

POLICY BRIEF

By Dr. Eric Agyemang

Ensuring Fairness: Why Sam George Should Not Chair the DSTV Pricing Committee



Hon. Samuel Nartey George, Minister of Communication, Digital Technology and Innovations.

Introduction

The ongoing dispute between the Government of Ghana and MultiChoice Ghana over DSTV subscription pricing has captured public attention and raised important questions about regulatory fairness and consumer protection. The disagreement stems from MultiChoice's recent decision to increase subscription fees, a move the Minister of Communications, Digital Technology and Innovations, Hon. Samuel Nartey George argued was inappropriate given the appreciation of the Ghanaian cedi and significant pricing disparities between Ghana and neighboring countries.

Against the backdrop of rising cost of living, Ghanaians have largely supported government efforts to challenge what many perceive as unreasonable pricing for satellite television services. The establishment of a stakeholder committee to resolve this matter represents a reasonable approach to finding solutions that protect consumers while respecting business interests. However, a critical question has emerged about who should lead this important process. While Hon. Samuel Nartey George, possesses clear legal authority to chair the committee, his public statements and position throughout this dispute raise serious concerns about whether he can provide the impartial leadership necessary for fair and credible negotiations.

Key Policy Insights

- Ghana's legal framework empowers the Communications Minister to intervene in DSTV's pricing, but such authority must be exercised with fairness and impartiality.
- The Minister's strong public statements risk creating perceptions of predetermined outcomes as chair of the DSTV pricing committee, potentially undermining the credibility of the process.
- By chairing the committee, the Minister risks breaching principles of natural justice that require impartiality (*nemo iudex in causa sua*) and a fair hearing (*audi alteram partem*).
- Delegating the chairmanship of the committee to the NCA, a senior Ministry official, or an independent expert would allow the Minister to retain policy oversight while ensuring the process is seen as credible and balanced.
- The Minister's recusal would strengthen the legitimacy of the process and demonstrate Ghana's commitment to fair and credible regulatory governance..

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The Legal Authority

Before addressing concerns about the Minister's role, it is important to note that several policy laws grant the Minister clear legal and regulatory authority to chair the committee established to resolve the DSTV pricing dispute.

Section 3 of the Consumer Protection Act, 2020 (Act 1019) guarantees consumers the right to “fair value for money” and protection from “unconscionable conduct.” Section 13 further empowers regulatory authorities to investigate unfair trading practices, a mandate directly applicable to DSTV's pricing in Ghana.

In addition, the Electronic Communications Act, 2008 (Act 775) provides another basis for the Minister's intervention. Section 97(1)(a) authorizes the Minister to regulate “fees and tariffs,” and section 97(1)(f) allows the creation of dispute resolution mechanisms such as mediation or arbitration as is the case of the stakeholder committee set to find a solution to the impasse. Furthermore, section 25(2) empowers regulatory intervention where there is “significant market power” or “anti-competitive pricing,” conditions that arguably exist with DSTV's market dominance.

Moreover, the National Communications Authority (NCA) Act, 2008 (Act 769) establishes a collaborative framework that reinforces the Minister's role. Section 4(2) mandates the Authority to comply with policy directives issued by the Minister, while Section 3(f) requires the Authority to advise government on communications policy matters. Together, these provisions provide a legal basis for joint Ministry–NCA engagement in addressing DSTV's pricing policies. In sum, the combined legal frameworks clearly support ministerial involvement in safeguarding consumers against DSTV's potentially unfair pricing practices.

The Problem with Public Statements

While the Minister's regulatory and legal authority is not in doubt, his public statements during this dispute raise concerns about his ability to act as an impartial chair. Legal authority alone does not justify its exercise when circumstances undermine the perception of fairness. In this case, the Minister's repeated comments suggest predetermined positions rather than the open-minded approach necessary for balanced negotiations. His statement that he has “no intention to continue tolerating the disrespect to Ghanaians by DSTV” may be perceived as reflecting personal frustration rather than the professional objectivity expected of a neutral chair. The use of such strong language creates the impression that the matter is being framed as a personal confrontation, rather than approached with the balanced consideration expected in regulatory issues.

More problematically, the Minister publicly announced that MultiChoice has finally agreed to reduce their prices; “now they want us to discuss the level of reduction.” This statement treats MultiChoice's agreement to price reductions as established fact, despite the company's explicit public denial of any such agreement. When a negotiation chairperson announces the conclusion before discussions begin, the integrity of the entire process becomes questionable. The Minister's ultimatum approach, including his threat to “shut down the operations of MultiChoice” if they fail to comply, transforms what should be collaborative problem-solving into coercive bargaining under threat. While such pressure tactics may be effective politically, they undermine the trust and good faith necessary for genuine stakeholder engagement.

The Reasonable Apprehension of Bias

Administrative law requires that decision-makers not only act fairly but also be seen to be fair by reasonable observers. The key test is whether an informed person, considering the circumstances, might conclude that the chairperson does not approach the matter with an open mind. Public statements made by the Minister risk creating such a reasonable apprehension of bias.

The Minister has repeatedly characterized MultiChoice's pricing as "exploitative" and positioned himself as the champion of consumers against the company. He has made public commitments to achieving specific outcomes and demonstrated personal investment in the dispute's resolution. These actions make it difficult for any reasonable observer to believe he can fairly consider MultiChoice's arguments or evidence.

Together, the Minister's action and well-known position undermine the principles of natural justice. By appearing to act as an adversary rather than a neutral facilitator, the Minister risks breaching "nemo iudex in causa sua", the rule that no one should be a judge in their own cause by creating at least the perception of bias. Likewise, the principle of "audi alteram partem", which guarantees every party a fair hearing, is compromised if MultiChoice reasonably believes the outcome is predetermined. These are not abstract technicalities but practical concerns that weaken the credibility of the process, especially with the Minister as the chair, which can discourage collaborative engagement.

Better Alternatives That Preserve Government Authority

The Minister's recusal from the chairperson role need not diminish government authority or weaken consumer protection efforts. Several alternative approaches would maintain governmental oversight while ensuring greater fairness and credibility.

The Minister could designate a senior deputy or technical advisor to chair the committee while maintaining policy oversight and final decision-making authority over the committee recommendations. This approach would preserve democratic accountability while creating space for more objective deliberation. The Minister's policy priorities would still guide the process, but through a chairperson considered by both parties as impartial.

Another viable option would be joint chairmanship between the Ministry and the National Communications Authority (NCA). This structure would emphasize the collaborative relationship between policy and regulatory perspectives while reducing concerns about predetermined outcomes. The NCA's technical expertise combined with ministerial policy guidance could create a more balanced leadership approach.

Alternatively, the NCA could assume primary responsibility for facilitating the discussions, with clear policy direction from the Minister. As the sector's technical regulator, the NCA possesses the expertise and statutory mandate to handle these negotiations effectively. This approach would maintain governmental involvement while enhancing the perception of technical competence and regulatory neutrality.

In all scenarios, it is essential that both the Ministry and the NCA enter the process free from preconceptions or indirect influence from the Minister. The committee's work must be guided by facts, professionalism, and fairness while balancing the rights of consumers with the legitimate interests of DSTV. Any resolution should protect Ghanaian consumers from unfair practices while also recognizing that regulatory actions carry direct implications for investor confidence and foreign investment in the country. A transparent, impartial process will therefore safeguard both consumer welfare and Ghana's broader economic credibility.

As another option, the Minister could consider appointing an independent expert with recognized knowledge of regulatory and consumer protection issues to chair the committee. Such an appointment would further enhance the credibility of the process, reassure stakeholders of its neutrality, and demonstrate Ghana's willingness to adopt best practices in resolving complex market disputes.

Strategic Benefits of Voluntary Recusal

The Minister's voluntary withdrawal from direct chairmanship would not signal weakness but rather a strong commitment to fairness and due process. Such strategic restraint would enhance the legitimacy of the committee's eventual outcome and reinforce confidence in Ghana's regulatory governance. First, it would signal that the Government of Ghana (GoG) prioritizes process integrity over political theater. At a time when the fairness of public institutions is often questioned, demonstrating a commitment to impartial procedures would strengthen public trust in regulatory decisions and reinforce confidence in the state's ability to act as a neutral guardian of the public interest.

Second, a more neutral chairperson would likely secure better cooperation from MultiChoice, leading to more productive discussions and sustainable solutions. Companies are more willing to engage constructively when they believe the process is genuinely fair rather than predetermined. Third, the final agreement would carry greater legitimacy because all stakeholders would view the process as credible. This matters not only for this specific dispute but for future regulatory actions and Ghana's broader reputation for fair treatment of investors.

Finally, stepping aside would reflect considered leadership rather than weakness. The ability to recognize when restraint is appropriate signals maturity and professionalism in governance. In this arrangement, the Minister could continue

to provide policy direction over the case while leaving the day-to-day negotiations to others, helping to preserve both the credibility of the process and the government's role in guiding its outcome.

Protecting Ghana's investment climate

Ghana's economic development depends significantly on maintaining a favourable investment climate that attracts foreign capital while protecting consumer interests. The DSTV dispute has drawn international attention as a test case of how Ghana balances these competing priorities. A process perceived as unfair or predetermined could damage Ghana's reputation among international investors, potentially affecting future investment decisions across various sectors.

Conversely, a process that demonstrates commitment to fairness while achieving legitimate policy objectives would enhance Ghana's standing as a destination for responsible investment. The Minister's recusal would signal that Ghana takes procedural fairness seriously, even when addressing legitimate consumer protection concerns. This balance between policy objectives and process integrity represents the kind of regulatory strength that international investors value.

Conclusion: Leadership Through Strategic Restraint

The DSTV pricing dispute presents Ghana's Minister of Communications, Hon. Sam George with an opportunity to demonstrate exceptional leadership through strategic restraint. While he possesses unquestionable legal authority to chair the stakeholder committee, his public statements have made it impossible for him to appear neutral in the proceedings.

By voluntarily stepping aside from the chairperson role while maintaining policy oversight, the Minister would achieve several important objectives.

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He would demonstrate the government's commitment to fair process, likely secure better cooperation from all stakeholders, and enhance the legitimacy of whatever agreement emerges.

The Minister's consumer protection goals can still be achieved, but through a process that all parties can respect and accept. Sometimes the most powerful demonstration of authority is the wisdom to exercise it indirectly, ensuring that important policy objectives are achieved through procedures that maintain public confidence and stakeholder trust.

In addition, the Minister has the opportunity to transform a potentially contentious regulatory dispute into a model of fair and effective governance. By choosing process integrity over personal involvement, he would strengthen rather than compromise this important consumer protection initiative.

The mark of exceptional leadership is often the courage to step back when circumstances require it, maintaining strategic control while ensuring tactical fairness. The Minister should seize this opportunity to demonstrate that Ghana's approach to regulatory governance prioritizes both effective outcomes and procedural integrity.