

Broadcast Digital Migration Amendments Gazetted on 6 December 2014

**Presentation to the Portfolio Committee on
Communications**

18 February 2014

1. What is Digital Migration and why is it Important?

a) Currently almost all televisions in South Africa can only receive analogue terrestrial broadcasting signals. With the migration to digital, STBs (or decoders) will be necessary to convert the incoming digital broadcast signal to an analogue format so that the existing televisions work.

b) Among the many advantages to digital migration are:

- i) The release of urgently needed radio frequency spectrum for mobile broadband and other services, with lower costs to communicate over time.
- ii) The STB Manufacturing Sector Development Strategy estimates that about 23 500 jobs will be created.
- iii) More TV channels, with greater use of indigenous languages, educational spin-offs and better quality viewing.

c. The UN Agency, the International Telecommunications Union (ITU), has set 17 June 2015 as the deadline for the digital migration for South Africa and other countries in Africa.

d. Our government had intended to launch digital migration in September 2008 and end in November 2011.

2. Government Policy on Digital Migration and STBs Prior to the 4 December Cabinet Decision

- a) In September 2008 Cabinet adopted the Broadcasting Digital Migration policy. Among the aims:
 - i) Strengthening South Africa's capacity to be a more effective information society and knowledge economy.
 - ii) Reducing the digital divide between the rich and poor.

- iii) Releasing much-needed radio frequency spectrum for wireless broadband and mobile communications.
- iv) Stimulating the development of the local electronic manufacturing industry and job creation.
- v) Provision of e-Government services.
- vi) Encouraging additional television channels and in different languages to promote access to information and contribute towards nation-building.

b) The 2008 BDM Policy stated that the STBs would have a control system to:

- i) Protect Government's investment in subsidised STBs.
- ii) Protect consumers from low quality non-conformant STBs.
- iii) Unscramble encrypted signals.
- iv) Stimulate local electronic manufacturing industry.
- v) Prevent the STBs from being used outside South Africa and to disable stolen STBs.
- vi) Allow for mass and unique messaging, interactivity with Government.

c) In 2012, an amendment to the BDM Policy was gazetted to soften the use of the STB control system. For example, Encryption was dropped but STB Control maintained to ensure that STBs conform to SABS (South African Bureau of Standards) standards.

3. E.tv Court Judgment December 2012

a) The previous Minister decided that Sentech should be responsible for the control system. However e.tv took the Minister to court on the grounds that it is free-to-air (FTA) broadcasters - SABC, e.tv and community broadcasters - who should decide on who the vendor should be and how the system should be managed. In December 2012, the court found in e.tv's favour.

b) The lawyers we consulted on the e.tv court judgment are clear that government has the right to make policy on Set Top Box control but it cannot prescribe the supplier, the operator of the control system, the type of control system to be used or how it should be managed. These decisions must be made by the FTA broadcasters.

c) The FTA broadcasters have failed to agree on these issues, and there is no sign that they will come to an agreement soon or at all.

4) Facilitation Process

a) In September the Ministry began a new facilitation process led by a team chosen by the broadcasters to foster a measure of consensus among the broadcasters but, with the parties refusing to make any compromises at all, they reached an impasse.

b) Our aim was to reduce the differences among the broadcasters and then engage with the entrepreneurs to set up a representative committee to work with government to amend the broadcasting digital migration policy so that we could move quickly ahead. But the facilitators were unable to secure even the most minimal consensus.

Government then shaped its policy taking into account what all the parties had to say, including the documents given to us by representatives of emerging entrepreneurs at a separate meeting we had with them in September 2013.

c) All the relevant Economic-related departments, particularly DTI, were consulted before the matter was taken into the Cabinet process.

5. Criteria Used to Decide on STB Control by government in December 2013

The following criteria were used:

- i) The need to begin implementing the migration as soon as possible, given that South Africa is five years behind schedule, the ITU June 2015 deadline looms and there is an urgent need to release radio frequency spectrum.
- ii) Ensure that the Government subsidy is used productively.

- iii) Stimulate the local electronics industry and create jobs. Benefit emerging entrepreneurs.
- iv) Reduce prospects of the South African market being flooded by cheap STBs that are not fully functional.
- v) Best serve the viewers' needs.
- vi) Protect the interests of the SABC against commercial broadcasters.
- vii) Be sensitive to rapid changes in the broadcasting and ICT sector as a whole.

- ix) Recognise the increasing use of mobile phones, rather than televisions, for Internet and other services.
- x) Reduce the extent of monopolisation and encourage competition by creating space for new players in the pay television market without them unfairly benefitting from the Government subsidy.
- xi) Recognise the majority of the broadcasters are opposed to the control system.
- xii) Reduce the prospects of the possibility of more challenging legal action from broadcasters and entrepreneurs that would hold-up the migration process.

c) These criteria need to be looked at as a whole without undue emphasis on any particular one as against others.

d) The STB control matter relates to broader issues of industrial policy, particularly the need to stimulate the local electronics industry, encourage emerging entrepreneurs, and create jobs. It cannot be seen simply as a broadcasting issue.

6. Use of STB Control Non-Mandatory

a) Using the above criteria, Cabinet decided, as gazetted on 6 December in the Amendments to the Broadcast Digital Migration Policy (section 9.3), that: “To avoid challenges in implementing the Digital Migration programme, caused mainly by differences between broadcasters and also between some manufacturers, **the use of** a control system is not mandatory (our emphasis).

However, the STBs will have a control system to protect Government's investment in the subsidized STB market and the local electronics industry and, with rapid technological changes, for future use by broadcasters who might not want to use it on implementation."

b) But also that (section 5.1.2.7(A) of the gazetted amendments): "To avoid subscription broadcasters unfairly benefitting from the STB control system, Government's investment in the STB Control System will be recovered from those subscription broadcasters that choose to make use of the STB Control system."

7. Hybrid Model STB (providing for both control and no control) for Several African Countries

a) 15 countries have adopted the same or a similar approach, including some form of control in STBs for free-to-air channel reception.

b) Other forms of control incorporated into STBs are:

i) The use of encryption on free-to-air channels – already in use in the Ukraine, Belarus and Slovakia

ii) The inclusion of conditional access systems in STBs in Africa - a specification in the STB tender requirements in the following countries:

Zambia, Uganda, Botswana, Ethiopia, Seychelles and Malawi.

iii) Public broadcasting services distributed using conditional access systems – Nigeria, Namibia, Tanzania, Kenya, Malaysia and Britain.

8. Financial Implications

a) Broadcasters wanting to use the control will have to pay the government. They will pay the other costs related to the control system. There will be no costs for broadcasters not using the system.

b) The government's cost for the STB control has to be related to the benefits to the local electronics industry, emerging entrepreneurs and jobs. The South African government, like most governments, has invested in a variety of ways for industrial returns. Government deploys a wide range of incentives - tax incentives and rebates; trade measures such as standards and specifications and strategic tariff policies in support of industrial development. These measures are designed to support the achievement of a range of policy objectives and secure co-commitments from the private sector inclusive of broad based black economic empowerment (BBBEE);

support for enterprise development and competition in the domestic economy; competitiveness upgrading; localisation and supplier development. The procurement policies of government enshrined in the amended regulations of the PPPFA, the Competitive Supplier Development Programme and the National Industrial Participation Programme are designed to support these policy objectives. It is estimated that in its various forms, direct and indirect incentives and tax foregone, this amounts to R7 billion a year.

9. Set Top Box Manufacturing Sector Development Strategy

a) On 14 September 2012 the STB Manufacturing Sector Development Strategy was gazetted. The policy stresses the need to procure STBs from local manufacturers; the “local industry and government’s investment is protected through the use of technical and non-technical barriers to entry”;

that the industry be transformed to encourage black-owned STB manufacturers; and that the manufacture of STBs stimulate the manufacture of digital TVs in SA.

b) The STB Manufacturing Strategy estimates that about 23 500 jobs will be created.

10. Space for Emerging Entrepreneurs

- a) There is an urgent need to deracialise and transform the economy. Our approach certainly caters for emerging entrepreneurs in ways that are consistent with government's BBBEE policies, legislation and regulations.

- b) The STB Manufacturing Sector Development Strategy emphasises the need for BBBEE policies and the transformation of the electronics sector.

11. E.tv Court Judgment

a) Based on the e.tv court judgment (see section 4 above), we were threatened with legal action from different parties supporting and opposing control.

So we shaped a balanced policy in a win-win type approach to reduce the prospects of successful court against the government.

12. Process Going Forward

- a) We are continuing negotiations to bridge the differences between the stakeholders through formal and informal negotiations. We hope to conclude this soon

- b) We are 5 ½ years behind schedule on digital migration, the ITU June 2015 deadline looms, and we urgently need to release high demand spectrum to the mobile operators and others. So we need to move swiftly forward on Digital Migration in the country's interests.