

Media Release

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Supreme Court of Appeal declares use of signal jamming device in Parliament and provisions of its broadcasting policy unconstitutional

Primedia is pleased with the decision by the Supreme Court of Appeal (SCA) declaring that the rules and policy adopted by Parliament governing the broadcast of disruptions in the Parliamentary Chamber was unconstitutional and unlawful. The decision, which was announced today, follows the events of February 2015 during the State of the Nation Address by President Jacob Zuma.

The SCA's judgment is an important decision both re-affirming the right of public participation in the legislative process, and the essential role played by the media, especially the broadcast media, in facilitating such access for the public who are unable to attend in person. It is a significant judgment in favour of media freedom and the public's right to know.

At the State of the Nation address, a jamming device was used in order to interfere with the transmission of telecommunication signals from inside Parliament. This denied millions of South Africans the right to know what happens in Parliament and to participate in our democratic society, as journalists could not use their mobile devices to disseminate information. Thereafter, viewers were deprived of the right to see visuals of EFF MPs being ejected from the chamber, as the camera was focused on the Speaker of Parliament and the Chairperson of the National Council of Provinces. Primedia, the South African National Editors Forum (SANEF), Right2Know Campaign and Open Democracy Advice Centre, saw it necessary to challenge the action by Parliament and the Minister of State Security as these actions undermined South Africa's constitutional democracy and the right to free media.

The State Security Agency (SSA) admitted that the jamming device had been left on by mistake and was not intended to be used during the State of the Nation itself, but they argued that they were entitled to do so, without informing the Speaker of Parliament or the Chairperson of the National Council of Provinces. The SCA dismissed this argument holding that it is required that the SSA obtains permission from the Speaker and the Chairperson, as the presiding officers, for the use of such equipment in the Parliamentary precinct.

The SCA also held that Parliament's broadcasting policy and rules, which do not permit full broadcasts of incidents of "grave disorder" or "unparliamentary behaviour", are unconstitutional. The SCA held that access to Parliament and the right to an open Parliament were fundamental to democracy by facilitating knowledge of what happens in Parliament and hence an informed electorate. In this context, the limitations in the broadcasting policy and rules were not reasonable or justified and were therefore struck out. The Court endorsed the importance of public participation in parliament in our democracy and the role of broadcasting in facilitating that participation.

Katy Katopodis, Primedia Broadcasting Group editor in Chief says: "This is a hugely significant victory for media freedom and the right of journalists to do their jobs unhindered. The unanimous judgment is also a victory for our hard fought democracy and for our country's Constitution. This

ruling should galvanize all journalists to continue fighting for the rights to our profession, as entrenched in the Constitution.”

Roger Jardine, Primedia CEO, says: “Primedia pursued this matter all the way to the SCA because of the dangerous legal precedent that would have been set if the ruling of the Cape High court was allowed to go unchallenged. At the heart of this matter is the access of citizens to our public institutions. I am satisfied that the SCA has once again confirmed that we live in a constitutional democracy and not in a Security State. This ruling also demonstrates that a strong judiciary and independent media are key pillars of a vibrant and healthy democracy.

Primedia is very pleased to have joined together with civil society in challenging the lawfulness of the unfortunate and ugly events that occurred in our national parliament in February 2015. Primedia is committed to championing the cause of a strong and independent media in South Africa. We will take similar legal action in future to protect independent media in our country.”

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Issued by Brunswick South Africa on behalf of Primedia