

# Blue Label considers its options in dispute

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Blue Label Telecoms reiterated in a Sens statement on Monday (9 September) that it was considering its legal options in the dispute between former Blue Label subsidiary Africa Prepaid Services Nigeria (APSN) and Telkom as well as Multi-Links Telecommunications Limited, a former wholly-owned subsidiary of Telkom.



This follows a ruling in the North Gauteng High Court last week in favour of Telkom. The court set aside the arbitration process between the fixed-line group and Blue Label Telecoms.

The court also dismissed an application by APSN, which argued that the local court did not have jurisdiction over the lawsuit filed by Telkom against Blue Label, APSN and other parties.

The rulings pave the way for a court hearing regarding Telkom's US\$528.1m lawsuit against Blue Label, APSN and other individuals including a former Telkom executive.

The Telkom claim is based on damages it claims it suffered from the super dealer agreement concluded between APSN and Multi-Links, Telkom's former Nigerian subsidiary.

## Damages claim

Telkom said the damages claim was based on misrepresentations made by Blue Label when the dealer agreement was concluded with Multi-Links. The claim against the former Telkom executive is based on an alleged breach of fiduciary duty owed to Telkom and Multi-Links.

In 2011, Blue Label and APSN launched arbitration proceedings against Multi-Links demanding US\$457m in damages, claiming Multi-Links repudiated its agreement. Multi-Links appointed the Blue Label subsidiary to market its range of products and services in Nigeria, and procure customers, for a 10-year period.

During the court proceedings, Telkom and Multi-Links' legal counsel argued that the arbitration proceedings should be set aside to, among other things, avoid parallel proceedings or duplication given that both APSN and Multi-Links were

participating in the lawsuit, as well as the arbitration. Telkom's counsel argued that setting it aside would avoid the risk of different conclusions being reached in arbitration and the High Court case and would save costs for the parties.

The court set aside the arbitration process with costs. The arbitration proceedings were expected to resume early next year. APSN sought an order declaring that the North Gauteng High Court did not have jurisdiction over it in relation to the lawsuit filed by Telkom and Multi-Links. The judge dismissed this application with costs.

## Considering options

Blue Label told BDLive at the weekend that it was considering the judgment with a view to deciding whether Blue Label and APSN legal counsel appeal the decision. Blue Label and APSN will retain the US\$457m claim against Multi-Links.

"The sole issue now is whether APSN will pursue its claims in the Pretoria High Court and not by way of arbitration," it said.

Last month Blue Label's joint chief executive Mark Levy said the company would not make contingency plans with regard to Telkom's lawsuit as he believed that there was no reason to do so.

Blue Label reiterated last week that it had no intention of making a provision for the claims made by Telkom and Multi-links based on the advice of Blue Label's legal counsel and its auditors.

Blue Label has since exited Nigeria and had no immediate intentions on expanding its business in the continent. Telkom also sold its shares in Multi-Links to HIP Oils Topco.

However, in terms of an indemnity in the sale agreement between Telkom and HIP Oils, Telkom is liable for all amounts in excess of US\$10m in respect of the claim between APSN and Multi-Links.

Telkom's investment in Nigeria has cost it as much as R10bn. It is in the process of reviewing its operations with the intention of selling non-performing and non-core assets. This could result in the group's disposing of its Internet service business iWayAfrica, which operates in several countries on the continent.

Source: BDLive via I-Net Bridge

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