

SOUTH AFRICA / JUDGMENT

eMedia Investments Proprietary Limited v Multichoice Proprietary Limited and Others (248/CAC/Jul23 CT; IR194Mar22) [2023] ZACAC 3 (28 July 2023)

[2023] ZACAC 3

COURT

Competition Appeal Court

BEFORE

N. Manoim, D. Davis, V. Nkosi

CASE / FILE NUMBER

248/CAC/Jul23 CT

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IN THE COMPETITION APPEAL COURT OF SOUTH AFRICA

CAC CASE NO: 248/CAC/Jul23 CT

CASE NO.: IR194Mar22

In the matter between:

eMEDIA INVESTMENTS PROPRIETARY LIMITED Applicant

and

MULTICHOICE PROPRIETARY LIMITED First Respondent

COMPETITION COMMISSION Second Respondent

MINISTER OF TRADE AND INDUSTRY AND

COMPETITION Third Respondent

MINISTER OF JUSTICE AND CORRECTIONAL

SERVICES Fourth Respondent

COURT ORDER

Having heard counsel for the parties, the following is ordered:

1. It is declared that the words “a further period” in section 49C(5) of the Competition Act do not limit the power of the Competition Tribunal to granting only one extension to the interim relief granted under section 49C of the Competition Act;

2. The Competition Tribunal is directed to determine the Applicant's ("eMedia's") application for a further extension of its interim relief in accordance with section 49C(5) on the papers filed before this Court; provided that the Applicant files its application with the Tribunal by no later than 16h00 on 31 July 2023; and
3. Pending the finalisation of the Competition Tribunal's determination of eMedia's application for a further extension of its interim relief, the First Respondent ("MultiChoice") is directed to maintain the status quo, and is interdicted from removing the following channels from the bouquet of channels on the DStv platform of which they currently form part:
 - 3.1. eExtra;
 - 3.2. eToonz;
 - 3.3. eMovies; and
 - 3.4. eMovies Extra.
4. Subject to the Applicant complying with its filing obligations in terms of paragraph 2, the Tribunal order granted on 19 December 2022, under case number IR194Mar22/EXT151Nov22, is extended until the earlier of:
 - 4.1. the finalisation of the Competition Tribunal's determination of the application,
 - 4.2. the conclusion of the hearing into the alleged prohibited practice; or
 - 4.3. a further period not exceeding six months.
5. There is no order as to costs.

N. MANOIM JUDGE PRESIDENT COMPETITION APPEAL COURT

D. DAVIS ACTING JUDGE OF APPEAL COMPETITION APPEAL COURT

V. NKOSI ACTING JUDGE OF APPEAL COMPETITION APPEAL COURT

DATE: 2023-07-28

APPEARANCES:

Date of hearing: 28 July 2023

Date of order: 28 July 2023

Counsel for Applicant: Adv G. Marriot

Assisted By: Adv

N. Ferreira, S Pudifin Jones,

C. Kruyer and S. Nelani

Instructed by: Nortons

Inc.

Counsel for First Respondent: Adv W.Trengrove SC

Assisted By: Adv

M. Norton, Adv J. Wilson SC,

Adv M. Mbikiwa', Adv Ntlakana

Instructed by: Webber

Wentzel

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