MEDIA LANDSCAPE 2012
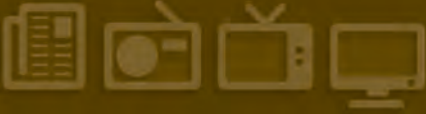
REFLECTIONS ON SOUTH AFRICA'S MEDIA ENVIRONMENT

Post-apartheid South Africa was a time of significant change – with all sectors of society undergoing rapid transformation. Alternative ways of ruling and running the country were being explored, discussed and debated.

The new democratic government's approach was a participatory one –ordinary citizens should be engaged and contribute to discussions and debates that would ultimately feed into the decision making processes that would affect their lives.

For citizens to be better able to participate actively requires that they receive information around a range of issues, from different viewpoints and opinions. The media was seen as having a critical role to play in creating and sharing information, for educating and building knowledge among citizens – and for facilitating public debate.

Newspapers, television broadcasts and digital media could together provide the platform for the sharing of diverse ideas, in different languages and in the written and spoken word, opening up access to a world of information and knowledge needed by citizens to build a democratic country. The government as a regulator and facilitator of change has played an active role in transformation of the media landscape. The culture of secrecy, disinformation, and restrictions on press freedom, a feature of National Party rule, changed almost overnight.

The new democratic government introduced freedom of expression as a constitutional right, a diversity of views was encouraged, an independent press emerged, and a host of laws were enacted that incorporated the principles of universal access, diversity, nation building and education.

Government Communication and Information System (GCIS) has initiated the writing of this annual review of the media landscape to not only consider the changes that have taken place but to contribute towards improving understanding, stimulating discussion and triggering debates that might result in the positive growth of this powerful and critical sector. This book is firstly an educational tool for those entering the media environment. More importantly though the book provides a platform for constructive discussion through reflecting the key issues and presenting viewpoints on a range of relevant topics that have emerged within the media environment.

The book *Media Landscape 2012: Reflections on South Africa's media environment* is for government communicators, media students, politicians, journalists and others who are interested and involved in the media sector. Different writers who work within the media environment have contributed chapters that bring you up-to-date information on developments and dialogues from within this ever-changing and complex environment.

Mr Collins Chabane
Minister in the Presidency
Executive authority of GCIS

Media Landscape 2012: Reflections on South Africa's media environment

CONTENTS

The media landscape is vibrant, dynamic, and ever-changing. The transition in South Africa from apartheid to democracy prompted many radical shifts in this environment. Technology – with Internet and social media platforms – has taken this even further, with a communications revolution that is citizen-driven, instant and increasingly interactive.

All positive change is to be celebrated. Change is never static though, and the media environment is unlikely to stay the same for long.

In South Africa, journalists, media owners, broadcasters, politicians and other key players grapple daily with unresolved issues such as media ownership, control, content, diversity, and language policy. Challenges that emerge are there to be addressed. Discussions, debates and struggles continue to resonate within the news, broadcast, magazine and digital environments, reflecting an industry alive and alert to emerging issues.

A TRANSFORMING MEDIA

Under apartheid, the media was severely restricted, controlled by a myriad laws that made it difficult to publish information on anything political without authorisation. The Publications Act of 1974, for example, gave the then government the power to censor books, movies and plays – effectively deciding what citizens could or could not consume.

National security laws were also a means by which the apartheid government kept information secret and away from public scrutiny. The National Defence Act of 1957 restricted the right of people to publish 'statements, comments or rumours relating to any member or activity of the South African Defence Force' while the Criminal Procedures Act of 1977 made it possible for journalists to be prosecuted if they did not reveal their confidential sources.[1]

The National Party government clampdown on the press was relentless, and became increasingly so as nationally and internationally, apartheid began to be reviled as a political system. In October 1977, the apartheid government arrested, detained and banned Black Consciousness Movement (BCM) aligned activists and 18 organisations involved in anti-apartheid activism. Three newspaper publications – *Pro Veritate*, a Christian publication; The World newspaper; and Weekend World, the paper's weekly magazine, were also shut down because the ruling party felt that the views expressed in them were not in line with its thinking. This one-day crackdown came to be known as 'Black Wednesday'.

In the mid- to late-1980s, a national State of Emergency was declared. This had a significant impact on news media, as journalists found it increasingly difficult to work effectively. They were harassed and restricted from entering townships to report on the unfolding civil and political struggles. With political leaders banned, limitations were placed on who could be interviewed or quoted in emerging stories. TV and radio also remained in state hands and there was little media diversity. In this period, independent alternative media emerged with the Weekly Mail, the Vrye Weekblad, New Nation, New African and others attempting to present an alternative point of view and to continue to build an anti-apartheid and democratic consciousness.

[1.] Quoted in http://themediaonline.co.za/2013/02/scrap-apartheid-era-laws/

Things began to shift in the early 1990s. The National Party was under increasing pressure to change, owing to resistance within the country and opposition elsewhere. In 1990, the African National Congress (ANC), the South African Communist Party (SACP) and the Pan Africanist Congress (PAC) were unbanned and the long process towards a negotiated settlement began. In 1994, the first democratic election ushered in a new period in South African history. This was to affect every aspect of society, and the media environment was no different.

In 1996, the Constitution was introduced as the framework for the young democracy. After the state control of the media during the apartheid era, the democratic government was determined to open up the media to allow for discussion and debate. Freedom of expression was upheld and protected as one of the fundamental rights of all citizens.

With this freedom came freedom of the press and media, the freedom to receive or impart information or ideas, the freedom of artistic creativity, academic freedom and freedom of scientific research, as an intrinsic part of the 'New South Africa'. The view of how the media would operate was visionary – it would reflect the broad views of all South Africans and include a diversity of voices independent of government and outside state control. Press freedom would be limited in cases where war or violence was incited, and when hatred was being advocated against anyone based on race, gender or ethnicity.

While the Constitution provided the framework for change within the media environment, a number of laws were also enacted. These laws (such as the Independent Broadcasting Authority Act 153 of 1993), the Broadcasting Act 4 of 1999, the Independent Communications Authority of South Africa

Act (ICASA Act,) of 2000, the Electronic Communications Act of 2005, and the Media Development and Diversity Agency (MDDA) Act of 2002) were important in that they created an enabling environment in which the public, private and community media could operate.

This has had a profound influence on the transformation of the media in South Africa which has been seen especially in the broadcast and community media environment. In the fact sheet *'A short history of broadcasting'*, broadcast laws from the early 1990s are summarised and their influence explored. The government from the outset established the principles relating to media that included issues of universal access, diversity, nation building and education. Then Independent Broadcast Authority (IBA), a regulator operating within a public interest framework was established through the Independent Broadcasting Authority Act of 1993. Later, with the amalgamation of the IBA and the South African Telecommunications Regulatory Authority (SATRA) in line with the convergence of technologies, the Independent Communications Authority of South Africa (Icasa) emerged as the independent regulator, free from party political control and responsible for the issuing of broadcasting licenses for commercial, public and community media. In broadcasting, through the licensing of these free-to-air channels, subscription services, and 218 community radio stations, media players previously excluded from the industry begin to emerge and a diversity of voices starts to be heard on the airwaves. Access to radio and TV stations by the majority of South African citizens is also made possible.

The South African Broadcasting Corporation (SABC) has also been deeply affected by the democratic transition. The history of the corporation is one in which radio and TV services were used as a propaganda tool for the National Party to promote the

apartheid agenda. The democratic Constitution and additional legislation reversed this and the SABC has since been transformed from a state to a public broadcaster. The SABC was restructured to better serve and reflect the interests of all South African citizens – and a broader range of programmes and languages is now heard on TV and radio.

In the print media environment, although some shifts in the landscape have been seen, there are still a number of challenges. Newspapers and journalists have been given a greater degree of freedom to publish stories that at times are heavily critical of the government of the day – a situation seldom seen in the heyday of apartheid. A few new titles such as the *Daily Sun* and *Isolezwe* have appeared on the market, reflecting just how much the environment has indeed changed in terms of audiences targeted and audiences born..

One of the key concerns, however (and a hangover of the apartheid past), relates to the traditional ownership structures of the print media where four major companies dominate: Media24, Times Media, Caxton and the Independent Group. Increasingly, these and other media entities have also expanded into the broadcast and digital media space.

The setting up of the Print and Digital Transformation Task Team (PDMTTT) to assist the industry to develop a common vision and strategy for transformation has been welcomed. The PDMTTT was set up in 2012 in response to calls within broader society and Parliament for the need for transformation of the industry. Public hearings were planned and issues that were to be deliberated on included: ownership; management; control and employment equity; skills development; preferential procurement; socio-economic development and enterprise development.

Some smaller commercial entities who attended the public hearings of the PDMTTT in the first quarter of 2013 indicated that they have found the barriers to entry in the print media environment so stringent that they are unable to sustain their businesses. This is discussed extensively in *'Competition Commission cases in the media: Print media'*. This chapter focuses on anti-competitive behavior in the print media environment and barriers to entry such as ownership concentration, creeping acquisition and access to print. In 'A case for community media', the government's recognition of the need for transformation in the industry resulted in the setting up of the Media Development and Diversity Agency (MDDA). MDDA was to drive growth in the community media sector across a range of media platforms. The idea was that the MDDA would work to create an enabling environment for community media, to provide funds, and to introduce diverse voices so as to ensure that the voice of those previously excluded is heard.

There have been a number of successes in the community media environment although there are newly-emerging challenges ranging from skills and capacity in the sector, to access to advertising, to support for financial sustainability. The government has demonstrated its support through advocating for the growth of the sector and placing adverts in a variety of community media.

In the chapter *'Why the South African government needs its own media'* the question as to whether there is diversity and plurality within our media space is also tackled. The author suggests that the commercial print media is driven by the profit motive and is structured in such a way that it simply cannot play an effective role in facilitating government's engagement with citizens. As the public sector has a lot of messages to get out to citizens, and

because this is not satisfactorily done by commercially oriented media for whom the dissemination of information as a public service is not an imperative, an argument is made that government needs to look at producing and expanding its own media – something that it has started to do.

The print media has more recently also come under scrutiny from the ruling party, the African National Congress (ANC) because of what is perceived as its poor and inaccurate reporting. In 2011, the ANC suggested that a media appeals tribunal reporting to Parliament be established to oversee the press. This was met with strong resistance from those wanting to maintain self- regulation of the press. The Press Freedom Commission (PFC) was established to debate these and other issues of concern and to suggest a regulatory system and a press code that could address these.

In *'The South African regulatory regime in print, broadcasting and online',* the author considers media regulation. While the chapter is informative and deals with the regulatory authorities and codes that control the different media, the debate on self-regulation of the print environment presents as an underlying theme. The Press Council retains the view that state involvement of any kind in regulation is incompatible with media freedom – a core constitutional right. However, at its Mangaung conference of December 2012, the ANC resolved that Parliament should continue to conduct an inquiry into the feasibility of a media appeals tribunal. *In Media accountability mechanisms: self-regulation, independent and statutory regulation* a case is made for independent statutory regulation to encourage professionalism in journalism and to strengthen democracy. How the press will finally be regulated will obviously be part of a continuing debate in 2013 and years to come.

Another issue fiercely contested in 2012 and likely to be picked up in 2013 relates to what constitutes freedom of expression. The Protection of Information Bill was first introduced in 2010 and has been the subject of ongoing hearings and debates within and between government and civil society. Government introduced the draft legislation with the aim of regulating the classification, protection and dissemination of state information. While government has reiterated its approach as part of a robust public discussion, civil society organisations and media representatives have argued that this Bill limits the right to freedom of expression as it gives wide powers to the state to classify information, and that whistleblowers are not afforded enough protection if they are in possession of, or publish, classified information they perceive to be in the public interest.

In April 2013, this bill was finally passed by the National Assembly and while many are in agreement that the final form is an improvement on the initial version, civil society and opposition parties have still a number of concerns. Due to the ongoing discussions, debates and revisions that the bill has been through, it has been difficult to include this as a chapter in this review but it is likely to be a topic in a future edition.

Freedom of expression (and the rights that flow from it) is critical if a democracy is to grow and flourish yet many countries throughout the world are reporting a decline in these rights. *'Freedom of expression: International and regional commitments and Africa's response'* explores the charters, protocols and covenants that have been signed by South Africa and other African countries. Although many countries are committed to the principles of freedom of expression, their practice lags far behind, and in some instances initial gains have been reversed. The African Com-

mission on Human and People's rights was set up to oversee progress on the promotion of human and people's rights and to ensure their protection in Africa. The Commission has an important role to play, not only in ensuring that countries uphold all freedoms that affect human rights, but also, and more specifically, that freedom of expression is not eroded, as it is the key to democracy.

Innovations in information and communication technology are driving change and have started to have a major impact on how people access, interact and receive information from the media. News stories, opinion pieces, ideas, images, and photographs are now easily available on a range of platforms – from the TV in our lounges, through to the tablets and mobile phones that we carry around. The Internet and social media platforms such as Twitter and Facebook give instant and immediate access to news and information, with this interaction happening in a much more equal way as more and more people own at least one or more of these technologies. In light of these advances, freedom of expression and access to information is becoming more real, and the unfolding debates about freedom of expression will have to take these technologies into account. In *We, the Tweeple'*, government is urged to begin engaging with citizens in this real-time environment.

While allowing more citizen interaction is positive in a democratic society, the technology is also resulting in the decline in print media specifically. With the rise of the Internet, newspapers nationally and internationally have also been faced with a declining readership and much time has been dedicated to ensuring that circulation figures are stabilised. In South Africa, while this is happening to a degree, limited broadband has hamstrung the full impact. In *'Connecting Africa: Internet and the role of the media'* these issues

are discussed and a strong case is made for the media industry to 'adapt or die'.

Government has also been forced to respond to technological changes, and where convergence of technologies has had an impact on the broadcasting and telecommunications environment, laws have been repealed or enacted. The Broadcasting Digital Migration Project that outlines the process of migrating the country's broadcasting from analogue to digital platforms has been discussed and debated.. More recently, the Department of Communications has also called for a full policy review of the communications environment with a view to putting in place a national integrated Information and Communication Technology (ICT) policy. This will be something to look forward to in 2013.

CONCLUSION

It is clear that there have been, and will continue to be, major changes in the media environment. Within this space, journalists, academics, media industry players, politicians and ordinary South Africans discuss, debate and deliver opinions on how they see the fourth estate unfolding. While gains are celebrated, serious problems remain or are emerging, as the newly democratic South Africa begins to evolve.

This book is a collection of views on the post-1994 media landscape and serves as a snapshot of the developments and debates that define the sector. This is by no means a comprehensive look at the media environment and does not claim to encompass or capture all the discussions that are taking place. Rather, it is the first in an annual review and other issues are likely to be picked up and explored in subsequent editions.
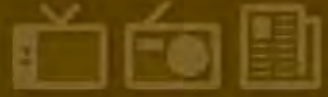
In *Media Landscape 2013: Reflections on South Africa's media environment*, the authors explore technological innovations and the impact these have had on the media; look at how competition is being addressed; analyse why there is a need for government-owned and community media; introduce South Africa's media currencies and outline the regulatory environment. All chapters reflect the radical changes that have taken place and give the reader a glimpse into current issues within the media landscape. Fact sheets on broadcasting, foreign media presence in South Africa and international and regional protocols relating to freedom of expression provide important information and an overview of different aspects of the media environment.

CHAPTER 1: CONNECTING AFRICA: INTERNET AND THE ROLE OF THE MEDIA
by Koos Bekker

The Internet has revolutionised the way in which content and information are exchanged. The media has been particularly affected – and there is a pressing need for the newspaper industry to adapt to this new technology – or die. We have already seen a decline in newspaper circulation. In South Africa this has not yet reached a peak as broadband penetration is poor and access to Internet limited. This is likely to change in the next few years as the challenges of broadband penetration are addressed and more mobile and smartphone technology becomes accessible to the general population. Once this happens, the way of the world and of doing business, including within a media en-

vironment, will be markedly transformed. As information increasingly becomes the driving force of human development and economic growth, South Africa will need to make the transition to the new world – there is simply no other option.

CHAPTER 2: WE, THE TWEEPLE
by Gus Silber

The social media revolution is changing the way journalists source, distribute and publish the news. In this fast-changing media landscape, there are greater opportunities than ever for government to join the conversation and engage with citizens. Twitter as a social media platform is explained and explored – and government is encouraged to use this medium to tell its stories, to engage with citizens and to share its views. Social media cannot be wished away. It is a necessity for all cabinet ministers, premiers, MECs, and government communicators to use these social networks to make their voices heard!

CHAPTER 3: WHY SOUTH AFRICA NEEDS GOVERNMENT OWNED MEDIA: A PRINT MEDIA FOCUS
by Vusi Mona

Communication and information-sharing is a key function of government. Government departments are constantly generating information when formulating policy, developing programmes and implementing projects. The question the chapter raises is how effectively the commercial media, particularly print, can communicate and disseminate government information. Commercial media is a business, is driven by a profit motive, and must maintain

circulation figures and appeal to advertisers – all of which places limitations on what they communicate and to whom. The limitations faced by the commercial print media system are introduced and an argument is presented as to why government needs to publish its own media. Examples of where this is already being done, nationally and internationally, are also included.

CHAPTER 4: A CASE FOR COMMUNITY MEDIA
by Nkopane Maphiri

Community media has been around since before 1994, when it acted as an alternative press responsible for building an anti-apartheid consciousness. After 1994, the government supported this sector so as to create diversity in the media and to encourage ownership, control and access by historically disadvantaged communities. This was done through creating an enabling environment, setting up support organisations and providing limited funding to community newspapers, radio and TV through the Media Development and Diversity Agency (MDDA). There has been growth in the sector with over 218 community radio stations and approximately 30 community and small commercial newspapers available. The sector has not been without its challenges though. These relate to issues of continued ownership of the print media by four major companies, which creates barriers to entry for small commercial publications. In addition, limited resources for community media have affected the sustainability of the sector. All these issues are discussed – and a case made for why community media should exist and what is being done and needs to be done in order to ensure that this sector survives.

CHAPTER 5: COMPETITION COMMISSION CASES IN THE MEDIA: PRINT MEDIA
by Tamara Paremoer

The print media industry in this country is dominated by four main players:– Media24, Times Media Group (previously Avusa), Caxton and Independent Newspapers. Control of the newspaper publishing process – from content generation through to printing and distribution – is mainly concentrated in the hands of these four giants. Smaller independent newspaper publishers wishing to enter this market have come up against a number of barriers to entry, barriers which include factors such as ownership concentration, creeping acquisition, predatory prices and limited access to printing, publishing and distribution channels.

The Competition Commission, responsible for investigating anti-competitive behavior and regulating mergers in South Africa, has seen a considerable increase in the number of competition cases in the print media sector. Potential anti-competitive behavior that exists in this industry is explored and the effect that this has on the ability of new entrants to grow and develop into sustainable businesses and effective competitors is considered.

CHAPTER 6: SOUTH AFRICA'S MEDIA CURRENCIES: SHAPING THE UNDERSTANDING OF THE LOCAL MEDIA ENVIRONMENT
by Megan Chronis

South Africa has a vibrant and diverse media environment in which people have a range of choices about where they get their information, entertainment or education. Different TV and

radio stations, newspaper and magazine titles, digital and online media sites, all jostle to attract valuable consumers. For marketers, this provides myriad opportunities to reach out and make a connection with these target markets.

Media audience researchers are responsible for providing data that quantifies opportunities for the media, marketing and advertising industries who might wish to buy and sell media space and time. The data that they gather is important in that it gives the industry some idea of how many people are engaging with the media and what they are reading, watching and listening to – and how they can use it to make business decisions such as where to advertise and what media is bringing the biggest returns.

Within a media environment, there are many different surveys that are carried out. Some surveys have become accepted by the industry as being an official information source or currency for the industry. The All Media and Products Survey (AMPS), the Radio Audience Measurement Survey (RAMS) and the Television Audience Measurement Survey (TAMS) are all accepted media audience currencies. What these focus on, and how they are conducted, are explained in detail in the chapter.

CHAPTER 7: THE SOUTH AFRICAN REGULATORY REGIME IN PRINT, BROADCASTING AND ONLINE
by Joe Thloloe

The media in South Africa – print, broadcast and online – are regulated, first by the Constitution of the country, and then by the codes that they have voluntarily drawn up to regulate themselves. Different codes exist for the different media platforms – but there are many similarities, particularly relating to news and the reporting of news. The regulatory environment in respect of the different media platforms is considered in this chapter, and the codes, institutions, structures and complaints procedures are presented. What is argued is that self-regulation by the media in South Africa is in line with best practice internationally, and freedom of expression is maintained precisely because of self rather than statutory regulation.

CHAPTER 8: MEDIA ACCOUNTABILITY MECHANISMS: SELF-REGULATION, INDEPENDENT AND STATUTORY REGULATION
by Lumko Mtimde

In the past year there has been intense debate on how best to regulate the print media to ensure accountability, professionalism and to avoid irresponsible reporting that impacts negatively on human dignity and the right to privacy.

The Press Freedom Commission (PFC) set up by Print Media South Africa (PMSA) and the South African National Editors Forum (Sanef) have argued strongly for a system of independent co-regulation that is independent of government and made up primarily of citizens outside the media environment. Independent statutory regulation is suggested as another mechanism that could help to strengthen and complement the self-regulatory system. An independent statutory regulator - independent from industry, affected parties, government, commercial and political interference but recognised in law is suggested as a body that could ensure ethical and professional journalism within a print media envi-

ronment. As South Africa continues to review accountability mechanisms including regulatory frameworks and systems, best practice that will contribute to good journalism, an informed society and the deepening of democracy will need to be considered and agreed.

FACT SHEET 1: FREEDOM OF EXPRESSION: INTERNATIONAL AND REGIONAL COMMITMENTS AND AFRICA'S RESPONSE

Freedom of expression is recognised as key for democracy to flourish and is written into many country constitutions as an inalienable right. In Africa, all countries have signed the African Charter on Human and People's Rights that gives the people the right to receive information and to express their views. For some this Charter did not go far enough in protecting the right to freedom of expression, and other declarations such as the Declaration of Principles on Freedom of Expression in Africa, and the Windhoek Declaration, were adopted. Despite the in-principle support for freedom of expression, many problems remain on the African continent. Progress has been made within some countries but in others journalists are still harassed, and media reporting is clamped down on. The right to freedom of expression as a site of struggle is explored in this fact sheet, which reports on successes and challenges.

FACT SHEET 2: A SHORT HISTORY OF BROADCASTING

Broadcasting during apartheid was used to propagate the views of the National Party. Since the democratic transition there have been fundamental changes. An independent authority, the Independent Communications

Authority of South Africa (Icasa), outside of party political control has been introduced through the ICASA Act of 2002. This authority now regulates the public, private and community broadcasting sphere and issues licenses to broadcasters. Other laws, such as the Broadcasting Act of 1999 and the Electronic Communications Act of 2005, reflect government policy on universality, diversity and ownership – and the increasing convergence of telecommunications and broadcasting technologies is recognised. The broadcasting environment has grown substantially, and there are many more people than before accessing both public and private radio and TV. The changes within broadcasting are reflected upon.

FACT SHEET 3: FOREIGN MEDIA PRESENCE IN SOUTH AFRICA

The foreign media presence in South Africa grew after 1994, and many organisations have now established offices in the country. This fact sheet provides the contact details of some of them.

CONNECTING AFRICA: INTERNET AND THE ROLE OF THE MEDIA

BY KOOS BEKKER

Koos Bekker

Koos Bekker is chief executive of the leading emerging markets media group Naspers. The company operates in 130 countries and is listed on the London and Johannesburg stock exchanges. The Naspers Group has holdings in various e-commerce groups in Eastern Europe, Latin America, Africa and Asia; pay television in 48 countries across the African continent; plus technology, consumer magazines, newspapers and book publishing.

Koos obtained degrees in law and in literature at the University of Stellenbosch, and completed an LLB degree at the University of the Witwatersrand. In the 1980s he read for an MBA degree at Columbia University in New York, where he researched pay television. Immediately after graduation, Koos and a few young colleagues created M-Net, one of the first two pay television ventures anywhere outside the USA. Koos is a past winner of the South African chapter of the Ernst & Young World Entrepreneur Award. He also received the Protea Award of the South African Society of Marketers and the Sunday Times Lifetime Achievement Award. He sat on the Local Organising Committee for the 2010 Fifa Soccer World Cup and was awarded an honorary doctorate in commerce by the University of Stellenbosch.

INTRODUCTION

What do we actually mean by the term 'media'? The term should refer not only to the content that is communicated but also to the distribution technologies used to disseminate the content.

Distribution technologies currently include print, radio, television and the Internet. Importantly, when a new distribution technology comes onto the market it does not necessarily replace its predecessor – distribution technologies can, and do, exist side by side. New distribution technologies bring innovation, provide quicker ways of receiving and publishing content, and can disrupt the traditional way that business is done. The Internet is a good example of this. Ignore it at your peril.

Our business, Naspers, operates on the traditional technologies of print and satellite television, and on one new media distribution technology: the Internet. The Internet has revolutionised the way in which content or information is exchanged, and has forever changed the face of media. Any business built on a traditional media technology will have to embrace and adapt to the Internet – or die.

Countries also need to embrace new media such as the Internet, those that do will prosper whereas those that do not will fall behind. South Africa is falling behind its peers because the Internet has been welcomed in word only and not in deed. We have not sufficiently invested in broadband infrastructure, and even where this infrastructure exists the cost of access is too high. Secondly, we have a poor regulatory system and have not effectively managed the development of, and access to, broadband Internet. As a country, we have to tackle these challenges if we are to take advantage of the potential this new medium offers.

Naspers recognised the need to adapt. It has long ceased to be a traditional 'media' company, and is likely in the next ten years to become an e-commerce company. However, the process of adaptation is painful and this pain is most starkly evident within the print media environment.

PRINT

The history of written communication can be traced back as far as 3100 BC to the Sumerian people who left the earliest evidence of a form of pictographic writing. The Egyptians improved on this form of writing and developed a full phonetic system of writing (known as hieroglyphics) shortly after 3000 BC. The first printed books date back to China in AD 868 but low rates of literacy and the high cost of paper meant that printing never developed into a mass medium in China.[1] It was only in 1440, when Johannes Gutenberg invented the mechanised printing press in Mainz, Germany, that books began to be printed for mass distribution. Gutenberg's innovation was to manufacture printing presses for anybody to buy and use.[2] He introduced a new technology. The printing press made a huge impact on society. For the first time, information could be spread quickly and accurately (for instance, printing allowed scientists working on the same problem to share their results accurately with other scientists) which contributed to the Enlightenment (or Age of Reason) in seventeenth-century Europe which radically altered how humans

[1.] http://www.martinfrost.ws/htmlfiles/aug2008/massmedia.html
[2.] http://www.ideafinder.com/history/inventions/printpress.htm;http://www.historyguide.org/intellect/press.html

perceived the universe. Speed and mass dissemination also made it hard for the church and state to control or censor what was being written.[3]

Print media continued to evolve and adapt, taking advantage of a number of nineteenth-century inventions such as steam power (which enabled mass production), the invention of the telegraph (which ensured that newspapers were supplied with news from all over the world) and the invention of photography and colour printing (which made the medium even more attractive to consumers).[4] Print became more than merely news – you could shop from the classifieds, share joys and tragedies in the birth and death announcements, or meet new people through the personals.

The success of the print media, in particular newspapers and magazines, was not only based on the circulation to millions of readers but was also due to advertising revenue. The first advertisements were for prayer books,[5] but the market grew rapidly to include consumer products and services. The print media market became a two-sided market, serving the reader and the advertiser. This two-sided market structure has been a feature of every mass media market since then.[6]

Radio, and later television, emerged as other forms of mass media. They were faster than newspapers at breaking news and took some advertising away from print, although they did not touch the revenue streams from classified advertising, so these media technologies were able to co-exist.

The Internet, however, is different. This new technology is undermining the advertising revenue on which print depends. As social media, mobile and multiscreen media enter the mainstream, allowing for reading and interacting with content, advertisers have shifted revenue spending to these digital technologies. This is fairly evident when one looks at recent figures for the share of advertising expenditure by medium in the United Kingdom, a country with high Internet and broadband penetration. Internet advertising now accounts for 36 per cent compared to newspapers at 19 per cent and magazines at 6 per cent.[7] The Internet has become more efficient at doing what was previously the domain of the print media and, as broadband penetration expands, print media will inevitably decline.

In the United States, print media has been declining since the beginning of the twenty-first century. The graph opposite is based upon the annual revenues of 2000 news organisations and shows clearly how dramatic that decline has been.[8]

3. http://www.flowofhistory.com/units/west/11/FC74
4. http://teacher.scholastic.com/scholasticnews/indepth/upfront/grolier/mass_media.htm; Saurin, S. 2012 'History and Future of Print Media and Its Impact on the Society' in Journal of Advances in Developmental Research. Vol 3, No. 1, June 2012 (www.journal-advances-developmental-research.com)
5. http://mashable.com/2011/12/26/history-advertising/
6. http://hbr.org/2006/10/strategies-for-two-sided-markets/ar/1
7. Zenith Optimedia Forecasts, December 2012; This trend of advertising expenditure growth for the Internet is of concern for broadcasting as well. TV advertising stands at 27 per cent.
8. http://www.theverge.com/2012/3/20/2886806/the-decline-of-print-visualized-us-ad-sales

Print Newspaper Advertising Revenue Adjusted for Inflation, 1950 to 2011

Millions of 2011 Dollars

Source: Newspaper Association of America   mjperry.blogspot.com
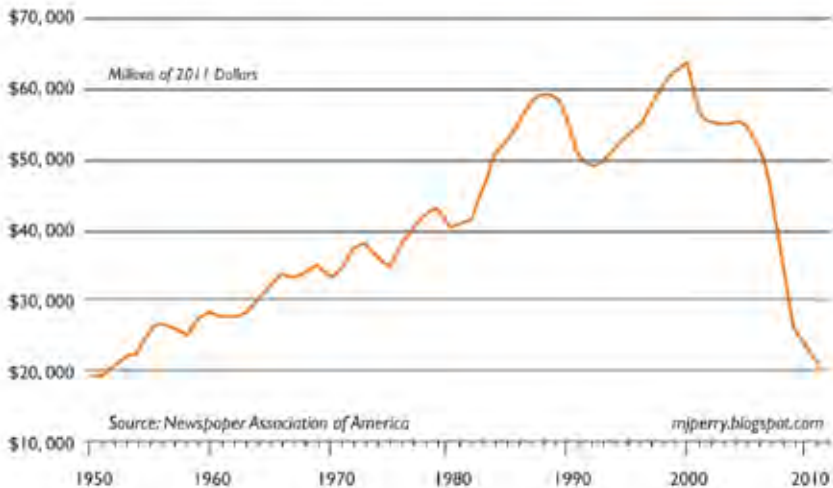
Source: Perry, M. 2012. "Newspaper Ad Revenues fall to 60 YR. low in 2011" mjperry.blogspot.com [9]

Newspapers have initiated various strategies to halt the decline in circulation and advertising revenue, foremost among them the creation of a digital presence on the Internet. Digital content is either made available for free or 'paywalls' are created around premium content.

> A paywall is a system that prevents internet users from accessing certain web pages unless they have subscribed. Newspapers have been introducing paywalls on their websites to raise revenue which has been diminishing through declining print subscriptions and advertising revenue.

With some notable exceptions, paywalls have generally not been successful, as news can be sourced from other sites – for instance, digital-only newspapers such as the Huffington Post. Online newspapers that are free also tend to cannibalise their own print newspaper subscriptions and classified advertising. Moreover, revenues from digital advertising are not coming close to replacing the advertising revenues lost in the traditional print business. It is estimated that for every dollar gained in digital advertising, seven dollars are lost in print.[10]

The graph overleaf shows that in the US in 2012, print advertising revenue was less than half of what it was in 2006, and that these print losses far exceeded the gains made in online revenues.[11] The decline and economic recession has also led to a new trend in the US. Newspapers are closing print editions and going online. It was therefore not surprising to see Newsweek, founded in 1933, buckle under and announce that from the end of 2012, it would end its print edition and become a digital offering only.[12]

9. http://mjperry.blogspot.com/2012/02/newspaper-ad-revenues-fall-to-50-year.html
10. http://www.journalism.org/analysis_report/search_new_business_model
11. http://stateofthemedia.org/2012/newspapers-building-digital-revenues-proves-painfully-slow/newspapers-by-the-numbers/
12. http://mediadecoder.blogs.nytimes.com/2012/10/18/newsweek-will-cease-print-publication-at-end-of-year/

Print Advertising Revenue Falls, Online Grows

In Millions of Dollars
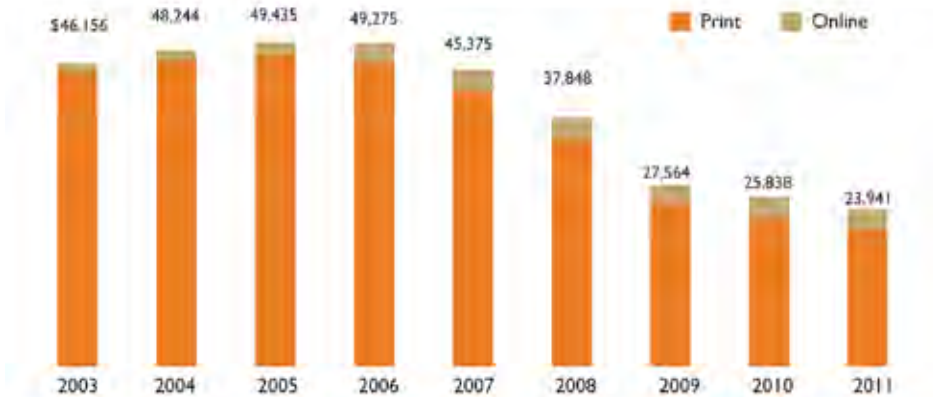
Source: Edmonds, R; Guskin, E; Rosenstiel, T and Mitchell, A. 2012 "Newspapers by the Numbers" in The State of the News Media 2012 Annual Report on American Journalism. http://stateofthemedia.org

This situation is predicted to worsen. Advertising revenue generally correlates with the amount of time and attention spent in producing any form of media. The graphic below illustrates that print media is still getting a disproportionate share of the pie:[14]

Things Could Get Worse for U.S. Print Media
Share of time spent with media per day vs. share of U.S. ad spending in 2012
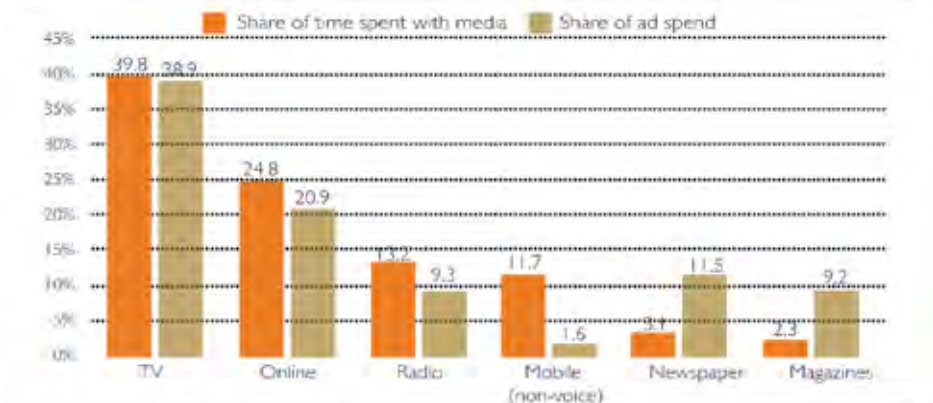
Source: Richter, F. 2012. "Things could get worse for U.S. Print Media" http://www.statista.com[15]

13. http://stateofthemedia.org/2012/newspapers-building-digital-revenues-proves-painfully-slow/newspapers-by-the-numbers/
14. http://www.statista.com/topics/979/advertising-in-the-us/chart/682/share-of-the-media-time-vs-share-of-total-ad-spend/
15. http://www.statista.com/topics/979/advertising-in-the-us/chart/682/share-of-the-media-time-vs-share-of-total-ad-spend/

This trend away from print towards online media is not reserved for newspapers. For example, after 244 years the *Encyclopedia Britannica* is going out of print and will in future only be available online.[16] No doubt this decision was motivated in large part by the realities of competition from the Internet. Websites such as Wikipedia have none of the overheads, can be updated far more quickly, and have a much more user-friendly environment for access and searches.

Some print formats are also becoming obsolete. Before the Internet and smartphones, the Yellow Pages and White Pages were used to get a telephone number or find a plumber. Today, an Internet search does that for us, far more quickly and effectively. While these formats previously provided a useful service, it is no longer really necessary to produce them in print form.[17]

PRINT MEDIA TRENDS IN SOUTH AFRICA

Print media trends in first world economies are mirrored in South Africa a few years later. The graphs below illustrate the point:[18]

SA newspaper performance
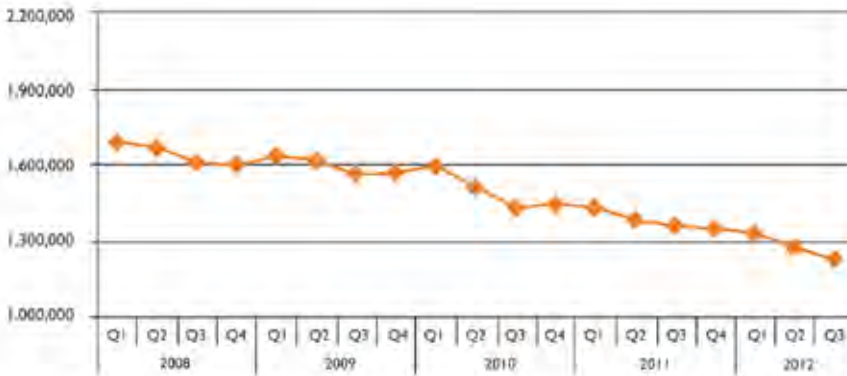
Circulation has declined annually by 5.75% since 2008

16. http://mediadecoder.blogs.nytimes.com/2012/03/13/after-244-years-encyclopaedia-britannica-stops-the-presses/
17. http://communities-dominate.blogs.com/brands/2012/06/the-future-of-print-is-digital-but-no-i-dont-mean-ipads-or-smartphones-i-mean-traditional-printed-pa.html
18. http://www.abc.org.za/Notices.aspx/Details/26

SA magazines performance

Magazines down 0.2% qoq
Consumer magazines down 3.7% qoq
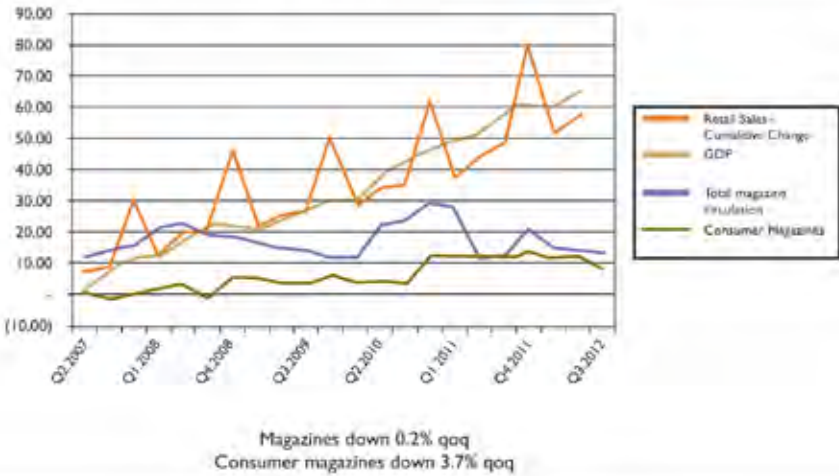
Source: Audit Bureau of Circulation of South Africa, Report 69.0, 3rd Quarter, 14 November 2012.[19]

South Africa has low broadband penetration. As a result, when it is compared to countries with high Internet and broadband penetration, there is not the same level of competition between print and digital alternatives. This will, however, change in the next five years as broadband, tablets and smartphones become more available to the population in general.[20] The steady erosion of advertising and circulation revenue will eventually result in a tipping point at which the print media[21] industry will have to re-scale into a niche form of media. Unlike electronic media, print media does not scale linearly[22] because of fixed high input costs for printing and distribution.

Print, in its current form, is not sustainable – and therein lies the pain. The print business has two forces working against it. One is cyclical: in a recession companies cut advertising before they cut any other cost, and newspapers deriving more than 50 per cent of their revenue from advertising are always going to be quite susceptible to the pace of the economy. In a boom, newspapers boom, but in a recession they suffer. The same is true for magazines.

The second force is the Internet. Many people over 40 prefer good old-fashioned paper. There is nothing as nice as sitting in London with a thick *Financial Times* on a Saturday morning, reading an article, ripping it out and writing a note to a colleague in the margins – but that's because most people over 40 grew up that way. Now, in cities like Hong Kong and New York, young people do not read newspapers. They get their news from twitter feeds; they read it on a blog; they read news sites; they read the *Huffington Post* – but they don't read newspapers. We have to adapt to this reality. In the future, media companies will need to ensure that newspapers remain at break-even point and do not make losses. This will

[19]. http://www.abc.org.za/Notices.aspx/Details/26
[20]. PricewaterhouseCoopers. September 2012. South African Entertainment and Media Outlook 2012-216. 3rd Annual edition. PwC: Johannesburg. p.160.
[21]. http://www.nytimes.com/2012/08/13/business/media/wondering-how-far-magazines-must-fall.html?_r=0
[22]. Print is an industrial operation and therefore the operational and capital costs do not scale in proportion to production.

require some painful cost-cutting. At the same time they need to grow their electronic services as fast as possible. The media industry is likely to become leaner, and to be based on a hybrid business model rather than one in which a product is printed and made available for sale at a newsstand or bookshop.

There is a great demand in the digital era for news and information. People or organisations that are trained to gather news and to distribute it in a variety of formats to different audiences over different distribution technologies will find a place in the new Internet world. Print media as we commonly understand it will no longer be defined by paper, but by the format and delivery of its content which for the most part will be electronic.

TRADITIONAL BROADCASTING

Radio, print and television have co-existed for years, the new distribution technology initially disrupting the other (does anyone remember the soapies on Springbok radio before the advent of TV?) and then both settling into some form of market accommodation with each playing to its own strengths. This was possible because each new technology was never a complete substitute for its predecessor. The Internet does not seem to be a team player, it is highly disruptive, not at all accommodating, and may in future be a substitute for all of these content distribution technologies.

While the pains felt by the print media industry have been stark and immediate, pay TV operators have done a better job of seeing the threat posed by the Internet. Print is being hit by a tsunami, but traditional broadcasters

are trying to ride the wave and have started a process of adaptation. The reason may be that TV has traditionally been (and was capable of being) a multi-technology product – available via satellite, cable or terrestrial.

TV has also continued to move onto new technologies such as fibre networks that use Internet Protocol ('Internet Protocol TV' refers to a closed, fixed geographically limited network) as they developed. However, this organic growth was almost always in respect of linear channel content with video-on-demand bringing up the rear.

> Linear channel content is when a viewer has to watch a programme at a particular time that it is offered and on the channel that it is offered. Video-on-demand is the opposite of this.

By comparison, Internet TV is mostly non-linear and very demand driven. For the first time, TV is faced with a new technology that threatens to disrupt its basic business model: offering bouquets of channels for a fee. This is happening at a time when certain TV technologies such as satellite are maturing. Traditional broadcasters will have to adapt to the changes and respond to the threats if they are to survive.

FACTORS AFFECTING THE TRANSITION TO THE INTERNET

There are several factors which will weigh in on whether traditional broadcasters will make the successful transition to what will inevitably become the dominant content technology. The four most critical – regulation, cost of distribution, devices and the way content

is consumed – are explored below, and the stark contrast between traditional broadcasting and the Internet are highlighted.

REGULATION

Since its inception, broadcasting has been heavily regulated. In order to launch a broadcasting service, you need to be licensed – a fairly lengthy process. Generally, a limited number of applicants are licensed and the licence is limited to a specific country. Once it is licensed, the content offered on the service is also regulated: what you can broadcast, what time of day you can broadcast, and how much advertising you can include, is specified. The licence also comes with expensive annual fees and compliance obligations.

The Internet stands in stark contrast to this lumbering traditional system. First, it is lightly regulated because it does not use frequency spectrum, you don't need a broadcasting licence and the service does not need to be geographically confined to a specific country. In the not too distant future, South Africans will be able to access services from operators across the globe. Competition to pay-TV from the Internet is coming thick and fast. There are some big hitters in this space – huge multinational companies such as Netflix, Amazon, Apple TV and Wal-Mart. Others, like Google, are adopting both linear and non-linear approaches with You Tube videos and Google Play movies. Television shows can be purchased by episode or by series. Some of these services play out on the PC/tablet, some on the TV screen, and others on specialised hybrid devices. There is

a choice of services available for the viewer and you can determine when you want them – there's no such thing as a watershed period.[23] These services are more agile, flexible and not restricted by the limitations of old style regulation.

The National Development Plan (NDP) makes an interesting point: as broadcast and other information communications technologies (ICTs) converge, setting quotas for local content on television and radio may promote local production, but this will also increase broadcasting costs – which will make it difficult for regulated broadcast services to compete against content providers on services such as the Internet.[24]

The same is true for other types of regulation imposed on traditional broadcasting, which will have to be minimal if it is to avoid becoming a barrier for traditional broadcasters competing with those offering TV content over the Internet. Regulation introduces costs, not just in terms of money, but also of time. Let's look at one small example: the authorisation of channels. For licensed broadcasting, every channel must be authorised before it can be broadcast, a process that can take months. On the Internet, a channel can be launched immediately. A content service on the Internet will therefore always get to market more quickly.

Regulators are often tempted to remedy this situation by trying to extend regulation to the Internet, but this is not the answer. The Internet is an open, global technology – you can't regulate the Internet in the traditional way unless you employ an army of regulators

23. In television, a watershed is the point in time after which programmes with adult content may be broadcast. It divides the day into the period in which family oriented programming suitable for children may be aired and where programming aimed at, or suitable for, a more adult audience is permitted (though not required). It may also mean the period of time during which programmes with adult content may be broadcast.
24. National Development Plan 2030, National Planning Committee in the Presidency. p 194.

and, even then, they will not be effective. The other alternative is to restrict access to the Internet, which is nonsensical. The solution is to decrease the regulation of traditional technologies and allow them to compete. Light touch regulation will foster innovation. The Internet thrived precisely because it was largely unregulated. We have ample examples of the effects of heavy, intrusive regulation in South Africa. For many years, Telkom was a statutory monopoly. At the time, the rationale was that it needed to be protected in order to roll out universal access. As we now know, this simply didn't work – high costs meant that access to fixed lines did not grow, but instead decreased rapidly. It was the mobile operators who drove real innovation by introducing services like pre-paid and, in this way, they achieved universal access without a regulatory obligation to do so.

THE COST OF DISTRIBUTION

The Internet is an inexpensive distribution technology that is open to all – big and small, producers and content originators. The cost of the distribution network contrasts sharply with that of satellite, which requires billions in investment capital to launch. The Internet has made it possible for almost anyone to make video content available online and almost anyone can create their own Internet radio station or podcast for a small investment and reach a global audience.

Internet sensations provide ample evidence of the global reach of the Internet. A Korean rapper called PSY released a music video 'Gangnam style' in July 2012 and by January 2013 the video had been viewed over 1.23 billion times on You Tube.[25] The Internet turned PSY into an international sensation, interviewed and courted by traditional media – TV could not even dream of reaching that many eyeballs. PSY came second in Google's top ten trending list for 2012 and has been nominated for the Time magazine's Man of the Year. Most people would have watched his video on smartphones. The Internet is a great technology on which to export local content and local products. There is no reason why South Africa can't have its own version of PSY. Local artists such as Die Antwoord have successfully used the Internet to build a global audience.[26]

INTRODUCING NEW DEVICES

The Internet drives intelligent devices, which is why that dumb television in your living room is fast becoming a computer. Can we even call it a TV when TV is simply one of the applications on the device? Connected TVs and Smart TVs are becoming the norm. They are connected to the Internet directly, or through your Wi-Fi in the home. My guess is that the dumb monitor we call a TV will cease to be manufactured in the next few years. Smart TVs come with added extras such as motion sensors and voice activation – yes, you can swipe your TV in the same way you change pages on a tablet (which looks more Wii than a TV). Because it's connected, content can be downloaded, shared or accessed using traditional and non-traditional modes of distribution.

25. http://www.770kob.com/abc_news/article/PSYGangnam_Style_Is_$8M_Blockbuster_Hit_on_YouTube/83956569658311E2B03FFEFDADE6840A/
26. http://www.timeslive.co.za/opinion/columnists/2012/06/26/die-antwoord-know-right-answers-for-success.

HOW CONTENT IS CONSUMED

Research shows that while scheduled broadcast TV is still dominant in households, on-demand viewing of content is increasing. In fact, what people are most prepared to pay for is on-demand TV and video content. At present, though, the biggest barriers to the consumption of on-demand content include not only the cost but also the difficulty experienced by viewers when trying to find the right content – and, finally, not being able to watch it on the main TV screen at home.

But consumer behaviour is shifting away from linear to on-demand viewing. Devices that allow consumers to take a 'shortcut' to more sophisticated behaviour without needing to learn technical skills are enabling this shift. This is an important point. The content has always been available on the Internet, but finding it required time and effort; in addition there was ongoing uncertainty over quality and legality. New Smart TVs and the application environment on entertainment devices such as tablets are making it easier to access on-demand content.[27] The chart below shows just how fast the take-up of connected TVs and other devices has grown.
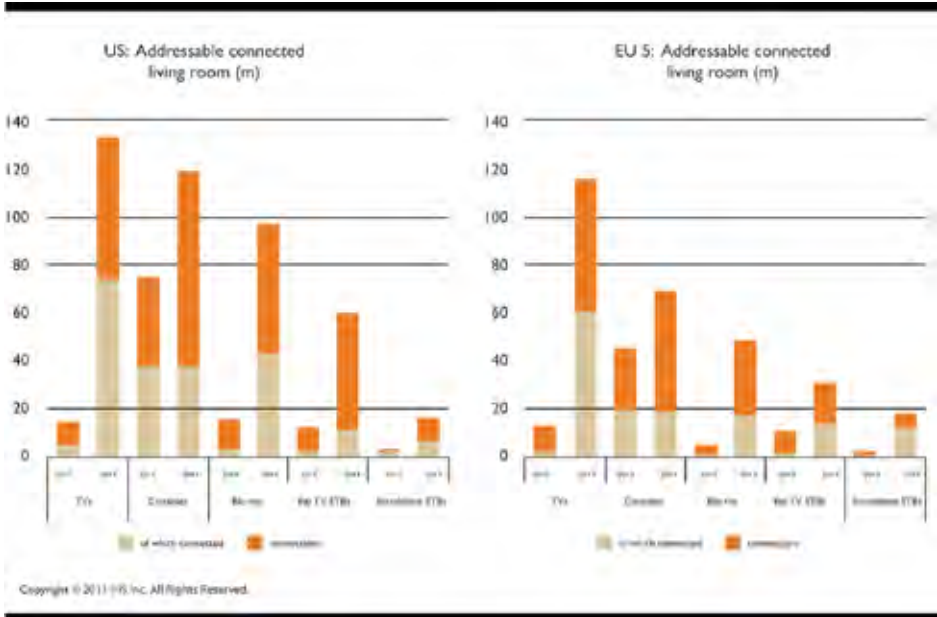
Source: Cryan, D. 2011. The changing landscape of online television. IHS presentation[28]

27. Ericsson Consumer Lab. August 2012. TV and Video – An analysis of evolving consumer habits. Sweden: Ericsson pp 4-6.
28. http://www.screendigest.com/presentations/2011_06_the_changing_landscape_of_online_television/view.html

Over-the-top television services (the term refers to on-demand services offered over the Internet) will increasingly compete with free-to-air and satellite for both TV advertising and subscriptions. When we look at the present rate of growth of these services, and the growth in broadband Internet penetration, it is evident that competition from these services is on our doorstep.

Netflix is a company that offers over-the-top television services, and has been quite aggressive in its home market, the US. The company bid against traditional TV broadcasters to stream Disney movies – and won. Netflix, together with the likes of Apple, Amazon (which bought Love-film in 2011) and Google (which has similar ambitions to Netflix) will compete against traditional TV broadcasters for content rights. The Netflix/Disney deal is a clear statement of intent. Content providers, like Disney, will welcome the deep pockets of these non-traditional broadcasters who can, and will, pay more.[29] Did we mention that the computer in the living room, the connected TV, is the perfect display for streamed content? It should therefore come as no surprise that traditional broadcasters are launching their own Netflix equivalents.

For traditional broadcasters the world has never been more dynamic – or more threatening. You have to be hyper-aware of how consumers use their devices in order to prepare for a world of multiscreen, connected networks. The TV is no longer a favoured device for content. It is easier to simply pull content from the Internet using your mobile phone, tablet, PC or games console.

Competition is no longer like for like (for example, one satellite player competing with another satellite player), but is instead from the new Internet services of e-commerce players: movie studios, sports rights owners, telecom operators and what used to be plain old-fashioned retailers. Traditional broadcasters have to learn to serve a new-look consumer with a variety of content options, distribution technologies and devices from which to choose. This new-look consumer is youthful and mostly accesses content via a mobile phone or tablet; is not loyal to channels but to individual programmes or series; and is not averse to illegally downloading content and sharing it with friends.

INTERNET

The Internet is a technology that allows networked computers to communicate across multiple, linked packet networks.[30] The Internet works because it is based on open standards that allow every network to connect to every other network, and it is this openness that enables people to develop and generate content, share information, sell products, and communicate, without needing permission from any regulatory authority. It has levelled the playing field and created the rich diversity we have today.[31] It is used daily around the world to access news, weather, radio stations, sport clips and video content as well as for chatting, messaging, social networking and e-mailing. It is a technology that allows each individual to interact with the world with almost no constraints.

29. http://www.studiobriefing.net/2012/12/netflix-in-300-million-deal-with-disney/
30. http://www.internetsociety.org/internet/what-internet/history-internet/brief-history-internet-related-networks
31. http://www.internetsociety.org/internet/how-it-works

The Internet continues to evolve. Cloud computing and cloud storage are changing the way people interact with the Internet. Applications now reside on the web and are accessed through the web browser, which means that applications for word processing, accounting, music downloads and so forth exist in the cloud and processing is done in the cloud. The same is true of storage. Rather than saving documents or content on multiple devices, it can be stored once in the cloud and accessed by any connected device.[32]

The speed of data transmission on the Internet will increase dramatically as high speed broadband networks are rolled out. In 2009, the average global data transmission speed was 1.7 megabits per second.[33] The current record for transmission speeds was set at Germany's Karlsruhe Institute of Technology where they successfully transmitted encoded data at a rate of 26 terabits per second on a single laser beam over a distance of 50 kilometres. It is the equivalent of the transmission of 700 DVDs worth of content in a mere second.[34] For media owners this is a frightening prospect. It is clear that, as time passes, the costs of producing ultra high speed broadband will decrease and the average consumer will be able to download a high definition video or stream it, in seconds without any lag. We are also seeing the continued evolution of technologies like Long Term Evolution (LTE), which can provide Internet access wirelessly at speeds that previously could only be achieved through fixed broadband. It is this development that is causing the proliferation of connected devices, in the household and for mobile use.

But why does any of this matter? It matters because it is changing the world we live in. News is tweeted before you hear it on the radio, see it on television or read it in the papers – and this news does not come with an editor. It also matters if a country wishes to be competitive and part of the global economy. The National Development Plan very clearly identifies information and communication technologies '… as a critical enabler of economic activity in an increasingly networked world' and notes that '… for this reason, a country that seeks to be globally competitive must have an effective ICT system, as this "infostructure" provides the backbone to a modern economy and its connections to the global economy.'[35]

SOUTH AFRICA

How does South Africa feature in this perfect storm of high-speed broadband access to the Internet, which is driving the economic competitiveness of nations? The depressing response is that we are rapidly falling behind, not only with regard to the rest of the world, but also in Africa. In 2000, South Africa was the Internet leader in Africa, but it has since been overtaken by Nigeria, Morocco and Kenya as shown in the two tables opposite.

32. http://www.newmedia.org/articles/what-is-cloud-computing--.html
33. http://www.akamai.com/stateoftheinternet/
34. http://www.gizmag.com/record-26-terabits-per-second-data-transmission/18702/
35. National Development Plan -2030, National Planning Committee in The Presidency. pp189-190

* Internet users are people with access to the worldwide network.
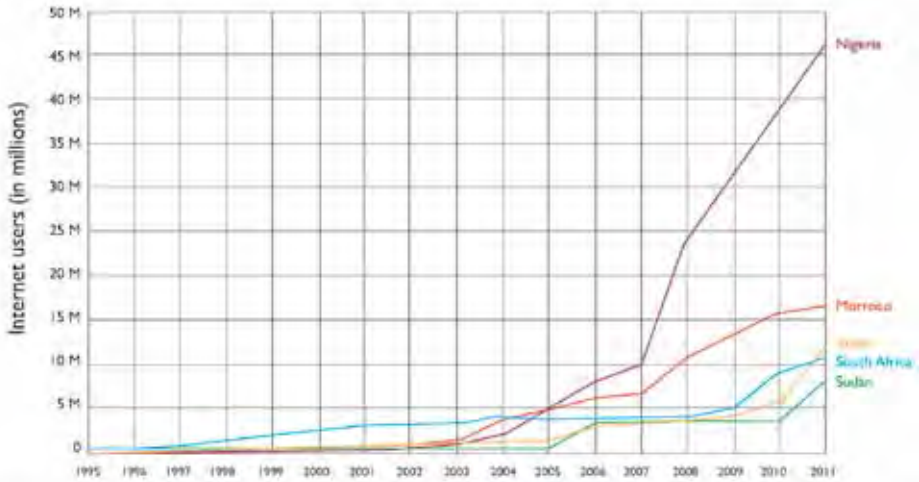
Source: MIH/World Bank November 2012[36]

* People with access to the internet per 100 inhabitants.
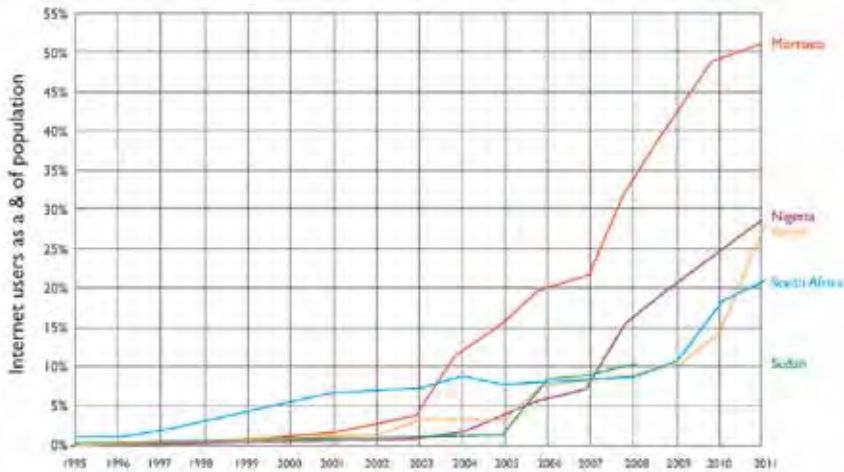
Source: MIH/World Bank November 2012[37]

36. Chart created by MIH November 2012 based on World Bank Indicators retrieved from Google Public Data Explorer (http://www.google.com/publicdata/directory?hl+en&dl=en)
37. Chart created by MIH November 2012 based on World Bank Indicators retrieved from Google Public Data Explorer (http://www.google.com/publicdata/directory?hl+en&dl=en)

This crisis is being taken seriously. We should applaud government for its frank assessment of what is wrong with broadband in this country and what needs to be done to fix it. The NDP comprehensively articulates the problems as including:

- Poor returns from the state's investment in Telkom;
- Little evidence of an effective strategy to ensure that connectivity in South Africa keeps up with its peers; and
- Policy constraints, weaknesses in institutional arrangements, conflicting policies, regulatory failure and limited competition.

The NDP proposes to address the concerns around South Africa's decline as an Internet leader in Africa in the short term (by 2015) by, inter alia:

- Changing the regulatory framework to ensure that Internet broadband capacity improves, prices fall significantly and access improves;
- Providing access to low-cost, high-speed international bandwidth with open access policies;
- Evaluating state-owned enterprise and municipal performance in ICT provision and deciding on the future role and configuration of the state's family of ICT enterprises (Broadband InfraCo, Sentech and Telkom); and
- Providing alternatives to infrastructure competition through structural separation of the national backbone from the services offered by Telkom to create a common carrier that offers open access to service competitors. Similarly, by encouraging or prescribing the sharing of expensive trenching infrastructure by creating common right of

way for competing operators to lay dedicated lines.[38]

The minister of communications has embarked on a full-scale policy review. We expect that the review will lay the foundation for these results.

There has also been much debate about whether government should nationalise Telkom. The NDP notes that Telkom still dominates the telecommunications backbone:

Their dominance has been ineffectively regulated, resulting in high input costs for business, which in turn resulted in an increase in costs of services and products. It has also inhibited the investment in growth areas in ICT … services. Telkom's monopoly has seen the deterioration in fixed line connections that will further undermine South Africa's future competitiveness unless it is addressed.[39]

The truth is that it doesn't really matter whether government or the private sector owns Telkom as long as you have the right people. What matters is which ministry takes responsibility as shareholder and which ministry takes responsibility for oversight of the regulator. The responsibilities should be split and not reside in a single ministry. The current lack of separation is responsible for the situation we find ourselves in (in general, the various ministers of communications have been conflicted and have erred on the side of protecting the commercial interests of Telkom at the expense of the sector and the economy as a whole). This separation can be implemented now. We do not have to wait for the results of a policy review.

38. National Development Plan 2030, National Planning Committee in the Presidency pp 194-195.
39. National Development Plan 2030, National Planning Committee in the Presidency p 190.

We should also be concerned about how the current situation affects the way South Africans use and interact with the Internet. The University of the Witwatersrand recently published a study on the South African Network Society, and the findings are fascinating. The study shows how the community of Internet users has changed over the past five years: most users are now black; almost half of them are women; four out of ten earn an income of below R1 500 per month; and two out of every ten users live below the poverty line.[40] According to the study 12.3 million adults in South Africa (aged 15 or older) now use the Internet – one in three. If this growth continues, then more than half the population will be online by 2014.[41] Those with access to the Internet go online more often and more people now use the Internet every day (22 per cent of all adults) than read a newspaper (17 per cent of all adults).

Those who connect to the Internet using mobile phones only are young, black and low-income earners who log on daily. Internet usage among this group is lower than among those who own computers, and they are less likely to make full use of the Internet to access information, educational materials or entertainment. Instead, their focus is on social networking sites such as Facebook. In contrast, those users who are connected at home or are accessing the Internet through cafes are more likely to use the net for research, shopping or banking.[42] It is this second, most connected group who make the greatest and widest-ranging use of Internet services. This group makes up only a small percentage of South Africa's Internet population, but they are the ones who currently benefit from the opportunities that the Internet is capable of providing.

The NDP also addresses the problem of the widening gap between those with mobile access only and the super-connected:

> International evidence suggests that a new ICT gap is opening up between those with access to high speed Internet and those who access Internet via mobile connections. While users cope with deteriorating fixed-line connections by switching to mobile networks in the short term, this may lock South Africans out of global networks in the longer term as applications in other countries are increasingly based on ultra-high-speed 'fibre to premises' networks.[43]

This is true for the international markets in which Naspers operates. Where countries have high speed fixed-line broadband access at affordable prices, consumers more readily engage in e-commerce. If consumers have to wait too long for an image to load and it pixelates, it is not a great experience. If that wait is also expensive, then consumers do not use the Internet to trade online. While mobile does work in some respects, it is not ideal for certain forms of e-commerce – mobile works well for social networking, but that is only a fraction of what is possible on fixed line Internet access. In many countries, the two technologies are symbiotic and consumers want both; the latter for mobility and the former for the richness of the experience and the speed of downloading.

The world is entering an era in which information is the driving force of human development and economic growth. In contrast, most African economies are limited by poor social and economic development. Without access to technology, the divide between Africa and the developed economies in the world is likely to grow.

40. The New Wave' report, written by Indra de Lanerolle, designed by Garage East © University of Witwatersrand http://www.networksociety.co.za. p 8-9.
41. 'The New Wave' report, written by Indra de Lanerolle, designed by Garage East © University of Witwatersrand http://www.networksociety.co.za. p 6.
42. The New Wave' report, written by Indra de Lanerolle, designed by Garage East © University of Witwatersrand http://www.networksociety.co.za.
43. National Development Plan -2030, National Planning Committee in the Presidency. pp 190-191.

Research results vary, but one study concluded that the contribution of broadband to GDP varies from between 0.25 to 1.38 per cent for every 10 per cent increase in broadband penetration.[44] Researchers have also studied the impact of innovation or network effects on employment. Broadband penetration generates a number of such effects ranging from new applications and services, such as e-commerce, online education and social networking to optimising business revenue growth. The influence of broadband on employment creation is also very beneficial, with growth varying from 0.2 per cent to 5.32 per cent for every 1 per cent increase in broadband penetration.[45] If South Africa is to reap the fruits of being a truly networked country that is globally competitive, it will need fast and affordable access to the Internet.

Naspers has learned a number of lessons as a 'media' company doing business on the Internet:

• This new world is markedly different from that of print and television. New entrants must experiment and recognise that failure is part of experimentation.

• The Internet may be an inexpensive distribution model, but monetising your offering and finding the business models best suited to this technology are much more difficult. The low cost of entry, however, makes experimentation easier and cheaper.

• The low cost of entry also makes it easier for competitors to enter; it therefore does not take years for competition to arrive. There are no regulatory barriers in place, and a start-up does not need huge amounts of capital. This makes competition in the market very dynamic as new players enter the market more frequently and more quickly.

This is a very different world from that of our traditional business. Making the transition to this new world will be painful, but for Naspers there is no other option. In order to make the transition a reality in our own country we need fast and affordable access to the Internet by all South Africans, and a regulatory environment that supports it.

44. http://www.itu.int/net/itunews/issues/2011/05/14.aspx
45. http://www.itu.int/net/itunews/issues/2011/05/14.aspx

WE, THE TWEEPLE

BY GUS SILBER

Gus Silber

Gus Silber is a journalist, author, scriptwriter, tweetwriter and social media trainer. He began his newspaper career on the West Rand Times in Krugersdorp, and has worked for The Star, the Sunday Times, Style magazine, and a wide variety of publications at home and abroad. He is the author of several books on South African society, business, and innovation.

Schooled in the hot-metal era of newspaper reporting, he has triumphed over his initial trepidation and scepticism to become an evangelist of the new digital media, in particular the short-form social network, Twitter, where he tweets as @gussilber.

The social media revolution is changing the way journalists source, distribute, and publish the news. In this fast-changing new media landscape, there are greater opportunities than ever for government to join in the conversation and engage with its citizens.

The first tweet in history was dispatched into the ether on 21 March 2006 by Jack Dorsey, the co-founder of Twitter. 'Just setting up my twttr,' he tweeted, using the original, disemvowelled name for the short-message online social network. As an overture to a revolution in electronic communication, it wasn't quite in the same league as Marconi, tapping out his awe on the telegraph ('What hath God wrought?') or Alexander Graham Bell, barking out an order on the telephone: 'Mr Watson, come here, I need you!'

But that test message on Twitter, sent to a small circle of co-workers, was a perfect demonstration of a new way of getting the message across in an age of ubiquitous, impulsive connections.

The premise of Twitter, inspired by the popularity and convenience of text messaging on the mobile phone, was disarmingly simple. You would create a personal profile, dress it up with a short bio and picture, and you would log on to twitter.com, where you would find yourself faced with a cursor blinking in a blank rectangle, topped by a question that may have sounded brusque and impertinent.

'What are you doing?'

Then you would type your answer, in a maximum of 140 characters (spaces and punctuation in-cluded) and you would send it to your followers as a tweet.

When I first signed up for Twitter in 2007, I was flummoxed by the question, which threw me into a loop of logic from which I struggled to escape. What I was doing, I kept thinking to myself, was sitting in front of a computer, trying to answer the question, 'What are you doing?' So I eventually typed 'feeling like a twit', and I hit the Tweet button, and my tweet disappeared like the song of a bird that nobody heard.

I perused the tweets of people who seemed to be at home on Twitter, chatting chirpily among themselves about what they were having for breakfast, and how bored they were feeling at work, and what they were going to do when they got to the gym, and, and, and … it was a convention of friends and acquaintances trading inanities, on a network whose only apparent purpose was to facilitate small talk and make it even smaller. So I gave up on Twitter.

Then, one day, I was half-watching the news on BBC, and I saw an item about a passenger plane that had crashed into the Hudson river in New York. The story was not so much about the aqua-landing, or the pilot whose skill had saved the lives of everyone on board, as it was about a man who had snapped a picture of the aircraft from a ferry that had been diverted to the scene. 'There's a plane in the Hudson,' he tweeted from his phone. 'I'm on the ferry going to pick up the people. Crazy.'

His tweet included a link to the pic, and within seconds it was being re-tweeted around the world, while TV crews and newspaper reporters were still patrolling the riverbanks, desperately trying to catch sight of the plane. It was a case

study in a new way of reporting the news, and the old media seemed lumbering and lost on the waves, beaten to the scoop by an ordinary citizen who just happened to be carrying the most powerful reporting tool of the twenty-first century on his person. A mobile phone.

This was my moment of epiphany, my flight to Damascus. This was what Twitter was for.

Today, with more than half a billion users sending more than 400 million tweets a day (according to Twitter's own statistics), the network is still at heart a platform for chit chat, banter, gossip, jokes, friendly debate, furious discourse, random thoughts, fleeting observations, questions and answers, and the obsessive journalling of the minutiae of everyday life, in 140 characters or less. But every now and again, this restless hubbub tunes into the frequency of current events, and Twitter becomes a broadcast channel for news as it breaks and shatters, leaving other media to scramble and pick up the pieces.

Today, Twitter occupies the same space in the media landscape as CNN did in the early 1990s, when the 24-hour-a-day cable giant began broadcasting raw, uncut footage from the frontline of the first Gulf War. There was so much time to fill between top-of-the-hour newscasts, and so little time to filter, process, and package it all, that the satellite feed was allowed to air almost as soon as it came in. Those jittery, spectral images, of armoured cars on the move, and rockets flaring in the night, and bombs bursting on the ground far below, put the viewer right in the heat of the battle, and cast the news in a strange new light. It felt immediate, gritty, and uncomfortably real.

In 1854, during the Crimean War, a century and a world away from CNN, it took almost three weeks for news of the Charge of the Light Brigade to reach London. Now, the gap between a newsworthy event and its dissemination to the public is measured at the speed of finger-taps on a screen or keyboard. The news, now, has very little time to reflect, or even to verify to itself that it is true; it is simply seized, absorbed, distilled to its essence, and detonated almost by reflex into the ether, where it will replicate and spread within seconds.

News used to be something that you actively sought, switching on the radio, turning on the TV, picking up the paper. You could set your watch by the seven o'clock bulletin, or wait until morning to find out what had happened in the world. Now, wherever you are, the news finds you.

I remember standing in a slow-moving queue at Ellis Park Stadium in Johannesburg, waiting to catch a bus after the pre-World Cup game between Bafana Bafana and Brazil. It was the winter of 2009, and in the afterglow

of a brave display by the home team, I was mulling over the way they had lost the game, but won our hearts. I reached for my phone. 'Goodnight Bafana,' I tweeted. 'This was your Song of Redemption.' Out of idle curiosity and habit, I thumbed through my timeline on Twitter, the tweets flitting by, blurring, melding into one. Then I stopped with a jolt, as the words swam into focus. I read, and I re-read, torn between healthy scepticism and an urge to be first with the news. 'Hey,' I finally said, to no one in particular, 'Michael Jackson just died of a heart attack.' Here was the news, delivered like a shot of adrenaline, just after it happened on the other side of the world.

A buzz started spreading through the throng; other people were checking their Twitter too. Soon, everyone around me was no longer talking about the game.

When you actively use Twitter, you get used to this feeling that you are plugged into the current, that you have special access to the news. It is no coincidence, as you compose your tweet on twitter.com, that the default question has evolved from the original 'what are you doing?', into something sharper, more urgent and more open-ended.

'What's happening?'

That is a kick-starter to a conversation. On a deeper level, it is an invitation to philosophise and reflect. But it is also a cue to communicate what is actually happening around you, harnessing your measly quota of characters to craft a dispatch with the punchiness of a newspaper headline. Twitter is a medium made for the media, from the biggest broadcast networks to the smallest community papers, and millions of media workers have seized it as a complementary channel to report and comment on the news. But that is only half the story.

The real power of Twitter lies in the way it has taken power away from the hands of the media, or at least spread it out a little more evenly among the crowd. On Twitter, anyone can journal, report, edit, publish and distribute the news, enhancing their little bites of information with links to pictures, video and other online content. Here, away from the newspaper 'Op-Ed' pages, where experts, analysts, academics, party representatives and 'thought leaders' are granted space to pontificate on the state of the nation, anyone can claim their say on what they think is right and wrong.

This makes the social medium a powerful, free and open platform for the sharing of information and the healthy interchange of views between a government and its citizenry. Twitter is a megaphone of democracy, and it is re-shouting the rules of public engagement. But in the process, here in South Africa, the voice of government itself is being drowned out or barely heard. Let us look at one example of the way Twitter feeds on the news of the day, and the news feeds on Twitter in turn. In December 2012, at an annual commemorative speech in Impendle in KwaZulu-Natal, President Jacob Zuma made a series of remarks on the importance of preserving traditional African culture. People should guard against loving animals more than human beings, he cautioned. Rushing a dog to a vet for medical care, while workers or relatives were sick in the same household, or driving a van with a dog in the front while a worker sat at the back in the pouring rain – such things, suggested the president, were not the African way.

The Mercury in Durban reported the president's views the next day, paraphrased and translated from isiZulu, and that is where the story might have lingered and faded – in the columns of a regional paper, at the quietest time of year for newspaper sales. But now we have Twitter, with its voracious appetite for something new and interesting to talk about, and here came this story as a gift, right in the middle of what journalists call the 'silly season'. A measured speech in a rural heartland became the sensational tale of a president who warned that it was un-African to buy a dog, care for it, and take it for walks.

Twitter, as one newspaper put it, 'went barking mad'. Quips and barbs flew. Someone scoured the archives and posted a photograph of a beaming Nelson Mandela outside his home in Soweto, affectionately patting the ridgeback that was standing at his side. Zwelinzima Vavi, the General Secretary of the Congress of South African Trade Unions (Cosatu), uploaded a snap of himself ('an animal lover and proudly black') in the company of two of his best friends, a boer-bul and a terrier. Soon, newspapers around the world were picking up the story, quoting tweets and counter-tweets as a barometer of a nation divided by race and culture.

Then came the press statement from the Presidency. What the president had been pointing out, it explained, was the need to 'decolonise the African mind post-liberation'. It was a thoughtful and resonant communiqué, adding context and subtext to the president's words, even bringing to mind that famous refrain from Bob Marley: 'Emancipate yourselves from mental slavery, none but ourselves can free our mind'. Then it ended on a pang of regret for an opportunity lost. 'It is unfortunate,' said the statement, 'that the journalists concerned chose to report the comments in a manner that seeks to problematise them instead of promoting a debate.'

Herein lies the crux of a breakdown in communication between government and civil society, and a golden opportunity for its revival. To begin with, press statements, issued from on high, are relics from the 'industrial age' of government-media communication. Using them to rebuke journalists who are merely doing their job – in this case, reporting a public speech by a public figure – only serves to entrench the perception that government and media are natural adversaries. And the statement, delivered hours after the story broke in print and exploded on Twitter, was anchored in the supposition that journalists still drive and control the debate. This has long ceased to be the case. They are merely an active and involved part of the conversation, and government should be so too.

How differently would this story have played out had the president himself taken to the social networks, to contextualise, expand, explain, listen and be heard? A string of tweets from @SAPresident, in ad hoc form or as part of an organised 'social media conference', would have gone a long way towards clearing the air, fostering goodwill, and shifting the focus to more important issues.

The sceptical observer may wonder whether it is beneath the dignity of a head of state to indulge in a tête-à-tête with random tweeters on a medium that is live, open, and unmoderated. Not at all. In democracies across the world, politicians of all persuasions are using Twitter to take the pulse of public opinion, communicate and clarify policy, debate and defend their record, promote parties and electoral candidates, journal their of-

ficial visits, and exchange the occasional pleasantry with a fellow tweeter.

The most followed of all world leaders on Twitter is the US president Barack Obama, who used the medium as a cornerstone of his 2008 campaign, connecting with younger voters in particular. He doesn't tweet much these days, but when he does it is big news: his November 2012 victory tweet, 'Four more years', quickly became the most re-tweeted tweet in history. The tweet alone was perfectly pitched to splash across a front page, but what really made it re-tweetable was the accompanying photograph of the newly re-elected president hugging his first lady. This is a socially-savvy administration, expertly using a social medium as a point of human contact and a tool of political strategy.

President Obama has also appeared on YouTube, the online video-sharing service, to answer questions from the public, and in 2012 he took the hot-seat for a live 'AMA' (Ask Me Anything) on Reddit.com, one of the most popular news and discussion sites on the Web. 'Hey everybody, this is Barack,' he began, launching a 30-minute open Q&A session that took in such big issues as war, corruption, and the American space programme, and such lesser issues as his favourite basketball team and the recipe for the White House's home-brewed beer. Then he signed off with an observation about the medium itself: 'This is an example of how technology and the Internet can empower the sorts of conversations that strengthen our democracy over the long-run.'

Sessions like this are the latter-day equivalent of President Franklin Delano Roosevelt's 'fireside chats' during the depression and war years in the US. 'Good evening, friends,' he would say, as millions sat by their radios to hear his words of wisdom and inspiration. The big difference now is that the radio talks back.

A 2012 study by the Digital Policy Council, a Washington-based think tank, found that 75 per cent of countries now have a head of state who tweets from a personal or government account, or perhaps outsources the task to a court tweeter. The world's most active political tweeters have included and include @chavezcandanga (Hugo Chávez, the ex-president of Venezuela), @CFKArgentina (Cristina Fernández de Kirchner, president of Argentina), and @NajibRazak, the Malaysian prime minister, who invited his 500,000th follower and three others to join him for breakfast. On our continent, the most enthusiastic head of state tweeters are the prime minister of Uganda, Amama Mbabazi, who hosts regular #AskthePM sessions (the #, or hashtag, is a Twitter convention that allows topics to be clickable, for ease of reference and organisation) and the Rwandan president, Paul Kagame, who told a press conference that he diligently sets out to meet his 'tweeting responsibilities' at lunchtime.

President Zuma, as @SAPresident, is an infrequent tweeter who reports mostly on diary matters, in between sending good wishes to communities and birthday celebrants. In South Africa, it is the official opposition that commands the House on Twitter, and nobody more so than the Western Cape premier and leader of the Democratic Alliance (DA), Helen Zille. She has a multipronged approach to Twitter, using it to dispatch items of municipal or provincial interest, challenge and criticise the ruling party, trumpet victories and achievements, confront her critics, and chit chat about family news and the quirks of life on the frontline of South African politics. 'Lolest!' runs a typical tweet, 'City Press has photoshopped my head onto JZ's dancing body. I love it! It looks as if I can dance. Made my day.' As a journalist by background, @HelenZille is clearly at ease on this lively, newsy, quick-thinking medium, but she has experienced its perils too, sparking widespread outrage with a 2012 tweet about Eastern Cape 'educational refugees' attending schools in her province.

Twitter is a megaphone, capable of being heard around the world. It amplifies indiscretions, wrong-headed comments, insensitive or glib remarks. Twitter does not forget, and it holds its users, famous, infamous, and ordinary, to ruthless account.

But if used wisely it can be a politician's powerful ally, allowing information to bypass conventional channels and make a direct connection with a constituency. Why issue press statements as a first resort, when the issuing of a tweet can be a statement in itself?

For all its potential pitfalls and the strict discipline of the 140-character restraint, Twitter is as easy to use as Facebook or e-mail. It requires no great technical acumen to set up. Building a community of followers is an organic process that takes its cue from the simple act of tweeting interesting content, and from following interesting tweeters in turn.

There is no other medium that is capable of putting Government in such close touch with so many people at the same time. People don't always carry radios with them, or pause to watch TV or read the paper. But they have always got their phones.

This is a mobile revolution. According to a 2012 study by World Wide Worx, more than ten million South Africans use smartphones, typically equipped with cameras and Internet connectivity. That is a significant and growing constituency of people who can use their mobile devices to document and share what is happening in and around their lives.

We like to think of Twitter (2.4 million South African users, according to the same study), Mxit (9.3 million users) and Facebook (6.8 million) as 'social media', but in truth they are simply media, because all media, by definition, are social. They connect the individual to the broader society, and they shape, and are shaped by that society.

All media rely on social interaction to survive. Ideas, opinions and stories cannot exist in a vacuum; they need to be read, heard, watched and talked about. When we refer to 'the media', a multicellular organism with a vast diversity of voices, opinions, markets, platforms and personalities, we tend to picture the traditional models of publishing: newspapers, magazines, radio, television. But they are not the only media in town any long-

er. In this shifting media landscape, the social networks function as a sort of 'para-media' force: swift, informal, self-replicating, and unconstrained by commercial concerns or the cherished principles of journalistic scrutiny and balance. A Twitter user who is not a journalist may feel no compulsion to verify a juicy 'twitbit' of news before publishing it as a tweet, status update or blog post. But what happens if the news turns out to be wrong?

Anyone who has ever fallen for a fake celebrity death rumour or a hoax hijacking alert on Twitter will know that, sometimes, it is wrong. News travels at the speed of thought on Twitter, even if it does not require too much thought for someone to hit Retweet and accelerate the distribution of a dodgy story. In 2011, a Twitter user in London, acting on a tip-off received by e-mail, tweeted a warning about a GUNMAN on Oxford Street. 'Please keep EVERYONE inside,' she advised. 'NO JOKE. Armed Police are on the scene.' Coincidentally, at around the same time, another tweeter sent out a tweet about a 'street-style shooting in Oxford Circus', seemingly reinforcing the warning and helping to spread the alarm. As it later turned out, she was referring to a photographic fashion shoot that was turning heads in the vicinity. But that little distinction was lost as reports of 'sirens' and 'gunshots' began streaming in from other tweeters, their ears freshly attuned to the everyday sounds of the big city. Then someone called the police, and alerted the broadcast networks on Twitter. It didn't take long for the story to be shot down. There was no gunman. There had not been a shooting.

But in a genuine crisis the community spirit at the heart of the network – the sense of shared interest and belonging that makes it 'social' – can bring out the best in people. Consider this tweet from a South African user in April 2012, rendered here exactly as it was tweeted: 'Be on the look for DSS041GP. my boyfriend has just been hijacked and is in the boot please RT.' Spurred by the tone of breathless urgency in that message and the plea to spread it far and wide, Twitter users rallied to help in the way they know best. The flurry of tweets and re-tweets alerted private security companies on the network, and they joined forces to track and trace the vehicle, sending progress updates as it sped from Gauteng into North West Province. Within two hours, the drama was over. The hijackers abandoned the car at a police roadblock, and the boyfriend in the boot was released, shaken but unharmed.

The surprising thing is that there are not more hoaxes, mass panics, and false alarms on Twitter. It is so easy to take someone for a ride on this medium, with its absence of mediators and its casual disregard for rules and conventions beyond the 140-character limit.

But Twitter, to me, has come to mean something other than free expression, mischief, and anarchy, as much as I enjoy it for those things too. Twitter is a tribute to the power of the social compact, the unspoken, unwritten set of coordinates that allow us to find the good in each other. In my everyday experience, it is a network of good neighbours, keen to lend a hand and share their knowledge, expertise and advice on matters mundane and momentous.

I recently stepped out of my car in a Johannesburg suburb, to find a toy rubber snake coiled on the pavement. I looked a little clos-

er, but not too close, and I saw that it wasn't a toy. I recoiled. I guessed that the snake was probably harmless, because it wasn't moving, and I could see the claw marks that suggested it had been the victim of an attack by a cat. But I wanted to make sure, so I snapped a picture with my iPhone and attached it to a tweet. 'Found this poor ex-snake in the road outside my pal's house in Joburg. Anyone know what species?' The first reply arrived within seconds. It was a California king snake, said someone, pointing out the distinctive black and yellow markings. Someone else said it looked like a venomous garter snake. Then my tweet found its way to a man named Johan Marais, one of South Africa's foremost experts in herpetology, and he tweeted a confirmation of the initial ID. An 'escaped exotic', he said of the nonvenomous North American, most likely somebody's pet. It was like having my own private Google, personable, dynamic, conversational, authoritative.

This act of tapping into the collective mind is known as crowdsourcing, and it turns Twitter from a strictly social hub into a powerful tool for dialogue and research. As a news medium, Twitter is perpetually wired and alive, its receptors tingling as the data charges through the system, conveniently corralled into discrete little bulletins.

The impulse to check Twitter is now ingrained in the journalistic workflow, as is the impulse to tweet the news to your followers while it is still hot and fresh. Herein lies the caveat. The professional journalists, guided by the age-old maxim, 'If your mother says she loves you, check it with a second source,' will holster their twitchy Twitter-finger until they have gathered enough material to weave a story from the patchwork of truth. They will treat rumours, speculation, social media chatter and unconfirmed reports with caution, testing their veracity with eyewitnesses, independent sources and official spokespeople.

There is another journalistic adage that says 'first is first', and in the rush to cross the line it is easy to be led in completely the wrong direction. A cautionary tale lies in the online coverage of the tragic school shootings in Newtown, USA, in December 2012. In the aftermath of the awful news – 20 children and six adults gunned down by a man with an automatic assault rifle – journalists began scouting for background information as soon as the alleged perpetrator's name was released. The arena of first resort, as it almost always is nowadays, was the Internet, and in particular, the social networks. Within minutes, major news sites, including the New York Times, CBS, and CNN, were carrying the first picture of the young gunman, copied and pasted from his Facebook page. Except that it was not the young gunman. It was his brother, an innocent party, who had been sitting far away at his desk at the time. That misidentification was only one of a string of errors that tangled the story in knots, leading later to outlandish theories – promulgated, of course, on the Internet – that the shootings had been a hoax, or an intricate plot orchestrated by government agencies to justify gun control legislation. The truth was much more prosaic.

In the mad scramble to get a story out, the facts are sometimes trampled underfoot. Eyewitnesses are fallible and may contradict each other. The kaleidoscope of perspectives may be skewed, by accident or design, particularly where the story has a political bent.

It is always difficult to make sense of the news while it is still new and happening. This is why journalism is called the first draft of history, and traditionally the news gathering and distribution process has had buffers built in to minimise inaccuracies and misreporting. But news organisations now publish on multiple platforms. Social networks and the Web are too hungry to wait for the checks and balances; they must be fed, and they must be fed now. So modern journalists are placed in the uncomfortable position of having to scoop their own developing story, dashing off molecules of the news as a teaser to the headline attraction.

In South Africa, it has become commonplace for print and broadcast journalists to tweet from the scene of a breaking news story, or to 'live-tweet' the proceedings from a press conference or courtroom trial. Only later will the big story or picture emerge from these words in progress, these strings of notes and quotes and observations. This makes their job tougher, but it also opens them to new audiences and new ways of storytelling. One journalist I follow, who treads the political beat for a weekly paper, has earned a reputation for balancing her serious news reports with crisp, light-hearted dispatches on the quality of the food at party gatherings, and the fashion triumphs and foibles of the delegates. Her tweets have the quality of thoughts spoken out loud, and she has come to epitomise a new breed of 'social reporter' who is able to cover hard and soft news with equal aplomb.

Either way, there is no longer any convincing excuse for journalists not to use Twitter, as a source, a platform, a springboard or a grandstand.

Journalists can be bull-headed when it comes to adopting new technologies. Would I go back to using a typewriter? I may haul out the old machine and run my fingers dreamily over the keys every now and again, but no. Cellphones, computers and social networks have made the job of being a journalist different, more challenging, in some ways harder, but more thrilling and rewarding too. A social network is to a journalist as a stethoscope is to a general practitioner. It lets us tune into the heartbeat.

I follow more than 17 000 people on Twitter. That may seem like a burden, but I have learned to distinguish the signal from the noise. I follow poets and politicians, architects and engineers, trade unionists and tycoons, atheists and holy rollers, singers and soccer players, daydreamers and curmudgeons, anarchists and mavericks, sociopaths and humanitarians, standup comedians and prophets of doom. I follow people who rant, rave, argue, declaim, pick fights, sling insults, and issue challenges and manifestos. And I follow other people who hardly ever say anything other than 'Good morning'. But they are all part of my network.

Twitter is a parliament of the people, raucous, self-elected, beyond any calls to order or decorum. It is a restless lekgotla of opinions and attitudes, a free-flowing assembly of experts on any matter from the Middle East crisis to the Bafana Bafana lineup. It is a vigilant community too, self-correcting, protective of its freedoms, but quick to pounce on those who reveal themselves to be a bully or a hate-tweeter. But those sort of battles are rare. This is an open forum, and you choose the characters you follow as much as you choose the characters you use to get your message across.

Twitter finds its greatest freedom in its greatest limitation, with that strict 140-character restraint imposing a sharpness and clarity of thought that is often absent from other online forums, such as the comment sections of blogs and newspaper websites.

More than two-million South Africans belong to this network, a microcosm of the country and a broad spectrum of its society. But there is one set of voices that needs to be heard more loudly. The citizens are here. The government, with very few exceptions, is not. Every cabinet minister should be tweeting. Every director general, every head of department, every provincial premier, every MEC, every government communicator.

Here is a space, free to use, open to the world, where government can tell its own stories, share its own views, compose its own narrative, and engage with its own citizens, not only about the big issues but also about the little matters that help to define the State of the Nation. In 2012, reacting to a flare-up of rumours and speculation on Twitter, a senior South African government spokesperson described social networks as 'a reality we cannot wish away'. He was right. It is time to stop wishing, and start embracing. It is time to get social. Why should journalists have all the fun?

WHY SOUTH AFRICA NEEDS GOVERNMENT OWNED MEDIA

BY VUSI MONA

Vusi Mona

Vusi Mona was born in Nelspruit, Mpumalanga, where he did both his primary and secondary school education. After completing a Bachelor of Arts (English and Economics) and a postgraduate degree in Education (B Ed), he started working as a teacher and lectured at two teacher technical training colleges before giving this all up for his passion – journalism and the written word. He became launch editor of The Teacher newspaper, a subsidiary of the Mail & Guardian and since then has held editorial positions on Tribute magazine as well as the City Press.

In 2007, he was appointed head of media and communication for Rhema Church and had a stint as its deputy CEO before he was appointed head of communication at The Presidency in July 2009. He joined GCIS in August 2010 as deputy CEO, responsible for communication and content management. In 2013 he was appointed as general manager: communications for the South African National Roads Agency Limited (Sanral).

Vusi has been the recipient of a press fellowship from Cambridge University.

Governments, by their nature, generate a lot of information through and in the process of policy formulation, implementation, monitoring and evaluation. For example, when a government develops policy and implements programmes arising from it, it is also – apart from being engaged in the process of policy formulation – generating information. The same applies when a policy that is implemented is monitored and evaluated.

All government information is generated with the citizen in mind. Moving from the premise that governments are put in power by the people and for the people, policies and their implementation are meant to benefit 'the people'. Citizens – or the governed – are therefore central to all government-generated information. If information does not reach citizens, then the notion of democracy and a people-centred government becomes hollow.

Private sector entities operate in more or less the same way. When a company formulates a strategy, executes it and presents its annual report, it generates information through this process. The information is then presented to shareholders, employees, trade unions, government regulatory bodies, the media, customers, creditors and the community. To disseminate the information, companies have invested in external media and in internal media such as annual reports, social responsibility reports and company websites. Those that understand the importance of communication have become even more effective at this, investing in and developing their own publications (internal and external), and radio and television channels that are specifically targeted at their consumer audiences.

To the extent that corporate entities are content owners, they are constantly looking for outlets and platforms through which to express such content. And if this means having to create their own media, they are not modest about it. The point is that the corporate sector has fully embraced the concept of own media to deliver content. There could be lessons here for government as content owners and information generators.

The starting point in determining whether government should create its own media is to question whether citizens have access to the information/content currently generated by government. The answer is 'yes and no'. Citizens only have access to information to the extent that the commercial media are willing to act as purveyor of government information, or willing to reach every nook and cranny of the country and all segments of the population. But this is not always the case as there are a number of limiting factors, both structural and editorial, faced by the commercial media.

LIMITATIONS OF COMMERCIAL MEDIA AND IMPLICATIONS FOR GOVERNMENT INFORMATION

THE PROCESS OF GATEKEEPING (NEWS SELECTION)

One of the major social functions of mass media is to provide information, through surveying the environment to herald the truth and convey a set of values to people.

The information that the mass media gathers comes from differing sources – government, opposition parties, civil society, business, sports bodies, personalities, experts and many others. The media is spoilt for choice about where it can get its information from, and government has to compete for recognition as a newsworthy source. Just as you can't let everyone into your house, media editors and producers do not simply let anyone (including government) into their space; they act as gatekeepers. Some issues, people and events will be given 'red carpet' treatment, while others will be relegated to insignificant news columns or simply ignored. Consequently, what government may consider newsworthy may not receive the same treatment from the commercial media.

Those who are snubbed by the press will complain bitterly (as we often do in government), claiming everything from media bias to vast diabolical conspiracies and media agendas. Bias and agendas may very well be why some government stories are shut out, but once the decision has been made, there is very little government can do other than complain. As they say in the media world: the editor's decision is final.

Once a government story has made it past the first hurdle though, the battle is not yet over. It is then up to the news editor or producer to decide how to present the story. The angle of the story will not be determined by the government but by the gatekeepers. Government can be the media's source of information but what comes out of the news reports is filtered through the lens of the gatekeepers with their particular set of values. The media's power to select what information gets past the gatekeepers and how this is presented has an effect on the flow and presentation of government information. The

question is: should government take this power as a given or should it contest it by having its own news products? Is the framing of matters for public consumption an exclusive preserve of the commercial media?

Gatekeepers are able to control the public's knowledge of actual events and facts by letting some stories pass through the system, keeping others out or presenting them differently from the way the source intended (this does not only happen to government stories). It is this power – to determine what goes through and how it is presented – that enables the media to set the agenda. The audience also learns how much importance to attach to a news item from the emphasis that has been placed on it within the media.

Government must make an unambiguous decision on whether it wants to contest this power or give it up to the commercial media. At the Government Communication and Information System (GCIS), we favour an approach where government pushes past the traditional media gatekeepers and communicates directly to and with the people, while using the commercial media where it can. This approach is already being used through our limited portfolio of products (Vuk'uzenzele, Public Sector Manager magazine and SA News Agency).

THE PROFIT MOTIVE

The commercial news media is not a public service – it is a business, and its survival depends on consumers buying and using its services and on its ability to generate profit. That profit comes from two sources: advertising and cover sales (or license fees in the case of radio and television).

These commercial imperatives limit what can or cannot be produced by the media. News outlets must make do with the resources they have. If the resources are limited this might restrict them from operating in certain areas (for example, rural areas). Citizens living in these areas will therefore be left out as newsmakers and news consumers. The commercial media is seldom interested in the rural market.

The coverage of South Africa's international activities by local media bears testimony to how limited resources and the profit motive can influence the flow of government information. Most South African media, with the exception of the public broadcaster, do not travel with the president or deputy president when they undertake international visits. The commercial media has indicated that this is due to resource constraints. Media owners want to maximize profits and this pressure results in editors and producers not deploying journalists for these 'expensive' international trips. The result? A lack of appreciation by the local media, and subsequently the public, of South Africa's international activities.

Lack of coverage of and reach into rural areas by the commercial media also exposes a number of myths. The first is that the market approach is the best and only media policy option. The second is that the commercial media unquestionably provides the highest quality journalism – the calibre of journalism a democracy needs for informed self-government. On the rural and international beats in particular, this 'high quality of journalism' has not been seen.

The very notion of journalism as an enterprise being subjected to commercial principles is problematic in light of the democratic principle of the 'people's right to know'. The 'right to know' should not be determined by the size of a citizen's pocket. Can the news media, within the commercial media system, truly be a public service? What sort of integrity can the news have if it can be bought and sold? And what happens to those who cannot buy the news?

The inherent problem of a commercialised news media where profit maximisation is the goal, can only be balanced out by a (parallel) system that does not turn news, particularly government information, into a commodity to be bought and sold. In the electronic (television and radio) environment, this principle is accepted and this is why we have public broadcasting (the South African Broadcasting Corporation) existing side by side with commercial broadcasting (for example, Multichoice, M-Net and the newly-licensed commercial broadcasters).

CIRCULATION FIGURES, RATINGS AND ADVERTISING

Maintaining circulation figures and ratings are important for the commercial media and are closely linked to maintaining profits. A media outlet's survival is dependent on how many (and even what type of) people consume its product. Any decline in circulation or ratings means that the media outlet will have to lower what it charges advertisers to place adverts. Thus, the choice of stories and their placement is determined by what is likely to attract the largest audience, however frivolous it may be.

Then there is the issue of media buying and how the adspend is allocated to different media. If, for example, younger audiences are not using a particular media product, advertisers and media buyers will seldom patronise it. Advertisers tend not to like audiences born in or before the 1950s.

This is blatant age discrimination, but advertisers insist on their right to spend their money any way they choose – even if a sizable percentage of their customers happen to have grey hair. This can have unintended consequences on the elderly's access to information.

The same can be said about the poor. Advertisers are not keen to spend their money on audiences perceived to be poor. An editor once told me that the owners had given her a mandate to lose the poorer segment of her readers because they (the owners) wanted to pitch the publication at a higher level to advertisers. The media's elitist contempt for the poor is not difficult to prove. To the poor, the media's attitude is: this is not our audience – we want people who can afford cars, houses, computers and other gadgets because they attract advertisers.

What story will make it on the front page: the one that is complex but important, or the one that is trivial but will attract the most readers? Sadly, you will find out which tycoon was eating sushi from half-naked women serving as dining tables before you will find out about South Africa halving its cost, by billions of rands, of treating its HIV-positive citizens while bringing on board an additional 200 000 people for treatment. You will hear about President Jacob Zuma allegedly 'doing shopping in China while South Africa burns' before you will find out about the substance of his visit to that country and what this could mean for South Africa. Better still, you could hear about how much his state visit to the UK cost before you will hear about the deals and agreements the business delegation accompanying him signed and what the implications are for foreign direct investment and job creation.

The point is that with the increased pressure on media outlets to improve circulation and ratings, they are compelled to 'give the people what they want' – the kind of trivia that passes for news today. While advertisers may force media outlets to give the people what they want, it is equally true that at times they compel them to give us what we don't want or need to be effective citizens in a democracy.

Also, for news outlets, the problem of steady funding and the threat of advertising pulling their funding if certain news stories offend them always looms. The commercial media can be beholden to corporate interests and this influences what it can or cannot do.

Government-owned media, which is not dependent on corporate advertising, will not be beholden to corporate interests and will have the potential to carry more balanced reporting which may even challenge the media's corporate agenda.

MEDIA CONCENTRATION

South Africa has four media conglomerates – Media24, Times Media Group (previously Avusa), Caxton and Independent Newspapers. Between them, these companies, operating nationally, regionally and locally, own 95 per cent or so of the print media market. Although cross-ownership rules have prevented these media giants from owning radio platforms (42 per cent of radio is owned by the SABC), there is still a very high level of media concentration. The danger is that when one company owns a slew of properties, they tend to 'streamline,' 'integrate,' or 'centralise' operations, which means that individual media outlets will have fewer reporters keeping watch on unfolding events and resources

will be shared across different newspapers. Even now, national newspapers belonging to different media stables disseminate identical stories (the same stories which are produced by the same wire services are used by rival media outlets). Having fewer media players means that fewer stories are produced. For example, one group political correspondent can write a story for all the newspapers within the group. What impact does that have on content diversity and the potential for a range of stories and angles to be covered?

A final by-product of media concentration is the homogenisation of a company's products. Just as all Steers outlets look alike, newspapers owned by the same parent company will have a similar 'feel'. To achieve that consistency, quirks and peculiarities will be taken out and the product will be blander.

What this all means is that news outlets end up having fewer voices, fewer types of voices, less creativity and less autonomy to produce the news. Outlets within the same stable also have to rely on shared news copy and direction from the head office. Controls and checks fall into fewer hands.

But news is too important an element of our democracy to be the preserve of a few individuals. All of this does affect the flow of government information and content diversity. Fewer journalists mean insufficient writers to cover government in its entirety – that is why we end up with 'prominent' ministries and departments in the media. Those that are not regarded as 'sexy' are relegated to the margins as fewer reporters try to cover as much of government as they can.

Fewer journalists also mean limited possibilities for writers to specialise in and concentrate on particular departments and/or subjects and to have an expert knowledge of them. Except for the obvious beats like education, health, crime, sports and business, few reporters today can be said to report authoritatively on issues such as development and land reform, labour, defence, science and technology, water and environmental affairs, and international relations. Media concentration is indeed a threat to creativity, diversity and pluralism.

Content and national programme managers on all the above subject areas sit within government. Herein lies an opportunity – to use government-owned media to educate and to inform citizens about those subject areas in which the commercial media may otherwise have no interest or capacity to cover with authority.

STORY STRUCTURE

Whether the story is on radio or in a newspaper, writing styles and story types need to fit with the media outlet's mandate and vision for news coverage. If the story does not suit the outlet's style and approach to news, it will probably be dropped.

There are also certain rules journalists have to follow when writing or producing a story and these could be limiting. For example, the most popular structure for news stories is the inverted pyramid in which the information is arranged in descending order of importance. The most important facts are placed at the beginning of the story, and less important material follows. Succeeding paragraphs explain and support the lead.

This story structure is popular in the media because it tells readers quickly what they want to know. It forces reporters to sharpen their judgment of what the news is and to identify and rank

the most important elements of the story. But the inverted pyramid does have its disadvantages and may not be suitable for the delivery of government information. Although it delivers the most important news first, this approach often results in stories being reported out of context or without due regard for the big picture. For example, the flaws of this approach were clearly demonstrated in many of the news reports on the performance and delivery agreements signed between the ministers and the president. Here emphasis was placed on the punitive (largely imagined by the media) dimension of the agreements rather than the performance monitoring and evaluation policy thrust which is key for government and is the direction the country is taking.

The inverted pyramid approach also results in stories not having an ending crafted by the writer but simply ending where the sub-editor decides. Reporters writing these stories also tend to lose interest, time and energy once they have answered the immediate questions that readers might have. The second half of the story is often casual at best and poor at worst. Should that be the due of the reading public?

The cumulative effect is that certain facts are excluded and story angles changed. Should government information be subjected to such treatment without any recourse? What happens to people's right to know if the story angle government is aiming for gets changed and facts excluded?

The optimistic among us say government communicators must engage and persuade reporters and editors to change their way of doing things. They may have a valid point, but until reporters and editors are persuaded government must in the meantime strive to

communicate with their target audiences directly.

TIME/SPACE CONSTRAINTS

There are many important stories that get little or no exposure in the commercial media – not because of malice on the part of the media but because there are only so many stories that can fit into a single newscast or newspaper.

Even when a story does make the cut, some important details might have to be sacrificed for brevity's sake. Journalists and editors have to decide which elements can be included and which should be left out, sometimes much to the chagrin of politicians and government communicators. This does not only happen with news stories. Opinion pieces by government communicators and policy advisers are sometimes cut beyond recognition, and they can be hesitant to submit any further articles.

Limited media space is inherently incompatible with media freedom. Modern democracies need a choice of politics and ideas, and that choice requires access to truly diverse and competing sources of news, literature, entertainment, and popular culture. If space is an issue, then let us open up the media for more entrants, including government.

THE CASE FOR A GOVERNMENT-OWNED NEWSPAPER

The section above sought to highlight the limitations of the commercial media and to lay the basis for an argument to support government's initiative to address some of society's information needs by publishing its own media. This section is based on an article I wrote for City Press in July 2012 where I used Vuk'uzenzele as an example of one of gov-

ernment's initial forays into newspaper publishing. It was inspired by a panel discussion in which I participated – together with Wits Journalism Professor Anton Harber, Unisa's Dr Phil Mtimkulu and City Press editor Ferial Haffajee – at a public relations conference in the same year.

At that conference, it was a breath of fresh air to hear Harber's views on government publishing its own newspaper. He said that there was no reason for the media to object to government publishing its own newspaper, as long as it did not carry advertising. The qualification was interesting but something one could live with. It was Harber's ripping the veil off the exclusivist power by the commercial media to publish and his stance on making access to information as egalitarian as possible that caught my attention.

When government announced in 2011 that it was going to convert its bimonthly magazine, Vuk'uzenzele, into a monthly newspaper, Harber's protégés and colleagues in the media and academia protested – perhaps rather too much. To them, the freedom to publish a newspaper is their exclusive right – a privilege that is natural and immutable. Ironically, it was lost to them that they do not publish in all South Africa's official languages – including Braille – which Vuk'uzenzele does. They do not meet the information needs of the blind and speakers of African indigenous languages. When they objected, they probably had forgotten that their products are only for the fully sighted, the relatively well off (and there aren't many in our country) and those who can read English and Afrikaans. Their opposition challenged the frequently received historic wisdom of permitting market forces to shape the contours of newspaper publishing in South Africa.

Ours is a country with a tragically low number of media and communication academics who would dare question the legitimacy and desirability of our corporate media system or acknowledge the contradictions between the highly concentrated corporate media system and the communication requirements of a democratic society. Criticism is in terribly short supply unless, of course, it is directed against state-sponsored legislation.

The silence by scholars of communication studies on the impact of the commercial media juggernaut on our democracy and the dearth of research on alternative media models is deafening, particularly in a country that believes in freedom of expression and upholds academic freedom. Perhaps this has something to do with university-industry relations, as some of the big four media groups sponsor journalism and media studies faculty chairs. This could be an area of academic inquiry in its own right.

What we should lament is that our communication and journalism scholars have tended to accept the absence of the public service from newspaper publishing. On occasions they consent to it, but with considerable misgivings. Some might welcome government publishing this or that journal but this is often qualified with 'as long as they don't publish propaganda'. They need not worry. We live in a post-Soviet period and Pravda would not exactly fit into South Africa's constitutional democracy.

Interestingly, a different situation pertains in broadcasting. Public broadcasting exists side by side with commercial broadcasting. Public broadcasting's potential to promote a democratic political culture, and the value of the SABC as part of the nation's broader educational network, is recognised by all, media and communication commentators alike. On newspaper publishing,

however, some commentators are either sanguine about the power of our corporate media system or have resigned themselves to its immutability for the foreseeable future. For them, the profit-driven and advertising-supported newspaper publishing system has become almost sacrosanct.

The media, especially the print media, is traditionally opposed to government as a media player. There is a view by some in the media that 'if government does it, it's propaganda, if we do it, it's information and media freedom'.

It is very easy for government to internalise this view and therefore want to stay away from owning media properties for fear of causing controversy. However, it cannot be that when government wants to honestly and directly communicate to and with the citizens using its own media as a vehicle it should be browbeaten into withdrawal and silence because of the print media's self-interest. The reality is that the print media is not a public service but a business. It will protect its turf, just like any other business, but it stands on morally shaky ground if it wants to sell government information (packaged into news) when this can be made freely available by government to the citizens.

The idea of a newspaper as a 'no-go area' for government is today being undermined by technology. As long as people have the right device on their laptops and palmtops, they can always check out 'their-fav-newspaper.gov.za' website.

GOVERNMENT'S CURRENT ACTIVITIES IN THE PRINT MEDIA SPACE

At a national level, government's presence in the print media news space happens through Vuk'uzenzele. The publication was launched as a magazine in September 2005, with the purpose of enhancing government's unmediated communication with all South Africans and as a sequel to research conducted to establish the extent to which the population would like to receive information on government programmes. The magazine was also in response to Cabinet's request in 2004 to produce a regular government publication. After almost five years of publishing the magazine on a bimonthly basis, it was converted into a monthly tabloid size newspaper with a print run of 1.7 million.

Vuk'uzenzele is one of many communication platforms through which direct communication with the public is enhanced. This is in line with Government Communications' strategic objective of developing and effectively using government communication products to better meet the public's information needs. The newspaper promotes access to information about government programmes and explains how to access government services. It has also brought about an important addition to government's communication platforms, especially for people with the least access to media.

The newspaper is distributed free of charge in all nine provinces, mainly in rural areas, with a particular focus on the poorer sections of society. The main method of distribution is through knock-and-drop (home direct) and at bulk distribution points in government offices, clinics, hospitals, municipalities, rural police stations, post offices and Thusong service centres.

Vuk'uzenzele is also available in Braille for the visually impaired and in an electronic version for readers with access to the Internet, mostly in the upper LSMs. The newspaper is published in English with selected articles (four pages, including the entire front page) translated into all other official languages.

The newspaper also carries a regular supplement, 'Employment News', which provides information on public sector job vacancies and job oriented training programmes.

Another major print media initiative at a national government level is the monthly magazine Public Sector Manager. Public sector managers are part of government's audience and, like any other audience, have specific information needs. The magazine was launched with those needs in mind. In January 2011, following two mock-up editions – Public Sector Manager and Government Executive – research was conducted to find out how the magazine was being received and what would be the preferred title. Public Sector Manager emerged as preferred. The magazine targets middle and senior managers in the public sector and is currently circulated to 10 000 senior managers. It has a print run of 15 000 with the extra 5 000 made available through subscription and a retail network.

The magazine features best practices in the public sector and profiles managers and executives who represent and execute the public service vision well. It also provides a platform through which public sector managers are informed about public service principles, management and innovations, and regularly features interviews and discussions with political principals to share their perspectives on policy and a range of issues that affect the public service.

Through the copies made available in airport lounges and sold at retail outlets, the magazine also attempts to improve the image of the public sector and to inform non- public sector employees about the function of government and the public sector in general.

Public Sector Manager is a high quality, glossy magazine that relies on revenue raised through advertising. It has no budget allocation from National Treasury. The magazine is a radical departure – in content, design and the financial model – from the usual government journals.

UBUNTU, a magazine produced by the Department of International Relations and Cooperation, was inspired by Public Sector Manager. Published quarterly, this high quality magazine is the department's first externally focused publication and guides readers to understand the country's foreign policy. The magazine targets embassies, government officials, business, labour, civil society, policy think tanks, academia, students and practitioners of international relations. The magazine is funded wholly by the Department but carries corporate adverts from sponsors who have partnered with the Department in diplomacy activities such as events or marketing and advertising campaigns.

GOVERNMENT'S ACTIVITIES IN PRINT MEDIA: A PROVINCIAL SNAPSHOT

All provinces, with the exception of the Western Cape and the Northern Cape, have externally focused publications (largely newspapers) that report on government's work in a consolidated manner. Most of these publications focus on profiling the political principals (especially the premiers and mayors) and are events-oriented.

On the next page is a table that shows provincial publications:

PROVINCE	PROVINCIAL MAGAZINE/ NEWSPAPER	AIM OF PUBLICATION	METHOD OF DISTRIBUTION	FREQUENCY	PRINT RUN	TARGET MARKET
Gauteng						
Office of the Premier	Gauteng News	• To educate people about government programmes and services. • To provide quality government information.	Door to door and at times as an insertion in national newspapers	Every second month	750 000 and 1,5 million on special occasions	LSM 1 - 6
Eastern Cape						
Office of the Premier	Masincokole	• To inform people about what government is doing. • To profile the provincial government	Through district offices and public places, events and exhibitions	Quarterly	160 000	LSM 1 - 5
Free State						
Office of the Premier	Operation Hlasela News	• To inform people about the Operation Hlasela campaign which is the provincial government's defining	Through regional offices and public places	Monthly	100 000	LSM 1 - 5
programme of action						
KwaZulu-Natal						
Office of the Premier	Ingede	• To inform the public about government activities	Government offices	Monthly	100 000	LSM 1 - 6
Office of the Premier	Inhlaba Mkhosi	• To disseminate information It covers stories from different departments	Through regional and municipal offices and outreach programmes	Three times a year (second, third and fourth quarter.	3 000	LSM 1 - 5

PROVINCE	PROVINCIAL MAGAZINE/ NEWSPAPER	AIM OF PUBLICATION	METHOD OF DISTRIBUTION	FREQUENCY	PRINT RUN	TARGET MARKET
Mpumalanga						
Office of the Premier	Inhlaba Mkhosi	•	To disseminate information It covers stories from different departments	Through regional and municipal offices and outreach programmes	Three times a year (second, third and fourth quarter.	3 000	LSM 1 - 5
North West						
Office of the Premier	North West Mirror	•	To communicate and educate the public	Through regional offices public places	Monthly	120 000	LSM 1 - 10
Private office of the Premier	Newspeak	The magazine is more focused on the premier's speeches, events and her profile	Through regional offices, municipalities, government Offices and public participation events	Twice a year	2 000	None in particular
Northern Cape	**No publication**					
Limpopo						
Office of the Premier	Limpopo News	•	To inform communities and stakeholders on developmental news arising from the provincial government	The paper is distributed to all government offices in the province. GCIS provincial offices play an active role in the distribution.	Monthly	100 000	LSM 1 - 5
Western Cape	None. Only individual department newsletters with a small print run. The only department that does mass production is the police; the focus of the newspaper is on crime related issues.					

GOVERNMENT-OWNED PRINT MEDIA PROPERTIES IN THE BRICS COUNTRIES

The idea of a government-owned newspaper may be unnerving for some, especially those who believe government has no business dabbling in newspaper publishing. With South Africa having joined the BRICS, it would be beneficial to look at what the practice is in these countries.

INDIA

In India, the world's largest democracy, out of 8 512 newspapers, as many as 6 686 are owned by individuals, 1 122 by joint stock companies, 260 by societies and associations, 222 by trusts and 150 by firms and partnerships. Forty one (41) newspapers are brought out by the central and state governments. Cooperative societies, educational institutions and the like own the remaining 31. Of the 41 government newspapers, 37 are brought out by the central and 4 by the state governments.

India has operated as a multiparty system for most of its history and is an excellent example of a country where the idea of a government newspaper is not seen as inimical to democracy.

Interestingly, India has a publications division within its Ministry of Information and Broadcasting, responsible for bringing out some of the country's flagship publications, including the popular Employment News, a weekly that is published in English, Hindi and Urdu. The newspaper provides information about employment opportunities for the unemployed and under-employed youth of the country which helps them to make informed choices about their careers.

The publications division is also one of the leading publishing houses in India and the largest in the public sector. It has a repository of books and journals that highlight matters of national importance. It has published more than 7 600 titles, out of which 1 500 are live on date. Besides books, the division brings out 21 monthly journals and magazines that cover issues of national importance and social purpose.

RUSSIA

Although the government in Russia has begun disposing of some of its media shareholdings, around 80 per cent of the regional press in Russia is still owned by corresponding local authorities. This, of course, reflects where (politically and economically) the country has come from. A system of central planning, excessive state ownership and control of the levers of economic power and influence were the norm, and the regional press reflects this.

Although Russian government has reduced its role in media ownership, it has not let go of some media assets that it considers strategic. Rossiyskaya Gazeta is Russia's main government-owned newspaper, set up by the Russian government in 1990, before the collapse of the Soviet Union. It has a daily circulation of 638 000.

CHINA

The principle and the practice of government-owned newspapers is well-established in China. For example, the Legal Daily is a People's Republic of China (PRC) state-owned newspaper under the supervision of the Ministry of Justice, published in the PRC and primarily covering legal developments.

China Youth Daily is a state-run paper associated with the Communist Youth League of China. The paper is able to attract a primary readership among professionals between the ages of 21 and 48. To maintain such readership, the paper has established an online version.

The People's Daily is a newspaper which is an organ of the Central Committee of the Communist Party of China (CPC). It is published worldwide and has a circulation of between three and four million. In addition to its main Chinese-language edition, it has editions in English, Japanese, French, Spanish, Russian and Arabic.

According to Unesco, People's Daily takes its place among the world top ten newspapers. It publishes the latest policy information dispatches and resolutions of the Chinese government as well as major domestic and international news from China. What is even more fascinating about People's Daily is its online version: People's Daily Online, launched in 1997. People's Daily Online's primary role is to disseminate information from China and to make sure that the news covered in the print version is reinforced. People's Daily Online

is reportedly one of the most authoritative, comprehensive and influential websites and generates the largest number of daily new releases in China.

Published under the People's Daily are also ten newspapers including People's Daily Overseas Edition, East China News, South China News, Market Daily, International Financial Daily, Jiangnan Times, Global Times, Securities Times, Health Times, Satire & Humour and six monthly magazines including The Earth, News Front, Listed Companies, Times Trend and People Forum.

BRAZIL

Most of the mass media in Brazil is privately owned and there are no government subsidies for media companies, except for educational radio and TV – usually one public broadcasting company in each state owns and operates educational television and radio stations.

In Brazil, government ownership of newspapers is limited to the publications that specific departments bring out. Their government media landscape is as follows:

GOVERNMENT ENTITY	ORGANISATION	NEWSPAPER
President	Sulejmani	*METROFIRE*
Ministry of Defene	Ministerio da Defesa	*Forças Armadas do Brasil*
Ministry of Finance	Ministerio da Fazenda	*Ministerio da Fazenda*
	Controle Nacional	*Tesouro Nacional*
Ministry of Communications	Ministerio das Comunicacoes	*Diario Oficial do Brasil*
Ministry of Education	Ministerio da Educacao	*MdE - Diario Educativo*
Social Care	Assistencia Social	*Ajuda aos Iniciantes*
National Congress	Congresso Brasileiro	*Plenario Nacional*

CONCLUSION

Ultimately, in determining the desirability of government-owned print media properties, regard should be had of a crucial international standard in relation to freedom of expression – and that is the pluralism and diversity of the media. Freedom of expression requires that 'the communication media are potentially open to all without discrimination or, more precisely, that there be no individuals or groups that are excluded from access to such media,' according to the Inter-American Court.

These principles have been recognised by international courts, which have also elaborated on the several components of pluralism and diversity such as source pluralism and the existence of a three-pronged media system: public, private and community (the last-named has been implemented in radio broadcasting locally, albeit with limited success).

Unfortunately, the current situation in South Africa's print media environment is far from satisfying international standards. The print media landscape is concentrated in the hands of a few, thus violating the public's right to receive information on matters of public interest from a variety of sources. This lack of pluralism is mainly due to two factors that shape the South African media landscape:

- the failure of government policies to support the development of independent newspaper publishers (India has more individuals, 6 686 to be exact, who own more newspapers than the 1 122 Joint Stock Companies);
- the uncritical acceptance in South Africa, by both government and citizens, that the print media ought to be the commercial media's exclusive domain.

Government-owned print media properties can add plurality and diversity in terms of news sources and content. They can address the information needs of those audiences in whom the commercial media is not interested. Let a thousand flowers bloom and a hundred schools of thought contend (and that includes government's).

A CASE FOR COMMUNITY MEDIA

BY NKOPANE MAPHIRI

Nkopane Maphiri

Nkopane Maphiri, programme director at the Media Development and Diversity Agency (MDDA) has an extensive background in community media, policy development and media advocacy. Nkopane cut his teeth in the community media sector as the founder member and station manager of Soweto Community Radio (now Jozi FM). He has worked as the CEO of the National Community Radio Forum (NCRF), a national organisation of community broadcasters, and has served as a board member of AMARC Africa, a network of community radio broadcasters on the continent.

Nkopane has a vast knowledge of the advertising industry, having served on the SAARF RAMS scrutiny committee for a number of years. He has also worked as a marketing and advertising trainer and has authored the marketing and advertising toolkit for community radio and community print. Nkopane has been a marketing and advertising consultant, and has over the years done work for several private sector and public sector institutions. He holds an AAA diploma in media planning and management, and a Wits University information and telecommunications Policy certificate.

INTRODUCTION

Community media forms a vital part of any society. Since 1994, there have been many changes that have contributed towards its growth and expansion in South Africa. While success stories abound, there have also been many challenges. Much is being done to address these challenges, to ensure that the community media sector continues to grow and that access for previously disadvantaged communities is made possible.

This chapter traces the history of the community media sector, presents the successes and challenges, and makes recommendations for the future.

TRACING THE HISTORY OF THE COMMUNITY MEDIA SECTOR

THE ROLE OF THE COMMUNITY MEDIA BEFORE 1994

Community media emerged out of the activism of pre-1994 South Africa and was seen mainly as an alternative press, responsible for building a democratic and anti-apartheid consciousness. This alternative media – at the time primarily appearing in a print media format that included posters, newsletters and pamphlets – was used as a platform to expose the brutality of apartheid, to provide an alternative point of view, and to help mobilise civil society and build political resistance.

Alternative media began to flourish. A number of different print titles such as *TOPS, Namato Voice and UmAfrika* were circulated in communities. Audio cassettes were distributed at university campuses, and strategic community access points were also used as key distribution points.

At this time any material seen as pro-democracy was regarded as having the potential to incite instability. The alternative media's existence was not encouraged. Nor was it enabled by any law at the time, and this made it easy for the government to repress and harass those organisations actively involved in publishing it. Despite these difficult times, community media grew from strength to strength, as the consciousness among the vast majority of South Africans grew and pressure was put on the system for change.

THE ROLE OF THE COMMUNITY MEDIA POST-APARTHEID

After 1994, with the introduction of a democratic government, a number of constitutional rights were put in place guaranteeing freedom of expression and, by extension, freedom of the press and other media. New legislation and regulations created an enabling environment for community media, allowed for support organisations to be established, and introduced funding models to support sustainability. This created the space for community media to prosper.

During this period, the role of the community media sector changed, and it continues to evolve today. It is perceived to have a unique role to play in the building and reconstruction of the social fabric of the communities in which it operates. Dialogue is initiated in and among communities, and the media is a much needed platform for the strengthening of social cohesion within societies often ravaged by poverty and inequality.

Community radio, TV and print are also used to gather and disseminate information relevant to local audiences. Community frustrations are expressed and their joys are celebrated in the pages of the local newspaper or on the airwaves. Set up for public benefit, run by non-profit entities and owned and controlled by the communities, media sparks conversation and can help to forge the destiny of a community. Through participating in the selection of programmes they would like to hear, communities can participate actively in their own development.

Audiences continue to grow year after year, owing to an increased yearning for programming that has a distinctive local flavour. It is the ability of those working in the community media to master the art and form of participatory content development and delivery that has resulted in the growth of the audience numbers over the past decade.

LEGISLATION AND REGULATIONS: CREATING AN ENABLING ENVIRONMENT

THE CONSTITUTION AND BILL OF RIGHTS

Through a raft of legislation and regulations, the government of national unity (post-1994) created an enabling environment for all media. Freedom of expression was guaranteed and detailed in the South African Constitution, Act No. 108 of 1996. This guarantee, which was introduced to foster an open society free from oppression and censorship, created opportunities for the community media to express their views openly and freely within the limits of the law. There was also tacit acknowledgement that media produced 'by the people for the people' was a vital part of South African society.

Through the Bill of Rights, media were also guaranteed access to 'any information held by the state; and any information that is held by another person and that is required for the exercise or protection of any rights'. In the context of an emerging democracy, access to state information was seen as critical to inform discussions and debates and to get citizens talking. The distribution and broadcast of community media provided an accessible platform for local communities, often the target of government campaigns.

This was the dawn of a new era for community media in South Africa, an era which saw exponential growth of the free press – in the number of publications and radio stations as well as in the mechanisms aimed at sustaining the community media as a result of the recognition of its pivotal role in the maintenance and promotion of democracy, open discourse and access to information.

BROADCASTING LEGISLATION AND COMMUNITY MEDIA

The legislation and regulations that have been enacted since the end of apartheid have also had a positive effect on the community media sector. The legislative instruments put in place after 1994 were tools aimed at democratising the media space and at creating access and promoting diversity in the form of gender, race, language and geographical spread.

The Independent Broadcasting Authority Act, No. 153 of 1993, was the first major piece of legislation to deal with broadcast media in a post-apartheid context. The Act introduced the Independent Broadcasting Authority (IBA), an independent regulator for broadcasting respon-

sible for the licensing of community services as well as public and commercial services.

Community broadcasting was defined in the Act as a service which:

(a) is fully controlled by a non-profit entity and carried on for non-profitable purposes;

(b) serves a particular community;

(c) encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and

(d) may be funded by donations, grants, sponsorships or advertising or membership fees, or by any combination of the aforementioned.

These definitions remain the fundamental guidelines for all community media initiatives in South Africa, and provide for a clear distinction to be drawn with other forms of media.

With the convergence of broadcasting and telecommunications, the IBA merged with the South African Telecommunications Regulatory Authority (SATRA) to form the Independent Communications Authority of South Africa (Icasa) through the enactment of the Icasa Act, 13 of 2000. Icasa has now assumed the role of the broadcast regulator. As part of its mandate, it is responsible for ensuring that this medium is fair and represents the diversity of views of all South Africans. Consideration of applications and the awarding of licensing for community and other broadcasters continue to be managed by Icasa exercising this mandate.

Other broadcast laws that have affected the community media sector include the Broadcasting Act, 4 of 1999, and the Electronic Communications Act, 36 of 2005. The Broadcasting Act of 1999 was enacted to repeal the Broadcasting Act of 1976 in order to establish a new broadcasting policy framework for a young South African democracy. The Act reaffirmed the legislative recognition of a community broadcasting service as first defined in the IBA Act of 1993. The Broadcasting Act acknowledges that the South African broadcasting services are owned and controlled by South Africans; and that the system uses radio frequencies that are a limited public resource to provide programming that is in the public interest and necessary for the maintenance of a South African identity, universal access, diversity and equality. The Act resolves to 'align the broadcasting system with the democratic values of the Constitution and to enhance and protect the fundamental rights of citizens'.

With the convergence of broadcasting and telecommunications came the Electronic Communications Act, 36 of 2005 (known as the ECA), enacted to replace the Broadcasting Act, which provides for the granting of new licences to all tiers of broadcasting.

Significantly for the community broadcaster, the ECA:

• Makes the procedure for accessing a licence for community broadcasting much simpler. Before community broadcasters had to wait for Icasa to request applications but now they can apply under a class licence.

• Provides for the contribution of all holders of a licence granted in terms of Chapter

3 of the ECA to pay contributions (which must not exceed 1 per cent of the licensee's annual turnover) into the MDDA account to advance the objectives of the MDDA Act, 14 of 2002.

PROMOTING MEDIA DEVELOPMENT AND DIVERSITY

THE MEDIA DEVELOPMENT AND DIVERSITY AGENCY ACT, 14 OF 2002

After 1994, government was committed to establish and fund an agency that would drive the growth of the community media sector and provide for alternative voices. This is the Media Development and Diversity Agency (MDDA), a statutory body. The MDDA is entrusted with the responsibility of promoting media development and diversity in South Africa by providing financial and other support to community (non-profit) and small commercial media projects.

The MDDA Act defines media as all forms of mass communication, including printed publications, radio, television and new electronic platforms for delivering content. It also defines media development as the development of the media environment and infrastructure so that historically disadvantaged communities and persons have access to the media as owners, managers, producers and consumers of media. The objectives of the Agency are to:

- Encourage ownership and control of, and access to, media by historically disadvantaged communities and historically diminished indigenous language and cultural groups;
- Encourage the development of human resources and training, and capacity building, within the media industry, especially among historically disadvantaged groups;
- Encourage the channelling of resources to the community media and small commercial media sectors;
- Raise public awareness of media development and diversity issues;
- Support initiatives which promote literacy and a culture of reading;
- Encourage the research of media development and diversity.

SUPPORT ORGANISATIONS IN THE COMMUNITY MEDIA SECTOR

In 1994, the IBA began issuing community stations with temporary 12-month licences to broadcast. Radio Maritzburg in KwaZulu-Natal was the first community radio station to be licensed in 1994, followed by stations such as Bush Radio, Soweto Community Radio, Turf Radio and Radio Zibonele. Within all media sectors, community media practitioners began to establish, join or support organisations that were either engaged in developing the sector, supported diversification or wanted to extend the reach of this sector throughout South Africa. The role of sector network organisations is to advocate for the common benefits of the sector at large and its members in the main. These organisations coordinate and facilitate training and capacity building programmes and lobby for policy and legislative frameworks that create an enabling environment for the sector. Members are assisted to mobilise resources. Awareness is raised.

THE NATIONAL COMMUNITY RADIO FORUM (NCRF)

The National Community Radio Forum (NCRF), registered as a Section 21 Company not for

gain, was formed in 1993 in Orlando East, Soweto, in order to lobby for the diversification of the airwaves, and to foster a dynamic broadcasting environment through the establishment of community radio stations.

About 120 community radio stations form part of the NCRF. Approximately 75 of these are on air while others are still waiting to be licensed by Icasa. Community radio is now collectively the third largest broadcaster nationally, according to SAARF RAMS, with almost 7.8 million listeners found in the most deeply rural areas of all the provinces.

THE NATIONAL ASSOCIATION OF BROADCASTERS (NAB)

The NAB is a non-profit organisation funded entirely by its members. Over 80 organisations made up of the public, commercial and community broadcasters belong to the NAB and hundreds of individuals working in broadcasting and associated industries are involved in its activities. The NAB therefore has access to a wealth of knowledge on broadcasting in South Africa and is able to advise members on a variety of issues.

The NAB's formation coincided with South Africa's democratisation and the freeing of the airwaves. Over the years the NAB's membership growth has matched that of the industry to a point where it is representative of most sectors of South African broadcasting.

The organisation exists to represent the interests of South African broadcasting and works to promote the following:

- A broadcasting system that provides choice and diversity for audiences;
- A favourable climate for broadcasters to operate within;
- A broadcasting industry grounded in the principles of democracy, diversity and freedom of expression.

ASSOCIATION OF INDEPENDENT PUBLISHERS (AIP)

The Association of Independent Publishers (AIP), established in 2005, is a coalition of grassroots and community newspapers in South Africa. The association is member and project driven and aims to improve the quality and economic sustainability of grassroots independent publications, ranging from traditional newspapers, magazines, journals and other news-driven newspapers.

Admitted as a constituent member of the PMSA cluster of media advocacy associations, it has won executive representation on important self-regulatory and standard-setting authorities. The association is an umbrella body that incorporates South Africa's 126-year-old Community Press Association (CPA) and the Independent Media Alliance (IMA) lobby group. The AIP has continued to lobby on behalf of independent publishers and has proactively developed technical training standards, management toolkits & tip sheets, and Open Source software products. This has helped the publishers to strengthen their businesses and has improved efficiency in some publications, increasing their chances of self-sustainability.

SUCCESSES

EXPANSION OF COMMUNITY MEDIA

Since its inception the MDDA has supported over 484 projects with over R233 million allocated in all nine provinces. In the MDDA 2011/2012 annual report it is stated that in the 2011/2012 financial year the MDDA provided support to:

Category	Total
Community broadcasters	26
Community television	01
Community print	08
Small commercial print	23
Research and training	13
Number of people trained	1814
Number of bursaries awarded	247
Number of indirect jobs created	1632
Number of direct jobs created	416

This has had a positive influence on job creation.

Over the years, the agency has made progress towards the creation of an informed society that enhances and deepens democracy. The role of a strong and diverse media that supports nation building and builds democracy and social cohesion is essential for a developing democracy like South Africa. Progress has been made since 2004 towards the promotion of access to information and support for the development of more voices through the MDDA funding provided to community and small commercial media initiatives.

INCREASE IN COMMUNITY RADIO AUDIENCES

In 2012 there were 218 licensed community radio stations and they were to be found in almost every district municipality of the country. More than 120 of them are on-air and broadcasting, thereby representing the largest media sector by number of entities on air.

Community Radio audiences have increased exponentially since 1999. In October 2012, the cumulative listeners of community radio stood at 8 738 000 across all income brackets. Total Community Radio share of audiences is 28 per cent of a total radio audience of 31 million (Source: SAARF).
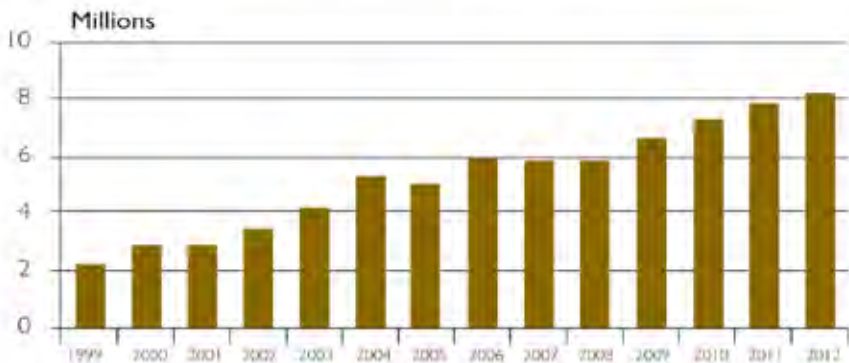
Source: SAARF RAMS 2012

The figures reflected in the RAMS Listenership graph on the page opposite indicate that there has been a real growth in audience numbers year on year on community radio platforms as a result of an increased demand by communities and the growth of the number of stations licensed.

LICENSING OF COMMUNITY MEDIA

Icasa has licensed 218 community radio stations and six community television stations across the country. The increased number of radio stations licensed speaks to the commitment of government to promote diversity and ownership of the media by historically disadvantaged communities.

COMMUNITY MEDIA – A CREDIBLE AUDIENCE DELIVERY PLATFORM

The total revenue traded on 120 community radio stations and 31 community and small commercial newspapers in the 2011/12 financial year (as reflected in the MDDA 2011/12 Annual Report) was R33.4 million (GCIS R13.4 million and advertising industry through The Media Connection was R19.9 million). (as reflected in graph below)

Except for the figures provided by the MDDA in the 2011/12 Annual Report which state that a total of R543 222 has been spent by GCIS on community and small commercial print platforms, there are no reliable figures showing the accurate total spend on community and small commercial print platforms. The figures reported by the MDDA are incorporated in the total GCIS spend of R13.4 million. The MDDA is now working with GCIS and other organs of state to channel government advertising to community media projects. These will be projects that fall within the definition of the MDDA Act of 2002.

SECURING GOVERNMENT FUNDING

Since the establishment of the MDDA in 2004 there has been a marked increase in the government funding for community and small commercial media. In 2004, the MDDA ap-
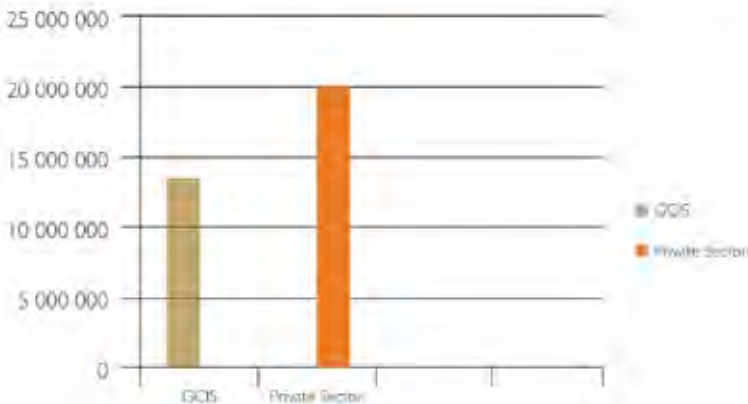
Source: GCIS and The Media Connection)

proved grants of R4m whereas in 2012/13 it managed a total grant of R31.4 m for community and small commercial media.

The agency has funded 484 projects with over R233 million, and the socio-economic impact of the MDDA funding has resulted in the provision of 247 bursaries, and funded training for 1814 people. Through the agency, 1632 indirect jobs and 416 full-time and 259 part-time jobs have been created. Of the supported projects in 2011/12, more than 78 were new and did not exist prior to MDDA intervention.

ADDRESSING THE CHALLENGES OF THE COMMUNITY MEDIA SECTOR TO SECURE GROWTH

DEFINING COMMUNITY MEDIA

Defining what constitutes community media has become increasingly important as this has had implications for the financial sustainability of the sector. Historically, community media within the print environment was loosely defined and included titles owned by the mainstream media houses (Caxton, Media 24, Times Media (previously Avusa) and Independent Newspapers Group), and media owned by the community. This was, however, not the definition as presented in the MDDA Act, which saw community media as non-profit and controlled by the community it served.

Over the years, the community media has been presented with challenges because of the confusion over the definition of community media. Small commercial newspapers from the mainstream media (Caxton, Times Media, and Media24) were included when calculating adspend, and a distorted view of what was being spent in the community media environment emerged. In some cases, advertising in the local knock-and-drop newspapers was surpassing advertising revenue from the sale of commercial newspapers. But these were not, strictly speaking, community newspapers and a false impression was being created about how much was being spent on advertising. Defining what community media actually is, and ensuring that the media landscape was accurately presented, therefore became imperative.

The MDDA, and the Print and Digital Media South Africa (PDMSA) (which includes Media24, Caxton, Independent Newspapers and Times Media) met in May 2012 and agreed to use the MDDA Act of 2002 as a basis to define community media:

- Community media – in terms of the MDDA Act – means any media project that is owned and controlled by a community where any financial surplus generated is reinvested in the media project; and 'community' means a geographically founded community or any group of persons or sector of the public having a specific ascertainable common interest;
- Small commercial media (SMME) – in terms of the MDDA Act – means independent media enterprises or initiatives run for personal gain as micro, very small or small businesses as classified in the National Small Business Act, 102 of 1996. This category will be considered as 'emerging': community print projects owned by small community enterprises or individuals and that have been in existence for two years.
- Local newspapers and magazines owned

and distributed by corporate media owners such as Caxton or Media24 are excluded.

The agreement represented a milestone for the community media sector in that appropriate advertising can now be directed towards this sector and media diversity developed and promoted.

PRINT MEDIA OWNERSHIP, CONTROL AND TRANSFORMATION

Since 1994 the transformation of the print media environment has been happening at a snail's pace, and there is general consensus within government that this sector requires more focus. Transformation issues have plagued the industry since 1994. Already, in 1996, the Comtask report[1] initiated by former president Thabo Mbeki referred to the monopolistic control of the media particularly in the areas of distribution and printing. This was seen as creating barriers to entry for prospective media owners.

In 2007, this situation had not changed significantly. At its 51st National Congress[2] the African National Congress again spoke of the slow transformation in the print media environment – and noted that there was a need to address this issue as well as to allocate more funding to the MDDA to ensure that as broad and diverse an audience as possible would be reached. The Conference also recommended strongly that the MDDA should facilitate the development of media aimed at youth, women, children and persons with disability.

Print transformation issues are being addressed but no significant change has taken place yet. The four big media companies – Naspers (Media24), Caxton, Independent News Media and Times Media still dominate, and media assets are still owned mainly by these companies. Monopolistic control of printing and distribution also affects this environment.

Ownership by historically disadvantaged individuals is also below the desired percentage and women still lack a voice in this sector, whilst language diversity remains at insignificant levels. The major print media players such as Media24 and Times Media have some degree of black ownership. The PDMSA report to Parliament (June 2011) on the state of print media transformation shows that Times Media has at least a 25.5 per cent black shareholding, Media24 has 15 per cent, and Caxton and Independent Newspapers have no black participation.

The community media sector including the small commercial print sector have been negatively affected by this lack of transformation, mainly due to the significant barriers to entry that exist. In addition, lack of diversity in ownership and control has led to a lack of diversity of language, race, gender, content and sources of news.

In a paper published in March 2011, 'The print media transformation dilemma', Jane Duncan supported the argument presented by media academics Dr Mashilo Boloka and Ron Krabill, who said that:

> *… successful transformation would be achieved when the media 'reflects, in its ownership, staffing and product, the society within which it operates. This is only possible if access is opened – again in ownership, staffing, and product – not only to the emerging black elite, but also to grassroots communities of all colours.*

1. Communications 2000: A vision for government communications in South Africa. Final Report: COMTASK. Report of the Task Group on Government Communications to Deputy Presidnet Thabo Mbeki: October 1996.
2. Communication and the battle of ideas (ANC Congress Resolution 2007) www.anc.org.za.

This presented a strong argument as to why the community media needs to engage actively in the transformation process – to support a process that not only ensured the print media industry was a mirror of the present democratic dispensation but also one that opened up the environment further to a diversity of voices.

On 18 June 2012, the Parliamentary Portfolio Committee on communication held its Parliamentary Print Media Transformation Indaba at Icasa premises in Johannesburg. The Committee called upon Government Communication and Information Services (GCIS) and MDDA to work with the industry on the roadmap towards the establishment of a print media charter, a stepping stone towards promoting broad based black economic empowerment (BBBEE) in the sector. Among other things, the charter was important in that it needed to address:

• The availability of print media in languages all South Africans speak;
• The specifics of the industry, including setting deadlines and targets to meet transformation objectives, seen as a commitment by the industry into a diverse and transformed print media in the entire value chain (newsroom, publishing, news sources, printing, distribution and advertising).These will include areas of ownership and control, language, race, gender, employment equity, conditions of employment, skills development, contributions to promoting media diversity (through MDDA), and accord on access to printing and distribution.

The launch of the Print and Digital Media Transformation Task Team (PDMTTT) initiated by PDMSA is against the background of the Parliamentary Print Media Transformation Indaba which was held on Monday 18 June 2012 at Icasa. The Task Team has been mandated to assist the industry to develop a common vision and strategy for transformation in mainstream, small private and community media businesses. It will also recommend areas of transformation, the methodology of implementing transformation, and targets and mechanisms to monitor and enforce transformation. The team is looking at both quantitative and qualitative indicators such as:

• Ownership, management, control and employment equity;
• Skills development;
• Preferential procurement and enterprise development;
• Socio-economic development, the low levels of black ownership within many large media groups, the extent to which concentration and market power results in anti-competitive behaviour that blocks new entrants, the need to develop new media products for regions and communities as well as the languages of those publications, and diversity of voices.

Their report detailing their findings and recommendations is likely to be available by the end of June 2013.

RESOURCE LIMITATIONS AND SUSTAINABILITY

The advertising industry determines adspend, which drives the commercial media market. Unfortunately, this industry has not respond-

ed well to the community media platform, despite the evident and relentless annual audience growth. The result has been that a number of titles and programmes have been withdrawn owing to lack of funds.

Over the years, the advertising industry has come under scrutiny for its slow empowerment advancement, despite the MAC Transformation Charter (the industry's third charter) being gazetted on 29 August 2008 under Section 12 of the BBBEE Act (Act No. 53 of 2003).

In April 2011, the Portfolio Committee on Communications undertook oversight visits and stakeholder consultation meetings with all departments and agencies which report to it in all the nine provinces. During these oversight visits, the Committee noted with concern that challenges with the advertising industry remain. Community media projects lamented the lack of advertising support for community radio, small commercial media and community print media projects. The lack of support is as a result of the lack of understanding by the advertising industry of the community and small commercial media.

As a result of these complaints, the committee resolved that the advertising industry should appear before it to keep it abreast of the progress in transformation of the industry in general and how it is transforming to accommodate community media. These parliamentary public hearings into the transformation of the advertising industry were held on 14-15 June 2011. After hearing and considering presentations made before the committee from the MDDA, Association for Communication and Advertising (ACA), Advertising Standards Authority of South Africa (ASA) and National Consumer Commission (NCC) the committee made the following recommendations:

• MDDA and ACA should meet, discuss, consider and take all issues raised by the community and small commercial media at the oversight visits forward and report back to the committee.
• The Marketing, Advertising and Communications (MAC) Sector Charter Council should have review mechanisms that include experiences encouraging media development and diversity. These may comprise industry business practices such as a percentage commitment of adspend to community media as defined in the MDDA Act.
• GCIS must commit and implement a percentage of adspend to community media as defined by the MDDA Act and to small commercial media.

Government organs and state owned enterprises are also being actively encouraged to advertise in community and small commercial media. The ANC has been a strong proponent of getting government advertising power to support community media, as it resolved at its 51st National Congress in Polokwane. Government advertising currently remains the single most important potential revenue source and is relevant as community media targets mainly poor rural and urban communities – the largest constituency of government. This means that government messages will therefore be able to reach its target market – and at the same time they will be supporting the idea of sustaining a diverse media platform.

The move by GCIS to centralise its media buying service is positive. The development of an online booking platform for community and small commercial media is seen as an enabling platform that would help to facilitate equitable access to government advertising spend.

DIVERSITY IN THE MEDIA

Media ownership and editorial diversity is essential in a developing democracy such as South Africa. The lack of diversity in the media affects how stories are covered and limits opportunities for previously excluded groups, such as black people, different cultural groups, the disabled and women to have their voices heard. A varied and diverse media will promote a multiplicity of voices, views, languages and opinions on wide ranging matters affecting South Africans. Media is an essential enabler in this discourse and it has the potential to help South Africans to create an environment that encourages tolerance of divergent views and also presents diverse voices. This is an ideal to which we all should subscribe, unite behind and work tirelessly towards attaining.

There remain a number of challenges in respect of promoting diversity. Ownership and editorial control are being addressed through the transformation processes that are already underway. In respect of diversity of voices, the MDDA has already focused on gender and transformation of the media. A dialogue was convened in October 2009 that included the MDDA, Icasa, the SABC, the Commission for Gender Equality (CGE) and the SA Human Rights Commission. Arising out of these discussions, a number of recommendations have been made to tackle the issue of gen-

der exclusion from the media. While these relate to gender in particular, these can be extrapolated to other voices excluded from the mainstream media. These recommendations include:

- Gender should be highlighted in all information, communication and media laws;
- The media should portray a more diverse and positive range of images and realistic gender roles – and not perpetuate stereotypes;
- Licensing agreements should include a requirement that gender balance and sensitivity form a part of editorial content;
- The media code of practice should be aligned with South African legislation, international protocols and ratified agreements;
- Attention should be paid to the promotion and preservation of indigenous languages in the media;
- Icasa, the banking sector, the MDDA, the Department of Trade and Industry and the Department of Communication should come on board to ensure that content creation is reviewed.

SKILLS DEVELOPMENT AND CAPACITY BUILDING

Training and development is a never-ending need and requirement of the community sector. Generally, the sector has access to technical equipment, but the skills and capacity to maintain and use it is sometimes lacking. At other times, where skills and capacity have been built, the public and commercial broadcasters depend and draw on them, resulting in skills gaps in the community sector. The identification and development of talent with-

in the community media sector for the benefit of the public and commercial sectors provides a healthy ecosystem, but sustainability in all three media tiers should be developed.

A WAY FORWARD FOR THE SECTOR

The MDDA, jointly with the GCIS, is collaborating to establish the online booking and monitoring platform for community and small commercial media. This will provide increased accountability, compliance and regulation of the advertising trade in the sector. The net effect will be increased revenue and accountability by all players in the sector. It is a development which will give meaning to the preamble of the MDDA Act: 'Promote media development and diversity by providing support primarily to community and small commercial media projects'; and Section 3: 'Encourage the channelling of resources to the community media and small commercial media sector'.

The MDDA has agreements in place with three printing companies to provide discounts to all community and small commercial publishers. These printing discounts are meant to provide an enabling business environment and reduce the barriers of entry into the industry for emerging publishers, as the high cost of printing has been regarded as the single most challenging factor for independent publishers to operate and sustain their businesses.

The MDDA continues to provide support to the Media Literacy programme which is aimed at promoting the culture of reading among young South African learners. The programme also encourages the development of media in indigenous languages in order to give meaning and effect to Sections 16 and 32 of the Constitution which provide for the freedom of expression and access to information.

COMPETITION COMMISSION CASES IN THE MEDIA: PRINT MEDIA

BY TAMARA PAREMOER

Tamara Paremoer

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INTRODUCTION

The Competition Commission of South Africa is a statutory body established in terms of section 19 of the Competition Act, 89 of 1998 (as amended) and responsible for investigating anti-competitive conduct, considering exemptions from competition law, and regulating mergers within South Africa. The Commission's primary purpose is to promote competition in order to improve the efficiency and adaptability of the economy, to promote a greater spread of ownership, to increase consumer choice, and to make it easier for all South Africans to start, build and sustain successful businesses.

This chapter focuses on the work that the Competition Commission has done within the South African media sector. We describe the competitive dynamics and competition concerns observed during merger evaluations and complaint investigations in media markets.

The chapter is based on the findings made in completed investigations. For that reason, we will focus only on print media – newspapers in particular – and will not cover broadcast and digital media, as we have not completed investigations in those markets.

There are three parts to the chapter. First, we outline the purpose and objectives of the Competition Commission in order to understand the role that the Commission plays in the economy. Second, we describe the major players in the newspaper market. The final part sets out the challenges that new entrants face when entering the newspaper market and shows what the competition authorities have done to reduce these barriers.

WHAT IS THE ROLE OF THE COMPETITION COMMISSION IN THE ECONOMY?

The South African economy is characterised by high levels of concentration. A 2009 study on trends in income distribution indicates that national income has become increasingly concentrated at the top end. In 1993, the richest 10 per cent of South Africans held 54 per cent of national income. By 2008, this concentration increased to 58 per cent.[1] Business concentration is also very high. According to February 2013 data, only ten companies account for more than 55 per cent of the FTSE JSE All Share Index.[2] High levels of concentration are compounded by South Africa's low rate of new business formation compared to its developing country peers.

This raises a question: why is there a seeming lack of competition in the South African economy? The lack of competition has been attributed to various factors, including the relatively small size of our local market, and our legacy of state-centred, protectionist apartheid capitalism.

It is well known that the apartheid regime actively supported businesses in the energy (for example, Sasol), industrial products (for example, Iscor) and mining sectors. The state also actively regulated prices in many agricultural markets through state-controlled 'marketing boards'.[3] Many of the conglomerates and large corporations fostered under apartheid capitalism simply did not know how to function in a competitive market.

1. Leibbrandt M, I Woolard, A Finn and J Argent, J (2010) 'Trends in South African income distribution and poverty since the fall of apartheid', OECD Social, Employment and Migration Working Papers, No. 101, OECD Publishing.
2. FTSE Group, 28 February 2013, Available at http://www.ftse.com/Indices/FTSE_JSE_Africa_Index_Series/
3. Seekings J and N Nattrass (2004) The post-apartheid distributional regime. CSSR Working Paper No 76, University of Cape Town.

State-sponsored dominance also extended to the media sector. Until the early 1990s, the sector was characterised by duopolies in the Afrikaans and English language press and an effective state monopoly in radio and television.[4] These four newspaper groups also collectively ran the Newspaper Press Union, which controlled all newspaper distribution networks and regulated prices in the newspaper industry.[5] There was clearly very limited competition.

In the 1990s, as South Africa emerged from its isolationist past, competition policy was viewed as a crucial instrument for introducing dynamism into the economy and encouraging the transformation of inherited monopolistic markets. The objective of introducing competition into the South African economy had to be balanced with the need to address the legacy of extreme inequality and the historical exclusion of the majority of the population from meaningful participation in the economy.[6]

A balance had to be struck between, on the one hand, the strict application of competition principles and, on the other hand, the use of competition policy as an instrument of economic transformation. In a strict sense, competition law is used to prosecute collusion and exclusionary activity by monopolies. In a broader sense, competition law and competition policy can be a transformative tool that reduces barriers to entry for new business, broadens the ownership base in the economy, and improves the international competitiveness of South African firms.

The balancing act between strict and broad interpretations of competition law led to the inclusion of 'public interest' considerations in South Africa's Competition Act. This peculiar aspect of our legislation compels the Commission to consider the impact of merger activity on public interest matters such as employment, the ability of firms owned by historically disadvantaged persons to compete, and the international competitiveness of South African firms. The competition authorities can impose conditions on merging firms to mitigate any negative impact on these public interest matters. The Act also makes provision for the Commission to grant exemptions that allow firms to engage in prohibited behaviour if this will have certain defined pro-competitive benefits such as the promotion of exports and improving the ability of small firms and black-owned firms to compete in the economy.

The inclusion of the public interest considerations shows that the policy makers indeed intended to use competition law as a transformative economic tool. The Commission has internalised this spirit in the manner in which it approaches investigations and has prioritised sectors and products for investigation based on the impact that these sectors have on the poorest South Africans as well as the role that the sectors play in government's industrial and economic policy.

The media sector has emerged as one such priority sector. The Commission's interest in the print media, and the newspaper market in particular, was sparked by a notable increase in the number of competition cases in the sector over the past few years.[7] Concerns have arisen at the printing and distribution stage of the newspaper publication process about high barriers to entry and potentially anti-competitive activity by large firms.

The rest of this chapter examines these competition challenges in the newspaper market in more detail.

4. A duopoly is a market wherein there are only two firms.
5. Jacobs S (1999) Tensions of a free press: South Africa after apartheid. Research paper R-22. The Joan Shorenstein Center, Harvard University.
6. Lewis, D (2011) Thieves at the Dinner Table – A Personal Account. Johannesburg: Jacana.
7. Between 2004 and 2012 the Commission initiated a total of 13 investigations in the media sector consisting of six cartels and seven abuse of dominance cases.

UNDERSTANDING THE NEWSPAPER MARKET

The newspaper market can be split into two broad types of publications; 'paid-for' publications where consumers pay a fee to access content, and 'free' publications that are distributed to their target market free of charge. Free publications are usually circulated in a small geographic area and are delivered directly to readers' homes. The majority of free publications are what the Commission refers to as 'community newspapers'.[8]

WHAT ARE THE STEPS TO PUBLISH A NEWSPAPER?

There are four main steps in the publishing process. The first step, the creative phase, involves collecting and collating editorial content and selling advertising space. The second phase, pre-production, involves typesetting, layout and formatting. The third phase, production, is the printing. The final stage, post-production, involves distribution.[9]

Figure 1: The Newspaper Publishing Process

Step 1: Creative
Collating editorial content and selling advertising space

Step 2: Pre-Production Typeseting, Layout and Formatting

Step 3: Production Printing

Step 4: Post-Production Distribution to point-of-sale

WHAT IS THE STRUCTURE OF THE SOUTH AFRICAN NEWSPAPER MARKET?

The South African print media industry is highly concentrated, with a small number of firms with large market shares at each level of the value chain. Four main media houses account for a significant portion of the newspaper market. These media houses also have considerable influence over printing and distribution.

WHO ARE THE MAJOR PLAYERS IN THE SOUTH AFRICAN PRINT MEDIA SECTOR?

There are four main players: Naspers through its subsidiary Media24, Caxton, The Times Media Group and Independent Newspapers.

Media24 controls the Naspers group's publishing and printing activities. It is the largest publisher, printer and distributor of magazines and newspapers in Africa.[10] Media24 publishes more than 60 newspapers including The Daily Sun, City Press, Beeld, Die Burger and Rapport. About 50 of these publications are community papers with localised distribution. The group's largest presence in community papers is in the Western Cape.

The Caxton Group has one paid-for newspaper, The Citizen, which has a national footprint. The group has an interest in more than 150 community newspapers that are distributed throughout the country.[11]

The Times Media Group, formerly Avusa, publishes 19 newspapers including South Africa's biggest Sunday paper, the Sunday Times. Their

8. The Commission notes that this is not the definition of 'community newspaper' contained in the MDDA Act. The MDDA Act defines 'Community Media' as any media project that is owned and controlled by a community where any financial surplus generated is reinvested in the media project; and 'community' means a geographically founded community or any group of persons or sector of the public having a specific ascertainable common interest. The MDDA Act defines 'Small Commercial Media' as independent media enterprises or initiatives that are run for personal gain as micro, very small or small businesses as classified in the National Small Business Act, 1996. Our definition of community newspapers is thus similar to the definition of small commercial media in the MDDA Act. The term 'community newspapers' is henceforth used to describe local newspapers that target a specific community.
9. Who owns whom (2012), Publishing of Newspapers, Magazines and Journals, September: 8.
10. Naspers Fact Sheet, Available at http://www.naspers.com/naspers_factsheet.php
11. Caxton, available at http://www.caxton.co.za/pages/pub_CommNews.htm, and National Advertising Bureau, available at http://www.nab.co.za/about-us/.

community newspapers division publishes nine weekly titles in the Eastern Cape.[12] Time Media Group is involved in the publication of the Financial Mail and Business Day though a joint venture with the British publisher Pearson.[13]

The Independent Newspapers Group is a wholly owned subsidiary of Independent News and Media Limited.[14] Independent Newspapers publishes ~30 daily and weekly newspapers. The group has a large presence in the English reader market, estimating that it reaches 63 per cent of the English market in Gauteng, KwaZulu-Natal and the Western Cape. Independent Newspapers also publishes the only isiZulu daily in South Africa, Isolezwe.[15] Tables 1 and 2 show the geographic distribution of the newspaper titles held by these major publishers.

Table 1: Number of community newspaper titles held by major groups[16]

Province	Media24	Caxton	Times Media Group	Independent Newspapers Group
Gauteng	4	55		
Mpumalanga		20		
North West	2	10		
Limpopo		11		
KwaZulu Natal	8	41		
Eastern Cape	8	6	9	
Western Cape	15	7		17
Northern Cape	2	1		
Free State	11	4		
Total	50	155	9	17
Other SADC countries		14		

Table 2: Number of paid-for newspaper titles held by the major groups per province[17]

Province	Media24	Caxton	Times Media Group	Independent Newspapers Group
National	11	1	5	5
Gauteng			1	2
Mpumalanga				
North West				
Limpopo				
KwaZulu Natal	3		1	5
Eastern Cape				
Western Cape	1		3	4
Northern Cape				1
Free State				
Total	15	1	10	17

WHAT CAN WE ASCERTAIN FROM THESE GEOGRAPHIC FOOTPRINTS?

Tables 1 and 2 show that there is very little geographic overlap in the footprints of the four major print media players. Caxton has the largest number of community newspapers but only one paid-for publication. It has a strong presence in Gauteng, KwaZulu-Natal and Mpumalanga. Conversely, Media24 and Independent Newspaper Group both have a relatively limited presence in community papers but a large presence in 'paid-for' publications. Media24 and Independent Newspapers have a strong presence in the Western Cape; a province wherein Caxton has a smaller presence. Times Media Group's community newspapers are all in the Eastern Cape, one of Caxton's smallest markets. The media houses have limited geographic overlap and seem to focus on different product markets.

12. Times Media Group, available at http://www.timesmedia.co.za/.
13. Richtrau No.229, a wholly owned subsidiary of Mvelaphanda Group Ltd, acquired the entire issued share capital of Avusa Ltd. Richtrau No. 229 was renamed 'Times Media Group' and listed on the Johannesburg Stock Exchange. See large merger 68/LM/Jun12 and Business Day article, Three biggest Avusa investors to remain TMG shareholders, 25 September 2012, available at http://www.bdlive.co.za/business/media/2012/09/25/three-biggest-avusa-investors-to-remain-tmg-shareholders
14. On 18 February 2013, Sekunjalo issued a SENS announcement stating that it will acquire Independent Newspapers' South African operations. At the time of writing, the merger had not been notified to the Commission.
15. Independent Newspapers website. Available at http://www.iol.co.za/independent-group-1.123723
16. Based on information collated from corporate websites in March 2013.
17. Based on information collated from corporate websites in March 2013.

The major media houses are also still split according to language. Media24 dominates Afrikaans-language papers and the other media houses focus on English publications. The market for isiZulu publications is emerging as a site of increased competition between the major media houses.[18]

The limited overlap in both product and geographic markets raises some concerns about whether the media houses are competing as effectively as they should. The limited presence of Media24 in the English-language market and limited presence of Caxton, Independent Newspapers and Times Media Group in the Afrikaans-language market may indicate limited competition, but could also be the consequence of maintaining historical areas of focus in an over-serviced market.

WHAT ARE THE DYNAMICS IN THE PRINTING MARKET?

As in the publishing market, the printing of newspapers is also concentrated among the large media houses.

Paarl Media Group (Pty) Ltd is a wholly owned subsidiary of Media24 with newspaper and commercial printing plants in Johannesburg, Cape Town, Bloemfontein and Port Elizabeth. In May 2012, Media24 acquired an 80 per cent interest in Africa Web, thus extending its printing footprint to KwaZulu-Natal.[19]

CTP Printers, a subsidiary of Caxton, has newspaper printing facilities in Johannesburg and Cape Town. It also has interests in approximately 10 smaller newspaper-printing facilities that provide it with national coverage. [20]

The Independent Newspapers Group has large newspaper printing plants in Johannesburg and Durban.[21] The Johannesburg-based printing division is optimised for newsprint and cannot print community papers.

The large media groups have extensive printing footprints with established printing capacity, either in-house or outsourced.[22] There are few independently-owned newspaper printing presses, and those that do exist often have agreements to print on behalf of the large media houses. The effect of this is that independently-owned community newspapers are forced to compete with larger competitors for printing slots and struggle to access reliable, good quality and timely printing services. This presents a considerable challenge.

It is unsurprising that smaller independent community newspapers cite access to printing and the cost of printing as the greatest obstacle to building a successful business.[23]

HOW DOES MARKET STRUCTURE AFFECT ENTRY BY NEW PLAYERS?

'Barriers to entry' are obstacles that make it difficult to enter a particular market. Competition authorities evaluate barriers to entry to help them understand the ease of entering a market and the likelihood that new firms will enter a market and increase competition. If barriers to entry are low, new businesses can enter a market quite easily in response to unmet demand. High barriers to entry, on the other hand, deter entry, effectively protecting incumbents from competition.

Many barriers to entry; such as (sunk) start-up costs, regulatory requirements and equip-

18. Independent Newspapers (Pty) Ltd, Caxton, and Media24 are active in this market.
19. Who owns whom (2012) Publishing of Newspapers, Magazines and Journals, September: 96, and Media24 website, available at http://www.financial-results.co.za/2012/media24_ar2012/m-group-glance.php.
20. According to a press release by US-based EFI™, a Caxton supplier, Caxton has 10 coldset facilities across the country. See http://www.technique-mis.com/news/technique-mis-selected-by-caxton-and-ctp-publishers-printers-limited.
21. Media24/Natal Witness merger, case No. 2011Feb5670.
22. The fact that all media houses have access to printing facilities across the country makes the limited geographic overlap in their publishing operations even more curious.
23. Media24/Natal Witness merger, case No. 2011Feb5670.

ment, can be anticipated. A challenge for competition authorities is that barriers can also be raised artificially by the anti-competitive conduct of incumbent firms. We will show how this manifests in print media.

The following sections evaluate the most significant barriers to entry in the print media market. Ownership concentration, 'creeping acquisition' and limited access to printing and publishing raise the barriers to entry and make it difficult for new entrants to compete effectively against established media houses.

BARRIER TO ENTRY 1: OWNERSHIP CONCENTRATION

As demonstrated above, the South African print media industry is very concentrated. The large media houses have the benefit of an established reputation, a national footprint and economies of scale. Their reputation gives them bargaining power relative to smaller publications, as they can assure their readers and advertisers that their publications will be available regularly and will be of consistent quality.

Their national footprint allows them to offer advertisers space in a range of publications through a central point of contact; which gives them a considerable competitive advantage over disparate small, independent community newspapers.

The diversified portfolios and extensive reach of large media houses also gives them the benefit of economies of scale. They can spread their costs over a broader range of publications than the smaller community newspapers, which often own only one publication.

In terms of anti-competitive conduct, the lower average costs and broader product range of large media houses may give the larger players an incentive to engage in predatory behaviour. If a large media house, for instance, faces tough competition from a smaller community newspaper in a specific area, it may respond by offering extremely low advertising rates to customers in that particular contested market; it can absorb the losses from these discounts because it receives additional revenue from its other publications in markets where it still charges higher rates. Smaller independent community papers do not have this advantage as they often depend on a single publication for all their revenue.

The practice of selling goods and services at prices that do not cover costs is known as 'predatory pricing' and is prohibited in terms of Section 8 of the Competition Act.[24] The Commission has investigated a complaint of exactly this type of predatory behaviour in the market for community newspapers in the Free State. On 31 October 2011, the Commission referred a complaint of predatory pricing against Media24 to the Tribunal.[25] [26]The complainant, Berkina Twintig (Pty) Ltd, operated a community newspaper called Gold-Net News in the Goldfields area. Media24 operated two competing community newspapers, Vista and Goudveld Forum, in the Goldfields area at the time. Berkina Twintig alleged that Media24 engaged in predatory pricing during the period January 2004 to February 2009 by offering advertising in Goudveld Forum at rates that could not possibly have covered their costs. Gold-Net News could not match the low advertising rates and lost advertising customers to the Media24 publications. Goudveld Forum closed its doors and exited the market in 2009.

[24] A predatory price is one below marginal or average variable cost. This means that the firm cannot possibly cover the additional cost incurred to produce the good or service at the sale price.
[25] Media Release issued by the Competition Commission, Commission refers predatory pricing case against Media24, 31 October 2011.
[26] This matter will be contested by Media24 before the Competition Tribunal. The information contained in this chapter does not pre-empt any finding by the Tribunal, but simply sets out the findings of the Commission based on its investigation.

The Commission's investigation showed that Media24 charged predatory advertising rates for advertising space in Goudveld Forum. It seems that Media24 did so for purpose of defending the market share of its more lucrative publication, Vista against competition from Gold-Net News. The investigation showed that Media24 budgeted to operate Goudveld Forum at a loss during the predatory pricing period; once Gold-Net News exited the market, Goudveld Forum was closed and Vista continued to operate.

Media24's response to competition from Gold-Net News may have sent a message to any potential entrant that Media24 can, and will, defend its market share aggressively against competition, raising barriers to entry.

BARRIER TO ENTRY 2: CREEPING ACQUISITION

'Creeping acquisition' refers to the situation in which large firms acquire small competitors to prevent them from growing into large, effective competitors. These acquisitions are often too small to warrant merger notification to the competition authorities. Considered in isolation, any one of these small mergers would not raise competition concerns – however, on aggregate, a number of successive small mergers may lessen competition significantly in the long-term.

In the recent merger between Media24, Paarl Coldset and Natal Witness Printing & Publishing Company, the Tribunal raised concern about creeping acquisition in the market for African-language community newspapers.[27] The Tribunal found that community newspapers have been very successful in the under-serviced African language segment. However, large firms often respond by acquiring these successful African-language community papers instead of competing with them in local markets. In order to address the practice of creeping acquisition in the Media24 merger, the Tribunal imposed a condition on the merger that prevented Media24 from acquiring any community newspaper in the KwaZulu-Natal and north Eastern Cape region without the approval of the Competition Commission. This condition ensures that the Commission is aware of any acquisition and can determine whether it would have anti-competitive effects.

This example shows that competition authorities are interested in existing competition and also in potential competition. The practice of creeping acquisition limits competition and makes potential entrants nervous about venturing into the community newspaper market.

BARRIER TO ENTRY 3: ACCESS TO PRINTING

We have shown that the printing level of the value chain is also very concentrated. Ownership concentration at this level limits the ability of independent newspapers to access quality printing at the right time. In the Commission's interactions with community newspapers, the owners have confirmed that access to quality printing facilities at the right time is a considerable challenge.

The ability of independently-owned community newspapers to access printing facilities on fair terms was a major concern in the large merger of Media24, Paarl Coldset and the Natal Witness. As a result of this merger,

[27] Large merger between Media24 Limited, Paarl Coldset (Pty) Ltd and The Natal Witness Printing & Publishing Company (Pty) Ltd, 15/LM/Jun11.

Media24 was set to increase its stake in the KwaZulu-Natal based Africa Web from 50 per cent to 80 per cent. Africa Web provided printing services to various community newspapers in KwaZulu-Natal and the northern Eastern Cape that competed with Media24's community newspapers. The Commission was concerned that Media24 would use its greater stake in Africa Web to exclude independent community newspapers from these printing facilities in favour of Media24's own publications. The merging parties did not deny that they would prioritise their own printing. The Tribunal agreed with the Commission that the merged entity would indeed have the incentive and the ability to exclude competing community newspapers from accessing Africa Web's printing facilities. This meant that the Tribunal had to consider how to prevent the potentially anti-competitive exclusion of community newspapers. It imposed three conditions on the merged entity to reduce its incentive to exclude competitors after the merger.

The first condition was that the merged entity should increase Africa Web's printing capacity by 1000 tons and make this capacity available to small independent publishers. The second condition was that Africa Web should be managed independently of Media24, to limit Media24's influence over the operations and decisions of Africa Web. Finally, the Tribunal stipulated that Africa Web should enter into agreements with existing customers affirming that it would continue providing printing services to them on favourable terms. The merger conditions are effective for a period of five years from July 2012.

These merger conditions show how the competition authorities mitigate competition concerns in the public interest and in the interest of competitive markets. These particular conditions will allow new entrants to enter the markets without fear that Media24 would use its dominance to exclude them from the printing market and will ensure that current community newspapers have access to reliable, good quality printing. The Tribunal also ensured that the conditions are in place for a period of time that is long enough to allow smaller firms to become competitive. The merger conditions give new entrants a fair chance to compete against a large incumbent.

WHAT ABOUT DISTRIBUTION?

The Competition Tribunal has considered one case that concerns distribution in the print media market. The complaint was lodged in June 2004 by Mandla Matla Publishing (Pty) Ltd against the Independent Newspaper Group. It related to the distribution of isiZulu newspapers in KwaZulu-Natal.

Ilanga, the country's first isiZulu newspaper, was established by John Langalibalele Dube in 1903, and acquired in its entirety by Independent Newspapers (then Argus Group) in 1963.[28] In 1987, Independent Newspapers sold Ilanga to Mandla Matla. Although Mandla Matla bought the rights to Ilanga, it entered into an agreement with Independent Newspapers to continue printing, distributing and providing administrative support for the publication. For the next 15 years, Independent Newspapers distributed Ilanga on behalf of

[28] Gillwald A (1988) 'A Black Coup'- Inkatha and the sale of Ilanga. Transformation (7).

Mandla Matla using its own exclusive distribution network. At the end of the 15 year contract, Mandla Matla chose not to renew the service agreement with Independent Newspapers. Instead, Mandla Matla entered into an agreement with Natal Witness Printing & Publishing Company (Pty) Ltd, to publish and distribute Ilanga.

Independent Newspapers responded to the loss of the Ilanga contract by launching a competing isiZulu daily newspaper, Isolezwe, for distribution throughout KwaZulu-Natal. Independent Newspapers instructed its network of distributors not to distribute their competitor's publication. Mandla Matla argued that this was anti-competitive.

The Competition Tribunal found against Mandla Matla, arguing that the exclusion from Independent Newspapers' distribution network did not have any anti-competitive effect. In support of this finding, the Tribunal noted that Natal Witness (Mandla Matla's new distributor) was able to establish its own distribution network within just two months of getting the contract to distribute Ilanga. The pace and ease with which Natal Witness replicated a rival distribution network showed that there was no anti-competitive exclusion. In the Mandla Matla case, distribution was not considered a significant barrier to entry.

This finding, however, is not applicable to all cases. In this case, the Tribunal dealt with a newspaper that had been in the market for more than 100 years, and had an established reputation and a loyal reader and advertising base. It is considerably easier for a paper with an established reputation to find alternative distributors but this does not necessarily apply to new entrants. A new entrant would have no way of ensuring steady, large distribution quantities to a new distribution network and may not have been as successful in establishing a rival network. A smaller player would possibly have had more success in arguing that the exclusion from an existing (dominant) distribution network constituted anti-competitive behaviour.

CONCLUSION

Before 2004 the Commission investigated three cases in the print media market. Since 2004, the Commission has investigated thirteen cases in the print media sector. Six of these cases were alleged cartel behaviour – the most egregious competition law contravention. In the remaining seven cases, the dominant media houses are alleged to have abused this dominance, which indicates that the structure of the print media market may make it prone to anti-competitive exclusion. The Commission has responded by declaring the print media market an area of focus, and will continue to monitor competition in print media in support of a more diversified and competitive print media industry over the next five years. The dynamism of new entry and the growth of sustainable new businesses in the newspaper market are central to our objectives and to increasing the diversity of voices in South African print media.

SOUTH AFRICA'S MEDIA CURRENCIES:
SHAPING THE UNDERSTANDING OF THE LOCAL MEDIA ENVIRONMENT

BY **MEGAN CHRONIS**

Megan Chronis

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The South African Audience Research Foundation (SAARF)

Every day, South Africans come into contact with vast quantities of media. Spanning TV, radio, newspapers and magazines, cinema, outdoor, and digital and online media, South Africa's vibrant, choice-rich media environment means that consumers have myriad ways to access news and information, entertainment and education.

For marketers, it means that there are millions of opportunities to reach out and make a connection with these valuable target markets through marketing and advertising activities.

In any environment where money changes hands, people need to know what they are getting in return. This is where the media audience researcher's job begins. Media audience researchers are responsible for providing data that quantifies consumption of the different media and sheds light on the people who consume it. This information is vital to those in the media, marketing and advertising industries who use this data when making business decisions, such as where to position a brand, or which media to use to best reach a target market and achieve the highest returns on advertising.

1. UNDERSTANDING THE TASK OF THE MEDIA AUDIENCE RESEARCHER

THE SCOPE OF THE MEDIA AUDIENCE RESEARCHER'S TASK

South Africa has arguably one of the widest and most diverse media landscapes on the African continent: reportedly 180 TV channels, 215 radio stations, 22 daily newspapers, 28 major weeklies, 600 consumer magazines and newspapers, 650 business-to-business print titles, and 480 local or community newspapers and magazines.[1] There are two cinema chains, and a wide range of out-of-home media types, from billboards and street pole posters to advertising on minibus taxis, trains and buses. Then there is the rapidly growing digital space, where consumers can access billions of web pages.

To this magnitude of media choice, add the complexity of the South African consumer market, diverse not only in terms of language and culture but also of economic status.

Spread out over some 1.2 million square kilometres are 34.9 million South African adults (aged 15+),[2] living in populous metropolitan cities, sprawling informal settlements, far-flung towns, and deeply rural villages. Their financial circumstances and standards of living vary widely, and they speak at least one of eleven official languages (making South Africa the country with the most official languages in the world).[3]

This is the vast and complex environment which media audience researchers must quantify and describe.

THE TASK OF THE MEDIA AUDIENCE RESEARCHER

Media audience researchers quantify media consumption by measuring people's behaviour: what media people read, watch, and listen to, and how they consume these media.

Media consumption data would include: how often people consumed various media; how thoroughly they read a magazine; when and how they watched television and the programmes and genres they preferred; and what radio stations they listened to and for how long. The media audience researcher must also provide information on the demographic profile of consumers, or the statistical characteristics of a market. This information would include variables such as gender, age, race, geographic location, living standard and income.

Media audience research therefore provides information that allows marketers and advertisers to better understand their target markets and to identify marketing opportunities, while giving media owners data to facilitate their delivery of content that will maintain and grow their audiences.

2. BEYOND INFORMATION: WHEN MEDIA AUDIENCE RESEARCH BECOMES A CURRENCY

In any media environment, there are usually a number of sources of media consumption information, all of which differ in their focus and scope, and give various perspectives on the media landscape and consumer environment.

Some surveys, however, become accepted by an industry as the official source of information. Although users will continue to consult other sources for a well-rounded view of their markets, they will, by consensus, use one survey as the foundation for their knowledge. Such information is then termed a currency. Just as a monetary currency becomes the ac-

cepted form of trade in a market, so too can a source of information become a currency. A media audience currency is the accepted source of data used by media owners and marketers to underpin the commercial activities of the industry.

The South African Audience Research Foundation (SAARF) provides three of the local industry's media audience currencies:

• the All Media and Products Survey (AMPS), which provides the official media audience data for the print industry and is the currency for print readership;[4]
• the Radio Audience Measurement Survey (RAMS), which is the official currency for the radio industry; and
• the Television Audience Measurement Survey (TAMS), which is the official currency for television.

3. THE IMPORTANCE OF MEDIA AUDIENCE CURRENCY RESEARCH

Media audience research is not a 'nice-to-have' – it is a necessity. One can debate how media audience research should be conducted, but the need for media audience research itself is indisputable; commercial media industries cannot function without it. This is because the currencies produced by media audience research lie at the heart of the buying and selling of advertising space and time.

Advertising spend in South Africa amounted to R32 billion for 2011,[5] representing a significant investment in media by marketers. In order to justify their advertising spend,

[4] A print title's readership is the number of people who first read or paged through a copy of that title within its period of issue.
[5] Nielsen AIS/AdEx, Jan-Dec 2011. This figure excludes self-promotion, and is calculated before volume discounts and agency commission.

marketers and advertising agencies must be able to quantify their markets, know who they are reaching, and be confident that the channels they have selected are the most likely to reach these markets. By providing these assurances, media audience research encourages adspend growth, safeguarding the lifeblood of media industries.

Media audience research also enables media owners to promote their specific media product over other similar products, and their media sector over competing media types (for instance, print versus television). Media audience research also provides media owners with the information they need to make editorial and programming decisions to ensure the retention and growth of their audiences.

4. HOW MEDIA AUDIENCE CURRENCY RESEARCH IS CONDUCTED

Media audience data can be collected in five different ways, some more reliable and credible than others.

RESEARCH DRIVEN BY A RESEARCH SUPPLIER

A private media research company takes the lead and conducts research in return for a fee. This can lead to private sector monopolies and divide the industry, thus weakening the media owners' bargaining power and pushing up the cost of research. It can also create barriers to access for small players and new entrants into the market, as the cost of private proprietary research can be prohibitively high.

PROPRIETARY MEDIA RESEARCH

Media owners commission their own research. Although this research can provide additional insight about the audiences of that media owner's brands, it does not have the credibility of a media currency, since it is not seen as impartial. This type of research can, however, be extremely beneficial if it is used by the media owner to better understand the audience.

MEDIA OWNER COMMITTEE (MOC) RESEARCH

Media owners within a particular media sector work together under one body (a media owner committee or MOC) to produce a research currency for their medium. In the United Kingdom, for example, rather than each radio station conducting its own research, the radio industry as a body has mandated RAJAR (Radio Joint Audience Research) to measure radio listening.

This approach is significantly better than proprietary media research because it is not biased towards any one media owner, and therefore delivers credible data. In addition, all media brands within the sector can be compared, which would not be possible if each brand conducted its own audience research. There is, however, a risk that media owner committee research could be conducted in such a way as to promote that medium as a whole over other media sectors, delivering results that are biased in that medium's favour. Inter-media comparisons are also not possible because of differences in sampling and methodology.

SINGLE-MEDIA JOINT INDUSTRY COMMITTEE (JIC) RESEARCH

Media owners within a particular media sector form a JIC with advertising agencies and marketers to produce a research currency for their specific medium. A joint industry committee or JIC is 'a non-profit-orientated, neutral organisation in which all key players of an advertising market, i.e. normally advertisers [or marketers], [advertising] agencies and media owners, are represented'.[6]

The single-media JIC approach is significantly better than the preceding approaches mentioned, as the research is conducted under the joint control of the three primary stakeholders and is not controlled by media owners alone. It is therefore credible, and perceived as being unbiased. As with MOC research, single-media JIC research runs the risk of being biased in favour of its specific medium, and inter-media comparisons are not possible.

MULTIMEDIA JOINT INDUSTRY COMMITTEE (JIC) RESEARCH

JICs can also involve multiple media sectors which, together with the advertising and marketing industries, conduct media research on behalf of the entire industry. Multimedia JICs are regarded as the best vehicle through which currency research can be conducted. Data collected is unbiased and impartial, and is credible and acceptable to all stakeholders as they have control and influence over this research.

Multimedia JIC-conducted research is also often more extensive and of a higher quality

than could possibly be afforded by an individual media owner or sector. Since the research covers multiple media sectors, these sectors can be compared, an important benefit in a world of increasing media convergence. Such research can, however, be hampered by slow decision-making processes owing to the need for wide consultation. A lack of funding can also be a complication – but this is true of all media audience research.

5. HOW SOUTH AFRICA CONDUCTS MEDIA CURRENCY RESEARCH

Media audience currency research in South Africa is conducted through a joint industry committee known as the South African Audience Research Foundation (SAARF), a recognised world leader in producing multi-industry-driven media audience currencies.

SAARF'S ROLE

Established in 1974, SAARF's industry-sanctioned mandate is:

> To provide tools for targeting and segmentation of markets as well as to establish, commission and manage comprehensive, valid, reliable, continuous media audience and product usage research, surveys, investigations and reports, that provide comparable multimedia and multi-product/brand usage information that reflect the totality and complexity of the South African society.

According to its Memorandum of Incorporation (MOI), SAARF is committed to providing these 'tools' in line with stakeholders' needs, within budget, on an ongoing basis, and en-

[6] i-jic, the International Association of Joint Industry Committees for Media Research. www.i-jic.org

suring that all industry stakeholders have full access to the information. The MOI underlines SAARF's role as the custodian of the industry's media audience and product usage currencies.

SAARF AND ITS RESEARCH SURVEYS

SAARF produces national, quantitative data on the behaviour and characteristics of South Africa's entire adult population (aged 15+), as well as their media consumption behaviour, through three major surveys:

• the All Media and Products Survey (AMPS);
• the Radio Audience Measurement Survey (RAMS); and
• the Television Audience Measurement Survey (TAMS).[7]

As the industry-accepted research currencies, these surveys facilitate the buying and selling of advertising space and time in South Africa. In addition, they provide media owners with data on their audiences in order to assist them to make content, editorial and programming decisions.

The JIC also produces the country's most widely used market segmentation tool, the SAARF Living Standards Measure, or LSM, and delivers data on the demographic profile of South Africa's adult population.

GOVERNANCE OF THE SAARF JIC

The SAARF Board oversees the running of SAARF. Board members are representatives of the marketing, media and advertising industries, and are nominated by the various constituent bodies that make up the broader media, advertising and marketing industry. These bodies are:

• The Marketing Association of SA, or MA(SA);
• The Advertising Media Forum (AMF);
• The Association for Communication and Advertising (ACA);
• The National Association of Broadcasters (NAB);
• Print and Digital Media SA (PDMSA);
• Out-of-Home Media SA (OHMSA);
• Cinemark; and
• The Digital Media and Marketing Association of South Africa (DMMA).

FUNDING OF THE JIC

SAARF's research is funded in part by a one per cent levy raised on net advertising spend, collected by the Media and Marketing Collection Agency (MAMCA). The PDMSA funds its contribution directly, paying an annual fee based on a budget submitted by SAARF.

6. SOUTH AFRICA's MULTIMEDIA JIC-CONDUCTED MEDIA AUDIENCE CURRENCIES

SAARF currently produces the media audience currencies for the mass media, namely the print, radio and television markets. This means that its data on print readership, radio listenership, and television viewing is accepted by the industry at large as the foundation for determining audience sizes and composition, and for setting the advertising rates for those print publications that meet the criteria for inclusion in the All Media and Products Survey, and for setting the rates for radio and

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[7] Unlike AMPS and RAMS which measure adult behaviour and characteristics, TAMS measures all South Africans aged 4+.

television airtime. SAARF will also produce the out-of-home media currency, which is still being planned.

Accessing the data

The databases relating to these currencies are freely available to the public, but are accessed by media houses, advertising agencies, and marketers through paid-for media planning software supplied by independent software suppliers. Some of the data is also available from SAARF in PDF format on CDs, where mass media usage is cross-tabulated with demographics, products and brands. SAARF also produces an annual Trends booklet covering trends over the past five years, and produces CDs with information on its segmentation tools.

Free online access includes topline media results for all media published on the SAARF website,[8] and the AMPS Online tool and the Living Standards Measure (LSM) Dashboard, both of which are housed on the SAARF website.[9]

Legitimising the SAARF currencies

Media audience data only becomes a currency once users trust the information, and acknowledge and use it as the basis for the buying and selling of advertising space and time. The extent to which research is seen as credible and trustworthy depends to a large degree – although not exclusively – on the size of the sample, the manner in which that sample is designed, and the methodology employed.

All SAARF's media currencies employ samples which are drawn using nationally based, multistage area-stratified systematic probability sampling. Put simply, this type of sampling ensures

that all SAARF's research products are able to statistically represent the total adult population aged 15 and older. That the samples are large also ensures that the resultant data is robust and stable.

The surveys are conducted using internationally accepted best practice and methodologies, as well as technologies that ensure the delivery of high quality data. Since SAARF is an independent, unbiased joint industry body, it is also without vested interest, which further legitimises the research currencies produced.

SOUTH AFRICA'S PRINT CURRENCY: AMPS

The All Media and Products Survey (AMPS) is a quantitative, behavioural study, conducted twice a year. First conducted in 1975, it is the oldest media research survey in South Africa. With a sample of 25 000 adults, aged 15+, it is also one of the largest national surveys in South Africa, after the National Census and SAARF's own Radio Audience Measurement Survey (RAMS).

AMPS focuses on three main areas: media consumption; characteristics of consumers; and the purchase and consumption of products and brands. These three areas can all be cross-referenced, since the data is from a single respondent pool. Because AMPS focuses on a range of different media types, users can also track consumers across a variety of media, and can compare and evaluate these media types.

AMPS's MEDIA CONSUMPTION PILLAR

AMPS is the official readership currency for the print media. The survey focuses on the readership of all major commercial newspapers, most major consumer magazines, and some special-interest consumer magazines.

[8] www.saarf.co.za, under the 'AMPS', 'RAMS' and 'TAMS' tabs.
[9] www.saarf.co.za, under the 'Home' tab for AMPS Online, and under the 'Segmentation' tab for the LSM Dashboard.

Data gathered in respect of 55 daily/weekly newspapers and 146 consumer magazines formed the basis for the latest release of AMPS at the time of writing.[10] Circulation[11], size and reach are some of the criteria that determine whether titles are included on the AMPS questionnaire.[12] (AMPS does not measure the community newspaper sector or the custom publishing sector.)

Consumption data for other media

As its name suggests, the All Media and Products Survey (AMPS) also researches the consumption of other media products such as television, radio, cinema, and outdoor or out-of-home media, although AMPS is only the official media audience currency for print. A battery of questions on Internet and cellphone usage is also included.

Readership data from AMPS June 2012 (July 2011-June 2012)

As the media audience currency for the print industry, AMPS provides a wealth of information on print readership. For example:

- Magazines and newspapers as a whole are read by 65.6 per cent of the adult population, about 22.9 million people.
- Magazine readership is the highest – 48.8 per cent of adults read magazines – while 32.8 per cent of adults read a weekly newspaper, and 30.9 per cent read a daily newspaper.
- The magazine with the highest readership in South Africa is the DStv guide, Dish/Skottel. It is read by 11.5 per cent of adults, or 4 million people. Second is Bona, with 3.4 million readers (9.6 per cent of the adult population). Drum places third with 2.9 million readers (8.3 per cent).
- The Daily Sun is the most-read newspaper, read by 16.2 per cent of the total market, or 5.7 million adults daily. The Sunday Times is the second most-read newspaper, with 3.7 million readers (10.6 per cent of all adults).

Media information from AMPS June 2012

While not the official media currency for these media, AMPS nonetheless provides information on television, radio, out-of-home, cinema, and online media. For example:

- Radio is the most consumed medium in South Africa, reaching 93.1 per cent of all adults each week.
- Weekly television viewing is rising, with 91.7 per cent of all adults now watching TV.
- Digital use is growing; 19.0 per cent of adults (6.6 million) accessing the Internet in an average week, up from 17.0 per cent in the previous AMPS release (AMPS December 2011).[13]
- Advertising on minibus taxis is the dominant form of out-of-home media in South Africa. Just under 77 per cent of adults are exposed to this type of advertising in an average week. Billboards, street pole ads and suburban signs come a close second, seen by 72.7 per cent of adults each week.
- In an average month, cinemas are attended by 4.1 per cent of the adult population – 1.4 million people.

[10] AMPS June 2012, covering fieldwork done from July 2011 to June 2012.
[11] Circulation is not the same as readership, which is what AMPS measures. Circulation is the number of copies sold and/or distributed free by a publication; readership is the number of people who read or paged through a copy of that publication within its period of issue. A single copy of a newspaper or magazine may, therefore, have more than one reader, which is why readership figures are typically higher than circulation figures. The Audit Bureau of Circulations is responsible for producing circulation figures.
[12] A full list of criteria for inclusion in AMPS can be found at www.saarf.co.za/amps/guidelines/procedureandguidelines.asp.
[13] AMPS December 2011, covering the period January to December 2011.

AMPS's CONSUMER CHARACTERISTICS PILLAR

Knowing what media are being consumed, and how, is only one piece of the puzzle. Users of media audience research also need to know who is consuming that media.

Different markets consume media – and, by extension, brands and products – differently. For example, a person's age, gender, life stage, living standard, level of education, and even place of residence, can have a significant impact on the media, brands and products which he or she buys and uses.

AMPS therefore provides extensive demographic information on individuals and households, covering demographics such as age, language, standard of living, income, and employment status. The survey includes questions on: vehicle ownership; what durables and appliances are owned; the household's access to amenities and services (for example, 50.6 per cent of South African adults have a flush toilet in the house);[14] travelling patterns; leisure-time activities; financial services (35.5 per cent of adults have no bank accounts of any kind, and 68.9 per cent have no investment policies or insurance);[15] and shopping patterns.

AMPS also produces four tools that add to the industry's understanding of consumers and help to segment the population into different target markets. These are the SAARF Living Standards Measure, SAARF Lifestages, SAARF Lifestyles, and SAARF Attitudes.

The SAARF Living Standards Measure (LSM)

The SAARF LSM is the most widely used segmentation tool in the local media, marketing and advertising industry, with LSMs the common currency when segmenting a market or audience.

The LSM is constructed from 29 individual variables, making it a stronger differentiator of consumers than any one demographic. The LSM uses wealth and access indicators such as degree of urbanisation, ownership of cars and major appliances, and access to basic services to determine people's standard of living. It divides the adult population into 10 groups; LSM 1 is the group with the lowest standard of living and LSM 10 the highest.

LSM 7 to 10 are further split into 'low' and 'high' sub-groups, allowing for finer targeting.

The lowest living standards groups – LSM 1 to 4 – account for 25.2 per cent of the population. The emerging market of LSM 5 to 7 is the biggest, at 51.4 per cent, while the groups with the highest standard of living – LSM 8 to 10 – account for 23.4 per cent of the population.[16]

These groupings have different media habits. Where 75.4 per cent of LSM 8 to 10 reads a magazine, only 24.3 per cent of LSM 1 to 4 do the same. TV viewing is more egalitarian, however, with 74.5 per cent of LSM 1 to 4 and 97.7 per cent of LSM 8 to 10 consuming this medium in an average week. [17]

Individual media choices also vary across the LSM spectrum. For instance, the top three radio stations for the LSM 1 to 4 market are Ukhozi FM (with a listenership of 31.8 per cent of this market), Umhlobo Wenene FM (22.4 per cent) and Thobela FM (13.2 per cent). Compare this to the top stations for LSM 8 to 10: Metro FM (17.4 per cent), 5FM (12.2 per cent) and RSG (11.3 per cent).[18]

[14] AMPS June 2012 (July 2011-June 2012).
[15] AMPS June 2012 (July 2011-June 2012).
[16] AMPS June 2012 (July 2011-June 2012).
[17] AMPS June 2012 (July 2011-June 2012).
[18] RAMS February 2013, which covers the period of late August to mid-December 2012.

SAARF Lifestages

This tool segments adults into eight groups, such as At-Home Singles, Young Couples, or Mature Families. These lifestage groups are determined by age, marital status, and whether dependent children in various age categories are living at home. The majority of South Africa's adults – 24 per cent – are at-home singles, while 17.6 per cent are Single-Parent Families. A further 15.7 per cent are Young Families.[19]

SAARF Lifestages is a useful market segmentation tool because a person's stage in life has a significant impact on his or her media and product consumption. Consider that only 16.5 per cent of single-parent families own a car, compared to 54.6 per cent of mature couples.

SAARF Lifestyles

SAARF Lifestyles is a segmentation tool based on responses to almost 90 lifestyle and activity questions. It shows the links between how people live their lives and the media and products they use, by segmenting the population into 12 groups that share similar behaviour with regard to sporting and other activities. For example, over a period of a year, the top activity for men (63 per cent) is reading a commercial newspaper containing local news. In contrast, the top activity for women in the course of a year (71.9 per cent) is cooking for pleasure.[20]

SAARF Attitudes

SAARF Attitudes divides people into five groups based on their attitudes to approximately 100 statements ranging from topics on advertising and work to topics on crime and culture. For instance, 86.7 per cent of adults agree that both

men and women should work to provide for their families, and 80.5 per cent of adults say they would rather live in South Africa than anywhere else.[21] Attitudes and opinions have been shown to have a significant influence on media and product usage.

Demographic information from AMPS June 2012
AMPS paints a picture of the South African population, giving marketers and media owners information on the composition of society in terms of variables such as age, gender, language, standard of living and income. For example:

- 13.1 per cent of households earn in excess of R20 000 per month, and 26.2 per cent of those aged 15+ work full-time.
- isiZulu is the home language of 23.1 per cent.
- Just over 36 per cent of adults live in metropolitan areas, and 23.5 per cent live in Gauteng.
- Just over 28 per cent of the adult population is aged between 15 and 24.

Linking media and demographics
All the demographic information on AMPS can be cross-referenced against media and product usage. For example:

- Bona is the most-read magazine in the 15-24-year-old market (read by 12 per cent), while the top magazine for the 50+ market is Dish/Skottel, read by 10.2 per cent of this age group.[22]
- The Sunday Times is the most-read newspaper in the section of the population with the highest standard of living – LSM 8 to 10. It reaches 23.3 per cent of this market.[23]
- In the emerging market – LSM 5 to 7 – the most-read newspaper is the Daily Sun, which reaches 21.1 per cent of this market.[24]

[19] AMPS June 2012 (July 2011-June 2012).
[20] AMPS June 2012 (July 2011-June 2012).
[21] AMPS June 2012 (July 2011-June 2012).
[22] AMPS June 2012 (July 2011-June 2012).
[23] AMPS June 2012 (July 2011-June 2012).
[24] AMPS June 2012 (July 2011-June 2012).

AMPS's PRODUCTS/BRANDS USAGE PILLAR

The third pillar of AMPS is a self-completion questionnaire that is left behind with respondents after the face-to-face interviews. It measures the consumption and usage of fast-moving consumer goods (FMCG). The data forms Branded AMPS, South Africa's only free source of data on the usage and purchase of nearly 120 product categories and over 1 500 brands.

Branded data adds another facet to users' understanding of their markets. For instance, the top five brands for women who read magazines are Coca-Cola[25] (consumed by 48.6 per cent), Sunlight dishwashing liquid[26] (44.4 per cent), Albany bread[27] (42.8 per cent), Handy Andy[28] (42.7 per cent) and Always Pads[29] (42.4 per cent), according to AMPS June 2012. Individual media products often have quite different brand profiles. Lucky Star canned fish, for example, is the top brand for female readers of Drum, Bona and Move!,[30] while Coca-Cola[31] is the top brand for You magazine's female readers.

AMPS can also show users how brands' demographic profiles differ. For example, 18.6 per cent of LSM 10 bought John West canned fish in a four-week period, compared to only 2.7 per cent who bought Lucky Star canned fish. In LSM 5, however, this picture changes; 48 per cent of this market purchased Lucky Star over a four-week period, while 9.5 per cent bought John West.[32]

AMPS's METHODOLOGY AND SAMPLE

Twice a year, 12 500 people aged 15 and older, from across the country, are interviewed for AMPS. Fieldwork covers the January to June and the July to December periods. Every six months, the results from the two most recent fieldwork periods are published in the form of 12-month rolling data, providing information from a total respondent base of 25 000.

The AMPS questionnaire is completed through personal in-home interviews, conducted using the Double-Screen Computer Assisted Personal Interviewing method (DS-CAPI), a methodology which equips both the interviewer and the respondent with laptops that control the entire interview. The product and brand data, as well as data for SAARF Attitudes and SAARF Lifestyles, is collected using questionnaires that are left behind for respondents to complete, and which are collected seven days later.

SOUTH AFRICA'S RADIO CURRENCY: RAMS

SAARF's Radio Audience Measurement Survey (RAMS) is the currency that supports the buying and selling of radio time. All broadcasting stations in South Africa – commercial, public broadcast, or community stations – are measured. As at the middle of December 2012, RAMS measured 40 commercial radio stations and 188 community radio stations.

Released six times a year, bi-monthly, this national survey provides in-depth information on the radio listening habits of South African adults aged 15 years and older, delivering the equivalent of 455 000 days' worth of radio listening behaviour. It focuses on which radio stations people listen to over a seven-day period, providing listening data for each quarter-hour of the day from 00:00 to 24:00. For example, the radio station with the biggest audience is Ukhozi FM, to which 20.1 per cent of all adults listen – 7.0

[25] Personally consumed during an average week.
[26] Personally bought during an average four weeks.
[27] Personally bought in an average week.
[28] Personally bought during an average four weeks.

[29] Personally bought during an average four weeks.
[30] Personally bought during an average four weeks.
[31] Personally consumed during an average week.
[32] AMPS June 2012 (July 2011-June 2012).

million listeners per week. The second biggest station is Metro FM, with a listenership of 5.7 million.[33]

RAMS is conducted using self-completion radio diaries, which are given to the 25 000 AMPS respondents, as well as all other adults aged 15+ in their household. The diaries are completed over a seven-day period.

Since the main 25 000 respondents also participate in AMPS, the RAMS data can be cross-referenced with media usage, product and brand consumption, and demographic data found on AMPS. Users can therefore track consumers across the different media. For example, if a marketer wanted to use radio to reach people who read the Sunday Times, the top five choices would be Metro FM, which is listened to by 35.8 per cent of the newspaper's audience, 5FM (19.5 per cent), Ukhozi FM (15 per cent), Kaya FM (14.1 per cent) and Lesedi FM (13.8 per cent).[34]

Listenership data is, therefore, also coupled with in-depth demographic information. For example, a marketer wanting to reach women aged 15 to 24 living in Gauteng, would do well to choose Metro FM, which is listened to by 36.4 per cent of this market. This is followed by 99.2 YFM (22.6 per cent) and 94.7 Highveld Stereo (20.9 per cent).[35]

An additional database, Branded RAMS, links the data from the 25 000 AMPS-sourced RAMS respondents to the product and brand information found in AMPS. Branded RAMS shows, for instance, how people who purchase different brands often consume different media; the station which most BMW drivers listen to is Metro FM (25.5 per cent), compared to Jacaranda 94.2 fm (16.8 per cent) for Mercedes-Benz drivers.[36]

RAMS's METHOD AND SAMPLE

In addition to the 25 000 main respondents from AMPS, supplementary radio diaries are completed by all other members of the household aged 15 and older. Known as flooding, this produces a significantly more robust sample, currently standing at just over 65 000 diaries per annum.

THE TELEVISION CURRENCY: TAMS

The Television Audience Measurement Survey (TAMS) is the foundation for the buying and selling of television time. It provides second-by-second information on the viewing habits of 39.0 million TV viewers in South Africa, aged four and older.[37] Data is released daily (except over weekends) and is known as overnight or day-after reporting.

The survey also provides detailed demographic profiles of the television audience. For example, the majority of TV viewers are aged between 35 and 49 (25 per cent), with the 50+ age group coming in second at 22.9 per cent. Most TV viewers are in the middle classes: 21.9 per cent in LSM 5 and 26.8 per cent in LSM 6. The majority have some high school education (34.2 per cent) or matric (26.8 per cent). Only 7.4 per cent of viewers have a tertiary education qualification of some kind.[38]

From the perspective of viewing habits, TAMS shows that most viewers tune in between 8 pm and 9 pm (32.1 per cent), with 31.1 per cent of the audience tuning in from 7 pm to 8 pm.[39] South Africa's top TV programme is 'Generations', watched by 18.9 per cent of the total TV audience. The top TV genre in the country is the soap opera.[40]

[33] RAMS February 2013, which covers the period of late August to mid-December 2012.
[34] RAMS February 2013.
[35] RAMS February 2013.
[36] Branded RAMS July 2010-June 2011.

[37] TAMS 2012, age 4+.
[38] TAMS 2012, age 4+.
[39] TAMS October 2012, age 4+.
[40] TAMS October 2012, age 4+.

TAMS's METHOD AND SAMPLE

TAMS data is collected from a panel of TV-viewing households. TV sets, PVRs, VCRs, DVD players and M-Net, DStv or Top TV decoders in the household are all connected to peoplemeters – electronic, semi-automatic meters used worldwide to measure television viewing behaviour. Viewers log in and out of the meter using a remote control device so that viewing and demographic information is accurately captured.

At the end of November 2012, the TAMS panel included approximately 1 800 installed homes. By the middle of 2013, it will have increased to approximately 3 000 homes.

SOUTH AFRICA'S OUT-OF-HOME CURRENCY: OHMS

SAARF, together with its research contractor Nielsen, initiated a pilot study in 2002 to provide site-specific data for outdoor campaign planning. The pilot project used GPS-enabled meters installed in panellists' cars to gather data, making SAARF the first joint industry committee in the world to embrace an electronic outdoor audience measurement system. Following the success of this study, SAARF launched the Out-of-Home Media Survey (OHMS), to provide independent demographic audience information as well as reach, frequency and outdoor ratings data.

Final data from the countrywide rollout was released at a macro level in 2009. Since then, the currency has been on hold while tendering and patent issues are dealt with.

7. OTHER NON-JIC MEDIA AUDIENCE CURRENCIES

Other media audience measurement products fall outside the ambit of the SAARF JIC. These studies shed light on those areas of the media industry currently not covered by the SAARF umbrella and include:

- Caxton's ROOTS survey, an urban geographic survey which has become the currency for community newspaper readership;
- Times Media Group's SABRE, which measures the media consumption habits of consumers in the business market; and
- Effective Measure, a digital media consumption survey commissioned by the Digital Media and Marketing Association (DMMA).

THE COMMUNITY NEWSPAPER CURRENCY: ROOTS

ROOTS is the currency for measuring community newspapers across the South African urban landscape, covering areas such as suburbs in major metros to country towns such as George and Nelspruit. Funded by Caxton, it is an urban retail and readership survey conducted every three years. The survey was first released in 2000, and targets urban purchasing decision makers (PDMs) who have direct access to buying power and live in formal housing within the footprint of urban community newspapers, or in regional towns. As a readership currency, it provides information on all types of newspaper consumption in the surveyed areas. For example, ROOTS 2010 showed that, on average, 70 per cent of all PDMs read their local community newspaper every week.

ROOTS is particularly well recognised and used by marketers, media planners, retailers, shopping mall owners and managers, and manufacturers for its provision of demographic and shopping information for over 100 urban areas. As a geographic survey, ROOTS is used to analyse area-by-area buyer behaviour and readership. For example, it can give a concise overview of the demographics of Dobsonville versus Diepkloof, Zola and Gugulethu, and can also describe how Pick n Pay shoppers in Constantia compare to Shoprite shoppers in the same area.

ROOTS is provided free of charge to users, and is supplied to most cross-tabulation software providers.

METHOD AND SAMPLE

The 2012 survey, conducted by TNS Research Surveys, interviewed almost 30 000 respondents, face-to-face, in 120 areas across South Africa. On average, 300 households per area are randomly selected. Areas are demarcated as either the footprint of a community newspaper (where the newspaper is freely distributed), or the municipal boundary in the case of regional towns. The respondent from each household must be 16 years or older and must be the purchasing key decision maker within that household. Since the ROOTS sample is pre-defined by multiple areas, it does not represent every area or household of the country, but only those that were researched. The large sample sizes in these areas ensure that the data is credible and relevant.

THE BUSINESS MEDIA CURRENCY: SABRE

SABRE (South African Business Research Evaluation) is a niche planning and marketing tool that helps to evaluate and define the business market and caters specifically for the needs of business media. It targets middle to top management, professionals and entrepreneurs who work full-time, as well as retirees with a minimum personal monthly income of R20 000 living in Gauteng, Durban, East London, Port Elizabeth/Uitenhage, Knysna, George and Cape Town.

SABRE was first launched in 1986. The research, conducted every two years on behalf of Times Media Group (TMG), is available free of charge to ad agencies. The research focuses on the target market's media consumption habits across all platforms, but more specifically hones in on business media, including social networking sites and mobisites. For example, SABRE 2012 shows that 48 per cent of businesspeople are now getting more of their business information from the Internet than they did a year ago. Despite this, newspapers remain the primary source of business information for 45 per cent of businesspeople, as well as the 'most useful' (42 per cent) and the 'most trusted' (40 per cent) source. The Internet is the primary source of information for 21 per cent of this market, the 'most useful' for 25 per cent, and the 'most trusted' for 22 per cent.

SABRE also provides information on working life, travel (68 per cent of this market holidayed at the coast), financial habits, property portfolios, motoring, cellphones and technology, as well as spare time activities (watching TV is the top leisure activity, at 76 per cent), shopping habits, and attitudes (67 per cent feel optimistic about the current business environment).

METHOD AND SAMPLE

SABRE's sample of 2 106 business decision makers represents a business market of 760

000 people. Interviews are conducted face to face. Control data for the sampling procedure is sourced from SAARF AMPS.

THE INTERNET CURRENCY: EFFECTIVE MEASURE

The Effective Measure product[41] is the official Internet currency, endorsed and funded by the DMMA. It is provided by audience measurement company, Effective Measure, and measures traffic to DMMA members' websites. It enables DMMA publishers to better understand their audiences, based on profiles and behaviour, and acts as a currency for buying and selling online advertising.

The data is accessed via several dashboards that are tailored to specific user groups, such as EM Audience for online publishers, and EM Enable for advertising agencies.

Effective Measure places tags on all DMMA-associated websites, measuring users' demographic profiles and providing these sites with Unique Browser figures. Data from January 2013 showed that 15.3 million people went online, viewing 562 million pages, 34.59 per cent of which were accessed from a mobile device.

Effective Measure collects site-centric information that picks up all devices and locations, as well as user-centric data collected from a panel, thus delivering both site-related metrics and demographic profiles of Internet users. User profiles incorporate behaviour, context, demographics and psychographics. Its demographic data is based on a sample of over 200 000 South Africans, and includes information such as sex, age, residence, household income, occupation and industry, household make-up, education, languages, device ownership, Internet access, marital status, and purchase decisions.

METHOD AND SAMPLE

Effective Measure recruits an opt-in panel using random sampling based on a pre-selected rate – usually one in every 10 visitors to a tagged site. Panellists install a plug-in which sits on their browser and records and sends information to Effective Measure's servers about each page visited throughout the day. For January 2013, there were 6 840 active panel members with rich demographic profiles.

8. PROMOTING CURRENCY RESEARCH THROUGHOUT AFRICA

With a 38-year track record, currency research in South Africa is a well-established discipline. In the rest of Africa, however, currency research is scarce. In 1999, SAARF, in conjunction with eight other countries, set out to improve the state of media audience research in Africa by founding the Pan African Media Research Organisation (PAMRO).[42] The organisation promotes intra-country communication and the exchange of ideas, holding an annual All Africa Media Research Conference and quarterly regional meetings where African researchers can learn from each other and establish best practice. Ultimately, PAMRO's goal is to contribute to the African Renaissance by fostering an environment of co-operation that will allow for the establishment of a harmonised, comprehensive media research database for the entire continent, essential for the development of a free media and the growth of economies across Africa.

Using expertise from SAARF, PAMRO has laid the foundation for the establishment of media

[41] www.effectivemeasure.com
[42] www.pamro.org

research on the continent by developing a core AMPS-like questionnaire. This questionnaire acts as a guide for countries wishing to adopt the AMPS model, as Zimbabwe, Namibia, Botswana and nine other African states have already done. Also based on the SAARF model is the PAMRO Living Standards Measure (PAMRO-LSM), which PAMRO is in the process of producing. This segmentation tool can be added to other studies to give marketers a better understanding of the African markets in which they operate.

9. FUTURE CHALLENGES AND POSSIBLE SOLUTIONS

The media industry in South Africa is not static. As media proliferation increases, making more and more media available, audiences are becoming increasingly fragmented. For some media, audience levels have become so low that any data obtained is off such small samples that only topline information can be used.

One of the more expensive ways to tackle media proliferation and the related fragmentation of audiences is to increase the sample size of research surveys. Another solution is to introduce new technologically based methodologies which could measure more people at less cost. Data fusion, in which various sources of information are fused to make larger, more robust studies, is also possible.

Media convergence – such as reading a newspaper online, or streaming live radio – has also added complexity to the media audience research equation. New methodologies must be investigated to address this growing phenomenon, as it is becoming increasingly difficult to measure media outside their traditional platform boundaries using traditional research methods.

All solutions, however, come at a price, whether purely rands and cents, or the disruption of the trend lines established for the currencies, so no solution can be implemented lightly. SAARF is investigating these challenges through the SAARF Board, whose key objective currently is to make the necessary changes to ensure that the foundation and its research currencies remain relevant in a rapidly changing media world.

The Board has set up a special committee – the Future-proofing Committee – which is consulting the industry to determine what is required of the joint industry research in coming years. This investigation will also tackle funding issues (determining what will be funded, how it will be funded, and through what channels) and will consider possible changes to methodology.

THE SOUTH AFRICAN REGULATORY REGIME IN PRINT, BROADCASTING AND ONLINE

BY JOE THLOLOE

Joe Thloloe

Joe Thloloe, current director at the Press Council, is a well-respected South African journalist with over 50 years in the field. His began his life as a journalist in the early 1960s and has worked on a range of publications including *The World, Rand Daily Mail, Golden City Post and Drum magazine,* and is former deputy editor of the *Sowetan*. During the apartheid period he was harassed, detained and finally banned by the government – but refused to compromise his principles and ideals.

Joe Thloloe has also been actively involved in the media industry through the range of organisations and associations he has led. He is a former chairperson of the South African National Editors' Forum (Sanef), deputy chairman of the Southern African Editors' Forum (SAEF) and president of the Union of Black Journalists and Media Workers Association of South Africa.

Over the years, he has been honoured with a number of awards. In 1988, he was a Nieman Fellow at Harvard University and was presented with the Alan Kirkland Soga Lifetime Achiever at the eighth annual Mondi Shanduka Newspaper Awards in May 2009. In 2011, Rhodes University conferred an honorary Doctor of Laws degree on him. In 2012, he received the Order of Ikhamanga in silver, awarded for excellence in arts, culture, literature, music, journalism or sport.

Joe has played a pivotal role, not only in acting against poor journalism as press ombudsman from 2007 to January 2013, but also in defending press freedom through arguing for independent self-regulation.

A survey of media regulation in South Africa shows that the media, like everybody else, are regulated in the first instance by the country's constitution and laws, and then by the codes they have voluntarily adopted to regulate themselves:

– the Press Council's South African Press Code;
– the Broadcast Complaints Commission's Code of Conduct for Free-to-Air Broadcasting Service Licensees and its Code of Conduct for Subscription Broadcasting Service Licensees; and
– the Digital Media and Marketing Association's Professional Code of Conduct.

The codes are the cornerstones of the regulatory systems in print, broadcasting, and online.

STATUTORY REGULATION

South Africans have recognised that freedom of expression is one of the foundations of a democracy and for that reason they have enshrined it in the Bill of Rights, Chapter 2 of the Constitution. South Africans believe there can be no democracy unless people are allowed to have their say without fear.

Section 16 of the Bill of Rights says that everyone has the right to freedom of expression, which includes freedom of the press and other media; freedom to receive and impart information or ideas; freedom of artistic creativity; and academic freedom and freedom of scientific research.

This wording in the Constitution conveys layers of meaning. It says that everyone has the right to freedom of expression and it also says that freedom of the press and other media are part of this right to freedom of expression. It means that anyone is free to grab a piece of paper, scribble his or her thoughts on it, photocopy and distribute it. It means that everyone is free to choose his or her own medium, whether print, a blog, a video or even a tweet. And it means that freedom of the media is not limited to the big commercial companies, particularly nowadays when democracy has extended its warm embrace to the world of communications.

The next section in the Bill of Rights limits the right to freedom of expression by stating that it does not extend to propaganda for war; to incitement of imminent violence; or to advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

In addition to this section in the Constitution, there are other laws that restrict freedom of expression among other freedoms (for example, we have laws against trespassing). At the heart of these restrictions is the legislators' intention to ensure that people's rights are not violated by others under the guise of enjoying their own rights. In its code, the press acknowledges that it is subject to the same rights and duties as is the individual.

The media can and often are penalised by the civil or criminal courts for violating laws. The courts have awarded damages for defamation – for example R50 000 and costs awarded by the Supreme Court of Appeal to Mr Wallied Suliman of Cape Town in 2004, when he sued the Cape Times for R3 million for defamation for publishing his picture and a story that said he was one of three suspects arrested at the Cape Town airport just before they boarded a flight to Egypt.

The newspaper alleged the three were arrested in connection with a bomb blast in Cape Town. An important question then is: why is the press so vehemently opposed to the statutory media appeals tribunal when the state already has a role in regulating the media?

In its review, the Press Council argues: 'When the state gets involved in deciding what good journalism is, drawing up a code of practice and enforcing it, it would amount to taking the right to decide on what may or may not be published in a newspaper or magazine away from the newsroom and locating it in an external body. It would be limiting the right to press freedom.'[1]

The Council's 'firm view' is 'that state involvement of any kind in press regulation is incompatible with the constitutional value of media freedom. This includes involvement by Parliament, which is just as much an arm of the state as the executive. Democracy is not just exercised through the ballot box, and the elected majority does not get to determine arrangements in all areas of public life.'[2]

The Press Freedom Commission, an independent body created by the industry organisations Print and Digital Media South Africa and the South African National Editors' Forum and led by retired chief justice Pius Langa, arrived at the same conclusion from a different perspective: 'Commissioners analysed … the responses received from the public via the oral and written submissions. The overwhelming majority preferred a model that characterised a form of regulation that involved public members and the press without state involvement, where press members were not dominant. It also looked at

models from the international experience and matched the analysis to the Bill of Rights in the SA Constitution.'[3]

THE INSTITUTIONS

The three industry institutions that deal with regulation are the Press Council, the Broadcast Complaints Commission (BCCSA) and the Digital Media and Marketing Association (DMMA). The Press Council was founded by industry associations: the then Print Media South Africa (PMSA) now renamed Print and Digital Media South Africa (PDMSA); the Forum of Community Journalists (FCJ); the Association of Independent Publishers (AIP); and the South African National Editors' Forum (Sanef). Its main aim and objective is 'to promote and to develop ethical practice in journalism and to promote the adoption of and adherence to those standards by the South African press'.[4]

The BCCSA was formed by the National Association of Broadcasters of South and Southern Africa ('the NAB') with the objectives of ensuring 'adherence to high standards in broadcasting and to achieve a speedy and cost effective settlement of complaints against full members of NAB who have submitted themselves to the jurisdiction of the BCCSA and its Code'.[5]

The DMMA is an association of online publishers, which has among its objectives to 'develop and promote standards across all aspects of South African digital media and marketing industry'.[6]

THE CODES

These address ethical issues in a way that the law does not. For example, the opening line of the Press Code states: 'The press exists to serve

[1] Review of Press Council of South Africa, August 2011, p 23.
[2] Op.cit. p 24
[3] Press Freedom Commission, Report on Press Regulation in SA, 2012, p 21, 2012. Accessed at www.presscouncil.org.za.
[4] Constitution of the Press Council of South Africa, Section 2. Accessed at www.presscouncil.org.za.
[5] Section 2 of BCCSA Constitution. Accessed at www.bccsa.co.za.
[6] DMMA Constitution. Accessed at www.dmma.co.za.

society'. There is no law that places an obligation on the press to serve society: such a law would limit the freedom of expression guaranteed in the Constitution. Society has given journalists the right to express themselves, with or without the intention to 'serve' society. It is enough for society that a journalist's voice is heard in the marketplace of ideas. The more than 1 000 publications that subscribe to the Press Code have, however, voluntarily taken on the responsibility of 'serving' society and that is way beyond the obligations that the law imposes on them.

THE PRESS CODE

The Press Code in South Africa has a longer history than the other media codes because online publishing is relatively new and broadcasting has only recently been freed from the National Party's iron control.

It is ironic that as we enter the teen years of the twenty-first century, with threats by the ANC to create a statutory media appeals tribunal receding, we remember that the system of press self-regulation was developed as the industry's defence against the threats of state regulation by the National Party government in the 1960s. The industry established its own code of practice and a mechanism to enforce it – both of which have changed over the decades. The current code came into operation at the beginning of 2013 after a two-year review process completed by both the Press Council and the Press Freedom Commission.

In the introduction to its Review, the Press Council elaborated on why it had embarked on the two-year review process: 'The Press Council of SA, in its current incarnation, is approaching the end of its first five-year term, and this is an ap-propriate time to review its workings. It is also in a situation where it must respond to political pressures – the ANC resolved at its Polokwane conference in 2007 to investigate the desirability of creating a statutory media appeals tribunal (MAT). This resolution was amended at the ANC's National General Council in Durban in September 2010 to a request to Parliament to investigate all forms of press regulation, with the intention of deciding which is best for South Africa.[7]

The Press Council review was the first stage. The second stage started when the Council handed its report to the industry bodies that constituted the Council – at the time the South African National Editors Forum (Sanef), the Newspaper Association of SA, the Forum of Community Journalists, the Magazine Publishers' Association of SA and Association of Independent Publishers of SA – and they, in turn, chose to hand the review to the PFC to examine it and conduct its own investigation to recommend what it deemed to be the most desirable structure and process.

The new code that resulted was developed after the Press Council had looked at more than 100 codes from around the world, including those of our neighbours on the continent. It is thus a compilation of the best from South Africa and around the world.

The preamble codifies the philosophical foundations for the journalism of the publications that subscribe to it: 'to serve society'; 'to enable citizens to make informed judgments on the issues of the day'; 'our work is guided at all times by the public interest, understood to describe information of legitimate interest or importance to citizens'; 'we commit ourselves to the highest standards of excellence, to maintain credibility and keep the trust of our readers'; 'always

striving for truth, avoiding unnecessary harm, reflecting a multiplicity of voices in our coverage of events, showing a special concern for children and other vulnerable groups, and acting independently'.

The code then goes on to prescribe what good journalists should do, and should refrain from doing, when gathering news and reporting. At the core of the code is the prescription: 'The press shall take care to report news truthfully, accurately and fairly … in context and in a balanced manner, without any intentional or negligent departure from the facts…'

On the coverage of news, the code covers:

- Gathering of news
- Reporting of news
- Independence and conflicts of interest
- Dignity, reputation and privacy
- Discrimination and hate speech
- Advocacy
- Comment
- Children
- Violence
- Headlines, posters, pictures and captions
- Confidential and anonymous sources
- Payment for articles

Almost all newspapers and magazines subscribe to the Press Code. The bulk of them are members of PDMSA, the Forum of Community Journalists and Association of Independent Publishers.

THE BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA

In order to understand regulation in broadcasting, we need to look at the broader context and then locate the Independent Communications Authority of South Africa (Icasa) and the BCCSA. On the eve of democracy at the beginning of the 1990s, the broadcasting landscape changed radically. The state broadcaster, previously the only broadcaster through SABC radio and television, was transformed into a public service broadcaster and numerous new players were added. The post-1994 parliament enacted legislation to enable first the Independent Broadcasting Authority and then its successor Icasa to regulate electronic communications in South Africa 'in the public interest'. The reason for the sharp difference between print and broadcasting is that Icasa manages a limited national asset, our radio frequency spectrum. Parliament wrote the mandate for Icasa's management of this asset in the Electronic Communications Act, which says:

the broadcast authority has to 'ensure that broadcasting services, viewed collectively –

i) promote the provision and development of a diverse range of sound and television broadcasting services on a national, regional and local level, that cater for all language and cultural groups and provide entertainment, education and information;

ii) provide for regular –
   aa) news services;
   bb) actuality programmes on matters of public interest;
   cc) programmes on political issues of public interest; and
   dd) programmes on matters of international, national, regional and local significance;

iii) cater for a broad range of services and specifically for the programming needs

of children, women, the youth and the disabled;

- protect the integrity and viability of public broadcasting services;
- ensure that, in the provision of public broadcasting services –
i) the needs of language, cultural and religious groups;
ii) the needs of the constituent regions of the Republic and local communities; and
iii) the need for educational programmes, are duly taken into account;
    - ensure that commercial and community broadcasting licences, viewed collectively, are controlled by persons or groups of persons from a diverse range of communities in the Republic;
    - ensure that broadcasting services are effectively controlled by South Africans.

As a result of this mandate nobody is allowed to broadcast without a licence from Icasa, and the licences are doled out carefully in the public interest. Icasa has the powers to stipulate the conditions for the broadcasting licence and these include adherence to Icasa's code of conduct.

The members of the National Association of Broadcasters (NAB) acknowledged the Icasa code, but preferred a system similar to that enjoyed by the press. The NAB negotiated with the Independent Broadcasting Authority that its members be exempted from the IBA code if they subscribed to an NAB Code. The negotiations resulted in the formation of the BCCSA in 1993.

The Electronics Communications Act exempts 'a broadcasting service licensee who is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a code of conduct enforced by that body by means of its own disciplinary mechanisms, provided such code of conduct and disciplinary mechanisms are acceptable to the Authority.'

The BCCSA has two codes, one for free-to-air broadcasting service licence holders and the other for broadcasters that provide subscription services. Both codes have their roots in the statutory regulation of broadcasting. Over the years, the BCCSA's codes and the Icasa code have grown very close to each other. There are also striking similarities between the broadcasting codes and the much older Press Council Code. On some matters related to news and newsgathering, for example, identical words are used – largely because the ethical issues that media have to grapple with are the same the world over and across technical platforms.

Table 1: Comparison between the section on news in the Press Code and in the broadcasting codes

PRESS COUNCIL'S CODE	BCCSA AND ICASA CODES
2. Reporting of News	**11. News**
2.1. The press shall take care to report news truthfully, accurately and fairly.	(1) Broadcasting service licensees must report news truthfully, accurately and fairly.
2.2. News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.	(2) News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by: (a) Distortion, exaggeration or misrepresentation. (b) Material omissions; or (c) Summarisation.
2.3. Only what may reasonably be true, having regard to the sources of the news, may be presented as fact, and such facts shall be published fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinion, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly.	(3) Only that which may reasonably be true, having reasonable regard to the source of the news, may be presented as fact, and such fact must be broadcast fairly with reasonable regard to context and importance. (4) Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it must be presented in such manner as to indicate, clearly that such is the case.
2.4. Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be stated in such report.	(5) Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it must be verified. Where such verification is not practicable, that fact must be mentioned in the report.
2.5. A publication shall seek the views of the subject of critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or sources intimidated. Reasonable time should be afforded the subject for a response. If the publication is unable to obtain such comment, this shall be stated in the report.	(6) Where it subsequently appears that a broadcast was incorrect in a material aspect, it must be rectified forthwith, without reservation or delay. The rectification must be presented with such a degree of prominence and timing as in the circumstances may be adequate and fair so as to readily attract attention.
2.6. A publication shall make amends for publishing information or comment that is found to be inaccurate by printing, promptly and with appropriate prominence, a retraction, correction or explanation.	(7) The identity of rape victims and other victims of sexual violence must not be divulged in any broadcast, whether as part of news or not, without the prior valid consent of the victim concerned.
2.7. Reports, photographs or sketches relating to indecency or obscenity shall be presented with due sensitivity to the prevailing moral climate. A visual presentation of explicit sex shall not be published, unless public interest dictates otherwise.	(8) Broadcasting service licensees must advise viewers in advance of scenes or reporting of extraordinary violence, or graphic reporting on delicate subject-matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates.
2.8. Journalists shall not plagiarise.	(9) Broadcasting service licensees must not include explicit or graphic language related to news of destruction, accidents or sexual violence which could disturb children or sensitive audiences, except where it is in the public interest to include such material.

There are some marked differences between the press and the broadcasting codes because of technical differences between them. For example, the Press Council emphasises the treatment of children as the subjects of stories, while in their codes the broadcasters put emphasis on the material to which children are exposed.

Broadcasters have a watershed period – between 21h00 and 05h00 for free-to-air television and between 20h00 and 05h00 for subscription television – before which programming 'which contains scenes of explicit violence and/or sexual conduct and/or nudity and/or grossly offensive language intended for adult audiences must not be broadcast'. The section on children in the Press Code starts with a quotation from Section 28.2 of the Bill of Rights in the South African Constitution, which states: 'A child's best interests are of paramount importance in every matter concerning the child.' It then proceeds: 'The press shall therefore exercise exceptional care and consideration when reporting about children under the age of 18. If there is any chance that coverage might cause harm of any kind to a child, he or she shall not be interviewed, photographed or identified unless a custodial parent or similarly responsible adult consents, or a public interest is evident.'

DIGITAL MEDIA AND MARKETING ASSOCIATION'S CODE

The DMMA describes itself on its website as 'an independent, voluntary, non-profit association focused on growing and sustaining a vibrant and profitable digital industry within South Africa'. It says that it currently represents over 205 members, 'including local online publishers and creative, media and digital agencies, between them

accounting for more than 16 million local unique browsers and 440 million page impressions'.

Broadly, the DMMA code addresses the same editorial ethical issues as do the BCCSA and the Press Council. On content, for example, it says:

> A member shall not intentionally or knowingly publish content that:
> contains a visual presentation of explicit violent sexual conduct, bestiality, incest or rape or extreme violence which constitutes incitement to cause harm;
> results in any unreasonable invasion of privacy;
> encourages or incites any person to engage in dangerous practices or to use harmful substances;
> induces or promotes racial disharmony;
> causes grave or widespread offence;
> degrades, defames or demeans any person; and/or
> is illegal or unlawful.

These principles echo the press and the BCCSA codes. The DMMA code goes into the technicalities of online publishing in the same way that the BCCSA Code goes into the technicalities of broadcasting.

STRUCTURES
THE PRESS COUNCIL

The Press Council, the custodian of the Press Code, is the body that has to ultimately sanction any changes. As a result of its review, a revamped Press Council was appointed at the beginning of 2013. This council – a system of 'independent co-regulation' – is now chaired by retired Deputy Judge President Phillip Levisohn, formerly of the KwaZulu-Natal High Court, and

has six press and six public representatives. This is a change from the outgoing Press Council that was chaired by a press representative and had six press and five public representatives voting at any given time. The new structure has given a bigger voice to non-industry representatives.

Industry associations that constitute the Press Council nominate the press representatives. The public members are selected by an appointments panel chaired by a retired judge, this time by retired Constitutional Court Justice Yvonne Mokgoro.

The council does not adjudicate when there are complaints but, rather, oversees the functioning of the entire system, which includes the adjudication system, with a public advocate, a press ombudsman and a panel of adjudicators chaired by retired Gauteng Judge President Bernard Ngoepe.

THE BCCSA

A committee consisting of the chairperson of the BCCSA, the chairperson of the NAB and two external people appointed by the BCCSA and chaired by an external person, appoints the 12 commissioners of the BCCSA for five years. Six commissioners are appointed 'as a result of their interest and/or expertise in the broadcasting media' and six are appointed 'as a result of their interest and/or expertise in matters which relate to the interests of viewers and or listeners'. The chairperson of the BCCSA is appointed for a term of five years at the annual general meeting of the Commission, and may not necessarily be a member of the Commission.

THE DMMA

The members of the DMMA are online publishers/marketers and advertisers. They elect an executive committee of eight people to manage day-to-day affairs.

COMPLAINTS PROCEDURES
PRESS COUNCIL

In the revamped Press Council, the public advocate (a newly created position, held by Latiefa Mobara) receives all complaints and acts as the complainants' champion throughout the process. The public advocate has 15 working days in which to negotiate an amicable settlement with the publication on behalf of the complainant. If no settlement is reached in that period, the complaint is escalated to the ombudsman's office. Ombudsman Dr Johan Retief may decide the matter on the papers submitted to him or he may have a hearing to listen to evidence from the complainant and from the publication. For the hearing, he sits with one public representative and one press representative from a pool described as the 'panel of adjudicators'.

The decisions of this ombudsman's panel are taken by majority vote. After a ruling, either party may appeal to the chair of appeals, Judge President Ngoepe. If the chair of appeals does grant leave to appeal, he hears the appeal with one press representative and up to three public representatives drawn from the panel of adjudicators. The press and public representatives on this appeals panel will be different from the representatives who heard the matter at the ombudsman's level.

The Press Council no longer bars parties whose complaints have been dealt with from asking the courts to review the decision. The Council has done away with the waiver that complainants had to sign to agree that they would not approach a court or another tribunal on a complaint that the Council had dealt with.

BCCSA

The BCCSA's registrar receives all complaints and the BCCSA chairperson appoints an adjudicator or convenes a tribunal to hear the complaint. The tribunal consists of the chairperson and one listener/viewer representative, and one representative of the electronic media. Decisions are by majority vote. The BCCSA still insists that complainants sign a waiver: 'When at any stage of the proceedings, the chairperson is of the opinion that it is in the interest of fairness that a complainant must waive his or her rights to further legal recourse, the chairperson shall require the complainant to waive such rights. If a complaint deals with a matter already before a South African Court the Commission will not consider it.'

DMMA

The DMMA has had very few complaints – 12 in 2012. The complainant sends an e-mail and the executive committee will take it up with the representative of the company 'and usually things are resolved amicably at this point', according to Director Theresa Vitale. She says that because of a recent hate speech complaint, however, the DMMA has decided to appoint a regulatory person to its board 'to advise on how to determine what qualifies as hate speech, especially if it has been removed from a specific site and the process going forward'.[8] The complaints that DMMA has received in the past year relate to hate speech, defamation, incorrect quotes, terms and conditions on sites, advertisers who are not happy with campaign results, copyright, and spam.

SANCTIONS
PRESS COUNCIL

The Press Council's complaints procedures provides for a caution or reprimand for the publication; apologies; publication of the findings, and the right of reply. The Press Council does not impose monetary fines for content, but does provide for such fines, for suspension or even for the expulsion of publications from the system if they fail to appear for adjudication hearings or for repeated non-compliance with the rulings of the office. In the lifespan of the last Press Council, defiance of that kind has never been displayed by any publication that subscribes to the Press Code.

BCCSA

In addition to the same sanctions that the PCSA can impose, the BCCSA has the power to impose fines of up to R60 000. However, in 17 years and more than 16 000 complaints registered by the end of 2011, the BCCSA has imposed fines 'maybe 45 times',[9] the largest being R30 000 twice levied on the SABC.

Recently the BCCSA imposed a fine of R15 000 on a broadcaster which had repeated an offence, publishing adult material before the watershed period, for the seventh time. We should, however note that the fines were not related to editorial content, but to breaches of the broadcaster's licence conditions.

DMMA

The DMMA has not had to wield the big stick, but it does have it in its arsenal. A member may be suspended 'for a defined period or until such time that the member can demonstrate to the

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[8] E-mail correspondence between Vitale and Thloloe.
[9] Chairperson of the BCCSA, Kobus van Rooyen, quoted in Review of Press Council, August 2011, p 51.

Exco's satisfaction that the breach has been remedied or corrective measures have been undertaken'.[10] The member could even be expelled.

CONCLUSION

We have seen the areas where the regulatory regimes in print, broadcast and online are similar, and where they differ. What is clear from this survey is that if the country is to enjoy good journalism, journalists have to be held accountable – citizens should know the various codes and hold publications to what they voluntarily promise to deliver.

This chapter has not provided detailed comparison with practices in other countries, but this brief survey does indicate that our laws and the practices of the media are in line with the best around the world. South Africa still respects freedom of expression and has refrained from statutory regulation that would restrict that right for its citizens.

[10] Section 9 of the DMMA Code of Conduct.

MEDIA ACCOUNTABILITY MECHANISMS:
SELF–REGULATION, INDEPENDENT AND STATUTORY REGULATION

BY LUMKO MTIMDE

Lumko Mtimde

Lumko Mtimde is a graduate of the University of the Western Cape and the University of South Africa having completed a BSc. degree in Physiology and Biochemistry and a Postgraduate Diploma in Telecommunications and Information Policy respectively. He has extensive policy, regulatory, leadership and management experience in the information and communications environment having served firstly as the CEO of the National Community Radio Forum before being appointed in 1998 as a Councillor of the Independent Broadcasting Authority (IBA) by President Mandela in terms of the IBA Act – a position he held until 2000. From there he did consultative work for a wide range of organisations within the sector, including UNESCO, Open Society Institute of Southern Africa (OSISA), AMARC Africa, SACOD, Article 19 and the Department of Environmental Affairs and Tourism of South Africa.

From 2001 - 2002, he became General Manager /Chief Director (Broadcasting Policy) in the Department of Communications, Ministry of Communications. He was then re-appointed as a Councillor of the Independent Communications Authority of South Africa (ICASA) by President Mbeki and served from 2002 until 2006. Mtimde has served on a number of Boards including the SABC, AMARC International (Canada), TRASA (now CRASA) (Botswana), NetTel@Africa (Tanzania), RIARC/ACRAN (Benin), and the Institute of the Advancement of Journalism (IAJ), etc. He has received a number of recognition awards from AMARC, NCRF, etc.

Currently, his Board membership includes: World Summit Awards (Austria); MICTSeta: Alfred Nzo Development Agency (ANDA); KwaBhaca Community Support and Development Trust (KCSDT); Mvenyane Education Trust (MVEET) and Zakeni Burial Society. He has also held several leadership positions including that of Vice President of AMARC International, President of AMARC Africa, Deputy Chairperson of TRASA (now CRASA), Chairperson of KCSDT), and, Chairperson of MVEET, etc.

In 2006, Lumko became the Chief Executive Officer of the Media Development and Diversity Agency (MDDA), a position he holds to date. He writes in his personal capacity.

CONSTITUTIONAL FRAMEWORK

The media in South Africa operates in an environment free of oppression, persecution and the repressive legislation which, in the past, sought to restrict and control it.

Freedom of speech, freedom of expression, access to information and free media are all entrenched in the Constitution of South Africa, provided for in the Bill of Rights. The state is duty-bound to respect, protect, promote and fulfill these freedoms. Giving effect to the Constitution is the legislative framework: the Media Development and Diversity Agency Act of 2002 encouraging media diversity and access to media by all; the Independent Communications Authority of South Africa Act of 2000; the Electronic Communications Act of 2005; the Broadcasting Act of 1999; the Access to Information Act of 2000; the Promotion of Administrative Justice Act of 2000; and Chapter 9 of the Constitution which sets up institutions to support democracy.

The Promotion of Access to Information Act of 2000 is in practice used extensively by the media, by individuals and by other interest groups to gain information for a number of purposes. This has enhanced investigative journalism in South Africa, fostering a transparent society.

THE WINDHOEK DECLARATION AND MEDIA DIVERSITY

The United Nations Educational, Scientific and Cultural Organization (Unesco)[1] member states adopted declarations such as the Windhoek Declaration[2] and the World Summit on Information Society (WSIS) Declaration[3], promoting press freedom and independent and pluralistic media. This was in acknowledgement of the importance of diverse and pluralistic media for the sustainability of democracy. A diversity of views and opinions promoting different perspectives enriches citizens and enables them to participate in a people-driven democratic process. It is therefore in the interest of all states to support media diversity and pluralism.

The media is recognised as the fourth estate (in addition to the legislature, the judiciary and the executive) and is important for both state and citizens. It informs, educates, entertains and provides the platform for dialogue which is necessary for democratic discourse. For any democracy to be sustainable it needs free and diverse media. The freedom of the media must be protected by the legislative framework, in particular by the constitution and, by implication, by an independent judiciary which is vital for any constitutional democracy. A democratic state has a responsibility to support and promote a free and diverse media, as this is in the interest of its citizenry and of the sustainability of its rule.

The 13th of February is a date proclaimed by Unesco as an occasion to draw attention to the unique value of radio, which remains the medium reaching the widest audience and is currently taking up new technological forms and devices. The world celebrates radio broadcasts and improved international cooperation among radio broadcasters. Decision makers are encouraged to create and provide access to information through radio, including community radio.

The South African experience is premised on a commitment to a constitutional democracy which enshrines free, independent and diverse media. Former president Nelson Mandela always emphasised that unity in diversity is fundamental to the health of South African democracy.

1. http://en.unesco.org/
2. 'Windhoek Declaration on Promoting an independent and pluralistic African Press' and the values which it enshrines, namely freedom of expression, independent and pluralistic media and press freedom.
3. http://www.itu.int/wsis/docs/geneva/official/dop.html

Parliament, recognising the exclusion of disadvantaged communities and persons from access to the media and the media industry, resolved to establish the Media Development and Diversity Agency (MDDA), an agency established by the MDDA Act No. 14 of 2002, to create, in partnership with the print and broadcast media industry, an enabling environment for media development and diversity that is conducive to public discourse and which reflects the needs and aspirations of South Africans.

The MDDA primarily provides support to community (nonprofit) and small commercial media projects. The objectives of the MDDA Act arise, inter alia, from the Constitution of South Africa, which provides, in Sections 16 and 32 of the Bill of Rights:

16. Freedom of expression
1. Everyone has the right to freedom of expression, which includes
   a. freedom of the press and other media;
   b. freedom to receive or impart information or ideas;
c. freedom of artistic creativity; and
d. academic freedom and freedom of scientific research.

32. Access to information
1. Everyone has the right of access to ¬
a. any information held by the state; and
b. any information that is held by another person and that is required for the exercise or protection of any rights.

The above demonstrates that media development and diversity is critical for our country. The Bill of Rights lays a foundation for legislative intervention towards the achievement of the objectives of the MDDA Act and civil society advocacy.

The MDDA acts through a board appointed by the president on the recommendation of the National Assembly after a public participatory process. The MDDA funds and supports the media, but is prohibited by law from interfering with its content. The board acts independently without any fear, favour or prejudice, board members taking an oath to that effect before assuming office. The MDDA mandate is enshrined in Section 3 of the MDDA Act, which requires that the MDDA – in giving meaning and effect to Section 16 (1) of the Constitution – encourages the ownership and control and the access to media by historically disadvantaged communities as well as by the historically diminished indigenous language and cultural groups. The overall objective is to promote, support and encourage diverse media.

The partnership with the private sector is based on a voluntary mechanism for the cross-subsidisation and commitment to media development and diversity, on the assumption that the work of the MDDA, in capacity building, skills development, promotion of media literacy and research, serves the interest of the entire media and broadcasting industry. The established mainstream media taps into trained personnel from the community and small commercial media, making this cross-subsidisation a kind of investment in training.

In 2006, the president promulgated the Electronic Communications Act of 2005, providing for a different dispensation with respect to the financing of the MDDA. As a result of this Act, the Broadcasting Service Licensees have renewed their funding agreement with the MDDA to be based on a contribution of two per cent of their annual turnover of licensed activities.

Media can play a significant role in helping different people to communicate with each other

in order to strengthen democracy, promote a culture of human rights, enable all to participate fully in economic growth and speed up transformation and development. Information is knowledge and power. Every citizen, whether rich or poor, whether living in rural or urban locations, should have access to a choice of a diverse range of media.

BROADCAST MEDIA REGULATORY FRAMEWORK

Section 192 of the Constitution establishes an Independent Communications Authority (Icasa) to regulate broadcasting, telecommunication and posts in the public interest. The regulator acts within the parameters of the policy and law, prescribes regulations, imposes measurable licence terms and conditions, monitors compliance with the licence conditions and manages the frequency spectrum.

The broadcasting statutory framework is independent and is complemented by a self-regulatory institution, the Broadcasting Complaints Commission of South Africa (BCCSA)[4] an independent judicial tribunal that acts without fear or favour and which was established by the National Association of Broadcasters[5] (NAB) in 1993. It adjudicates complaints from the public about the broadcasters, which are members of the NAB. The BCCSA was recognised by the Independent Broadcasting Authority (IBA, now Icasa) in 1995 in terms of section 56(2) of the IBA Act 1993. The BCCSA has no jurisdiction over election broadcast complaints. Such jurisdiction resides with the Complaints and Compliance Committee (CCC) of Icasa. The CCC also has jurisdiction to hear complaints about content against broadcasters which are not members of the NAB. Complaints other than those which relate to the content of broadcasts all fall under the jurisdiction of the CCC.

PRINT MEDIA REGULATORY FRAMEWORK

Print media is not statutorily regulated in South Africa. It is self-regulated under the press ombudsman[6] and the Press Council's South African press code, procedures and constitution.[7] The press code is a tool for governing ethical behaviour among journalists, which has to prevail, as the print media is a powerful communication tool.

Resolutions by key stakeholders such as the African National Congress (ANC) in its 52nd Conference in Polokwane in 2007 challenged the existing self-regulatory system (press ombudsman and Press Council) declaring this ineffective and needing to be strengthened to balance the rights of the media with those of other citizens, guided by the values of human dignity, equality and freedom enshrined in the Bill of Rights.

Subsequently, the Print Media SA (PMSA) and the South African National Editors Forum (Sanef) set up the Press Freedom Commission (PFC), a body of nine persons, selected from outside the media community. They were given the task to review the system of press regulation in South Africa. Chaired by the honourable former chief justice of South Africa, Pius Langa, the independent PFC was inaugurated in July 2011 and was mandated to complete its work and submit a report by March 2012.

In August 2011, a task team set up by the Press Council of South Africa published a review report outlining proposed changes to the press code and the functioning of the office of the press ombudsman. The Press Council said that the review was undertaken 'partly because the five-year term of office of the present Press Council is coming to an end; and partly because of criticisms directed

4. http://www.bccsa.co.za
5. http://www.nab.org.za
6. http://www.ombudsman.org.za
7. http://www.presscouncil.org.za

at the print media by the ruling African National Congress'. Subsequently, the PDMSA initiated the Press Freedom Commission (PFC), the report of which was published in April 2012.

According to its terms of reference, the primary objective of the PFC was "to ensure press freedom in support of enhancing our democracy which is founded on human dignity, the achievement of equality and the advancement of human rights and freedoms. The secondary objective was to research the regulation of, specifically, print media, locally and globally. Self-regulation, co-regulation, independent regulation and state regulation were examined."[8]

The PFC report concluded that an "independent co-regulatory mechanism, not including state participation, would best serve press freedom in the country". The report indicated that this would "also enhance the role, accountability and responsibility of the press in the promotion of the values of a free and democratic South Africa, and in upholding the rights, dignity and legitimate interests of the people".[9]

The PFC in its *Executive Summary on Press Regulation in South Africa*[10] recommended the following:

- An effective and responsible regulatory system manifesting administrative fairness and institutional independence from the industry it is to regulate be set up. It must also ensure optimal accessibility by removing the waiver requirements of complainants and removing the characterisation of the complaints procedure as arbitration.
- A system of co-regulation independent of government and composed mostly of persons drawn from various sections of the

public outside of the press industry. The emphasis was on having mostly public figures on the Press Council so as to avoid the possible subjectivity of the press.

It was further argued that the PFC had selected this regulatory mechanism as a "response to the expressed public dissatisfaction with the current system and with the public's rejection of government involvement in press regulation. Independent co-regulation can be defined as: a system of press regulation that involves public and press participation with a predominant public membership but without state or government participation. It is accountable to the public.'[11]

The PFC also acknowledged public concern that sanctions applied against press infractions were perceived to be ineffective. This led to a revision of these and a hierarchy of infractions and corresponding sanctions have now been suggested. This includes 'space fines' for offences pertaining to content, and 'monetary fines' for publications that flout the summons and rulings of the ombudsman.

How the press should handle children and issues concerning children was also advanced in the PFC report and improvements made on what appeared in the standing press code. In this section, guidance has been given on how to protect the dignity, rights, privacy, image and interests of children.

The Commission also considered the issue of 'media transformation' (structural and content) as a significant number of submissions outlining the importance of transformation in the overall democratisation of the new South Africa were received. Ownership and its influence on

8. Press Freedom Commission: Report on Press Regulation in South Africa: April 25, 2012 pg 7
9. Ibid pg 7
10. Ibid pg 7
11. Press Freedom Commission: Report on Press Regulation in South Africa: April 25, 2012 pg 7

content was also cause for concern. The recommendations arising from the report include considerations of content diversification, skills development and training, a media charter and support for community newspapers.

The PFC finally recommended significant changes in how the PCSA should be governed, its composition and appointment processes, the Appeals Panel, as well as to the complaints procedure in order to ensure that all changes can be effected In addition, the PFC Report carried further proposals for strengthening ethical standards in the Press Code, which included:

• Widening the role of the public in the regulatory system by proposing that there be more members of the public (7) than the media industry (5) in the PCSA;
• Similarly, strengthening the participation of the public in the Appeals Panel by increasing the number of public members above that of press members;
• Widening accessibility by limiting the public advocate's sole power of deciding what complaints are eligible for hearing;
• Widening accessibility to the adjudicating system by expunging the waiver requirement of complainants;
• Strengthening public access to the regulatory system by widening the basis of third party complaints;
• Strengthening the protection of children and their rights, dignity, privacy, image and interests;
• Strengthening the press code with regard to the right of reply and on court reporting;
• Revising the regime of sanctions based on a hierarchy of infractions and their corresponding sanctions, with a scale of space fines and monetary fines; and

• Suggesting considerations for content diversification, skills development and training, a media charter and support for community newspapers.[12]

From the PFC Report it is clear that there is convergence of ideas in respect of the importance of the independent regulation of media.

At its 53rd Conference held in Mangaung, the ANC noted that in the main the PFC report captured its concerns, and emphasised independent regulation and media accountability. The 53rd Conference accepted the PFC report and reaffirmed the call for Parliament, guided by the report, to conduct a public inquiry on:

• Balancing the rights enshrined in the Constitution (the right to dignity, freedom of expression and media), guided by the values enshrined in the Bill of Rights (human dignity, equality and freedom;
• Transformation of the print media (media charter, ownership and control, advertising and marketing and the establishment of a media accountability mechanism, the Media Appeals Tribunal);
• A media accountability mechanism in the public interest, including investigations into the best international practices without compromising the values enshrined in the Constitution; and
• What regulatory mechanisms can be put in place to ensure the effective balancing of rights – which may include self-regulation, co-regulation and independent regulation.

The ANC believes that any media accountability mechanism should be independent of commercial and party political interests, should act without fear, favour and prejudice, should be em-

12. What the Press Freedom Commission recommends. Executive Summary of the Press Freedom Commission's Report on Press Regulation in South Africa, Press Freedom Commission: April 25, 2012 pg 8

powered to impose appropriate sanctions and must not amount to pre-publication censorship.

RATIONALE FOR EFFECTIVE INDEPENDENT AND STATUTORY REGULATION

The African Charter on Human and Peoples' Rights and the Declaration of Principles on Freedom of Expression in Africa acknowledge the right of the press to set up effective systems of complaints adjudication.

The ITU ICT regulation toolkit[13] correctly argues that effective regulators are normally associated with being independent to some degree. It is universally accepted that the rationale for establishing independent, often sector-specific, regulatory institutions is based on ensuring non-discriminatory treatment of all players in the liberalised market. According to the toolkit, the emphasis on non-discrimination arose from broad imperatives aimed at ensuring, inter alia, that cooperation is enabled in a competitive environment to ensure that a level playing field exists between unequal entities in the marketplace. The UN Task Force on Financing ICT (22 December 2004) has observed that: 'The introduction and strengthening of independent, neutral sector regulation has helped to reinforce investor confidence and market performance, while enhancing consumer benefits.'[14]

'Statutory' simply means created by law. It does not automatically mean unconstitutional in respect of the constitutionally protected freedom of the media. It does not mean draconian law. The South African legal system clearly provides for accepted principles for guaranteeing independence which guide the many independent statutory institutions such as the Independent Electoral Commission (IEC), the Office of the Public Protector, the Human Rights Commission, the Commission for Gender Equality, Icasa, the MDDA and the South African Broadcasting Corporation.

In the court case New National Party vs Government of the Republic of South Africa and Others [1999] ZACC 5; 1999 (3) SA 191 (CC); 1999 (5) BCLR 489 (CC) (at paras 74 and 75), the then deputy president of the Constitutional Court, Justice Langa, argued: 'The IEC is one of the state institutions provided for in Chapter 9 of the Constitution and whose function under section 181(1) is to "strengthen constitutional democracy in the Republic".' Under section 181(2) its independence is entrenched and, as an institution, is made subject only to 'the Constitution and the law'. For its part, it is required to be impartial and to 'exercise [its] powers and perform [its] functions without fear, favour or prejudice'. Section 181(3) prescribes positive obligations on other organs of state which must, '… through legislative and other measures … assist and protect [it] to ensure [its] independence, impartiality, dignity and effectiveness …' Section 181(4) specifically prohibits any 'person or organ of the state' from interfering with its functioning. Section 181(5) provides that 'These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year'.

Although Constitutional Principle (CP) VIII enacted in Schedule 4 of the interim Constitution (the Constitution of the Republic of South Africa Act 200 of 1993) provided for regular elections, there was no CP which required the establishment of an independent body to administer them. Nevertheless, in the first certification judgment, this court commented as follows on

[13.] http://www.itu.int/itudoc/gs/promo/bdt/flyer/87876.pdf
[14.] http://www.itu.int/wsis/tffm/final-report.doc

the independence of the Commission as provided for in the constitutional text it was dealing with:

> NT 181(2) provides that the Electoral Commission shall be independent and that its powers and functions shall be performed impartially. Presumably Parliament will in its wisdom ensure that the legislation establishing the Electoral Commission guarantees its manifest independence and impartiality. Such legislation is, of course, justiciable.

In elaborating on the independence of the Commission, Langa DP said:

> In dealing with the independence of the Commission, it is necessary to make a distinction between two factors, both of which, in my view, are relevant to 'independence'. The first is 'financial independence'. This implies the ability to have access to funds reasonably required to enable the Commission to discharge the functions it is obliged to perform under the Constitution and the Electoral Commission Act. This does not mean that it can set its own budget. Parliament does that. What it does mean, however, is that Parliament must consider what is reasonably required by the Commission and deal with requests for funding rationally, in the light of other national interests. It is for Parliament, and not the executive arm of government, to provide for funding reasonably sufficient to enable the Commission to carry out its constitutional mandate. The Commission must accordingly be afforded an adequate opportunity to defend its budgetary requirements before Parliament or its relevant committees.

The second factor, 'administrative independence', implies that there will be no control over those matters directly connected with the functions which the Commission has to perform under the Constitution and the Act. The Executive must provide the assistance that the Commission requires 'to ensure [its] independence, impartiality, dignity and effectiveness'. The Department cannot tell the Commission how to conduct registration, whom to employ, and so on; but if the Commission asks the government for assistance to provide personnel to take part in the registration process, government must provide such assistance if it is able to do so. If not, the Commission must be put in funds to enable it to do what is necessary.

This was concurred by Judge Yacoob J in the matter of Independent Electoral Commission v Langeberg Municipality (CCT 49/00) [2001] ZACC 23; 2001 (3) SA 925 (CC); 2001 (9) BCLR 883 (CC) (7 June 2001) where the judgement states that the Commission cannot be independent of the national government, yet be part of it:

> [30] The Commission has tried to make some point of the fact that the conduct of the election falls within the national legislative authority of Parliament contending that this is a factor which points to the Commission being part of the national sphere of government. This is an oversimplification. It is true that the Commission must manage the elections of national, provincial and municipal legislative bodies in accordance with national legislation. But this legislation cannot compromise the independence of the Commission. The Commission is clearly a state structure. The fact that a state structure has

to perform its functions in accordance with national legislation does not mean that it falls within the national sphere of government.

[31] Our Constitution has created institutions like the Commission that perform their functions in terms of national legislation but are not subject to national executive control. The very reason the Constitution created the Commission - and the other chapter 9 bodies - was so that they should be and manifestly be seen to be outside government. The Commission is not an organ of state within the national sphere of government. The dispute between Stilbaai and the Commission cannot therefore be classified as an intergovernmental dispute. There might be good reasons for organs of state not to litigate against the Commission except as a last resort. An organ of state suing the Commission, however, does not have to comply with section 41(3).

The point here is that 'statutory' does not mean an independent regulatory body will not be independent and that media freedom will be stifled. An independent statutory regulatory body is accountable to the Constitution and the law through Parliament, acting without fear, favour or prejudice and without any commercial or party political interference. In line with the constitutionally guaranteed freedom of expression, an independent statutory regulatory body cannot impose pre-publication censorship. As in the case of broadcast media in South Africa, it can complement and strengthen the self-regulatory body. It can provide an appeal mechanism for citizens dissatisfied with the self-regulatory body's rulings.

INDEPENDENT STATUTORY REGULATION

An effective independent statutory regulatory body encourages professionalism in journalism, discourages shabby journalism and irresponsible reporting, encourages compliance with the press code, protects human dignity and privacy, and strengthens democracy. The body's independence is protected by law and the Constitution. Journalists will still have editorial independence, will conduct investigative journalism, will expose corruption; and will inform, empower and educate society. The law (as in the MDDA Act) can ensure that the body must not interfere in the editorial content of the media.

'Independence' is a fundamental principle for which all regulation (such as industry codes and legal systems) should strive. Any review of regulatory systems should be premised on assessing which form will ensure the greatest independence from differing interests and therefore reinforce the credibility of such mechanism. As our Constitutional Court has found, perceptions of independence are affected by a range of issues including the appointment and funding of any regulatory body.

Independent regulation should be understood to mean independent from the industry, from affected parties, from commercial and political interference and from government. The founding documents of a regulatory body (its constitution, or a law in the case of a statutory body) must enshrine the independence and protect it. Similarly, the law should protect the freedom of the media, freedom of expression, the right to access information and all the noble principles of a democracy. The law should protect the editorial independence of the media.

LAW-MAKING PROCESSES

The law-making processes in South Africa are public and participatory. People make inputs to the parliamentary processes and public inquiries. For the noble democratic principle of public participation to exist, the media should report accurately and fairly, thereby empowering citizens with the correct information in order to shape laws in the public interest. Differentiation must be clearly drawn between reporting on a matter and the media's editorial interpretation – which may be right or wrong.

The South African legal system provides for effective checks and balances which will ensure that any bill or law is within the constitutional framework. Any law in South Africa must pass the constitutional test, for the Constitution is the supreme law.

CONCLUSION

Public policy can enhance the promotion of pluralistic and diverse media, through laws and interventions guided by the principles of free and independent media in line with the African Charter on Human Rights and Human Dignity.

Media must provide a transparent window into government and inject life into a country's economy by publishing financial and market information to citizens, allowing them to participate freely and fruitfully in their country's development. Access to communication and information empowers citizens, facilitates participatory democracy, and assists in defending, advancing and deepening democracy. Free, independent and pluralistic media can be achieved not only through a range of media products but also by diversity of ownership and control. Free and di-

verse media supports, promotes and strengthens democracy, nation building, social cohesion and good governance.

South Africans are looking forward to the envisaged Parliamentary public inquiry, noting the above concerns and objectives of the investigation into the desirability of the Media Appeals Tribunal aimed at strengthening and complementing the self-regulatory system; ensuring its effectiveness and providing an appeal mechanism for citizens; overseeing complaints about violations of the Press Council Code of Conduct; and of citizens who may not be satisfied with a ruling of the press ombudsman and Press Council. This public inquiry will certainly be guided by the PFC report and its recommendations.

The outcome must encourage professionalism in journalism, discourage irresponsible reporting, and strengthen our democracy. The media must report news truthfully, accurately and fairly, and by so doing promote high standards in media. The media must provide the public with all sides of the story in order to empower all participants in this discourse.

A regulator must be independent and effective. An effective regulator needs to be pro-active in ensuring that all it regulates complies with the code of conduct/press code which it prescribes to and publishes. An effective regulator should balance independence with other principles, including accountability, transparency and predictability. These principles should be enhanced by clarity regarding the roles and responsibilities of the self-regulatory body and the independent statutory regulator. Interested parties must be able to provide relevant input into a decision through a consultation process. The regulator

must be transparent and make available all relevant information in a timely fashion. This will enhance the confidence of interested parties in the effectiveness and independence of the regulator, and it will strengthen its legitimacy. No one will believe that decisions are biased, arbitrary or discriminatory. Consequently, all regulatory rules and policies, the principles for making future regulations and all regulatory decisions and agreements should be a matter of public record. The public must be able to obtain redress easily and quickly when the regulator has acted arbitrarily or incompetently. Adherence to these principles enhances confidence in and the credibility of the regulator and reduces regu-

latory risk, which reverberates positively with investors. These types of safeguards produce a balance between independence and accountability.

South Africa is in the process of reviewing its media accountability mechanisms including its regulatory framework and systems, as in many other countries such as New Zealand and the United Kingdom. Lessons learned from both the South African experience post 1994, and international experience, will assist the country in developing the best practice for good journalism, an informed and knowledgeable society, and for deepening our democracy.

FREEDOM OF EXPRESSION: INTERNATIONAL AND REGIONAL COMMITMENTS AND AFRICA'S RESPONSE
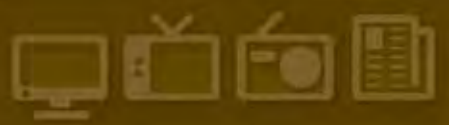
Freedom of expression is common to most democratic countries the world over and is a guaranteed right in the constitutions of at least 17 African countries of which South Africa is one. This right – which encompasses the right to seek, receive and impart information – is also incorporated into a number of international and continental charters and declarations, as well as protocols and covenants.

Implementation of or adherence to agreements about freedom of expression remain uneven throughout the African continent though, and many people are unaware of the rights that have been secured. This chapter introduces the key charters, declarations, covenants and protocols relating to human rights in general and freedom and expression in particular, and presents the impact that these have had on the African continent.

INTERNATIONAL AND REGIONAL SUPPORT FOR FREEDOM OF EXPRESSION

Since the Second World War, human rights have become the subject of fierce regional and international debate as people have sought to ensure that the atrocities of the war were not repeated. Declarations and charters were drawn up and signed not only incorporating clauses with respect of the right to life, freedom from torture and slavery, but also relating to freedom of expression. Freedom of expression (and the rights that flow from it) was seen as crucial for a democratic country to grow and flourish.

While some of the declarations and charters were not legally binding on signatories, they signalled an increasingly broad commitment to human rights principles the world over. It is through the signing of additional covenants and protocols that binding agreements between countries around the world were finally established.

The United Nations Declaration on Human Rights, signed in 1948, was the first global expression of the rights to which all human beings were entitled, and these have since been enshrined internationally in constitutions, laws and treaties. But this was just the start of the battle for human rights, nationally and internationally. On the African continent, an African Charter on Human and People's Rights was drafted by the Organisation of African Unity (OAU) (now the African Union (AU)), and came into effect in 1986. This Charter and subsequent declarations were introduced in order to ensure that a regional human rights system was created for the continent. The African Commission on Human and People's Rights was set up to oversee this human rights work.

Freedom of expression is incorporated as a right in a number of declarations, charters, protocols and covenants that have been signed globally and regionally. Each document outlines what is meant by freedom of expression and what the right entails. It is important to understand what is contained in these substantive documents in order to measure how each of the countries is doing in allowing for this freedom.

- **The United Nations Declaration of Human Rights**

Adopted in 1948, the United Nations Declaration of Human Rights set the standard for human rights internationally, and many of its clauses, including that on freedom of expression, have since become part of international customary law.

Article 19 of the Declaration deals with the right to freedom of expression:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

- **International Covenant of Civil and Political Rights (CCPR)**

A number of Southern African Development Community (SADC) member states have ratified the International Covenant of Civil and Political Rights (enacted by the United Nations in 1976) and are thus bound by its commitment to freedom of expression. This covenant codifies many of the rights outlined in the Declaration and makes them binding on those nations which have ratified them. All SADC members have either ratified or acceded to the CCPR. The Covenant's Article 19 declares that:

> Everyone shall have the right to hold opinions without interference;

> Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

In the Covenant, freedom of expression is restricted in instances where there is a need for the protection of national security or public order, or public health and morals or in instances where the rights and reputation of others might be negatively affected.

- **The Windhoek Declaration Promoting an Independent and Pluralistic African Press (adopted by the General Assembly of the UN Educational, Scientific and Cultural Organisation, Unesco, in 1991)**

The Windhoek Declaration is a statement of press freedom principles that were produced at a Unesco seminar attended by newspaper journalists in 1991 and which was later endorsed at the Unesco General Conference. During the 1980s, African journalists were concerned with the harassment, intimidation and censorship they were experiencing, particularly in the print media sector across the continent. There was a general belief in the connection between a free, independent press and successful participatory democracy. Arising from these concerns, a declaration was drawn up that called for a free, independent and pluralistic media. The date of the Declaration's adoption, 3 May, has since been declared press freedom day.

- **The African Charter on Human and People's Rights**

In 1999, an African Charter on Human and People's Rights was fully ratified (after Eritrea, the last signatory to the Charter, signed it into effect) demonstrating a willingness and

commitment by the continent to improving human and people's rights. Article 9 in the Charter provides for freedom of expression and access to information 'within the law'. The AU established the African Commission on People's and Human Rights (ACPHR) to oversee the implementation of the Charter on Human and People's Rights.

> Article 9
>
> Every individual shall have the right to receive information.
> Every individual shall have the right to express and disseminate his opinions within the law.

A number of media organisations on the continent considered Article 9 to be inadequate in protecting their right to freedom of expression, as journalists were still regularly threatened and harassed. Some governments, although signatories to the African Charter, did not respond well to newspaper reports and broadcasts in which issues relating to corruption, mismanagement and dishonesty were raised, and believed that it was necessary to control the media. They introduced restrictions and declared that articles or information disseminated had either defamed an individual or had the potential to undermine the security of the state.

The African Commission began to draft and finally introduced the Declaration of Principles on Freedom of Expression in Africa to deal with the concerns being raised, to clarify the principles relating to freedom of expression, and to address the gaps and shortcomings. This declaration was adopted at the 32nd Ordinary Session in 2002.

• Declaration of Principles on Freedom of Expression in Africa

This declaration expands on the rights to freedom of expression outlined in the African Charter, and outlines a number of principles critical to realising the rights outlined in the Charter. It opens with the following principles:

> Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.
>
> Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination.

According to the Declaration, freedom of expression is in place when the following conditions prevail:

- Authorities promote diversity through ensuring that a range of different information and ideas reaches the public. Marginalised groups, including women, children and linguistic groupings should have access to the media. There should also be measures in place to avoid undue concentration of media ownership, although these should not be stringent.
- The right to information is guaranteed in law and everyone can access information by public bodies, subject only to clearly defined rules that have been established by the law. Secrecy laws should comply with the principles of freedom of information.

- A diverse, independent private and community broadcasting sector should be available and state monopoly of broadcasting is discouraged. An independent regulatory authority shall be responsible for monitoring this and ensuring that licensing processes are fair and transparent and reflect a balance.
- Public service broadcasters should replace state and government controlled broadcasters and should be accountable to the public through an independently selected board.
- The registration processes for the print media should not impose substantive restrictions on the right to freedom of expression. The print media should strive for editorial independence and circulation of publications should where possible also reach the rural areas.
- The press should self-regulate and a public complaints system should be in place and accessible for both the print and broadcast media. There should be no political or economic interference.
- There should be no attacks (such as murder, kidnapping, intimidation and threats) on the press or journalists. The state should ensure that there are measures in place to protect media practitioners.
- Laws relating to defamation should ensure that no one can be liable for making true statements, opinions or statements about public figures which are reasonable to make. Public figures should also be prepared to tolerate a degree of criticism.
- Journalist's sources should be protected except in the case of the investigation or prosecution of a serious crime – in which case the public interest in disclosure should outweigh the harm in respect of freedom of expression.

All nation states have been encouraged to take practical steps to introduce these principles. Implementation has, however, been uneven and remains a site of struggle in some countries.

THE SITUATION ON THE AFRICAN CONTINENT

In South Africa, Section 16 of the Constitution deals with freedom of expression which includes freedom of the press and other media, freedom to impart information, and the right to artistic and academic freedom. This freedom is not all encompassing, however, and must be balanced against other human rights such as the right to privacy, equality and dignity.

The South African Constitution is often upheld as one of the most democratic in the world with many of the rights outlined going far beyond international and continental provisions. In terms of implementation and adherence to democratic rights, South Africa is seen to be doing well. Freedom of expression is maintained through the introduction of a range of freedom of information laws that only eight other African countries have adopted (namely Angola, Ethiopia, Guinea, Liberia, Niger, Nigeria, and Uganda).

With the introduction of a democratic government in 1994, South Africa has demonstrated its commitment to democratic values, more especially freedom of expression and the press. Many of the principles contained in the Declaration of Principles on Freedom of Expression in Africa have been adopted. Pluralism is encouraged through the flourishing of community and private print and broadcast media. A Print and Digital Media Transformation Task Team (PDMTTT) has been set up to assist the industry to develop a common vision and strategy for transformation – and media ownership patterns are part of this enquiry. The South African Broadcasting Corpo-

ration (SABC) has itself transformed - from a state to a public broadcaster, and the press is self-regulated.

While these positive changes are noted, there are instances where media practitioners have been harassed and where the media has been treated with suspicion. The principle of self-regulation of the press has also been questioned by the ruling party, the African National Congress (ANC) as there is a belief that this has not been adequate to sufficiently protect the rights of individual citizens, community and society as a whole.[1] Essentially, what the ANC is arguing is that the current avenues open to individuals to correct misconceptions in the media have been through litigation and laying a complaint with the press ombudsman. These avenues are seen to be inadequate and instead a media appeals tribunal (MAT) accountable to Parliament has been mooted as an institution that could tackle the issue of regulation.

The media, concerned that a MAT would result in political interference, has since responded by setting up the Press Freedom Commission to look at how self-regulation has worked, and has introduced changes to improve the effectiveness of these self-regulatory structures. Essentially, the Commission has suggested a system of independent co-regulation that will include members of the press and the public on a press council, with the emphasis on public representation.

The ANC, through its secretary general, Gwede Mantashe, welcomed the principles embodied in the report of the Press Freedom Commission. At its national conference in Mangaung in December 2012, the ANC resolved that Parliament must continue to conduct an inquiry into the feasibility of a media appeals tribunal. This issue is likely to be referred to Parliament in 2013 where members of parliament will be asked to review the existing media accountability measures, as well as privacy laws and those dealing with libel and defamation. This review must be done against the backdrop of the Constitution and must consider the balance between the individuals' rights to dignity and freedom of expression and the freedom of the media.[2]

More recently the Protection of State Information Bill, a highly controversial piece of legislation, was proposed to regulate the classification, protection and dissemination of state information, weighing up state interests against freedom of expression. After the initial release of the Bill, the South African Editors' Forum said that 'its lack of any public interest defence, draconian sentencing regime, broadness of application, and excessive shielding from scrutiny of the intelligence services are of grave concern'.[3] Many in the media believe that the Bill was being introduced as a way to silence whistleblowers and investigative journalists who were leaked information that resulted in the exposure of corrupt practices in government.

Since the introduction of the Bill, there has been widespread opposition to some of its clauses, and debates and discussions have been vigorous and ongoing. As a result, a number of changes have been made in an attempt to accommodate the concerns of different interest groups. For example:

- The public interest clause – one of the most highly contentious aspects of the Bill – exists, but is limited. Essentially, this clause protects a person who reveals classified information to expose a crime. The person would be protected by another law, such as the Prevention and Combating of Corrupt Activities Act.
- Previously, state bodies were given the power to classify information but this power is now limited to security bodies, their oversight agencies, and Cabinet.

[1] See Para 93 Communications and the Battle for Ideas, ANC 52nd National Conference 2007, Resolutions and Para 134 Communications and the Battle for Ideas, ANC 53rd National Conference, Mangaung, 16-20 December 2012.
[2] Public enquiries into the media are not happening only on the African continent. In 2011, the Leveson Inquiry was set up following the phone hacking scandal that wracked News International. Lord Justice Leveson chaired the inquiry that looked into the culture, practices and ethics of the British media. The Leveson Report released in November 2012 made recommendations for a new, independent body to replace the Press Complaints Commission (http://en.wikipedia.org/wiki/Leveson_Inquiry).
[3] http://www.news24.com, Info Bill Unsafe for Democracy, 16 September 2011.

- National security was previously widely defined. The effect of this could be that over-classification would take place, and the definition has since been tightened.
- There will no longer be a clause that says that this law will supercede the Promotion of Access to Information Act (PAIA) which gives citizens the right to access information as part of their constitutional rights.

There is still much concern within civil society that the changes have not gone far enough to protect whistleblowers and that the Bill continues to limit freedom of expression. As the Bill stands, having classified information in your possession can result in a hefty jail term – so the 'draconian sentencing regime' still exists. These and other clauses are still being widely discussed and debate.

This Bill has been approved by the National Assembly and National Council of Provinces but has now to go back to the National Assembly as a number of amendments have been made. At the time of writing (February 2013) the Bill is still to be enacted. If approved, it is likely to end up at the Constitutional Court, as opposition still exists to some of the clauses. This however, will only become clear as the process unfolds. Freedom of expression therefore remains a site of ongoing struggle, with countries throughout the world at different stages of adherence to the principles.

So what about the rest of Africa?

Since the 1990s, there have been profound and real changes that have taken place in respect of press freedom and free speech on the African continent. Most African states included freedom of expression as clauses in their constitutions and opened up print and broadcasting to media pluralism.

For the first time in many countries, the media were able to publish stories that did not directly come from the government of the day. In Kenya, for example, the media first reported on the Anglo-Leasing scandal of 2004, a large corruption scandal that implicated Kenyan civil servants and cabinet ministers in plans to buy a sophisticated £20 million passport equipment system from France. In Senegal a private radio station Walfajiri, carried a programme called Face the Citizenry where local communities raised issues such as unemployment, poor housing conditions, flooding, and lack of sanitation directly with public officials. [4]

Such developments have been uneven in Africa though, and there is still much more that should be done in order to ensure that there is the political will to implement and manage freedom of expression and the media. While some states have been open to media pluralism through removing the state monopoly of broadcasting, for others there has been no change in the status quo. For example, Eritrea still does not have independent radio or TV stations and The Gambia, Guinea and Ethiopia have no independent TV.

From the 2000s, some of the rights won through democratic struggle began to be clawed back with increasing attacks on human rights activists and regressive legislative changes. In her report in May 2010, the Special Rapporteur on Freedom of Expression for Africa, [5] Advocate Pansy Tlakula concluded that 'we are losing some of the gains that we have made in the enjoyment of the right to freedom of expression and access to information in Africa'. [6] This was attributed to the adoption of restrictive media legislation that placed limitations on the capacity of media practitioners to carry out their functions, the slow pace of adoption of access to information laws, and the poor standard and ethics of journalism.

[4] A Callamard, Accountability, Transparency and Freedom of Express in Africa, Social Research Vol 77, No. 4, Winter 2010: 1225.
[5] The Special Rapporteur on Freedom of Expression and Access to Information is responsible for monitoring compliance of member states with freedom of expression and access to information standards. Where there have been serious violations of these rights, she can take fact-finding missions and report on these to the African Commission. Essentially, the role of the special rapporteur is to ensure adherence to freedom of expression and access to information standards among those who have ratified the African Charter and the Declaration of the Freedom of Expression in Africa.
[6] Final Activity Report of the Special Rapporteur on Freedom of Expression and Access to Information in Africa by Adv P Tlakula: Presented to the 47th Ordinary Session of the African Commission on Human and People's Rights: May 2010: 11.

While many of the African countries had already signed the African Charter on People and Human Rights and the Declaration of Principles on Freedom of Expression in Africa, lip service was paid to the principles enshrined in these documents. Instead reports from many African countries reveal that:[7]

- Journalists continue to be harassed, arrested and detained, and media houses have been closed down. In 2010, four of the world's ten countries responsible for nearly two thirds of all journalists being in jail were in Africa: Eritrea (19), Ethiopia (4), Egypt (3) and Tunisia (2).
- Independent regulation of broadcast media is almost non-existent in all African countries. Many of the individuals who sit on these regulation boards were either chosen by government or selected because of their political allegiance.
- In Ethiopia, anti-terrorism laws were introduced to restrict democratic dissent. In February 2012 it was reported that several journalists had received 14 to 16 year sentences and heavy fines for "terrorism related activities".[8] In Eritrea, a number of journalists have been detained over the years and many are still to be charged. Such anti-terrorism laws tend to result in journalists self-censoring to avoid detention.
- Governments continue to shut down the media. For example, in Uganda in 2010, Human Right Watch[9] reported that government officials as well as the ruling party were still threatening journalists to curb criticism of the government. During the Kampala riots in September 2009 that led to a number of civilian deaths, those journalists who wished to report on or de-bate the cause of the riots were beaten and detained.
- The laws on defamation, genocide ideology and other restrictive media legislation that have been introduced in Rwanda have ensured the absence of media pluralism. In months leading up to the 2010 elections, journalists were harassed and intimidated, and two were killed.
- Human rights activists and opposition supporters are given no access to state owned media. This is evident in Swaziland which has gone so far as to ban political parties and continues to harass any opposition. The controversial Suppression of Terrorism Act passed by Parliament in 2008 is used to restrict this freedom of expression.[10]

In some African countries there has been progress in taking freedom of expression forward, although processes are often slow. In 2011, for example, in the Special Rapporteur Report[11] examples were given of Ghana where a bill drafted in 2002 guaranteeing the right of access to information held by public bodies was re-introduced into parliament in 2011/12. The reason given for the delayed passage of the bill was due to the unavailability of funds to hold extensive consultations. In Nigeria, a freedom of information bill, in process since 2004, was approved by the senate in 2011. It was slightly weaker than when initially drafted and grants the right to access information 'only to Nigerian citizens providing this does not compromise national security.'[12] Generally speaking, African countries are at differing levels in terms of implementation and respect for the right to freedom of expression. The African Commission therefore has a responsibility to monitor the different states and to ensure that they improve on their current human rights record – particularly that relating to freedom of expression.

7 Reported in: Callamard, A, op. cit.
8 http://advocacy.globalvoicesonline.org.2012/02/03/ethiopia-freedom-of-expression-in-jeopardy
9 Human Rights Watch: www.hrw.org in Uganda: Journalists under threat. End Intimidation of Rural Media and Amend Repressive Laws Before 2011 Elections, 2 May 2010
10 www.article19.org.
11 Final Activity Report of the Special Rapporteur on Freedom of Expression and Access to Information in Africa by Adv P Tlakula: Presented to the 49th Ordinary Session of the African Commission on Human and People's Rights, 2011.
12 Op. cit.: 7.

THE AFRICAN COMMISSION AND ITS ROLE

In 1963, the OAU was formed, and for two decades after its creation the focus remained on the political and economic independence of Africa post colonialism. Protection and promotion of human rights was not a major factor, but as increasing pressure began to be mounted by nongovernmental organisations and churches against human rights abuses that were taking place on the continent, the OAU was forced to change its stance. In July 1979, the Assembly of Heads of State and Governments met in Monrovia, Liberia, and adopted a resolution calling on the OAU to form a committee of experts who would draft an African charter on human and people's rights.

On 21 October 1986, the charter came into force and an African Commission on Human and Peoples' rights was set up to oversee progress on the promotion of human and people's rights and to ensure their protection in Africa. Under Article 45(c) of the African Charter, the African Commission is mandated:

> *… to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation.*

Those serving on the Commission act as individuals who do not represent their countries of origin but are instead independents who display the highest integrity.

The functions of the Commission are the promotion and protection of human and people's rights; the interpretation of the provisions of the Charter; and any other task assigned to it by the OAU assembly.

In May 2001, at the African Commission on Human and People's Rights meeting in Tripoli, in a Resolution on Freedom of Expression it was noted that 'freedom of expression is an indispensable instrument for the creation and maintenance of a democratic society and the consolidation of development'.[13] A special rapporteur on freedom of expression and access to information was established by the African Commission on Human Rights with the adoption of Resolution 71 of the 36th Ordinary Session in Dakar in 2004. The mandate of the Commission includes that it should analyse national media legislation, policies and practices within member states; monitor compliance with freedom of expression standards and advise member states; and undertake investigative missions where there have been major violations on freedom of expression.

Currently, the African Commission has little in the way of power to enforce decisions in respect of human rights. This would have to change in the long-run if the body is to be taken seriously.

A WAY FORWARD

There are some who are lobbying for a protocol to the African Charter on Human and People's Rights; that it should be binding and should allow member states to be brought not only before the African Commission but also before the African Court of Human and People's Rights that has been established in Arusha, Tanzania.

[13] Resolution on Freedom of Expression: The African Commission on Human and People's Rights: 23 April – 7 May 2001: http://www.achpr.org/sessions/29th/resolutions/54/

A SHORT HISTORY OF BROADCASTING

Broadcasting in South Africa is now a vibrant industry consisting of public, commercial and community radio and television services operating across the country, but this has not always been the case. Under apartheid, broadcasting was tightly controlled by the National Party and only after the first democratic elections was an independent regulator established and policies adopted to re-regulate the airwaves 'in the public interest'.

THE EARLY DAYS

Broadcasting is one of most powerful communication mediums in any society. Almost from inception, radio and TV broadcasts in South Africa were restricted and controlled by the government to serve narrow political ends. At the height of apartheid, the South African Broadcasting Corporation (SABC) operated as a propaganda machine – a state broadcaster communicating apartheid policy that did not serve the interests of all South Africans.

The history of broadcasting in South Africa can be traced back to 1923, when the first wireless broadcast station was set up in Johannesburg by the South African Railways. In the following year, the Cape and Peninsula Broadcasting Association started a similar service in Cape Town, and Durban followed suit. Finance to run the stations came from licence fees.[1]

Levels of revenue were, however, low, and four years later, by 1927, the Schlesinger organisation received government permission to form the African Broadcasting Company, incorporating the stations. But the expansion of the sector was slow. Because of this lack of progress, and a concern that

broadcasting was in English only, the prime minister at the time, J M Hertzog, launched an investigation.

Following this investigation, the South African Broadcasting Corporation (SABC) was established in 1936. The SABC was a strategic propaganda tool for the National Party, a broadcast platform through which it could channel ideological content that had little to do with public interest. There were two services available – Radio South Africa and Radio Suid Afrika. It was only in 1950 that a commercial radio service, Springbok Radio, was introduced and carried daily news bulletins in English and Afrikaans as well as music. These broadcasts were initially limited to Johannesburg, but were later extended to all major centres.

African language (or what were known as 'bantu') services were added – initially in three indigenous languages and in Soweto. Throughout the 1960s, these stations grew. Tswana and North Sotho stations targeted the Pretoria area, Zulu for Durban, Xhosa for the Eastern Cape – and so on.

While radio was expanding nationally, internationally television was taking off as a broadcast medium of choice. However, there was massive resistance from the National Party of the time. They believed this could lead to a breakdown in the fabric of apartheid South Africa and result in moral degeneration. Dr Albert Hertzog, the minister for posts and telegraphs, argued that 'South Africa would have to import films showing race mixing; and advertising would make [non-white] Africans dissatisfied with their lot'.[2] This did not fit in with the political ideology of separate development of the ruling party. Hertzog went on

[1] www.oldradio.com/archives.international/safrica.html.
[2] Quoted http: en.wikipedia.org/wiki/Television_in_South_Africa. Referenced Cape Times, 4 May 1967, quoted in Contact, Vol 10 No 1:4; Sunday Times, 8 January 2007.

to refer to TV as the 'devil's own box, for disseminating communism and immorality',[3] and the arguments over its introduction continued.

Despite the fears expressed by the National Party, the United Party (UP), the liberal press, and South African industrialists began the fight for television to be introduced. They argued that the country was stunting progress through shutting out links to the outside world. This feeling was so strong that the UP included the issue in its election platform, with the slogan 'Want TV? Vote UP'.[4]

As more and more South Africans began to feel dissatisfied with the government stance on TV, especially when they were unable to view the moon landing in 1969,[5] the National Party was forced to adapt. However, it took them another two years to announce that they would be launching TV and another three to finally start testing the signal and preparing for broadcast.[6]

In 1976 the SABC's first television channel finally went on air in full colour, broadcasting in English and Afrikaans. In the first four years, programming was for about 37 hours a week, with equal treatment of English and Afrikaans.[7] Broadcasting time increased over the years, but what was clear from the outset is that the SABC was a state broadcaster, controlled by the National Party and broadcasting in its interest.

The so-called 'independent homelands' of the apartheid government's separate development plan started their own radio stations. Bophuthatswana started BopTV, and Capital Radio, a commercial radio station that combined news and music in its programming, began broadcasting from Transkei.

Throughout the 1980s, increasing media opportunities began to emerge – through the SABC's expanding services; through more 'homelands' setting up their own broadcast corporations / stations; or through businesspeople exploiting commercial opportunities. Two more TV channels were added to the SABC mix: TV2 for the Nguni language viewers, and TV for Sotho languages. Two commercial sound services, Radio 702 and Capital Radio, were in service and one private pay TV channel (MNet) owned by the one of the main media players was launched (but barred from broadcasting news).

While broadcast media was expanding, the apartheid government applied increasing pressure to control content through a number of regulations and legislation (The Publications Act of 1974; Criminal Procedures Act) that imposed limits on the media. The Bureau of Information gave out official reports of what was happening in the country; state of emergency regulations clamped down on what the press could write about; and journalists were forbidden to report on banned organisations and people.[8] The country was in crisis and the apartheid government was using every means possible to maintain control. Apartheid was starting to unravel yet the National Party government continued to try and hold onto whatever it could – including the airwaves.

THE DAWNING OF DEMOCRACY

In 1990, things began to change in the media world as liberation movements were unbanned in preparation for a negotiated settlement. South Africa's communication's media were radically transformed by these political reforms, the most fundamental change being that of the SABC, which had been under the government's thumb

[3] Ibid.
[4] Why South Africa's television is only twenty years old, debating civilisation, 1958-1969. http://laboratoires.univ-reunion.fr/oracle/documents.217.html
[5] www.nationmaster.com. Controversy over the introduction of TV: Minister of Posts and Telegraph, Dr A Hertzog: 1964
[6] http://laboratoires.univ-reunion.fr/oracle/documents.217.html
[7] Epilogue: Television comes to South Africa. C Bevan, University of Pretoria (2008) on www.upetd.up.ac.za/thesis/available/etd05212009/unrestricted/07chapter
[8] www.countrystudies.us/south-africa/81.htm

and had espoused its views. An independent regulator, tasked with regulating broadcasting activities and independent of the state and party politics, was also established.

Following the unbanning of the ANC in 1991, the Viljoen Commission was set up by the government to define a public broadcasting service for the country. Civil society organisations resisted this as it had been done unilaterally and was considered by many as an attempt by government to privatise broadcasting.[9] Broadcasting was seen as an important site of struggle and the airwaves needed to be removed from party political control. The progressive movement united around campaigns to formulate media policy and argued strongly that it should form part of the negotiations at the Convention for a Democratic South Africa (Codesa), owing to the national importance of the sector. The attempts to formulate media policy then resulted in a number of conferences and workshops where how to democratise the media was discussed and debated. The following recommendations were among those made:

- The setting up of an Independent Broadcasting Authority to regulate broadcasting;
- Commercial broadcasting should have fewer restrictions than public broadcasting;
- The ownership of radio and TV stations should be limited;
- The SABC should become a public service broadcaster;
- The deregulation of broadcasting should start with the introduction of community radio services.[10]

The Campaign for Independent Broadcasting, made up of a broad alliance of labour, civil society, political parties and movements, had been actively involved in fighting for the transformation of the SABC during this period. In preparation for the first free-and-fair elections that were to take place in 1994, they were also arguing strongly for the SABC to change from a state to a public broadcaster and were fighting for the establishment of an independent regulatory authority. This culminated in the establishment of the SABC Board made up of 25 members chosen by an independent selection panel after a series of public hearings. Dr Ivy Matsepe-Casaburri was elected as the Board's first chairperson in 1993.

Since the ANC came into power in 1994 there have been many changes in the media industry, although many challenges remain. New laws and regulations affecting the broadcast media have been enacted. Regulatory authorities have been set up and many more programmes and channels have emerged in the democratic South Africa.

THE LEGISLATIVE FRAMEWORK

The South African Constitution, Act No 108 of 1996, provided the framework for the emerging democratic society. Freedom of expression was guaranteed as a right, as was the freedom of the press and the right to receive and impart information. The need for an independent regulator was entrenched through Section 192 that stipulated that 'national legislation must establish an independent authority to regulate broadcasting in the public interest, and ensure fairness and diversity of views broadly representing South African society'.

[9] T Fokane 2003. The transformation of broadcasting in South Africa: A history of the Campaign for Open Media (COM) and the Campaign for Independent Broadcasting. Freedom of Expression Institute and the Netherlands Institute for Southern Africa (NIZA).
[10] Media Tenor: Strategic Media Intelligence: Presentation: GCIS Media Analysis Workshop

The South African Constitution forms the backdrop to the laws and regulations that govern the broadcast sector that have been enacted, repealed or amended over the years.

YEAR		DESCRIPTION
1993	The Independent Broadcasting Act, 153 of 1993	• Establishes the Independent Broadcast Authority (IBA), a regulator operating within a public interest framework. The IBA has since been subsumed into Icasa. • The IBA Act is repealed by the Electronic Communications Act (ECA Act of 2005).
1999	The Broadcasting Act, 4 of 1999	• Reflects government policy on universal access, diversity, nation building, and education arising from 1998 White Paper on broadcasting. • Reiterates broadcasting as a public service owned and controlled by all South Africans. • Divides the SABC into two entities – a public service and a commercial service – to be administered separately. • Defines the SABC mandate as a broadcaster and contains a charter. • Entrenches the right of the SABC to freedom of expression and programme independence as defined in the Constitution. • Confirms the role of the minister of communications in policy formulation that limits ministerial interference and directives.
2000	Independent Communications Authority of South Africa Act, 13 of 2000	• Amalgamates the IBA and the South African Telecommunications Regulatory Authority (SATRA) in line with convergence in technologies and establishes Icasa. • Transfers the functions of both IBA and SATRA to Icasa, which has the power to regulate broadcasting, telecommunications and postal industries. Other responsibilities of Icasa include: • Considering applications, awarding licences and ensuring compliance with licence conditions. • Managing the radio frequency spectrum. • Making recommendations to the minister of communications on policy matters to help develop the sector. • Promoting and facilitating the convergence of all telecommunications, broadcasting, and information technologies. • Limiting cross media ownership.
2002	Media Development and Diversity Act, 14 of 2002	• Creates an environment for media development and diversity in print, broadcast and digital media. • Establishes the MDDA to oversee the process.
2005	Electronic Communications Act, 36 of 2005	• Promulgated in recognition of the convergence of broadcasting and telecommunications and as a way to ensure that the regulatory approach in both sectors is similar. • Repeals the IBA Act, incorporates its provisions and amends certain sections of the Broadcasting Act. • Most of what is contained in IBA / Broadcasting Acts is transferred to ECA, including: o An emphasis on broadcasting in the public interest, free from political interference o The requirements and processes for applying for a licence o Providing for the control of the radio frequency spectrum
2009	Broadcasting Amendment Act, 4 of 2009	• Outlines rules and procedures in respect of the removal and resignation of SABC Board members, provision for appointment of an interim board • Referred to often as SABC Act as it mainly deals with matters pertaining to the SABC

THE IMPACT ON THE BROADCAST SECTOR

The unfolding post-apartheid legislation and regulations that relate to the broadcast and telecommunications industries have provided the framework for the industry and supported its exponential growth over the past 20 years. This is reflected in Table 1 below:

Table 1: Growth of media opportunities[11]

Medium	Dec 1991	Dec 2004	Dec 2006	March 2008	March 2009	March 2010	March 2011	October 2012
TV Stations	7	67	74	85	92	100	160	180[12]
Radio Stations	34	117	115	135	137	138	173	215

Above-the-line ad spend, particularly for TV, increased over the period 2002 to 2012 reflecting the dynamism of the industry as growing audiences result in rising amounts of money spent on advertising. In 2002, 35.6 per cent of the overall amount spent on above-the-line advertising in all media (print, radio, out of home, Internet and direct mail) was spent on TV advertising – and this rose to 46.2 per cent in 2012.[13] The increase of adspend on radio in the same period from 14 per cent to 14.7 per cent of the overall amount spent on all media products, while not as much an increase as TV, was still significant as no losses were reported to other mediums.

After 1994, a dynamic and vibrant broadcast media environment began to emerge – and has grown from strength to strength.

PUBLIC AND COMMERCIAL TV

The South African Broadcasting Corporation (SABC) was re-licensed as a public and commercial entity in line with the Broadcasting Act of 1999. The SABC was also required to integrate all the 'TVBC' states (Transkei, Venda, Bophuthatswana and Ciskei) broadcasting operations and had to ensure that the broadcasts were transmitted in eleven official languages across nine provinces. Stations had to:

- Develop and protect national and regional identity, culture and character;
- Take into account the views of their audiences;
- Display South African talent;
- Reflect a diversity of South African attitudes, opinions, ideas, values and artistic creativity;
- Offer a plurality of views and variety of news, analysis and information from the South African point of view;
- Support the production of local content, especially from historically disadvantaged individuals;
- Ensure that the specific quotas set by the IBA (and then Icasa) were followed.

In line with both public and commercial obligations, TV channels expanded:

- The SABC started fulfilling its public services broadcast mandate;
- eTV, a national free-to-air channel, was launched in 1998. By 2010, viewers in 12 countries across Africa also had access to a 24-hour syndicated version of South Africa's eTV;
- Multichoice launched a new digital, satellite service in South Africa, and

in 1995 DStv was officially activated (this is a subscriber based commercial service with over 150 channel choices).

By 2007, four more subscription services were awarded licences by Icasa. These included: E-sat (application by owners of eTV who have not launched a product);[14] On-Digital Media with TopTV (who have started broadcasting); Telkom Media (which also failed to launch); and Walking on Water (a Christian subscription channel).

PUBLIC, PRIVATE AND COMMUNITY RADIO STATIONS

Radio stations have also seen substantial growth. In February 2013 there were 22 commercial stations in South Africa (that broadcast in regions or cities throughout the country), and 14 radio stations dedicated to public broadcasting. Adding to the mix, community radio has been active,[15] and between 1994 and 1998 85 community radio licences had been issued and were operating; the Media Development and Diversity Agency (MDDA) reported that there are now over 218 licensed community radio stations, existing in almost every district in the country.

Access to Media – Adults Aged 15+[16]

Media access to television and radio increased and continues to rise although this is reaching saturation. Weekly television viewership is up from 90.8 per cent in June 2011 to 91.7 per cent in June 2012. Approximately 32 million adult viewers are reached on average per week. These viewers use a television set, very few making use of online or cellphone platforms.

Figure 1: Media access platforms for total TV[17]

Media access platforms for total TV
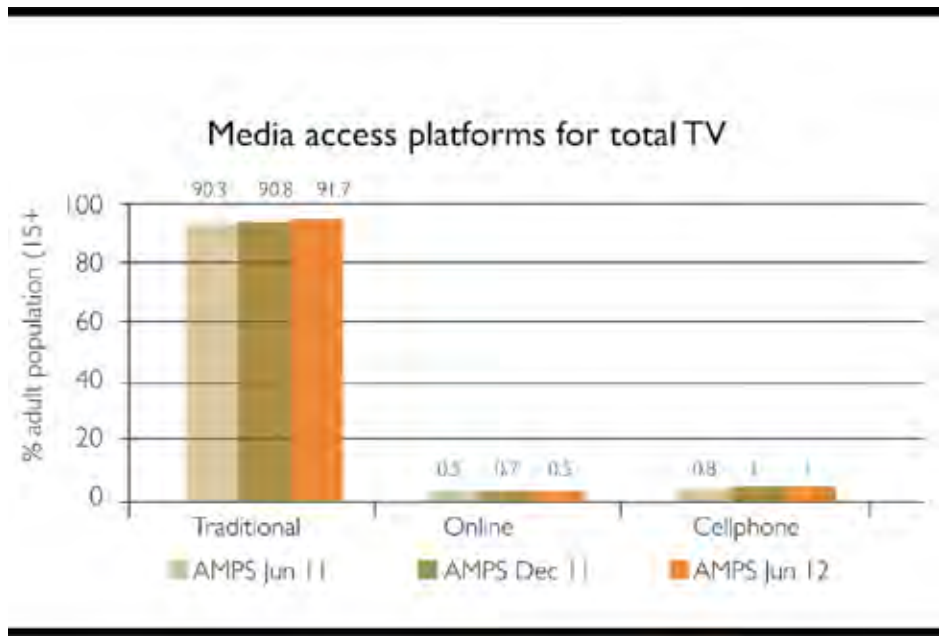
[14] www.techcentral.co.za Top TV boss 'shocked' at new licence plan, 23 February 2012.
[15] www.southafrica.info/about/media/radio.htm
[16] The South African Audience Research Foundation (SAARF) releases the All Media Products Survey (AMPS June 2012) bi-annually. The results of this survey and two others – the previous release, SAARF AMPs Dec 11 (Jan- December 2011) and SAARF AMPS June 11 (July 2010-June 2011) – form the basis for the report AMPS: Most South Africans remain true to their media by TMO Reporter, 4 October 2012, that appeared at www.themediaonline.co.za/2012. The report compares data from these AMP releases. This section draws on the findings on television and radio listenership appearing in that report.
[17] AMPS: Most South Africans remain true to their media by TMO Reporter 4 October 2012 www.themediaonline.co.za/2012 pg 11

Radio listenership is also trending upwards, from 91.9 per cent of the adult population in June 2011 to 93.1 per cent in June 2012. Radio has the highest cross-platform presence of the traditional mediums, 26 per cent of adults listening on their cellphones. Total community radio reaches 25.8 per cent of the population over the course of an average week, with approximately 9 million listeners.

Figure 2: Media access platforms for total radio[18]

Media access platforms for total radio
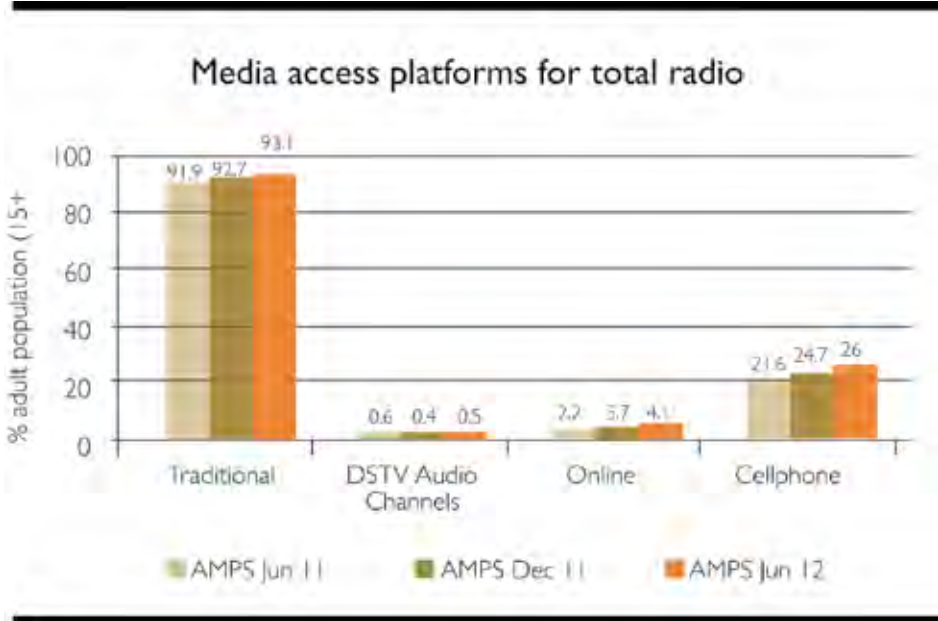
Radio and TV audiences are high. Most people have access to either public or private broadcasts. Internet access and penetration remains low and these platforms are therefore not used to access television to any great degree. This is, however, changing for radio listenership.

CURRENT ISSUES IN THE BROADCASTING ENVIRONMENT

Technology is driving changes in all industries, including the media industry. These changes directly affect policy and priorities: policy has had to be revised in line with technological developments, and priorities have shifted, requiring a rethink of how things will operate in future.

THE BROADCASTING DIGITAL MIGRATION PROJECT

At the International Telecommunications Union (ITU) Regional Radio Communication Conference in 2006, South Africa agreed to a resolution calling for countries in Region 1 (of which it forms part) to migrate its broadcasting from analogue to digital. The ITU has given countries until June 2015 to complete this migration, after which fre-

[18] AMPS: Most South Africans remain true to their media by TMO Reporter 4 October 2012 www.themediaonline.co.za/2012 pg 12

quencies that have been set aside for analogue transmission will no longer be protected from interference.[19]

The South African Broadcasting Digital Migration Policy was approved by Cabinet in 2008[20], and sets out the parameters for migrating the country's broadcasting from analogue to digital. While in keeping with technological developments, this project has also been recognised for the role that it can play in promoting diversity of the airwaves, as it frees up spectrum and allows for multiple channel broadcasting on particular frequencies. Additional benefits have also been seen: the potential for e-government services; providing access to government for people with disabilities; and creating jobs through ensuring that the Set Top Boxes (STBs) are manufactured within the country.

There have been a number of delays on the project. For example, while a digital standard for the STBs had been selected, this standard was then dropped in favour of a Japanese version used in Brazil. This decision was later overturned but six months had already been lost. In addition, there was concern that the legal stand-off between the Minister of Communications and e-TV over who would manage the STB control system might result in further delays but the planned appeal was dropped. However, there is still concern within the broadcast industry that the process will not be completed by the deadline date of June 2015.

Set Top Boxes (STBs): These boxes normally consist of a tuner that connects to a television set and an external signal. The signal is turned into content that can be displayed on your TV. With digital migration, many of the existing household TVs cannot convert the signal received into content. A STB is therefore required.

NATIONAL INTEGRATED ICT POLICY FOR SOUTH AFRICA (2013)

The Department of Communications (DoC) has embarked on a comprehensive review of all policy documents post-1994 which will culminate in an integrated national ICT policy for South Africa. Again, this has been inspired by the rapid technological developments that have led to convergence between the broadcasting, telecommunications and electronic media. In addition, the review will look at the functioning of the regulatory framework of telecommunications, broadcasting, postal and e-commerce in South Africa.[21]

The review panel is required to look at an integrated ICT policy bearing in mind that this should:

• Reinforce the socioeconomic transformation objectives of South Africa by accelerating access;
• Increase affordability, uptake and usage of secure ICT infrastructure and services while addressing the competitiveness of the ICT industry as a whole;
• Increase the shift away from industrial goods and services to a knowledge-based economy.
• Consider international best practice;
• Focus on appropriate ways to treat content, and the services and applications to deliver content.[22]

Results of this review should be available in 2014.

[19] Public Broadcasting in Africa Series: A survey by Africa Governance Monitoring and Advocacy Project (Afrimap), Open Society Foundation for South Africa (OSF-SA) and Open Society Media Programme (OSMP) H Bussiek (editor in chief), Jan 2010 p. 79.
[20] Government Gazette No 31408: Broadcast Digital Migration Policy: August 2008.
[21] Department of Communications: ICT Policy Colloquium discussion document: Defining a New Era for ICTs for all South Africans: The Path to creating a National Integrated ICT Policy for South Africa. 13 April 2012, Government Gazette No 35255.
[22] The Department of Communications: Terms of Reference of ICT Policy Review Panel 2013.

FOREIGN MEDIA PRESENCE IN SOUTH AFRICA

Before 1994, journalists from the foreign media who were critical of apartheid were often denied visas and their names placed on a list prohibiting them from entering South Africa. Those who did manage to be posted as foreign correspondents during the 1980s and 1990s also faced expulsion for reporting on issues that made the Nationalist Party uncomfortable. Cynthia Stevens, a foreign correspondent with Associated Press, was one such correspondent. In September 1981, she was asked to leave South Africa within 14 days.[1] When pressed for a reason, the acting director general of the Department of Internal Affairs, JC Pretorius, said that: 'It is not our policy to give explanations of such decisions.' But she was not the only journalist to be expelled during this period – and she would not be the last. It was difficult for any journalist covering the political events that were unfolding in the country.

After the release of Mandela in 1990, and before the first democratic elections in 1994, foreign correspondents began streaming back into the country to report on the changes taking place, as the build-up to the first democratic election was important news and made for exciting times. However, the level of political violence, particularly between Inkatha and the African National Congress (ANC) in some areas made it difficult for the media to do their jobs, as they could be caught in the crossfire.

The situation on the ground has now changed, and foreign correspondents from many countries are now represented in South Africa. They have started to build and establish relations with the governing party, opposition parties, members of parliament, nationally and provincially. This bodes well for South Africa, as news of what is happening within the country is increasingly becoming known to international audiences.

The Foreign Correspondents Association (FCA) was set up in 1976 to represent foreign journalists working in the Southern African Development Community (SADC). The FCA has had different objectives throughout the different periods of South Africa's history, ranging from ensuring access for foreign journalists in the early 1980s to engaging with the current government. The following are some of the major foreign correspondent offices in South Africa (the full list can be obtained from the FCA).

British Broadcasting Corporation, London
Office and postal address:
1 Park Road, Richmond, 2092 Johannesburg
Tel: 011 482-2343/2305; Fax: 011 482-3400
Website: www.bbc.co.uk
Al Jazeera Network, Qatar
Office address:
Suite 32, 3rd floor, Menton Bld, 1 Park Road,
Richmond, 2092 Johannesburg
Tel: 011 482-7950; Fax: 011 482-7580
Website: www.aljazeera.com/

Reuters, London
Office address:
138 West Street, Sandton, Johannesburg
Postal address:
PO Box 2662, 2000 Johannesburg
Tel: 011 775-3152; Fax: 011 775-3132; Cell:
082 086 9495
Website: http://uk.reuters.com/

[1] Associated Press: 30 September 1981.

Cable News Network (CNN), Atlanta
Office Address:
25 Owl Street, 15th Floor, Auckland Park, Johannesburg
Postal Address:
PO Box 72553, Parkview, 2122
Tel: 011-726 4251/ 4256; Fax: 011 726-5566
Website: www.cnn.com

Independent Television News, London
Office and postal address:
2nd Floor, 1 Park Road, Richmond, 2092
Johannesburg
Tel: 011 726 4305; Cell: 082 490 2106
web : http://WWW.ITN.CO.U
e-mail: mcadman@mweb.co.za

Bloomberg News, London
Office address:
7th Floor, Sandton City Office Tower, Cnr 5th
Street/Rivonia Road, Johannesburg
Postal address:
PO Box 784706, Sandton 2146
Tel: 011 286-1900; Fax: 011 286-1910
Website: www.bloomberg.com

CBS News, New York
Office address:
4th Floor, 1 Park Road, Richmond, Johannesburg
Postal address:
PO Box 971, Auckland Park 2006
Tel: 011 482-1761/2/3; Fax: 011 482-1755
Cell: 083 376 1331
www.cbsnews.com
e-mail: cbsnews@icon.co.za

The Associated Press, New York
Office address:
Mentone Centre, 5th floor, 1 Park Road, Richmond,
Johannesburg
Postal address:
PO Box 880, Auckland Park 2006
Tel: 011 628-7700
Website: www.ap.org
e-mail: ebrown@ap.org

Tagesspiegel, Berlin
Finanz & Wirtschaft, Zurich
Hannoversche Allgemeine, Hannover
Südkurier, Konstanz
Office address:
504 Skyeways, High Level Road, Green Point, Cape Town
Postal address:
PO Box 231, Green Point 8051
Tel: 021 434-1541; Fax: 021 434-3297
e-mail: wolf-dre@iafrica.com

NHK TV News, Tokyo
Office address:
Mentone Square, 1st floor, 1 Park Road, Richmond, Johannesburg
Postal address:
PO Box 766, Melville 2109
Tel: 011 726 4816; Fax: 011 482 4663;
Cell: 083 442 0044
www: http://www3.nhk.or.jp/nhkworld/
e-mail: steve@brimelow.org

The Economist, London
Office and postal address:
3rd Floor, 1 Park Road, Richmond, 2092 Johannesburg
Tel/Fax: 011 726-4659; Cell: 071 210 7728
www.econonomist.com
e-mail: dianageddes@economist.com

Agence France-Presse, Paris
Office address:
37 Keyes Avenue, Rosebank, Johannesburg
Postal address:
PO Box 952, Parklands, 2121 Johannesburg
Tel: 011 530-9900; Fax: 011 880-9987;
Cell: 084 500 8759
website: www.afp.com/afpcom/en
e-mail: Justine.Gerardy@afp.com

Canadian Broadcasting Corporation, Toronto
Current Affairs Films, Johannesburg
Office and postal address:
45 10th Avenue, Parktown North, 2193 Johannesburg
Tel: 011 880-3917; Fax: 011 327-1790; Cell:
082 451 4102
Website: www.cbc.ca/toronto
e-mail: lipman@netactive.co.za

Sky News, London
Office and postal address:
4th Floor, Mentone Centre, 1 Park Road, Rich-
mond, 2092 Johannesburg
Tel: 011 482-2032; Cell: 083 6258 649
Cell UK: +44 7584 150 438
Website: www.news.sky.com/uk
e-mail: Nick.Ludlam@BSKYB.COM

Economic Daily, Beijing
Postal Address:
PO Box 3124, Dainfern, 2055
Tel: 011 469-3505; Fax: 011 469-3101; Cell:
083 2578724
e-mail: ced@telkomsa.net

Australian Broadcasting Corporation, Sydney
Office & postal address:
1 Park Road, Menton Building, Level 3, Rich-
mond, 2092 Johannesburg
Tel: 011 726-8636; Fax: 011 726-8633
Website: www.abc.net.au
e-mail: diqoza.m@gmail.com

*The Wall Street Journal / Dow Jones News-
wires, New York*
Office Address:
12th Floor, Sandton City Office Tower, 158 5th
Street, Sandhurst Ext. 3, Johannesburg 2016
Tel: 011 784 8347; Cell: 082 258 2355
Website: www.online.wsj.com
e-mail: Patrick.McGroarty@dowjones

New York Times, New York
Postal address:
PO Box 37152, Birnampark, 2015 Johannes-
burg
Cell: 082 458 2817
Website: www.nytimes.com
e-mail: Lydia.polgreen@gmail.com

Die Tageszeitung, Berlin
Der Standard, Vienna
Office Address:
30 Tyrone Avenue, Parkview, Johannesburg
Postal Address:
PO Box 3348, Parklands, 2121
Tel/Fax: 011 646-7649; Cell: 083 260 4488
e-mail: marsiko@global.co.za

Financial Times
Office address: 4 Biermann Avenue,
Rosebank, Johannesburg
Tel: 011 2803270; Fax: 011 280 3280
Website: www.ft.com
Email: Richard.lapper@gmail.com

Inter Press Service – Africa
Office address: Dunkeld West Shopping Centre
Suite 283, 2nd Floor, cnr Jan Smuts Avenue and
Bompas Road, Johannesburg
Tel: 011 325 2671/2675; Fax: 011 325 2891
www.ipsnews.net/africa
email: tgyuse@ips.org

Time Magazine
Postal address:
Private Bag 1, Centurion, 0046
Office address:
28 Harrison Street, Johannesburg
Tel: 0861 115444; Fax: 011 833 3352
www.timemagazine.com
email: Roberta-roelofsus@tw4.c0m

News Agency of Nigeria
Office address:
7 Margaret Rose Street, Sandringham, Johannesburg, 2192
Tel: 011 640 5945; Fax: 011 640 5945
Website: www.nannewsngr.com
Email: nannews@mweb.co.za

Foreign Correspondents Association
Postal address:
P O Box 1136, Auckland Park, 2006
Office address:
30 Tyrone Avenue, Parkview, Johannesburg
Tel: 011 646 7649; Fax: 011 646 7649
Website: www.fcasa.co.za
fca@onwe.co.za

THE SOUTH AFRICAN PRESS CODE

Preamble

The press exists to serve society. Its freedom provides for independent scrutiny of the forces that shape society, and is essential to realising the promise of democracy. It enables citizens to make informed judgments on the issues of the day, a role whose centrality is recognised in the South African Constitution.

Section 16 of the Bill of Rights sets out that:

1. "Everyone has the right to freedom of expression, which includes:
a) Freedom of the press and other media;
b) Freedom to receive and impart information or ideas;
c) Freedom of artistic creativity; and
d) Academic freedom and freedom of scientific research.
2. "The right in subsection (1) does not extend to
a) Propaganda for war;
b) Incitement of imminent violence; or
c) Advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm."

The press strives to hold these rights in trust for the country's citizens; and it is subject to the same rights and duties as the individual. Everyone has the duty to defend and further these rights, in recognition of the struggles that created them: the media, the public and government, who all make up the democratic state.

Our work is guided at all times by the public interest, understood to describe information of legitimate interest or importance to citizens.

As journalists, we commit ourselves to the highest standards of excellence, to maintain credibility and keep the trust of our readers. This means always striving for truth, avoiding unnecessary harm, reflecting a multiplicity of voices in our coverage of events, showing a special concern for children and other vulnerable groups, and acting independently.

We adopt the following Press Code:

1. Gathering of news
1.1. News should be obtained legally, honestly and fairly, unless public interest dictates otherwise.
1.2. Press representatives shall identify themselves as such, unless public interest or their safety dictates otherwise.

2. Reporting of News
2.1. The press shall take care to report news truthfully, accurately and fairly.
2.2. News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.
2.3. Only what may reasonably be true, having regard to the sources of the news, may be presented as fact, and such facts shall be published fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinion, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly.

2.4. Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be stated in such report.

2.5. A publication shall seek the views of the subject of critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or sources intimidated. Reasonable time should be afforded the subject for a response. If the publication is unable to obtain such comment, this shall be stated in the report.

2.6. A publication shall make amends for publishing information or comment that is found to be inaccurate by printing, promptly and with appropriate prominence, a retraction, correction or explanation.

2.7. Reports, photographs or sketches relating to indecency or obscenity shall be presented with due sensitivity to the prevailing moral climate. A visual presentation of explicit sex shall not be published, unless public interest dictates otherwise.

2.8. Journalists shall not plagiarise.

3. Independence and conflicts of interest

3.1 The press shall not allow commercial, political, personal or other non- professional considerations to influence or slant reporting. Conflicts of interest must be avoided,as well as arrangements or practices that could lead audiences to doubt the press's independence and professionalism.

3.2 Journalists shall not accept a bribe, gift or any other benefit where this is intended or likely to influence coverage.

3.3 The press shall indicate clearly when an outside organisation has contributed to the cost of newsgathering.

3.4 Editorial material shall be kept clearly distinct from advertising.

4. Dignity, Reputation and Privacy

4.1. The press shall exercise care and consideration in matters involving the private lives and concerns of individuals. The right to privacy may be overridden by a legitimate public interest.

4.2. The press shall exercise care and consideration in matters involving dignity and reputation. The dignity or reputation of an individual should only be overridden in the following circumstances:

4.2.1. The facts reported are true or substantially true;

4.2.2. The article amounts to fair comment based on facts that are adequately referred to and that are true or substantially true;

4.2.3. The report amounts to a fair and accurate report of court proceedings, Parliamentary proceedings or the proceedings of any quasi-judicial tribunal or forum; or

4.2.4. It was reasonable for the article to be published because it was prepared in accordance with acceptable principles of journalistic conduct and in the public interest.

4.3. The identity of rape victims and victims of sexual violence shall not be published without the consent of the victim or in the case of children, without the consent of their legal guardians and it is in the best interest of the child.

4.4. The HIV/AIDS status of people should not be disclosed without their consent, or in the case of children, without the consent of their legal guardians, and only if it is in the public interest and it is in the best interest of the child.

5. Discrimination and Hate Speech

5.1. Except where it is strictly relevant to the matter reported and it is in the public interest to do so, the press shall avoid discriminatory or denigratory references to people's race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or other status, nor shall it refer to people's status in a prejudicial or pejorative context.

5.2. The press has the right and indeed the duty to report and comment on all matters of legitimate public interest. This right and duty must, however, be balanced against the obligation not to publish material that amounts to:

5.2.1. Propaganda for war;

5.2.2. Incitement of imminent violence; or

5.2.3. Advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

6. Advocacy

A publication is justified in strongly advocating its own views on controversial topics provided that it treats its readers fairly by:

6.1. Making fact and opinion clearly distinguishable;

6.2. Not misrepresenting or suppressing relevant facts; and

6.3. Not distorting the facts.

7. Comment

7.1. The press shall be entitled to comment upon or criticise any actions or events of public interest provided such comments or criticisms are fairly and honestly made.

7.2. Comment by the press shall be presented in such manner that it appears clearly that it is comment, and shall be made on facts truly stated or fairly indicated and referred to.

7.3. Comment by the press shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair account of all available facts which are material to the matter commented upon.

8. Children

The Bill of Rights (Section 28.2) in the South African Constitution states: "A child's best interests are of paramount importance in every matter concerning the child."

8.1. The press shall therefore exercise exceptional care and consideration when reporting about children under the age of 18. If there is any chance that coverage might cause harm of any kind to a child, he or she shall not be interviewed, photographed or identified unless a custodial parent or similarly responsible adult consents, or a public interest is evident.

8.2. Child pornography shall not be published.

Child Pornography is defined in the Film and Publications Act as: Any image or any description of a person, real or simulated, who is or who is depicted or described as being, under the age of 18 years, engaged in sexual conduct; participating in or assisting another person to participate in sexual conduct; or showing or describing the body or parts of the body of the person in a manner or parts of the body of the person in a manner or circumstance which, in context, amounts to sexual exploitation.

8.3. The press shall not identify children who have been victims of abuse, exploitation, or who have been charged with or convicted of a crime, unless a public interest is evident and it is in the best interests of the child.

9. Violence

Due care and responsibility shall be exercised by the press with regard to the presentation of brutality, violence and suffering.

10. Headlines, Posters, Pictures and Captions

10.1. Headlines and captions to pictures shall give a reasonable reflection of the contents of the report or picture in question.

10.2. Posters shall not mislead the public and shall give a reasonable reflection of the contents of the reports in question.

10.3. Pictures shall not misrepresent or mislead nor be manipulated to do so.

11. Confidential and anonymous sources

11.1. The press has an obligation to protect confidential sources of information.

11.2. The press shall avoid the use of anonymous sources unless there is no other way to deal with a story. Care should be taken to corroborate the information.

11.3. The press shall not publish information that constitutes a breach of confidence, unless a legitimate public interest dictates otherwise.

12. Payment for Articles

The press shall avoid shady journalism in which informants are paid to induce them to give the information, particularly when they are criminals - except where the material concerned ought to be published in the public interest and the payment is necessary for this to be done.
www.presscouncil.org.za/

BCCSA FREE-TO-AIR CODE OF CONDUCT FOR BROADCASTING SERVICE LICENSEES 2009

This Code will replace the Code as agreed to by the BCCSA in 2003 and will come into effect on 1 January 2011

1. Definitions

In this Code, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned.

"Act" means the Electronic Communications Act, Act no 36 of 2005;

"audience" refers to both the viewers and listeners of television and sound Broadcasting service licensees

"broadcasting service licensee" means a free-to-air South African broadcasting service licensee as defined in section 1 of the Act and which: has agreed to the jurisdiction of the Broadcasting Complaints Commission of South Africa (BCCSA) as constituted in 1993 by the National Association of Broadcasters and which was formally approved by the Independent Broadcasting Authority of South Africa (ICASA) in 1995; and has thereby also agreed to the Constitution, Free-to-air Broadcasting Code and Procedural Rules of the BCCSA;

"child pornography" means any description or visual image, real or simulated, however created, explicitly depicting a person who is or who is depicted as being under the age of 18 years
   (a) engaged in or participating in sexual conduct;
   (b) engaged in an explicit display of genitals; or
   (c) assisting another person to engage in sexual conduct which, judged within context, has as its predominant objective purpose, the stimulation of sexual arousal in its target audience;

"child" means a person under the age of 18 years;

"ICASA Act" means the Independent Communications Authority of South Africa Act 13 of 2000;

"sexual conduct" means: (i) the display of genitals or of the anus; (ii) masturbation; (iii) sexual intercourse including anal sexual intercourse, (iv) in the case of child pornography, the fondling or touching of breasts, genitalia or the anus; (v) the penetration of a vagina or anus with any object; (vi) oral genital contact; or (vii) oral anal contact;

"watershed period" means the period between 21h00 and 05h00 for free-to-air television Broadcasting service licensees and 20h00 and 05h00 for subscription television Broadcasting service licensees.

2. Scope of Application

(1) Broadcasting service licensees must ensure that all broadcasts comply with this Code.
(2) Broadcasting service licensees must ensure that relevant employees and programme producers, including those from whom they commission programmes, understand the contents and significance of this Code.
(3) All broadcasting service licensees should also have procedures for ensuring that programme producers can seek guidance as to the application of the Code from them.

3. Violence

Broadcasting service licensees must not broadcast material which, judged within context
   (a) contains violence which does not play an integral role in developing the plot, character or theme of the material as a whole; or

(b) sanctions, promotes or glamorises violence or unlawful conduct.

4. (1) Broadcasting service licensees must not broadcast material which, judged within context, sanctions, promotes or glamorises violence or unlawful conduct based on race, national or ethnic origin, colour, religion, gender, sexual orientation, age, or mental or physical disability.

   (2) Broadcasting service licensees must not broadcast material which, judged within context, amounts to (a) propaganda for war; (b) incitement of imminent violence or (c) the advocacy of hatred that is based on race, ethnicity, religion or gender and that constitutes incitement to cause harm.

5. Exclusions

Clauses 3 and 4 do not apply to:

   (1) a broadcast which, judged within context, amounts to a bona fide scientific, documentary, dramatic, artistic or religious broadcast;
   (2) a broadcast which amounts to a discussion, argument or opinion on a matter pertaining to religion, belief or conscience; or
   (3) a broadcast which amounts to a bona fide discussion, argument or opinion on a matter of public interest.

6. Children

   (1) Broadcasting service licensees must not broadcast material which is harmful or disturbing to children at times when a large number of children are likely to be part of the audience.

(2) Broadcasting service licensees must exercise particular caution, as provided below, in the depiction of violence in children's programming.

(3) In children's programming portrayed by real-life characters, violence may, whether physical, verbal or emotional, only be portrayed when it is essential to the development of a character and plot.

(4) Animated programming for children, while accepted as a stylised form of story-telling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation.

(5) Programming for children must with reasonable care deal with themes that could threaten their sense of security when portraying, for example, domestic conflict, death, crime or the use of drugs or alcohol.

(6) Programming for children must with reasonable care deal with themes which could influence children to imitate acts which they see on screen or hear about, such as the use of plastic bags as toys, the use of matches or the use of dangerous household object as toys.

(7) Programming for children must not contain realistic scenes of violence which create the impression that violence is the preferred or only method to resolve conflict between individuals.

(8) Programming for children must not contain realistic scenes of violence which minimise or gloss over the effect of violent acts. Any realistic depictions of violence must portray, in human terms, the consequences of that violence to its victims and its perpetrators.

(9) Programming for children must not contain frightening or otherwise excessive special effects not required by the story line.

(10) Offensive language, including profanity and other religiously insensitive material, must not be broadcast in programmes specially designed for children.

(11) No excessively or grossly offensive language should be used before the watershed period on television or at times when a large number of children is likely to be part of the audience on television or radio.

7. Watershed Period

(1) Programming on television which contains scenes of explicit violence and/or sexual conduct and/or nudity and/or grossly offensive language intended for adult audiences must not be broadcast before the watershed period.

(2) Promotional material and music videos which contain scenes of explicit violence and/or explicit threatening violence and/or sexual conduct and/or the fondling or touching of breasts and/or genitalia or the anus and/or nudity and/or offensive language intended for adult audiences must not be broadcast before the watershed period.

(3) Some programmes broadcast outside the watershed period may not be suitable for very young children. Licensees must provide sufficient information, in terms of regular scheduling patterns or audience advisories, to assist parents and de facto or legal guardians to make appropriate viewing choices.

(4) Television broadcasting service licensees may, with the advance of the watershed period, progressively broadcast more adult material.

(5) Broadcasting service licensees must be particularly sensitive to the likelihood that programmes which commence during the watershed period and which run beyond it may then be viewed by children.

8. Sexual Conduct

(1) Broadcasting service licensees must not broadcast material which, judged within context, contains a scene or scenes, simulated or real, of any of the following:
(a) child pornography;
(b) bestiality;
(c) sexual conduct which degrades a person in the sense that it advocates a particular form of hatred based on gender and which constitutes incitement to cause harm;
(d) explicit sexual conduct;
(e) explicit extreme violence or the explicit effects thereof; or
(f) explicit infliction of domestic violence.

(2) Sub-clause 8(1) shall not be applicable to bona fide scientific, documentary, dramatic or artistic material which, judged within context, is of such a nature; provided that it is broadcast with due audience advisory after the watershed on a sliding scale according to its content.

9. Audience Advisories

(1) To assist audience in choosing programmes, television broadcasting

service licensees must provide advisory assistance which, when applicable, must include guidelines as to age, where such broadcasts contain violence, sex, nudity an/or offensive language. The advisory must be visible on the screen for a minimum of 90 seconds at the commencement of the programme and for a minimum of 30 seconds after each advertisement or other break. Where the frequency of the said subject matters, or any one or some of them, is high, a continuous advisory will be necessary, whether it is broadcast before or after the watershed.

(2) The following visual advisory age system must be used: 10, 13, 16 and 18. The following symbols must be used in accordance with the relevant content: V(violence), L(language), N(nudity), S(sex), PG(Parental Guidance).

(3) An audio advisory before the commencement of the programme must also accompany the broadcast of a film with an age restriction of 18.

10. Classification by Films and Publications Board

(1) Where a Films and Publications Board classification for a film exists in terms of the Films and Publication Act No. 65 of 1996, such classification may be used as a guideline for an advisory to the broadcast of the film.

(2) No film which carries an XX classification in terms of the Films and Publications Act may be broadcast.

11. News

(1) Broadcasting service Licensees must report news truthfully, accurately and fairly.

(2) News must be presented in the correct context and in a fair manner, without intentional or negligent departure from the facts, whether by:

(a) Distortion, exaggeration or misrepresentation.

(b) Material omissions; or

(c) Summarisation

(3) Only that which may reasonably be true, having reasonable regard to the source of the news, may be presented as fact, and such fact must be broadcast fairly with reasonable regard to context and importance.

(4) Where a report is not based on fact or is founded on opinion, supposition, rumours or allegations, it must be presented in such manner as to indicate, clearly that such is the case.

(5) Where there is reason to doubt the correctness of the report and it is practicable to verify the correctness thereof, it must be verified. Where such verification is not practicable, that fact must be mentioned in the report.

(6) Where it subsequently appears that a broadcast was incorrect in a material aspect, it must be rectified forthwith, without reservation or delay. The rectification must be presented with such a degree of prominence and timing as in the circumstances may be adequate and fair so as to readily attract attention.

(7) The identity of rape victims and other victims of sexual violence must not be divulged in any broadcast, whether as

part of news or not, without the prior valid consent of the victim concerned.

(8) Broadcasting service licensees must advise viewers in advance of scenes or reporting of extraordinary violence, or graphic reporting on delicate subject-matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates.

(9) Broadcasting service licensees must not include explicit or graphic language related to news of destruction, accidents or sexual violence which could disturb children or sensitive audiences, except where it is in the public interest to include such material.

12. Comment

(1) Broadcasting service licensees are entitled to broadcast comment on and criticism of any actions or events of public importance.

(2) Comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.

(3) Where a person has stated that he or she is not available for comment or such a +person could not reasonably be reached, it must be stated in the programme.

13. Controversial Issues of Public Importance

(1) In presenting a programme in which a controversial issue of public importance is discussed, a broadcaster must make reasonable efforts to fairly present opposing points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within reasonable period of time of the original broadcast and within substantially the same time slot.

(2) A person whose views are to be criticised in a broadcasting programme on a controversial issue of public importance must be given the right to reply to such criticism on the same programme. If this is impracticable, reasonable opportunity to respond to the programme should be provide where appropriate, for examples in a right to reply programme or in a pre-arranged discussion programme with the prior consent of the person concerned.

14. Elections

During any election period, as defined in the Act, sections 56, 57, 58 and 59 of the Act and regulations issued in terms thereof apply. The BCCSA does not have jurisdiction in these matters and complaints must be directed to the Complaints and Compliance Committee of the Independent Communications Authority of South Africa.

15. Privacy, Dignity and Reputation

(1) Broadcasting service licensees must exercise exceptional care and consideration in matters involving the privacy, dignity and reputation of individuals, bearing in mind that the said rights may be overridden by a legitimate public interest.

(2) In the protection of privacy, dignity and reputation special weight must be afforded to South African cultural customs concerning the privacy and dignity of people who are bereaved and their respect for those who have passed away.

(3) In the protection of privacy, dignity and reputation special weight must be afforded to the privacy, dignity and reputation of children, the aged and the physically and mentally disabled.

16. Competitions and Audience Participation

(1) Where audiences are invited on air to react to a programme or competition broadcasting service licensees must make known the full cost of a telephone call or a SMS.

(2) Broadcasting service licensees must specify the proportion of the cost of the call or SMS, as the case may be, which is intended for any specified charitable cause.

(3) Broadcasting service licensees must ensure that audiences who are invited to compete in any competition are made aware on air of the rules of the competition. Such rules must include the closing date and the manner in which the winner is to be determined.

http://bccsa.co.za/index.php?option=com_content&view=article&id=547&Itemid=35