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8 July 2021

Mr. Ralph Mupita
Group President and CEO of MTN Group
South Africa
Email: Zanele.Sodinda@mtn.com

Dear Mr Mupita,

ICJ urges multinational mobile telecommunications company MTN to immediately restore internet access in eSwatini

The ICJ is concerned that the MTN Group has agreed to implement an unlawful request from the Swazi government to disrupt internet access in eSwatini. Largely, peaceful pro-democracy protests have been ongoing in eSwatini since late June and show no signs of abating. Participants have exercised their protected rights to freedom of expression and assembly despite concerted efforts by the government which has employed unlawful and excessive force, violence, and live ammunition to stifle, and suppress these protests. These efforts include a government directive to MTN and other internet service providers (ISPs) to disrupt internet access.

MTN is not obliged to comply with a government internet shutdown order. The right to freedom of expression and to seek, receive and impart information are protected under both the Swazi Constitution and international human rights law. The internet shutdown in eSwatini is stifling freedom of expression, preventing information-sharing, and exacerbating the plight of affected communities by impeding humanitarian and health access during a global pandemic. This drastic measure imposed by MTN is disproportionate and unnecessary to any legitimate purpose. The internet disruption is violating the human rights of Swazis and it is enabling human rights abuses to continue.

We note MTN's progressive [Position on Digital Human Rights](#) as well as MTN's [Approach to Digital Human Rights](#) and emphasise that your action contravenes your own policies. We refer MTN to two foundational frameworks which are the [U.N. Guiding Principles on Business & Human Rights](#) and the [OECD Guidelines for Multinational Entities](#). Both require due diligence on companies in respect of human rights, so a company assesses and knows the impacts its activities have on human rights and takes steps to prevent and mitigate any harmful activity. The

multistakeholder [Global Network Initiative](#) also has a clear set of principles for companies to follow when faced with internet shutdown orders. Internet Service Providers like MTN owe their subscribers a duty of care to provide reliable and accessible internet access. In light of the escalation of human rights violations taking place in eSwatini, MTN needs to be aware that it also has a duty to avoid aiding and abetting criminal activity.

The ICJ calls on MTN to recognise that its actions have a direct impact on human rights in eSwatini and urges it to immediately restore internet access in the country.

The ICJ requests a copy of the directive from the eSwatini authorities which is being used as the basis to disrupt internet access in the country. We also recommend that MTN disclose the order publicly.

The ICJ further requests a detailed explanation of how the MTN Group intends to prevent future internet shutdowns of this nature taking place not only in Eswatini but in other countries where its subsidiaries operate.

Sincerely,



Kaajal Ramjathan-Keogh

Director of Africa Programme