

## Price Control or Overreach? Examining the Authority of the NCA and Minister Over DSTV

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The recent standoff between Ghana's Ministry of Communications and Digitalisation, the National Communications Authority (NCA), and MultiChoice Ghana, the operators of DSTV, has sparked heated public debate. Many Ghanaians support the Minister's call for DSTV to align its subscription fees in Ghana with those paid by consumers in Nigeria and Kenya.

But setting public sentiment aside, the central legal question remains: does Ghanaian law empower the Minister and the NCA to regulate DSTV's prices?

### Constitutional Justification

The 1992 Constitution sets out broad economic governance principles that empower and even obligate the State to act in matters affecting consumer welfare and fair economic participation.

**Article 36 (1) of the Constitution of the Republic of Ghana** provides that *"The State shall take all necessary action to ensure that the national economy is managed in such a manner as to maximise the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Ghana..."*. This provision makes consumer welfare and economic fairness a duty to be undertaken by the government through its officials. Where DSTV's pricing practices are viewed as undermining the welfare and happiness of Ghanaian citizens by imposing disproportionately high charges compared to other African markets, the Constitution authorises the State to step in.

**Article 36 (2) (c) of the Constitution of the Republic of Ghana** strengthens this position by mandating that *"The State shall... ensure that individuals and the private sector bear their fair share of social and national responsibilities, including*

*responsibilities to contribute to the overall development of the country.*” DSTV, as a dominant player in Ghana’s pay-TV market, cannot shirk its responsibility to operate in a manner that balances profit-making with fairness to consumers. Charging far higher prices for the same services in Ghana than in Nigeria or Kenya arguably fails this constitutional test of contributing fairly to national development.

Together, **Articles 36(1) and 36(2)(c) of the Constitution of the Republic of Ghana** empower the State, acting through the Minister of Communications and the NCA, to demand pricing structures that are fair, transparent, and consistent with the broader goal of protecting the economic welfare of Ghanaians. DSTV’s market dominance does not exempt it from this constitutional duty.

### **Pricing Disparities as Evidence of Unfairness**

The price differences between DSTV packages in Ghana and Nigeria are stark (Pricing data based on September 2025 DSTV subscription rates published on MultiChoice Ghana and MultiChoice Nigeria official websites, converted using prevailing exchange rates):

<b>Package</b>	<b>Ghana (GHS)</b>	<b>Ghana (USD)</b>	<b>Nigeria (₦)</b>	<b>Nigeria (GHS)</b>	<b>Nigeria (USD)</b>
<b>DSTV Premium</b>	GHC865	\$83	₦44,500	GHC325	\$29
<b>DSTV Compact Plus</b>	GHC570	\$47	₦30,000	GHC237	\$19
<b>DSTV Compact</b>	GHC380	\$31	₦19,000	GHC150	\$12
<b>DSTV Family</b>	GHC190	\$15	₦11,000	GHC87	\$7

This stark disparity demonstrates that Ghanaian consumers are paying significantly more for the same DSTV packages compared to their Nigerian counterparts. It

underscores the constitutional and statutory arguments for regulatory intervention by the Minister of Communications and the National Communications Authority (NCA) to ensure fairness, transparency, and value for money in the Ghanaian pay-TV market.

### **The National Communications Authority Act, 2008 (Act 769)**

Section 5 of the National Communications Authority Act, 2008 (Act 769), provides a guiding framework for how the NCA must exercise its regulatory functions. It explicitly directs the Authority to act in line with key principles such as transparency, accountability, proportionality, and consistency (*National Communications Authority Act 2008 (Act 769)*, s 5(a).), to uphold best regulatory practices (*National Communications Authority Act 2008 (Act 769)*, s 5(b).), and, crucially, to ensure the protection of consumer interests (*National Communications Authority Act 2008 (Act 769)*, s 5(a).).

This consumer protection duty is not abstract; it specifically requires the NCA to safeguard consumer choice, quality of service, and value for money. In the DSTV pricing context, this obligation is particularly relevant. The same bouquet of services that DSTV provides in Ghana is also offered in countries such as Nigeria and Kenya, yet at significantly lower prices. This disparity raises questions about whether Ghanaian consumers are truly receiving “value for money” as envisaged under *Section 5 (c) of the National Communications Authority Act 2008 (Act 769)*.

Moreover, **Section 5(h)** of the same act requires the NCA to consider the opinions of consumers and the general public. Public outcry over DSTV’s pricing structure is not just noise; it is a legally relevant factor the Authority must weigh when regulating.

Put together, these provisions empower the NCA, acting in concert with the Minister of Communications under the Electronic Communications Act, to ensure that DSTV’s pricing is fair, transparent, and reflective of Ghanaian consumer

interests. If the same service is priced more affordably in other African markets, yet sold at a premium in Ghana, then the NCA is legally justified, indeed compelled, to intervene to correct this imbalance in line with its statutory mandate.

### **Electronic Communications Act, 2008 (Act 775)**

**Section 13(1) of the Electronic Communications Act, 2008 (Act 775)**, provides the legal basis for the Minister and the NCA to take decisive action against licensed operators where compliance issues or public interest concerns arise.

**Section 13(1)(b)** allows the Authority to suspend or revoke a licence where the licensee has failed to comply materially with a lawful direction of the Authority. In the case of DSTV, the NCA and the Minister of Communications have lawfully directed MultiChoice Ghana to justify why subscription prices in Ghana are significantly higher than in countries like Nigeria and Kenya. However, as of 6th September 2025, the evidence in the public shows that Multichoice has yet to submit the requested data and justification to the NCA and the Minister. Failure to comply with this directive would amount to a material breach of **Section 13(1)(b)**, exposing DSTV to regulatory sanctions, including suspension or revocation of its licence.

**Section 13(1)(e)** goes further by empowering the Authority to act where suspension or revocation is necessary due to national security or in the public interest. Here, “public interest” is the key ground. The significant disparity in pricing undermines Ghanaian consumers’ right to fair treatment and value for money, as guaranteed under **Section 5 of the NCA Act (Act 769)**. By directing DSTV to adjust its pricing, the Minister and the NCA are not merely exercising discretion; they are fulfilling a statutory duty to protect consumer welfare and to maintain public confidence in the communications market.

Taken together, these provisions make it clear that DSTV’s licence to operate in Ghana is not unconditional. It is contingent upon compliance with lawful directions

from the regulator and respect for the public interest. Where a dominant market player like DSTV is seen to exploit its position at the expense of consumers, the Minister and the NCA have both the legal authority and constitutional obligation to intervene, including through the threat, or actual exercise, of licence suspension or revocation.

### **Ghanaian Jurisprudence**

Ghanaian courts have consistently upheld regulatory authority when grounded in statute and constitutional duties. **In Ghana Independent Broadcasters Association (GIBA) vrs Attorney General and Another [2016] GHASC 91 (21 April 2016)**, the Supreme Court upheld the NCA's authority to impose conditions on broadcasters in the public interest. In **MTN/Scancom v National Communication Authority (Commercial High Court, 1 Sept 2020)**, the High Court confirmed that the NCA's tariff and licensing powers extend to operators with significant market dominance. Similarly, in **Attorney-General v Faroe Atlantic Co Ltd [2005-2006] SCGLR 271**, the Supreme Court held that government agencies may lawfully interfere with private contracts where constitutional or statutory duties require it. These cases affirm that Ghanaian courts respect regulatory intervention where consumer protection and public interest are at stake.

### **The Bigger Picture**

DSTV's licence to operate in Ghana is not unconditional. It is contingent on compliance with regulatory directions and respect for consumer welfare. When a dominant market player appears to exploit its position, the State has both the constitutional justification and the statutory mandate to intervene, even to the point of suspending or revoking its licence.

The broader lesson is that consumer protection in Ghana is not just aspirational. It is legally enforceable. The combined force of the Constitution, the NCA Act, and the Electronic Communications Act empowers regulators to step in when private market conduct threatens fairness and public confidence.

## Limitations and Risks

- DSTV may argue that pay-TV is a non-essential service best left to market forces. However, consumer protection and prevention of market abuse apply across all sectors, not only essential services. Still, limits exist.
- First, a regulation that appears arbitrary or excessive could trigger disputes under Ghana's bilateral investment treaties, where foreign investors are protected from unfair or discriminatory treatment.
- Second, heavy-handed price controls may deter future investment by creating perceptions of an unpredictable regulatory environment, undermining Ghana's digital innovation goals.
- Third, DSTV could mount domestic legal challenges, disputing the NCA's mandate or contesting interpretations of "value for money" and "public interest." While courts often uphold regulatory authority, prolonged litigation could delay enforcement.

## Conclusion

The question, therefore, is not whether the Minister and the NCA can regulate DSTV's pricing. The law makes it clear that they can and must. What remains to be seen is whether they will follow through decisively, striking a balance between regulatory enforcement and Ghana's broader digital investment climate. For now, Ghanaians can take some comfort in knowing that both constitutional principles and statutory law are firmly on the side of consumer welfare.