process should be adhered to by all involved to ensure that an acceptable

line is not crossed in such activities.

- When concerns were raised about the owners of ANN7, MultiChoice management should have acted more swiftly to escalate issues to the Board for formal consideration and decision.

## **MULTICHOICE ACTIONS**

The MultiChoice board has accepted the findings and recommendations of the MultiChoice Audit & Risk Committee.

MultiChoice has confirmed the following five actions:

1. Ensure that robust due diligence processes will always be followed for start-up channels.
2. Require management to highlight issues of controversy and reputational risk at the quarterly Audit and Risk committee meetings. Key issues will be brought to the MultiChoice board for further consideration.
3. Formalise MultiChoice's lobbying process. In the absence of national guidelines on lobbying and interaction with regulators and government, MultiChoice management will develop guidelines for approval by the board.
4. No renewal of ANN7's current contract when it ends in August this year.
5. Open a bid for a replacement local news channel.

MultiChoice continues to believe that the wide range of foreign and local news channels (SABC and ENCA) on our platform – representing widely divergent views, needs to be supplemented with another local voice. In particular, a black-owned and run channel that represents the majority of people in this country.

The successful bid will have to meet the following criteria:

- It must be owned, managed and run by a black South African company, free from any political or other interference.
- It must be able to provide independent, non-partisan and critical news coverage of current affairs.
- It must take into account South Africa's history, diversity of cultural backgrounds, language and socio-economic circumstances in the way it produces content.

### **MultiChoice South Africa's Chief Executive Officer, Calvo Mawela, responds:**

"This has been a humbling experience for MultiChoice. While we entered into an agreement for the ANN7 channel at a time that the extent of State Capture was unknown, we fully understand the outrage of the public regarding endemic corruption in our country and accept we should have dealt with the concerns around ANN7 far more swiftly.

There's also no doubt that we managed our communication of this issue poorly.

While I am pleased that the investigation into the ANN7 contract did not discover any corruption or other illegal activity, the questions we have faced have been sobering.

We made mistakes and must now embark on a path of restoring public trust."

### **On Imtiaz Patel and the SABC**

#### **IMTIAZ PATEL:**

As part of the review, the MultiChoice Audit & Risk Committee also commented on allegations concerning Imtiaz Patel's relationship with the Guptas.

MultiChoice notes that there have been concerns raised around his prior connection to the Guptas as well as the suggestion of inappropriate influence regarding MultiChoice's dealings with ANN7.

Following the Committee's work and enquiries made by Naspers, it is clear that Imtiaz Patel's previous relationship with the Guptas predates his appointment at MultiChoice, played no role in the terms negotiated for the ANN7 channel, and that he acted in the interests of the company. The ANN7 channel was negotiated as a collective by members of the senior management team.

#### **MULTICHOICE AGREEMENT WITH THE SABC**

MultiChoice's agreement with SABC has also been questioned. It should be noted that the MultiChoice contract with SABC did not form part of the brief given to the Audit and Risk committee. However, to be clear, Parliament has referred a number of third party agreements to the Special Investigations Unit (SIU), among them the SABC agreement. MultiChoice is co-operating fully with this investigation.

#### **Naspers CEO and MultiChoice Board member, Bob van Dijk concluded,**

"MultiChoice is a great South African company built on a spirit of entrepreneurial endeavour. But the presently polarised political environment in South Africa and controversy around the ANN7 channel ownership demanded a higher level of diligence and scrutiny than was the practice previously. That said, I am pleased that the committee found no evidence of corruption.

I can also confirm that the committee and Naspers found that Imtiaz Patel's previous relationship with the Guptas played no role in the negotiation of the ANN7 contract at any time. It is clear that he always acted in the best interests of MultiChoice.

I want to be clear: MultiChoice South Africa is a company committed to black empowerment and economic transformation, and is fully aligned with the values of modern South Africa. We will make sure we take all necessary steps to restore public trust in MultiChoice as a company committed to making a positive impact in this country."

**ENDS**