

SOUTH AFRICA 2006

AFRICAN MEDIA BAROMETER SOUTH AFRICA

Sector 1: Freedom of expression, including freedom of the media, are effectively protected and promoted.

1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.

ANALYSIS:

South Africa is governed by a constitution which guarantees and protects the right to freedom of expression including media freedom. Section 16 states:

- “(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.
- (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 Constitution further in section 32 protects the right to access 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.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden of the state.”

In Section 192, the Constitution requires that an independent body to regulate broadcasting be established:

“National legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society.”

The necessary rights and protections are therefore built into the Constitution and the laws required by the Constitution have been put in place, namely the Protection of Access to Information Act No 2 of 2000 (Paia) and the Independent Communications Authority Act (No 13 of 2000).

However, there are other laws that are still in place from the apartheid era which can be used to restrict freedom of expression – these have not yet been revised or legally tested against the constitution.

SCORES:

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5, 5

Average score: **5**

1.2 The right to freedom of expression is practiced and citizens, including journalists, are asserting their rights without fear.

ANALYSIS:

On the surface, South Africans are expressing themselves freely: including through the media in opinion columns, letters and chat shows; in religious institutions with religious leaders expressing themselves in a range of ways; and through theatre. Workers and members of civil society are also expressing their views on the streets through protests. In some of these areas, such as the media, there is a problem with individual access and affordability for poor/rural people so in mainstream media it is often the urban and better educated parts of the population, the elite few, who more easily exercise their rights.

Freedom of expression includes the right of people to express themselves through protest rallies and marches – mass expression. There are regulations that restrict this: you have to get permission and this could be abused. There are examples of certain types of protest coming under more restriction: issues like landlessness and anti-globalisation for example have produced more draconian responses from the authorities, with marches being prevented. From the side of protesters, there have been cases of intimidation and violence against those who have not joined in, such has been seen with the death of security guards during their strike in April/May this year (2006).

Defamation laws have been used on occasion to threaten media. Such cases seldom end up in court, revealing that they were indeed just meant to be threats.

Overall it was noted that political sensitivity of commentators and members of the media has a chilling effect on freedom of expression. There is an overall sense that there is some space for freedom of expression but it is not widely used because of threats and fears.

In some geographical areas (such as for example parts of KwaZulu-Natal), the fear is

greater than in others. In some places “it is necessary to be brave and courageous in order to express dissenting opinions”.

Politically, there are loyalties and fears of a backlash that restrict freedom of expression. For example, intellectuals are often scared of criticising the ruling party publicly or in the media, so any criticism is limited to “corridor speak”. Their fears include being branded as an enemy of the government, not getting tenders, doors being closed in terms of promotions, being isolated and excluded from organisations, and resources no longer being available.

Ordinary people see highly respected people apologising for expressing opinions or criticisms, so it is often presumed that they do not feel free to express themselves – or that they expect to come under strong fire for doing so.

What is there to be scared of? Much less than in the past. Much of the fear is self-imposed: intellectuals limit themselves to debating behind closed doors and engage in emotional name-calling. An example was given of a government spokesperson who when working as a journalist used to write columns critical of the status quo but who recently in an article labeled black intellectuals who question issues “coconuts”.

People find it hard to openly criticise a party, group or leader who they overall support – though we are beginning to see more open debate of this type happening in the media.

For journalists, the most serious fear and intimidation occurs at the local level. People know where their homes are, so if local or community media journalists write stories that are unpopular, they are afraid of being physically attacked. This problem exists in some rural but also some urban areas. There have also been reports of advertisers (both municipal and commercial) threatening to withdraw adverts if exposes are run – thus threatening such media with closure.

On a national level, the intimidation is more subtle. There have been reports of journalists being called by a mid level government official when they have written something that is perceived to be sensitive or anti-government/ANC and questioned about the story. This may not be action by the state, however, but by over-eager individuals. In part this seems to be a hangover from pre-1994 when loyalty to the liberation movements was regarded as being necessary.

This not only relates to political issues, but also to social and cultural areas. For example journalists do not reveal what is happening in soccer or the taxi industry. There is the fear of being isolated and intimidated, fear of being labeled, fear of being cut off from resources. Some stated that death is also a consequence.

Churches have similar experiences: they need to be able to relate to the government, but this involves quite often being subtly asked to tell priests to speak well about government or to tone things down a bit – and being warned to be careful. Church officials sometimes get phoned at night, and asked: why did you tell this to the media, and make the president angry? As a result, people in churches feel they must conform, rather than feeling free to speak out.

These various degrees of fear and lack of tolerance extend to a personal level. Many South Africans are in domestic situations where they are not free to disclose information or opinions: that they do not believe in their parents’ religion, that they are gay, that they are HIV-positive. There is intolerance in homes and families which can result in some cases in death – as seen in the high rates of domestic murders as well as violence and

abuse.

In conclusion, there are powerful pockets of fear regarding freedom of expression: political, geographical, institutional and personal. As a result there is self-censorship for fear of being labeled, isolated or cut off from resources. In many cases, people have to be brave or be heroes in order to express themselves – they have to make personal choices.

SCORES:

Individual scores: 2, 2, 2, 3, 3, 2, 2, 4, 3

Average score: **2.6**

1.3 There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of media.

ANALYSIS:

One of the biggest problems is Section 205 of the Criminal Procedures Act, which compels journalists to reveal their sources of confidential information. Although a “record of understanding” between media and government representatives was drawn up in which it was agreed that such disclosure would not be enforced without prior consultation, this is not always adhered to. There is a sense that police use the section to make journalists do their work for them. Government has not debated this, though civil society has in detail.

There are other laws such as those defining key points and the Prisons Act which are sometimes used to restrict the media, e.g. trying to prevent photographers from taking photos of the former deputy president Jacob Zuma’s house.

In South African law, there is no criminal, only a civil libel clause.

There is also the problem of police not always understanding the laws and using them to intimidate journalists – who are also not always clear about the laws and about their rights.

SCORES:

Individual scores: 2, 1, 5, 3, 3, 3, 2, 3, 3

Average score: **2.8**

1.4 Entry into and practice of the journalistic profession is legally unrestricted.

ANALYSIS:

There are no legal restrictions to becoming a journalist and no laws regarding registration.

SCORES:

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5, 5

Average score: **5**

1.5 Protection of confidential sources of information is guaranteed by law.

ANALYSIS:

This is not the case. Section 205 of the Criminal Procedures Act compels journalists to reveal their sources.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.1**

1.6 Public information is easily accessible, guaranteed by law, to all citizens, including journalists.

ANALYSIS:

The Promotion of Access to Information Act (No 2 of 2000) (PAIA) is in place and thus access to information held by the state and “by another person ... required for the exercise or protection of any rights” is guaranteed by law. This is overseen by the Human Rights Commission.

However, there are two problem areas regarding accessibility and awareness:

Firstly, companies and organisations have to make their information easily accessible, in simple wording and in different languages – they have to comply with a list of what needs to be made available and draw up a manual. Implementation of the law in this regard is often half-hearted.

Secondly, there are problems with using this legislation to gain information: there are difficult, expensive, bureaucratic processes to go through and the law is long, complicated and far from user-friendly. Government officials themselves often do not understand the law. People who do not want to give information benefit from this situation – it can take years to get information from them, even though there is a 30-day limit for dealing with requests. You need legal and financial resources to insist on your rights. Surveys show that media do not use PAIA because it is too cumbersome, and that officials abuse it to keep information to themselves.

Many government officials also do not realize that providing information would ease tensions. For example, recent municipal-level unrest is directly related to lack of

information, knowledge about citizens' rights and knowledge of how to use PAIA – people ask for information and do not get it, , so their anger results in violent protests. Most of these protests are around people wanting information about what is happening in their areas.

It is ironic that a law meant to make information easily available is in fact seen as so cumbersome as to restrict information. Instead of giving information freely, officials who fear communication and accountability are reluctant to releasing information, and fall back on insisting that citizens and journalists go through bureaucratic processes. This legislation has not fostered openness, it has instead often increased secretiveness and control. PAIA itself has become an obstacle.

SCORES:

Individual scores: 1, 2, 5, 3, 3, 2, 2, 4, 2

Average score: **2.7**

1.7 Civil society in general and media lobby groups actively advance the cause of media freedom.

ANALYSIS:

There are media-focused groups such as the South African Editors Forum (Sanef), the Media Institute of South Africa (MISA) and the Freedom of Expression Institute (FXI). The Institute for a Democratic South Africa (IDASA), the Media Monitoring Project and Genderlinks also actively campaign to extend media freedom.

However there is a problem that in broader society there is no clear understanding of the need for media freedom and freedom of expression, and why this is such an important right. Civil society does not campaign for media freedom and the media does not do enough to link this to the right of all to freedom of expression. Many civil society groups were involved in the call for a public broadcaster before 1994, but there has been little sign of campaigning since then.

Civil society does not join in when the media's right to freedom is threatened, e.g. there was silence from them when muslim groups boycotted and threatened the *Mail & Guardian* in response to publishing a cartoon about Islam to illustrate the debate about the rights of freedom of expression and religious freedoms. It is doubtful whether they would fight to protect media freedom.

Instead, civil society reacts when there are political objections to what the media publishes, and blames the media rather than understanding the need for criticism and tolerance of different viewpoints. It thus adds to the climate of fear as described in 1.2. There is a need for media to involve civil society in the whole debate on media freedom and freedom of expression for more diverse media to be developed that would allow people to see that they can get different opinions from different media.

Community groups don't understand that they have a right to media freedom, they do not know how to use the media for their own benefit. They think media freedom is just something for journalists. The media must be actively involved in increasing media

literacy and the importance of freedom of expression – and the rights of the media as part of this.

This limited understanding of the wider philosophy of media freedom may be preventing a campaign on a wider level. In addition, many citizens have a conflicted approach to media: there is anger when people hear news and views that they do not like, e.g. papers are burnt (*Mail & Guardian, Sunday Times, City Press*) at vigils surrounding trials of the former deputy president Jacob Zuma and people say they would be better off without these media. At the same time, the media are being criticized for not giving accurate, detailed news and a wide variety of opinions.

SCORES:

Individual scores: 3, 2, 5, 2, 2, 2, 2, 4, 2

Average score: **2.7**

Overall score for sector 1: 3.1

Sector 2: The media landscape is characterised by diversity, independence and sustainability.

2.1 *A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens.*

ANALYSIS:

Print media:

22.7 % of all South Africans read daily newspapers and 30,5 % read weekly newspapers (2005 AMPS survey). Overall, 40% read one or other of all newspapers included in the survey: this figure would increase slightly if all the smaller community-owned newspapers were added.

The majority of South Africans thus do not buy or read newspapers. Some choose not to buy newspapers, whilst for others they are unaffordable or inaccessible. In some areas – such as in Gauteng and regions around city centres – a wide range of print media are available, in other areas there is little or no choice of media.

Here is an example of an extreme case of lack of availability and affordability: in a rural area of KwaZulu-Natal, if you want to get the Zulu language paper *iLanga* to see the matric results, you have to spend R10 on transport to go to buy the R2 newspaper. In comparison, a loaf of bread costs about R5.

The government has however established (with support from major media companies) the Media Diversity Development Agency which provides grant and other support to non profit and small and micro media projects to address issues of media development and diversity. This is an important step – but the MDDA is focused only on small and micro media – and cannot for example provide support to medium sized enterprises.

Having a range of print media is not just an issue of numbers. Alternative newspapers which existed in the 1980s provided a diversity of views – but closed down after losing funding in the early 1990s.

There is also the issue of diversity of languages, as the mainstream print media are mostly in English or Afrikaans. Most people cannot get print media in their home languages. However, publishing in isiZulu has been revitalised in KwaZulu-Natal:

iLanga, which has been around for decades, is now published twice a week and has a Sunday edition and a free edition on Wednesdays, and its circulation has grown to 110 000 (2005 figures).

In 2001 the first daily isiZulu newspaper was established: *Isolezwe* now has a daily circulation of 86 000 (2005).

UmAfrika had been liquidated in 2001, but was restarted and it now has a circulation of 32 000 a week.

There are small vernacular newspapers in other areas of South Africa, but, unlike the

Zulu language papers, these are not commercially profitable papers.

Broadcasting:

Broadcast media overall, especially radio, have a wider reach in South Africa through the public radio network.

There is a wide range of radio stations accessible in all South African languages. According to studies 92% of the population listen to radio. However, there are still areas of no coverage and other areas where people cannot access a radio station in their home language because of frequency limitations. A study is currently being conducted by the MDDA, SABC, Sentech and the Department of Communications to determine how many people are affected and where they are located. Many of these people are dispersed over large areas and it would be expensive to broadcast to small groups. The South African Broadcasting Corporation (SABC) is trying to grow its reach and has achieved an increase from about 80% to 92% of the population over recent years.

Community radio has also increased rapidly over the past decade with over 100 stations on air with a combined listenership of about 17 million people (2005 survey past seven days listenership), making the community radio sector the second most successful radio medium.

Television broadcasting has seen phenomenal growth along with electrification – about 86% of the population watches television. Not all areas have a choice of all television channels - *SABC1*, 2 and 3, and *e-TV*. Satellite services *M-Net* and *DSTV* are available to subscribers.

Internet:

Survey figures for internet usage are very low, and internet is only being used by people in the top income brackets. According to AMPS 2005, 3.3% of the total population had access to the internet, whilst only 6.2% of the total population had used e mail in the past four weeks. There are problems of knowing how to use the technology as well as affordability. There is a gap in access for children, as only some schools have internet facilities. Telkom plays a role here as internet is accessed on landlines: landline telephones connectivity has been rolled out to many new areas, but when these lines are not used due to an inability to pay the cost, they are disconnected. There is no competition to Telkom. According to 2005 AMPS statistics, the percentage of the population with access to a landline in their homes decreased to 21.7% of the population from just over 24% in 2003.

SCORES:

Individual scores: 2, 3, 3, 2, 2, 3, 3, 3, 4

Average score: **2.8**

2.2 Citizens' access to domestic and international media sources is not restricted by state authorities.

ANALYSIS:

There is no restriction of access by state authorities and there is no censorship.

SCORES:

Individual scores: 5, 5, 5, 3, 5, 5, 5, 5, 5

Average score: **4.8**

2.3 Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities.

ANALYSIS:

Distribution of newspapers is limited to target audiences. Mainstream print media extend their distribution to areas where they judge it is worth the cost. The mass tabloid *Daily Sun* now reaches a few areas where newspapers were not previously available, but mostly it is expanding along current distribution routes.

The MDDA together with the Association of Independent Publishers is making a strong effort to promote and protect smaller print media and obtain resources for them.

SCORES:

Individual scores: 5, 3, 3, 2, 3, 3, 2, 2, 4

Average score: **3.0**

2.4 Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting.

ANALYSIS:

Legislation has been passed and implemented. There is a three-tier system in place – public, commercial, community - and there is growth in all three sectors.

SCORES:

Individual scores: 5, 5, 4, 3, 5, 5, 4, 5, 5

Average score: **4.6**

2.5 Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities.

ANALYSIS:

Community radio has been well resourced and supported over the past 10 years.

Millions of rands have come in from a range of national and international funding institutions – often at the expense of support for alternative print media..

Community radios can receive funds from the Department of Communication, e.g. for programmes that include voices from civil society. Other organizations such as the Open Society Foundation provide ongoing support for non profit radio stations.

The MDDA has in recent years also helped with community radio broadcasting. Because of the broad assistance from other sources, the MDDA uses its funds for areas like rental costs, phone bills and mentor programmes.

SCORES:

Individual scores: 5, 5, 5, 4, 5, 4, 4, 4, 5

Average score: **4.6**

2.6 The editorial independence of print media published by a public authority is protected adequately against undue political interference.

ANALYSIS:

There are no major state-financed and controlled print media in South Africa, although on the local level there is a growing number of small print media published by municipalities. The number of these publications is not significant yet and therefore this indicator is not applicable in South Africa.

SCORES:

Individual scores: N/A

Average score: N/A

2.7 Local and regional independent news agencies gather and distribute information for all media.

ANALYSIS:

There is one national news agency: the South African Press Association (Sapa), owned by the big media houses.

Although there are attempts at developing specialised (geographically or by topic) news agencies, only a few have so far succeeded. These include *African Eye News Service, East Cape News Agency, Health-e, I-net Bridge, Backpage Pics* and *Touchline*.

SCORES:

Individual scores: 3, 4, 3, 3, 3, 3, 3, 3, 4.

Average score: **3.2**

2.8 Media diversity is promoted through adequate competition regulation / legislation.

ANALYSIS:

The MDDA act is aimed at producing media diversity – as it has only been active for three years now it is too soon for a proper judgement.

There are good competition laws in place providing for a competition commission to ensure a vibrant market economy. Although there are obvious tendencies towards monopolies especially in the print sector, no challenges have been brought before the commission yet.

Broadcasting competition is limited by the scarcity of frequencies – though this will change with digitisation. Digitisation and convergence however will not address immediately access to media by poor people.

In the field of subscription and satellite television there is no competition, with M-Net and DSTV being the monopolist. There is currently a call for applications for other subscription broadcasters, however, given the dominance of the DSTV group it will be difficult for new broadcasters to establish themselves.

SCORES:

Individual scores: 3, 4, 3, 2, 3, 3, 3, 2, 4

Average score: **3.0**

2.9 Government promotes a political and economic environment which allows a diverse media landscape.

ANALYSIS:

The media works in a capitalist environment that allows diversity in some areas and not in others.

The MDDA was not allowed to address the wider economic environment, but was limited to supporting non-profit and small media. Community radio has grown through outside funding.

The government generally has a non-subsidy policy for all areas of the economy including media. The public broadcaster gets 2% of its budget from government.

SCORES:

Individual scores: 2, 3, 2, 3, 2, 3, 3, 2, 3

Average score: **2.6**

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

The business performance of private, i.e. commercial media can be measured in adspend, which has gone up: 23,3% compared to a rise in the consumer price index of 1.4 % in 2004 and 20.6 % compared with 2.4 % in 2005.

All mainstream print businesses went through restructuring exercises in the 1990s to become more efficient and profitable, and all have shown greater profits as a result. Commercial radio stations have also done well in terms of profits: some former SABC radio stations which were privatised started to make profits immediately, while “greenfields” stations (those started from scratch) took longer as they had first to build their reputations.

The only private television station, *e-TV*, recently reached the point of breaking even and is now starting to make profit.

SCORES:

Individual scores: 3, 3, 4, 3, 4, 4, 4, 4, 4

Average score: **3.7**

2.11 State print media are not subsidised with tax payers' money.

ANALYSIS:

This is not applicable as there are no state print media in South Africa. A recently launched government publication, *Vukuzenzele*, explains basic access to services and is seen as mostly educational and therefore a legitimate government activity.

SCORES:

Individual scores: N/A

Average score: N/A

2.12 Government does not use its power over the placement of advertisements as a means to interfere with media content.

ANALYSIS:

Government at national, provincial and local levels does interfere with print media by the selective placement of adverts and particularly by withdrawing advertising in response to being criticised.

This has happened in relation to the *Mail & Guardian* in the past. There are also examples of it happening at a provincial level with newspapers. At a local level it is prominent: municipal officials even announce publicly and proudly that they are withholding advertisements from community newspapers.

In broadcasting the problem is not prevalent.

SCORES:

Individual scores: 1, 2, 1, 1, 2, 2, 2, 1, 1

Average score: 1.4

2.13 *The advertising market is large enough to maintain a diversity of media outlets.*

ANALYSIS:

Although adspend has increased tremendously (see 2.10) this has no effect on diversity. Traditional media do well as there is a focus of adspend on high-income audiences. Advertisers will not advertise to audiences that they perceive as not being able to buy their products. If listeners of a radio station are perceived as poor, it will not attract adverts.

On the other hand, there is a lack of skill among small media in attracting advertising, so all available opportunities are not being used.

SCORES:

Individual scores: 2, 3, 3, 2, 3, 3, 3, 2, 2

Average score: 2.5

SECTOR 2 TOTAL SCORE:

3.3

Sector 3: Broadcasting regulation is transparent and independent, the state broadcaster is transformed into a truly public broadcaster.

3.1 Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.

ANALYSIS:

The broadcasting and telecommunications regulator, the Independent Communications Authority of South Africa (ICASA), is an independent body, protected by the constitution and the ICASA Act. It has more independence than most regulators around the world.

There is protection against interference in legislation but there is a human factor that can come into play when economic independence is considered. ICASA is not able to pay really competitive salaries to attract the best skills in the country and is up against economically powerful companies able to hire the best legal minds. However, practice has shown that ICASA has often made decisions unpopular with the industry, thus demonstrating a high level of independence.

A planned amendment to the ICASA Act could reduce the regulator's independence and be in conflict with the guarantee of independence stipulated in the constitution: for this reason the president has refused to sign it and sent it back to parliament for redrafting.

SCORES:

Individual scores: 4, 5, 4, 4, 5, 5, 4, 4, 4

Average score: **4.3**

3.2 The appointments procedure for members of the regulatory body is open and transparent and involves civil society.

ANALYSIS:

At present the appointments procedure is as follows:

The portfolio committee of parliament in charge of communications puts adverts in newspapers asking for nominations.

Members of the public can nominate anyone – except members of parliament, office bearers of the state or any political party, or people with a financial interest in the industry.

The committee examines the names, looking for representivity, skills and commitment to freedom of expression, and then shortlists candidates.

Candidates are interviewed in public, and the interviews are screened on television (DSTV).

The portfolio committee comes up with a list of names needed to fill the vacancies. This is passed to parliament for ratification. The list then goes to the president for appointment. He/she can reject names but not suggest others. So far, this has not been done.

This procedure is regarded as open and transparent. Civil society can nominate and support candidates.

In practice, however, there is the danger that appointments can be the result of political jockeying (if you accept my candidate, I accept yours) – this can reduce the political independence of councillors.

The appointment procedures are currently under review.

SCORES:

Individual scores: 5, 3, 5, 3, 5, 5, 5, 2, 5

Average score: **4.2**

3.3 The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.

ANALYSIS:

The law stipulates that ICASA regulate broadcasting in the public interest and ensure fairness and a diversity of views.

This legal mandate can be used by organisations that have the perception of being treated unfairly to challenge ICASA's decisions in a court of law.

SCORES:

Individual scores: 4, 3, 4, 4, 4, 4, 5, 3, 5

Average score: **4.0**

3.4 The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.

ANALYSIS:

The government is in charge of providing a broad broadcasting policy cast in legislation and in the White Paper on broadcasting which is developed through an open and democratic process. On this basis ICASA develops its own regulatory policies through an equally open process by at first publishing a discussion paper, inviting comments and organising hearings. Issues regulated by such policies are, for example, local programme

content, the viability of the public broadcaster, and licence conditions for the SABC.

SCORES:

Individual scores: 5, 4, 4, 3, 5, 4, 4, 5, 5

Average score: **4.3**

3.5 The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.

ANALYSIS:

The selection and appointments procedure for the SABC board is the same as that for ICASA. The difference is that SABC board members are part-time, and are expected to hold a minimum of four meetings a year. In recent years they have been holding so many meetings that there are questions around their part-time status and the money being earned.

The board is representative of society as prescribed by the law: in terms of gender, geography, religion and other criteria.

SCORES:

Individual scores: 5, 3, 5, 4, 5, 5, 5, 4, 5

Average score: **4.6**

3.6 Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with the state and political parties as well as those with a financial interest in the broadcasting industry.

ANALYSIS:

In a society where two thirds of the people support one party, a similar representation is to be expected on any board in terms of political leanings.

By law people with vested interests are excluded from the board – but this is not necessarily reflected in reality. It seems there are too many loopholes in the law or in practice. There is evidence that some members of the board may have vested commercial interests in the telecommunications industry. This is against the language and spirit of the law.

However there are no board members who are office bearers on state bodies or of

political parties.

There is a however some mistrust of the present board, with continual questions being asked about its independence. There was a more positive perception of the first two boards. There has been no evidence of any interference with the Board.

SCORES:

Individual scores: 2, 2, 4, 3, 4, 4, 4, 2, 3

Average score: **3.1**

3.7 The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practiced.

ANALYSIS:

Protection against political interference is guaranteed by law. In practice, however, there are doubts. These doubts are fed by the present chief executive for news and current affairs who said publicly if he had to choose whether to cover what the government has done or a situation where government is criticised for alleged failures by some groups, he would choose the former. The perception is that there is a subtle political bias in favour of government in the news. Also, for some top editorial appointments (but not all) there are questions around the journalistic independence of those who have a distinct party political background.

In the daily process of compiling the news, there is no government interference and items are chosen on the basis of news values. However there are only 18 minutes of prime news time available due to the need to include 12 minutes of adverts in the main bulletins.

There are questions around political pressures put on the SABC and compliance with these when, e.g., high ranking politicians on the provincial level demand to appear on the news with interviews or statements.

There is no evidence of a pattern of political bias or interference in news decisions, though there is a common belief that there is subtle political pressure which is acceded to. Most of this political pressure is seen as coming from provincial and local politicians who are in the habit of phoning editors. Pressure is also experienced directly by journalists in the field (see 1.2). There are no institutionalised measures or formal policies to protect journalists though it is reported to be common practice for their seniors to intervene on their behalf.

There are also clear examples of professional and balanced news coverage at SABC. When a minister, for example, denied having used a particular phrase in a statement and claimed to have been misquoted by the media, the SABC played his original comments

immediately after his denial as evidence that it had indeed reported him correctly.

During election times, examples of intimidation of journalists in the field continue to be reported, especially in hotly contested geographic areas.

It was concluded that there was no direct evidence of political interference.

Regarding commercial influence, the public broadcaster SABC is in reality a commercial company (SABC Ltd.) with the government as its sole shareholder. It relies heavily on commercial revenue (advertising) for 85% of its funding – it thus airs programmes that bring in advertising money rather than fulfilling its public service mandate. The Department of Communications has lobbied for more public funding for the SABC but the Treasury has refused.

There are now plans under way to change the mix of income by an increase in public funding to enable the SABC to fulfill its public broadcasting mandate properly instead of concentrating on profits.

SCORES:

Individual scores: 2, 2, 3, 3, 3, 3, 3, 4, 1

Average score: **2.7**

3.8 The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.

ANALYSIS:

The SABC has two wings a public section and a public commercial public wing It relies on commercial funding for 85% of its budget. Licence fees do not provide as much revenue (13 %) as they do in some European countries. Government funding makes up 2%, subsidising certain, mainly educational programmes. Given this preponderance of commercial revenue, SABC does not seem to be adequately funded and its performance is prone considerations of profit and arbitrary interference by commercial interests.

SCORES:

Individual scores: 2, 3, 1, 2, 2, 2, 2, 1, 2

Average score: **1.9**

3.9 *The public broadcaster is technically accessible in the entire country.*

ANALYSIS:

In South Africa there is 92% radio coverage and 85% television coverage of the entire territory. This is quite good for a country with difficult - mountainous and semi-desert - terrain.

SCORES:

Individual scores: 5, 4, 5, 2, 4, 4, 4, 4, 4

Average score: **4.0**

3.10 *The public broadcaster offers diverse programming for all interests.*

ANALYSIS:

Commercial imperatives make it difficult for SABC to cover all interests – programmes need to be directed to the top income brackets to satisfy advertisers. This applies for both radio and TV, though the radio stations do better than television in covering a variety of interests as there are more stations.

The content of television is dominated by westernised and American programmes with little emphasis on educational and development programming. There are too many repeats of programmes, e.g. the soap *Isidingo* is repeated thrice on different channels at different times.

There is little coverage of and a paucity of productions from the rest of Africa, keeping the South African public unaware of their neighbouring countries. The xenophobia in the country could be partly caused by this ignorance.

Local programmes are often not broadcast during prime time even when they are highly popular, e.g. the township serial *Yizo Yizo*. It was not aired in prime time because it attracted no advertising.

In conclusion, all interests are not covered and programming is not diverse enough. The situation has improved on both counts over the last 10 years but progress has been slow.

SCORES:

Individual scores: 3, 3, 4, 2, 3, 3, 3, 2, 4

Average score: **3.0**

3.11 *The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.*

ANALYSIS:

Time for current affairs and other debates is very limited on television and interrupted by advertisements.

The number of information programmes, in many different languages, has increased. Programmes for children, however, do not present useful information and a variety of views. There is limited investment in South African drama productions and in documentaries.

Radio broadcasts talkshows and chatshows presenting a wide range of views and interests with some of these discussion programmes being probing and highly professional. However, again investigative and documentary programming is limited.

SCORES:

Individual scores: 3, 3, 3, 3, 3, 4, 4, 4, 3

Average score: **3.3**

3.12 The public broadcaster offers as much diverse and creative local content as economically achievable.

ANALYSIS:

Local content on SABC is increasing and the broadcaster has much more locally produced and relevant programmes than before 1994. Some of the best programmes are produced by the education department and they are publicly funded. There are, however, few creative programmes that reflect life in South Africa.

Whilst the SABC has a policy of treating all South African languages equitably, this is limited by funds (advertisers appear to prefer to put their money into English and Afrikaans language programmes) and by skills.

SCORES:

Individual scores: 4, 3, 3, 3, 3, 3, 3, 2, 3

Average score: **3.0**

Overall score for sector 3: 3.5

Sector 4: The media practice high levels of professional standards.

4.1 The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies.

ANALYSIS:

Codes of conduct and self-regulatory bodies are in place for print and broadcasting media.

Print media companies have established a one-person self-regulatory body – the Press Ombudsman. A code of professional standards was developed by all stakeholders. Participation is voluntary but most major media houses are part of the process.

There are two broadcast bodies – one statutory and one voluntary – and broadcasters have a choice. The Broadcasting Monitoring Complaints Commission is part of ICASA, and headed by a judge. The Broadcasting Complaints Commission of SA is a self-regulatory body under the National Broadcasting Association. Both bodies have essentially the same code and similar sanctions. *SABC* and commercial operators, being members of the National Association of Broadcasters (NAB), have opted for self-regulation. Community broadcasters come under the BMCC.

There is also the Advertising Standards Authority, which is self-regulatory.

There is a perception that too often self-regulation is guided by self-interest, i.e. that the authorities are biased towards the industry.

SCORES:

Individual scores: 3, 3, 5, 5, 5, 5, 4, 4, 4, 4

Average score: **4.2**

4.2 The standard of reporting follows the basic principles of accuracy and fairness.

ANALYSIS:

Skills audits commissioned by the SA National Editors' Forum have shown that there is a high level of awareness of problems around these issues in all sections of the media

industry. All media assert that they wish to strive for accuracy and fairness, though there are practical and deadline problems that result in inaccuracies.

Overall there is a sense that the standards of accuracy and fairness have been dropping. Some of the reasons are a lack of skills, poor training and juniorisation – problems experienced across the general workforce, not just the media. The media is also affected by the general decline of standards at tertiary education level over the past decade.

Newsrooms do not have enough resources to do their jobs well. This is compounded by poor newsroom management where staff may be inexperienced or scared to assert their authority. The effect of losing skilled media staff to the growing government and corporate communications areas over the past decade is being felt.

There are complaints that interview information is skewed when it appears in print, and that headlines do not always reflect the body of the story. These problems seem to get worse with an increasing tendency to sensationalise in an attempt to compete with mass-appeal tabloids which have hit the streets over the past three years.

Most newspapers use too many anonymous sources and/or one-source stories.

In the case of online news sites, staff do not seem to have any special qualifications and standards are particularly low.

With regard to *SABC-TV* and *e-TV*, they are seen as equal in standards, with similar problems of inaccuracy. In the case of *SABC* news, reports carried in different languages often have a different slant – so people watching bulletins in different languages have different knowledge and views of events. There is a particular difference noted between English and vernacular news – part of this is a perception related to the history of the *SABC*, part of this is due to the news choices that the different editors make.

Radio reporting faces the same problems as described for print and for television.

SCORES:

Individual scores: 3, 3, 4, 3, 2, 2, 2, 3, 3, 3

Average score: **2.8**

4.3 The media cover the full spectrum of events, issues and cultures, including business / economics, cultural, local and investigative stories.

ANALYSIS:

Generally, the media are seen as covering the full spectrum as described above.

Investigative stories are done by *Mail & Guardian*, *Sunday Times* and *Noseweek*, as well as the online agency *health-e*. On television there is *SABC's* Special Assignment and to some extent *e-TV's* 3rd Degree. Many stories across the media have smaller investigative elements.

Some geographical areas and some disadvantaged groups are neglected in media coverage. Generally, international news on television and radio are neglected, giving

thorough coverage only to disasters and wars. Coverage of events in the rest of Africa has improved slightly over the past five years, particularly in print media, but is still patchy.

Arts and culture coverage has recently been studied – there is a sense that this area needs to be improved beyond just entertainment reporting.

SCORES:

Individual scores: 3, 3, 3, 3, 3, 3, 4, 4, 3, 3

Average score: **3.2**

4.4 Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process.

ANALYSIS:

The top echelons of the hierarchies in most media are still male dominated. In mainstream print media there are presently only three women editors at the most senior level (*Mail & Guardian, Daily Dispatch, Business Report*). There are women up to the second highest levels but it seems to be nearly impossible to break that ceiling. Women usually reach their top rung of the ladder as heads of human resources or the legal department but hardly in editorial positions.

SABC and *e-TV* now have women in many top positions with the *SABC* making conscious efforts to promote women into top jobs.

Generally there seems to be hardly any effort to create an enabling environment for women. Creches, for example, are non-existent (with the notable exception of *M-Net*). Women have to fit into the (white) men's world. And expectations are high: Women have to be over-perfect to reach higher positions.

A special case of discrimination occurred at the community radio station *Radio Islam* in Johannesburg. There, management refused – for “religious reasons” – to allow women on air. Only a massive intervention by ICASA (temporary withdrawal of the licence) forced the station to change its policy. Today, management concedes that women's voices on air enrich their programme. Whilst this was a case of rules prohibiting women's involvement, many media do not have explicit bans but subtle reinforcement of gender inequality.

SCORES:

Individual scores: 2, 3, 2, 3, 2, 3, 4, 3, 2, 2

Average score: **2.6**

4.5 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

With the rise of women to elevated positions in government and business in South Africa, more women's voices and images are appearing in the media. There has been much publicity around this area and most media make a conscious effort to be more sensitive about women's issues.

However, it was noted that greater strides should have been made in this respect over the past 12 years.

There are also many examples of women still being portrayed as sex objects: the back pages of some newspapers, sexy images in tabloids and the way women are portrayed in music videos were listed in particular.

SCORES:

Individual scores: 4, 2, 3, 3, 1, 3, 2, 2, 2, 2

Average score: **2.4**

4.6 Journalists and editors do not practice self-censorship.

ANALYSIS:

Referring to 1.2, there is a high level of fear of expressing unpopular or dissenting opinions and the result is widespread self-censorship.

SCORES:

Individual scores: 3, 3, 3, 3, 1, 2, 2, 2, 2, 2

Average score: **2.3**

4.7 Owners of private media do not interfere with editorial independence.

ANALYSIS:

Editors prefer to have independence and usually fight for it. However, their dependence on commercial funding for survival is keenly felt, and this pressure has increased.

The panel understood "owners" as also including the business side of media operations, in particular the advertising departments. There is a perception that the dividing lines between editorial and advertising are not as rigid as they were 10 years ago, in both print

and broadcast media. There is also increased and overt pressure from some advertisers who do not believe in media freedom or editorial independence. This influences editorial coverage when advertisers openly threaten to withdraw advertising, as in the case of a large supermarket chain said to have demanded a say on how or whether a story on rotten chicken meat was to be used by newspapers. It is believed that previously such threats by advertisers were not taken into account in deciding on editorial coverage.

Budget issues and commercial pressures to appeal to particular audiences are also seen as limiting an editor's ability to choose her/his editorial mix.

Private broadcasters are seen to be having an even more limited understanding of how sponsorships influence editorial content. Examples regarding e-TV and private radio stations were quoted.

SCORES:

Individual scores: 3, 3, 2, 2, 2, 1, 4, 2, 2, 2

Average score: **2.5**

4.8 Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption.

ANALYSIS:

In South Africa, it is generally accepted that salaries in the media industry are high enough to discourage corruption. At SABC a survey showed journalists' salaries to be market-related or better.

However, there are public relations exercises by companies and by government which are potentially corrupting influences.

The central issue here is whether there are sufficient codes and checks in place – and opportunities to create awareness about such codes - across all media to prevent corruption. Print media and broadcasting do have such codes and processes. No promises are allowed to be made regarding coverage in exchange for trips. The rule is that coverage and reviews will be critical but balanced, and news choices will be based only on news values. Many newspapers have ethics codes in place which, for example, prevent journalists from accepting gifts valued at more than R100 or from going on trips when they are not covering a story.

The panel perceived the biggest threat here is a problem experienced by all media: a lack of resources to cover stories. In order to travel and cover stories, financial help for accommodation and transport has to be accepted. This relates to political stories, coverage of government activities, sports, travel, motoring, entertainment, arts and culture etc. This is a serious threat to journalistic independence as journalists feel indebted to their sponsors and under pressure not to be too critical. It also results in editorial choices not being made because of news value but due to the resources of the organizers of events. Occasionally, some print media acknowledge the fact that a story was covered through the use of such financial help – but this is not a widespread practice except in relation to travel stories. News values are also being skewed when the choice of story to be covered depends on who is providing transport and accommodation.

In spite of salaries generally being adequate, there is also a desire among some journalists to live the “high life” and some have been known to accept favours, entertainment and other advantages from corporate or political contacts. This is a threat to their individual, journalistic independence.

Other corrupt offers, made to secure airtime and print space, have also occurred.

SCORES:

Individual scores: 3, 2, 4, 3, 3, 1, 4, 3, 3, 3

Average score: **2.9**

4.9 Training facilities offer formal qualification programmes for journalists as well as opportunities to upgrade their skills.

ANALYSIS:

The media industry complains that tertiary journalism qualifications are not of sufficiently high standard, that practical skills are not adequately imparted and that those who received tertiary training have been found to lack competency when put into newsrooms. Journalism and/or media studies qualifications are currently offered at most universities and technikons. A few universities also offer post-graduate journalism degrees.

There are training institutions, in particular the Institute for the Advancement of Journalism, that run short courses for on-going training of journalists. Most of these previously offered only certificates of attendance, but with the institution of the National Qualifications Framework and the Sector Education and Training Authorities (Setas), a basic journalism qualification has been drawn up with three possible areas of specialisation. There is further talk of introducing a journalism qualification which would be more suitable for community media.

As a result of each industry having to contribute to the National Skills levy and in return being allowed to claim expenses from this levy for skills programmes and training towards qualifications, media houses have over the past five years all increased their efforts to provide journalism training and further education to staff. Under the scheme they can also claim for journalist interns, so some media now provide more opportunities for interns to get practical experience. Journalists themselves are also beginning to ask for training that gives them proper and verifiable qualifications.

SCORES:

Individual scores: 4, 3, 5, 5, 4, 5, 4, 4, 3, 3

Average score: **4.0**

4.10 Journalists and other media practitioners are organised in trade unions and / or professional associations.

ANALYSIS:

The South African Union of Journalists (SAUJ) has closed shop. The Media Workers Association of South Africa (Mwasa) is still in operation and takes part in salary negotiations at some media companies. The Communications Workers Union says it has signed up 60% of the old SAUJ members at SABC and has made some inroads in radio and e-TV, as well as in print media in KZN. Overall, fewer journalists now belong to trade unions than was the case 10 years ago and there is no specialist journalism trade union.

The South African National Editors' Forum (Sanef), a professional organisation for editors and senior journalists, is active and most editors are members of the forum. The Media Institute of Southern Africa (Misa) has an operational South African chapter.

A need for a body for mid-level journalists to discuss professional concerns has been expressed. Press clubs are operating in some cities but are mostly not dominated by journalists or dedicated to issues of the journalistic profession.

SCORES:

Individual scores: 3, 4, 3, 3, 3, 4, 4, 4, 2, 4

Average score: 3.4

Overall score for sector 4: 3.0

The panel meeting took place at Misty Hills Country Hotel and Conference Centre, Muldersdrift, Johannesburg, 5 to 7 May 2006.

The Panel:

Ms Amina Frense, broadcast news editor and media activist; Ms Anthea Garman, senior journalism/media lecturer; Ms Libby Lloyd, media consultant; Mr Cyril Madlala, editor and publisher; Ms Virginia Magwaza-Setshedi, media and social movement activist; Mrs Thoko Makhanya, health and environment activist; Mr Jo Mdhlela, religious media and liaison officer; Mr Mfanafuthi Sithebe, trade unionist; Ms Shireen Said, gender rights lawyer; Mr Tseliso Thipanyane, human rights lawyer.

The Rapporteur:

Ms Elizabeth Barratt

The Facilitator:

Mr Hendrik Bussiek

Sector 1 Freedom of expression, including freedom of the media, are effectively protected and promoted

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| 1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation. | |
| 1.2 The right to freedom of expression is practised and citizens, including journalists, are asserting their rights without fear. | |
| 1.3 There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of media. | |
| 1.4 Entry into and practise of the journalistic profession is legally unrestricted. | |
| 1.5 Protection of confidential sources of information is guaranteed by law. | |
| 1.6 Public information is easily accessible, guaranteed by law, to all citizens, | |

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| including journalists. | |
| 1.7 Civil society in general and media lobby groups actively advance the cause of media freedom. | |

**Sector 2 The media landscape is characterised
by diversity, independence and sustainability**

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| 2.1 A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens. | |
| 2.2 Citizens' access to domestic and international media sources is not restricted by state authorities. | |
| 2.3 Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities. | |
| 2.4 Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting. | |
| 2.5 Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities. | |
| 2.6 The editorial independence of print media published by a public authority is protected adequately against undue political interference. | |
| 2.7 Local or regional independent news agencies gather and distribute information for all media | |
| 2.8 Media diversity is promoted through adequate competition regulation/legislation. | |
| 2.9 Government promotes a political and economic environment which allows a diverse media landscape. | |
| 2.10 Private media outlets operate as efficient and professional businesses. | |
| 2.11 State print media are not subsidised with tax payers' money | |
| 2.12 Government does not use its power over the placement of advertisements as a means to interfere with media content. | |
| 2.13 The advertising market is large enough to maintain a diversity of media outlets. | |

**Sector 3 Broadcasting regulation is transparent and independent,
the state broadcaster is transformed into a
truly public broadcaster**

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| 3.1 Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature. | |
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| 3.2 The appointments procedure for members of the regulatory body is open and transparent and involves civil society. | |
| 3.3 The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large. | |
| 3.4 The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner. | |
| 3.5 The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner. | |
| 3.6 Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with the state and political parties as well as those with a financial interest in the broadcasting industry. | |
| 3.7 The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practised. | |
| 3.8 The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget. | |
| 3.9 The public broadcaster is technically accessible in the entire country. | |
| 3.10 The public broadcaster offers diverse programming for all interests. | |
| 3.11 The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions. | |
| 3.12 The public broadcaster offers as much diverse and creative local content as economically achievable. | |

Sector 4 The media practice high levels of professional standards

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| 4.1 The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies | |
| 4.2 The standard of reporting follows the basic principles of accuracy and fairness. | |
| 4.3 The media cover the full spectrum of events, issues and cultures, including business/economics, cultural, local and investigative stories | |
| 4.4. Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process. | |
| 4.5 Gender mainstreaming is reflected in the editorial content. | |
| 4.6 Journalists and editors do not practise self-censorship | |
| 4.7 Owners of private media do not interfere with editorial independence | |
| 4.8 Salary levels and general working conditions for journalists and other media | |

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| practitioners are adequate to discourage corruption | |
| 4.9 Training facilities offer formal qualification programmes for journalists as well as opportunities to upgrade their skills. | |
| 4.10 Journalists and other media practitioners are organised in trade unions and/or professional associations. | |