

Court application to compel MTN to zero-rate approved PBO websites

16 July 2020

The DG Murray Trust has launched a court application to compel mobile network operator MTN to zero-rate the local educational websites of public benefit organisations that have been officially approved, but not actioned. This application follows three months of engagement with the three largest network operators (Vodacom, MTN and Telkom Mobile) urging them to zero-rate these sites as a matter of urgency to ensure that the poorest 50% of children have some access to educational resources during the lockdown and over the next few months.

According to a 2016 survey conducted by the South African Development Council, close to 60% of families have no books in their homes other than religious texts and by 2018, only 10% of people said they had internet at home. Yet most children in informal settlements and rural areas have access to a feature phone, albeit with limited connectivity. While wealthier schools have developed online learning platforms, these most children in South Africa cannot access them. However, there at least 50 public benefit organisations (PBOs) whose life's work is to reach the poorest children with learning resources, books, stories, language and maths. Many have designed their digital content to reach children and young people living in the poorest communities, delivered in bite-sized chunks and supported by SMS or basic chat functions. These PBOs include Nal'ibali, FunDza, Funda Wandé and SmartStart.

The Department of Basic Education approved a list of 39 PBO websites on 8 May 2020, and until last week, only Telkom and other fixed line operators had zero-rated the PBO sites. Vodacom has now started to comply, and as of Monday 14 July 2020, had zero-rated 19 of the PBO sites. According to MTN, it had been instructed by government to prioritise universities, TVET colleges and now schools – leaving little prospect of zero-rating of PBOs for the foreseeable future.

“We appreciate the huge demands on the network operators at this time, but if Telkom and Vodacom can zero-rate PBOs, so can MTN”, says Dr David Harrison, CEO of the DG Murray Trust. “It cannot be that the poorest children constantly get pushed to the back of the queue. They should be right up front, precisely because they have no other educational resources. It is unconstitutional and it is unfair.”

The DG Murray Trust has offered to pay for the creation of a single portal through which all PBOs can be easily zero-rated by the network operators, and which will provide a means of management and monitoring. This mechanism would take less than a few hours to integrate into network operator systems. However, MTN has chosen to ignore this offer while arguing under-capacity at the same time.

In May 2020, over 100,000 South Africans signed DGMT's petition requesting all mobile network operators to zero-rate the websites of PBOs as a matter of urgency. Find the petition [here](#).

The Department of Basic Education has been listed as a second respondent. No relief is sought from it unless it turns out to be true that network operators have been instructed to prioritise the websites of schools over public benefit organisations, in which case DGMT will request an order to set aside that instruction.

The Department of Communication and Digital Technologies is listed as third respondent because of its oversight role, but no relief is sought from it.

Dunster Attorneys Inc, acting on behalf of DGMT, have applied to the Western Cape High Court for the case to be heard on 3 August 2020.

DGMT will keep monitoring the zero-rating of public benefit organisations to ensure full compliance by all the networks.



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