



**eMEDIA INVESTMENTS PRESENTATION
ON THE MEDIA AND DIGITAL PLATFORMS MARKET
INQUIRY**

MACRH 2024

THE TEAM

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OPENING COMMENTS

- eMedia thanks the Commission for the opportunity to participate in these MDPMI Public Hearings.
- eMedia Investments is the holding company of the following broadcasting interests:
 - e.tv, a licensed commercial free-to-air broadcaster;
 - e.Sat, which is the holder of a subscription television broadcasting licence;
 - Platco which operates OpenView as a free-to-air satellite broadcasting service;
 - eVOD a video streaming services which gives viewers free access to local and international shows and movies; and
 - YFM, a radio station broadcast on the FM frequency (which has presented separately).

OPENING COMMENTS

- A substantial portion of this inquiry focuses on news including advertising in relation to news.
- The impacts of advertising on social media platforms (taken to include Facebook, Instagram, X, Google search and YouTube) extends beyond news. Competition for advertising space is not limited to news.
- It cannot be disputed that:
 - Social media platforms, which are global companies earning billions of dollars, and local broadcasters compete within the same advertising pie.
 - Social media platforms are increasingly dominating this pie and are eating into the advertising spend available to broadcasters.
 - The proliferation of social media platforms means that they garner a greater number of eyeballs and hence a move to increased advertising on these platforms.
 - Due to the algorithms which social media platforms use and the manner in which such advertising takes place, associated with the number of adverts which can be placed on the platform, the cost per advert on a social media platform can be drastically reduced directly impacting broadcasters.

OPENING COMMENTS

- Insofar as e.tv is concerned, its ability to advertise is further circumscribed by the terms and conditions of its licence which preclude it from broadcasting more than an average 10 minutes of advertisements per hour measured over the licence year; and advertisements in excess of 12 minutes in any one hour. Social media platforms have no such limit.
- Broadcasters, which contribute to the local economy, are now required to compete with global multimillion dollar companies, which provide unregulated content and which contribute nothing to the South African economy as:
 - They do not generally engage South African suppliers; and
 - They do not contribute to the fiscus, the employment crisis nor the growth of the economy.

OPENING COMMENTS

- The manner in which social media platforms operate and advertise, are able to utilise algorithms to their advantage and often do not compensate for content of third parties which they use, provides a very real threat that in the future, broadcasters may not exist.
- In the South African economy, when millions do not have access to smart devices or sufficient data and therefore cannot obtain any form of news or access social media platforms, the provision of free-to-air television is an essential and only way to communicate public service announcements, news and entertainment to millions of people.
- This situation is worsened by the fact that content which is pirated from local broadcasters is uploaded onto and shown on these social media platforms and there are no systems in place to prevent this. This content attracts viewers and the benefit of advertising resulting from this is a benefit to these platforms rather than to the broadcasters who produce and own the content.

E.TV AND OPENVIEW

- e.tv and Openview, are the only broadcasters whose income is derived solely from advertising and sponsorship revenue.
- e.tv is, and remains, the only commercially licensed free-to-air broadcaster. It is subject to the regulatory regime of both the Independent Communications Authority of South Africa (ICASA) as well as the Code of Conduct of the Broadcasting Complaints Commission of South Africa (BCCSA).
- The primary object of the ICASA Act is to establish an independent authority to regulate broadcasting in the public interest and ensure the fairness and diversity of views broadly representing South African society as required by section 192 of the Constitution.
- In order to do this, ICASA has promulgated numerous regulations which are binding on broadcasters but not social media platforms which accordingly operate without regulation.

E.TV

- e.tv's commercial free to air licence requires the following in respect of the broadcasting of news content:
 - The broadcast of a minimum of two (2) hours of news and information programming per week of which at least thirty (30) minutes shall be broadcast during prime time;
 - News must be broadcast in a range of official languages and to make provision for sign language translation on screen during the prime time news bulletin;
 - The broadcast of news and current affairs programming that reflects local, regional and provincial developments;
 - To exercise full editorial control in respect of the content of its news programming.
- e.tv is subject to the regulatory regime of ICASA (which includes regulating the amount of advertising it can broadcast) as well as the Code of Conduct of the BCCSA.

eNCA

- eNCA is South Africa's most watched 24-hour news channel and receives advertising revenue.
- As a regulated news organisation, eNCA must abide by the following:
 - The BCCSA's Code of Conduct for Subscription Broadcasting Service Licensees;
 - The BCCSA's Code of Conduct for Online Content Services for Licensed Broadcasters;
 - The Advertising, Infomercials and Programme Sponsorship Regulations, 2023; and
 - National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014
- In respect of the Advertising Regulations, eNCA is limited in that no sponsorship may be accepted for any news or current affairs programme, except for weather and sports bulletins.

eNCA

- The BCCSA's Code of Conduct requires close adherence in respect of news broadcasts:
 - Licensees must report news truthfully, accurately and fairly;
 - News must be presented in the right context and fairly without departure from the facts;
 - Comment must be balanced and free from hate speech;
 - Broadcasters must exercise exceptional care and consideration in matters involving privacy and dignity of individuals;
 - The same applies to the broadcast of news and current affairs programmes on the e.tv channel.
- Should either e.tv or eNCA act in breach of the Code of Conduct, it will be subject to a sanction by the BCCSA which may include fines or having to broadcast a retraction and apology.
- In addition, to achieve the objects of the Code and maintain its independence as a media organisation requires a full editorial department and strict editorial policies. This comes at a substantial expense.
- Social media platforms are not regulated by any Codes of Conduct or editorial policies leaving them to provide unchecked content including deep fake news and misinformation.

eNCA

- eNCA also has a website.
- Additionally, it has a social media presence on the various social media platforms.
- The main purpose of having a presence on such social media platforms is to drive traffic to the news channel and the website. eNCA does not monetize its presence on such social media platforms.

REGULATORY ENVIRONMENT

- Broadcasters exist in a highly regulated environment. They are legally bound to comply with all regulations within the sector.
- This includes advertising regulations dealing with sponsorship of news, product placement and infomercials.
- Broadcasters are also subject to regulations concerning party election and political advertisements.
- These regulations limit political advertising to the period preceding the election and for a short period thereafter. There is no such limitation on social media platforms.
- The allocation of airtime in respect of party election broadcasts is also regulated but only in relation to broadcasters.

TRENDS IN NEWS MEDIA

- Proliferation of other digital platforms, including social media platforms.
- For Gen Z, many only obtain news from social media platforms.
- This impacts the manner in which those relying on social media platforms for news think given that such platforms are littered with misinformation and fake news.
- The shift to online is having a detrimental impact on the advertisement revenue of broadcasters.
- The nature of online social media advertising differs to television advertising, and is therefore generally cheaper.
- This has created the trend resulting in the reduction of ad-spend for broadcasters.

DIFFERENCES BETWEEN BROADCASTERS AND SOCIAL MEDIA AND VIDEO SHARING PLATFORMS

- While social media and video sharing platforms have no similar limitations in respect of advertising guidelines, editorial standards or a clear code of conduct which must be followed. They can broadcast as much advertising as they want in relation to news; there are no editorial standards and it is possible to broadcast sensationalist or fake news without sanction.
- Impact of online platforms felt not just in news, but also general entertainment as online platforms steadily eat into the advertising pie.
- Social media and video sharing platforms have no limit to the amount of advertising they are able to show. This means that given the number of adverts, their inventory becomes cheaper and they are able to undercut the cost of advertising when compared to broadcasters.
- The result of the above is that increasingly, online platforms such as YouTube, FaceBook, Instagram, TikTok and X have increasingly eaten into the advertising pie in respect of which they and broadcasters compete. This has proven to be a threat to the eMedia broadcasting business and, unless something is done about it, the trend will continue.

DIFFERENCES BETWEEN BROADCASTERS AND SOCIAL MEDIA AND VIDEO SHARING PLATFORMS

- The core problem is that publisher platforms operate without any form of regulation or limitation.
- This is true not only for news but for general entertainment as well.
- Trends show more and more advertising spend going to digital forcing traditional broadcasters to utilize publisher platforms. However where agreements are entered into with platforms there is no scope for negotiation and agreements are provided on a “take it or leave it” basis.
- Where a broadcaster decides to “leave it” and do not use the platform, the platform then has the power to change its algorithm. The impact of this is that when using a search engine such as Google, those broadcasters who are not prepared to enter into one-sided agreements will no longer find themselves on the landing page and possibly not even on the few pages thereafter.

DIFFERENCES BETWEEN BROADCASTERS AND SOCIAL MEDIA AND VIDEO SHARING PLATFORMS FROM A REGULATORY PERSPECTIVE

- Given regulation insofar as news is concerned, broadcasters require editorial control in the form of an editorial department and to expend on high end and costly technology. Social media platforms have no such costs and are able to merely rely on content of others including broadcasters – often without compensation.
- The ECA has as one of its objects, the need to encourage investment and innovation in the communications sector. Insofar as broadcasters are concerned, the reduction in the advertising pie results in a decreasing ability to meet this object. Global social media platforms do not compete at all.
- Social media platforms do not invest in South Africa, are not innovators and do not participate in growing the South African economy.

THE ELECTRONIC COMMUNICATIONS ACT OF 2005 (ECA)

- The ECA regulates the licensing regime of broadcasters.
- Broadcasters are not permitted to operate unless they do so in terms of a licence which is subject to renewal.
- Licences are not there for the taking. e.tv's licence was only granted pursuant to a "beauty competition". The ECA contains strict provisions and prohibitions concerning the broadcast of political advertisements as well as party election broadcasts and the equitable treatment of political parties during election periods.
- The ECA also contains various requirements relating to broadcasters' obligation to broadcast local television content and utilise independent television producers.
- The ECA also has as one of its objects the need to promote competition within the ICT sector.

THE ELECTRONIC COMMUNICATIONS ACT OF 2005 (ECA)

- Social media and video sharing platforms generally do not operate within the borders of South Africa. They are not subject to the provisions of the ECA or the ICASA Act.
- This means that such platforms can broadcast any amounts of advertising, need not follow the requirements of the party political broadcasting regulations and have no obligations concerning local content.
- In essence, they can do what they want and when they want.
- This lack of regulation enables them to compete unfairly with broadcasters in circumstances in which they compete for the same advertising pie.

DISINFORMATION AND AI

- The availability of AI technologies has allowed scam artists the ability to create credible online scams through “deep fake” videos.
- eNCA has observed a rise in the number of sponsored “deepfake” videos which use videos from credible news broadcasters like eNCA.
- One such example which is known to us involves a fake Elon Musk being interviewed on eNCA and discussing an investment opportunity.
- There is little incentive for online publishers to remove sponsored posts even in instances where someone has complained about them.
- This obviously has the ability to impact eNCA’s reputation as viewers may not be able to determine that it is not a broadcast created by eNCA.
- Additionally, fake news can be published as if it is sourced from eNCA. Again, this form of sensationalism and fake news will cause damage to eNCA’s reputation.

DISINFORMATION AND AI

- X (formerly Twitter) has disbanded its previous trust and safety teams, revoked bans on extremist accounts, removed labels identifying government-affiliated accounts, and censored journalists critical of Musk.
- X's decision to eliminate Twitter's verified account system, which previously helped identify public figures and agencies, has fuelled the spread of disinformation.
- The new "Twitter Blue" verification system, where anyone can pay \$8 to get a blue check mark, has been exploited by impersonators, including accounts posing as the U.S. Internal Revenue Service. A similar tactic could easily be employed by impersonators wishing to appear as official South African accounts.
- These changes mark a "huge regression" from the progress social media platforms had made in addressing disinformation and state interference since the Russian invasion of Ukraine.
- There is now more than ever before a need for regulatory intervention to prevent the spread of misinformation on social media platforms.

SOCIAL MEDIA AND DISINFORMATION

- The proliferation of social media platforms, their immediate accessibility and interactive functionality has resulted in the proliferation of fake news.
- Fake news may be available alongside “real” news making it difficult for users to distinguish what is real.
- A “real” news story placed alongside a sensationalist fake story can impact the trustworthiness and reputation of the real news story.
- Misinformation spreads rapidly on social media platforms due to the capacity to share such information. These stories often take the content from genuine news providers, including broadcasters, and weave a fake story into them.
- Social media news rather than necessarily being newsworthy is entertainment. This generates more eyeballs and heads and becomes increasingly attractive to advertisers. The impact on traditional broadcasters is immense. A 2022 study found that when TikTok users searched for top news stories, almost 20% of the videos returned contained misinformation.

SOCIAL MEDIA AND DISINFORMATION

- While traditional broadcasters are subject to controls, social media and related platforms are not.
- This means that a growing number of Gen Z are misinformed and may not be able to distinguish what is real.
- It is not only regulation which will assist in dealing with this and, most importantly, with anticompetitive practices in relation to other providers of content, but these platforms also have a responsibility.
- A public interest organisation in the USA summarises it as follows:
“The social media giants are some of the most powerful and well-resourced companies in the world. They built the most sophisticated information sharing networks that have ever existed. This information is a complicated problem, but these companies more than anyone have the resources and expertise to tackle this problem head-on. Regulators need to pay more attention to what is happening behind the social media feed curtain, and let the tech giants know it’s time to prioritize finding solutions.”

COMPENSATION

- Issues which have also come under discussion is the abuse of advertising technology such as addtech.
- The only way in which this can be dealt with is by regulation.
- Worldwide, including Europe, the United States and Australia, the practices of these platforms have undergone growing scrutiny and there is no reason this should differ in South Africa.
- The above practices are worsened by the fact that not only are these platforms unregulated and able to operate as they wish, but they contribute nothing to any form of growth in South Africa, including the growth of the local production sector.
- Further, as they are based in other jurisdictions, they do not contribute to the fiscus.

COMPENSATION

- The platforms earn twice: once for having access to content which they do not pay for; and second, by being able to use such content for purposes of generating advertising to platforms and taking this advertising away from broadcasters.
- The use of content in this way needs to be compensated.
- This has been recognised most recently last week when the French regulator again fined Google for breaching previous commitments to media companies on content licensing.
- The basis of the “antitrust charges” was that Google was making Billions from content which did not belong to them without sharing the revenue with those who generated it.
- France is not the only jurisdiction which has recognised the anticompetitive way in which search engines, video sharing platforms and social media operate.

IMPACT ON eMEDIA

- As on social media platforms such as YouTube and Meta sell at lower rates than premium ads on eMedia's various broadcasting platforms.
- The pricing gap undermines both revenue and competitiveness.
- Lesser revenue impacts the content which can be provided.
- Even where revenue is earned off the social media platforms, such terms can never be negotiated and are unilaterally imposed. There is no bargaining power.
- Any additional revenue earned is insufficient to offset the pricing difference.
- This impacts both short-term revenue and long-term growth potential.

CONCLUDING REMARKS

- Social media platforms are run by global companies.
- South African companies cannot compete in this global space.
- Social media platforms are able to gain an unfair advantage as they are unregulated.
- There is a yawning need for regulation.
- Social media platforms are not based in South Africa, do not employ local resources or contribute to the fiscus and do not generate economic growth.
- To counter this, in addition to regulation, there is scope for the payment of compensation where content is used.
- Regulation should also deal with the imbalance in bargaining power where social media platforms can impose terms on a take it or leave it basis.
- The use of algorithms should be controlled.
- Social media platforms should be required to have greater oversight over the content they produce and show on their platforms, limiting disinformation and deep fake news.

THANK YOU

QUESTIONS?