

Digital migration faces further delay as minister appeals

By [Thabiso Mochiko](#)

27 Jun 2016

Communications Minister Faith Muthambi is taking the fight over the set-top box encryption system to the Constitutional Court, a move that could further delay SA's migration from analogue to digital television broadcasting.

SA is moving to a digital television signal along with the rest of Africa, as directed by the International Telecommunications Union. It has missed the deadline to switch off the analogue signal by more than a year, lagging behind smaller economies like Rwanda, Tanzania and Malawi.

The minister and private broadcaster M-Net have applied for leave to appeal the Supreme Court of Appeal's ruling that set aside a clause in the digital migration policy stating that state-subsidised set-top boxes should not be capable of encrypting broadcasting signals.

The boxes will be used to receive the digital signal.

The government has started distributing some of the 5-million free set-top boxes it promised to indigent households.



[123RF](#)

"We are seeking leave to appeal, because these errors have far-reaching implications for digital migration, but equally critically for the way in which executive authority is exercised in the information and communications technology sector," M-Net said.

Encryption is used by pay-TV channels to limit access to paying subscribers only, but it is not necessary for the reception of free-to-air broadcasts like those of e.tv.

However, e.tv says its ability to encrypt future broadcasts is "essential to its business plans".

In Mayi, the Supreme Court of Appeal ruled that once the analogue signal is switched off, free-to-air broadcasters will not be able to encrypt their signals and those with television sets that do not have settop boxes with encryption ability will not be able to access high definition content that can compete with the pay-TV broadcasters.

In its application to appeal, MNet said the appeal court erred in accepting e.tv's argument that encryption was needed to allow free-to-air broadcasters to transmit high-definition content.

The pay-TV provider said the majority of broadcasters including the BBC in the UK and CBS and ABC in the US, broadcast their signal unencrypted. M-Net said the set-top boxes were a temporary measure and encryption would prevent households from buying new digital-ready television sets when they became available so settop boxes would be permanent.

The Supreme Court of Appeal said Muthambi's failure to consult with the industry made the amendment irrational. It found that the minister was not empowered to issue such a binding direction.

Muthambi's spokesman Mish Molakeng said there were grounds for an appeal because the minister exercised executive powers in terms of the Constitution when developing national policy.

He said the Electronic Communications Act was silent on whether consultation was mandatory on the amendment of policy.

Source: Business Day

For more, visit: <https://www.bizcommunity.com>