

BOTSWANA 2007

AFRICAN MEDIA BAROMETER BOTSWANA, 2007

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:

Section 12 (1) of the Botswana Constitution states that “except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.” It is therefore assumed that freedom of the media is also guaranteed by the constitution, in line with a High Court judgment that acknowledges that the freedom of expression clause in the constitution includes freedom of the media and that this is similar to Article 10 of the European Union Convention on Human Rights.

While there are general guarantees for freedom of expression in the constitution, there are also a number of legal restrictions and exemptions which limit these rights and freedoms in the name of national security, to protect the rights of other people, to protect the freedom of civil servants to perform their duties and where public order is threatened. There is concern, therefore, over whether the constitutional provisions do indeed provide sufficient protection for the right to freedom of expression and whether all the exemptions do indeed serve a legitimate interest and can be deemed necessary in a democratic society.

Among the laws which make it difficult for the Botswana media to operate are: The Directorate on Corruption and Economic Crime Act, which bars the director from giving information on any person who is being investigated; the Public Service Act and the National Security Act, which make accessing information by journalists very difficult; the Official Secrets Act and the Cinematography Act 1975.

Under the Cinematography Act, all film scripts must be submitted to the minister responsible for the media for approval (in theory, this would even apply to the videoing of private functions). Any deviations from the original script and changes to be made during the production process must similarly be submitted and await the minister’s permission before they can be implemented.

MISA has long been pressing for this Act to be scrapped but it still remains in place, even though it is impossible to implement. It is presently being used in conjunction with the Anthropological Research Act. One panelist said she was recently expected to apply for permission under both laws even for doing research on broadcasting in the country. It was established that almost any kind of research involving human subjects requires previous permission from the Office of the

President (OP) – especially if the researcher intends to interview government officials as well.

Both Acts are proving to be a nightmare as all stages of the filming are being controlled. They were used two years ago against two journalists who wanted to cover a story on refugees. This confirmed that the Cinematography and the Anthropological Research Act are being applied together – especially in the case of research in regard to Basarwa or San people.

Besides the fact that all these pieces of legislation could lead to the media in Botswana practising self-censorship for fear of being on the wrong side of the law, the situation is made worse by the many far-reaching powers given Botswana's President under the Constitution. These powers are more or less unlimited and extend to many aspects of Botswana's public life.

The case of Professor Ken Good (an Australian lecturer at the University of Botswana) – where the President used his powers to declare him a Prohibited Immigrant (PI) – is seen as proof that these powers are still being exercised from time to time.

Government also still upholds the need for the National Security Act (NSA) as a defense against anything which might threaten the security of the country or – even more broadly - any other act that is against the interests of the country.

Now it is widely expected that the NSA is going to be bolstered even further by the proposed Security and Intelligence Services Bill, which provides for the possibility of greater incursions into citizens' privacy. Already the Police Act allows the police to monitor people's land line and cellular phones.

SCORES:

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

Average score: **2.3** (2005 = 2.6)

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

ANALYSIS:

Most media workers are concerned not so much about freedom of expression as such but rather about the control of the free flow of information in the country. A lot of information is being classified as privileged by the authorities even though it may be quite innocuous.

There is hardly any litigation between citizens over freedom of expression issues (e.g. defamation) but numerous lawsuits against the media in this regard have been brought before the courts. Although their number has declined significantly in recent years, demands for damages to be paid have increased steeply, due to the tendency of the courts to award high amounts where the matter involves prominent people after a precedent was set in a case brought by a High Court judge.

Some people are just taking their chances as they know that they can win on legal technicalities. Often cases are withdrawn after putting the media through a lot of unnecessary legal expenses. Meanwhile, most publications are becoming increasingly proactive by counter suing.

Too many lawsuits against the media are due to the carelessness of editors and absence of monitoring tools and internal controls. Most newspaper houses do not pursue cases to the end but instead readily settle out of court even when they have a strong case. The media should stand by

their stories more – provided they are convinced of the correctness of these stories. Some are being encouraged to do that by their media lawyers.

There are still not enough good test cases for the media law to be better defined and developed in the country. Lawyers generally should apply their minds more thoroughly to the role of the media in a democracy and thus help to campaign for media freedom by vigorously fighting against litigation levied against the media. More media scholars should also assist the media in their cause.

It is always difficult to get enough information from the media about the nature and the number of cases they are facing at any one time. Given its mandate, though, MISA Botswana should take a stronger position to help get a good test case through the Botswana courts, even as a friend of the court, especially where a fundamental right is being threatened or general human rights issues are involved. The example of Tanzania was quoted in this regard, where the Media Council always takes its position as a friend of the court whenever the media in that country is dragged before the courts by litigants.

MISA should do more to educate the media about these matters as they can ultimately affect press freedom and freedom of expression and have a chilling effect on the investigative media. There should also be more proactiveness on the part of the media – for example by making greater use of the Babegi Legal Defense Fund to fight their cases in the courts.

Generally, professionalism needs to be improved to avoid lawsuits as a result of misquoting and other mistakes made by the media themselves. They are expected to report responsibly and involve their in-house lawyers more in their daily operations to ensure that their reports are beyond legal reproach. They should also invest more money in protecting themselves and taking out professional insurance against litigation.

Participants agreed that the mere fact of litigation being brought against the media is not necessarily a hindrance to their being able to work freely. It is only when the right to sue is being abused for example by people in positions of authority that there is cause for concern.

Another point of concern is the use of the Immigration Act to curtail freedom of expression. The deportation of Professor Good was cited as one worrying example. There have also been two other cases where the relevant clause in the Act has been used to expel foreign journalists from the country. This means that the Immigration Act can be used by government to intimidate foreign journalists working in Botswana.

On a more general level there is a tendency among government authorities and certain economic players not to listen to and even to suppress divergent views. Many people are afraid to freely express themselves for fear of losing tenders or employment. Economic and other sanctions can be applied in order for people to toe the line. “In Botswana, sometimes you have to get drunk before you can freely express yourself”, said one participant.

There is also a general culture of suppressing freedom of expression in the case of children and young people who are not allowed to express themselves creatively and freely. For example, it is regarded as rude for a young person to criticize someone older than him- or herself or someone in a position of authority.

Over the last two years, there have been persistent reports of secret agents being active against politicians and trade unionists – especially during the time of heightened factional tensions within the ruling party.

The general consensus was that free expression among citizens is also not being enhanced because of the absence of a strong civic movement to monitor citizens’ freedom of expression.

As noted during the first Barometer two years ago, there is still general confusion over the difference between ‘government’ and ‘public’, with the two often taken to be one and the same

thing: public interest equals government interest and vice versa – hence who is against government is against the public.

The same applies in the case of the government and the ruling Botswana Democratic Party (BDP) which are also regarded as one and the same thing. This means that if you criticize the party you are often taken to be criticising the people of Botswana as a whole. The people are regarded as subjects and not as citizens who have rights and towards whom the government has obligations.

Other factors and conditions that make it difficult for freedom of expression to be practised freely and without fear range from cultural taboos, often gender-related (“women should not be talkative”), to intimidation and harassment by state operatives like the police, security officers and the army to stifle dissent from groups of civil society, NGOs or journalists. In general, there is no culture of encouraging creative and free thinking.

But it was also noted that despite all these threats, the Botswana media still continue to publish what they want.

SCORES:

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

Average score: **1.9** (2005 = 1.9)

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

ANALYSIS:

There are provisions in the Penal Code for criminal libel, sedition and the publishing of “false news” or news that might “alarm” the public. Government wants to keep the criminal libel and other restrictive laws on the statute books under the pretext of protecting citizens.

Section 20 of the proposed Security and Intelligence Services Act will restrict the work of the media by – among other things – making whistle-blowing an offence.

SCORING:

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

Average score: **1.3** (2005 = 1.3)

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

ANALYSIS:

Presently, there are no legal restrictions on becoming and working as a journalist. A new Mass Media Bill, however, recommends minimum qualifications for practising journalists, which will be determined by a statutory Press Council to be set up under this proposed piece of legislation.

It was pointed out that the right to express oneself freely applies equally to all citizens – including journalists. The matter of professional ethics needs to be determined separately and without infringing on this basic right. Minimum qualifications should be set by the media professionals themselves as happens in other professions.

SCORING:

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

Average score: **4.9** (2005 = 5.0)

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

ANALYSIS:

This is not the case in Botswana. There is, however, a desire for this to happen as expressed in *Vision 2016*, a set of long term policies for the country. *Vision 2016*'s Council and the Directorate on Corruption and Economic Crime are calling for whistle-blower legislation to be put in place.

SCORING:

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

Average score: **1.1** (2005 = 1.1)

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

ANALYSIS:

Although the freedom to receive information is constitutionally guaranteed, there is no freedom to seek information from government. The Civil Service Act provides that no one except the Permanent Secretary in government departments can give information to the press. There is a lot of arrogance within the civil service whose members regard themselves as gate-keepers. This attitude – rather than that of politicians - is proving to be the biggest obstacle to access information.

The *Vision 2016* document says that Botswana should have a Freedom of Information Act (FIOA) in place by 2016, but government has publicly stated that the country is not yet ready for this type of legislation.

The *Vision 2016* Council, however, is trying to expedite the process. There is also a chance that back-benchers in Parliament might push for freedom of information legislation as many of them are unhappy with the status quo. At the level of the executive, though, there is no real political will to bring about change.

SCORING:

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

Average score: **1.1** (2005 = 1.0)

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

ANALYSIS:

The Botswana Council of NGOs (BOCONGO), some Members of Parliament and faith-based organizations (FBOs) have been supportive of this cause but they merely represent the elite and urban-based members of society. Ordinary people in the rural areas and at the grassroots are more interested in basic needs critical for their survival. It is the responsibility of the media to woo the grassroots to this cause.

There has been a change in attitude over recent years, though, also on the part of government, with a line ministry that deals with the media now in place. Government has become more receptive to ideas coming from the private media. There is a relatively more constructive working relationship between the two and relations are no longer confrontational and hostile. But change takes time and patience for it to evolve and take root. MISA and BOCONGO should be credited for that.

Botswana's civil society organizations should do more to mobilize and lobby together and not leave MISA Botswana solely responsible for fighting for freedom of expression and the freedom of the media in the country.

There is also still concern over the fact that civil society organizations in the country have become more of 'government NGOs', since most of them are now indeed funded by the government, following the exodus of traditional NGO-funders after Botswana was declared a middle-income country in 1994 by the international community. There is a danger of government funding being used to bring about censorship and political control and the line between public influence and government interference being blurred. Truly independent civil society bodies are needed to ensure the continued institutionalization of democracy and good governance.

SCORING:

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

Average score: **2.8** (2005 = 2.4)

OVERALL SCORE FOR SECTOR 1: 2.2

(2005 = 2.2)

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:

There is no longer any vernacular language newspaper in the country as the only previously existing one (*Mokgosi*), closed shop at the end of 2005 after operating for three years. The closure has been attributed to the fact that the newspaper did not get enough advertisements and support from the market. It started out as a fortnightly broadsheet and then changed into a weekly, with an original print-run of 10,000 - a number which it did not manage to grow and which had fallen to 4,000 by the time it folded.

Newspapers survive on a growing or steady readership. The *Mokgosi* management tried to position the newspaper as a mass circulation paper, given that the majority of the population are Setswana-speaking. But there has now been a clear realisation that Setswana is on the wane as the main language of choice. Many Setswana speakers have difficulties reading their own language because they have been brought up in English. There is no political commitment to preserve Setswana – nor is there a national language policy that might help protect it from extinction. The newspaper could have been a mobilizing tool for language rights. But there is no longer any prospect that the initiators will revive the paper.

As for English language papers the market still appears to be saturated with a large number of offerings. The country has a high literacy rate (84%) and papers are generally affordable at prices below that of a loaf of bread, an internationally accepted form of measuring the affordability of newspapers.

Given the sparsely distributed population, distribution remains the greatest challenge. Most publications are centered in urban areas or places with high population concentrations. Most newspaper houses either distribute their newspapers themselves or use other means such as subscriptions, use of courier services and various forms of public transport. BONESA, a company from the *Mmegi* stable which had been established in 2005 as a distribution agency, is still operating and has shown great potential to grow. But there is a need for more capital investment as the company is presently too dependent on the goodwill of its previous owner. It also needs new vehicles as the present fleet is old.

There is also a clear need for the company to change its concept and become more inclusive. Its distribution vehicles and personnel still carry the original company name and colours. Quite understandably, papers like *The Voice* have a problem with being distributed by the same vehicle that is advertising their competition. Talks are presently under way to make more general use of the new name and trademark BONESA which might bring more of the other publications on board.

Presently, the government-owned and controlled *Daily News* is the paper reaching the widest section of the reading public.

For a time, South African newspapers appeared to enjoy better distribution than the local papers, e.g. through South African owned trading outlets. This has changed because customers have been demanding their local newspapers.

Regarding internet, urban areas have better access than rural areas – especially remote areas with no electricity or those not being reached by the national grid. But the number of villages with

access to electricity has been growing in recent years. Nteletsa II, an accelerated village electrification project, has just been announced and will extend electricity supply to more villages and ensure wider access to electricity needed for communication technologies.

Charges of Internet Service Providers (ISPs) in the country have gone down dramatically and this has further increased access to the Internet. The opening-up of the market also helped as the Botswana Telecommunications Corporation (BTC) no longer has the monopoly of access to the international gateways. ISPs can now offer their own services directly without going through BTC.

Broadcasting has also been extended to more – and more remote - rural areas, even though there are still many parts of the country without good reception. But there is still no access to diverse broadcasting. Only the state broadcaster has extended its reach and most of the independent broadcasters are restricted to Greater Gaborone. State-owned *Radio Botswana* presently reaches 80 percent of the population, with *RB2* standing at 65 percent. *Botswana Television (BTV)* reaches 40 percent of the people terrestrially and there is 100 percent accessibility by satellite. Access to TV is limited, though, because many people can not afford to buy TV sets.

There are still no community-based newspapers or radio stations. As the introduction of community radio is currently a highly controversial issue, the NBB has so far not awarded any licences to this sector.

The use of cellular phones has vastly increased and the network is reaching most parts of the country. It is estimated that the number of subscribers stands at over 600,000.

SCORING:

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

Average score: **2.8** (2005 = 2.2)

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

ANALYSIS:

Access to media sources is not restricted.

SCORING:

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

Average score: **4.8** (2005 = 4.5)

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

ANALYSIS:

The *Daily News* has engaged private couriers and the newspaper is now reaching remote areas. Private newspapers are outsourcing distribution services to buses and other forms of transport in

order to extend their circulation reach.

The Voice, with a print-run of currently 35.000, is presently regarded as the private paper with the highest circulation, with figures still rising. It tends to appeal to the youth – which is a growing market. But its scope of circulation is still limited to urban centres and large villages. The circulation of other newspapers is generally declining.

Many private publications have increasingly become available – to those who can afford it - through the internet.

SCORING:

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

Average score: **3.4** (2005 = 2.9)

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

ANALYSIS:

The Broadcasting Act 1998 provides for public, private and community broadcasting services. A Draft Broadcasting Policy, developed by the National Broadcasting Board (NBB) since 2002 in a broad public consultation process, was tabled in Parliament in 2006. The House decided to defer any decision on it because of issues that needed to be clarified further. In particular, there was a lot of debate and confusion about the public broadcasting service and what it entails.

The recommendations on this sector were a watered-down version of the original NBB draft and some parliamentarians felt that the policy now allows government too much leeway by suggesting that the broadcasting services currently run by it should develop a concept of public broadcasting for themselves. Instead they insist that the policy needs to spell out clearly that these services be transformed from state into truly public broadcasting services. The government, however, is still not willing to give up control over Botswana Television and Radio Botswana.

Another contentious issue in parliament was the community broadcasting sector (see under 2.5).

In regard to commercial broadcasting, the NBB is about to grant national licences to three private radio stations.

SCORING:

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

Average score: **1.7** (2005 = 1.8)

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

ANALYSIS:

The introduction of community radio in Botswana still seems to be a distant prospect. While there was no resistance to community radios during the public consultation process for the development of the broadcasting policy mentioned under 2.4, the chapter on community broadcasting in the draft policy was hotly debated in Parliament, with widely divergent views expressed across party affiliations. Some MPs thought that this was the right way to go while others – on all sides of the political divide - felt that Botswana was not yet ready for what they saw as a potentially divisive service.

What has emerged from the debate of the policy so far is that there are many misconceptions about community radio and television broadcasting and that the issue has been highly politicised. This has been made worse by the fact that one of the communities wishing to set up a community radio station is the Basarwa from around the Gantsi area in the North of the country. There seems to be a fear in government circles that an international NGO - Survival International – which has been campaigning against the removal of San people from their original home in the Central Kalahari Game Reserve, could use community radios to promote its cause. Some MPs felt that community stations would bring about tribal tensions and even quoted the example of the genocide in Rwanda to make their point.

Efforts to de-mystify community radio and make parliamentarians and government aware of the potential of this sector as a development tool have so far been in vain. To the contrary: there appears to be a hardening of attitudes on the part of the political establishment and an increased unwillingness to allow for the opening up of the airwaves to communities.

In light of developments in the ICT sector and the ongoing convergence in communication technologies this seems to be a short-sighted stance to take. With Internet access becoming more widely available and affordable, more and more people will be able to listen to radio stations on the Net anyway, including in Botswana where at present this is still a privilege of the elite.

The fact that there was no outright rejection but merely a postponement of the new broadcasting policy in Parliament can perhaps be taken as a small sign of hope. It is not clear, though, how civil society groups and others interested in the establishment of community broadcasting intend to take the matter forward and prepare the ground for a more favourable decision in the future.

SCORING:

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

Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

The government media is under the direct control of the minister responsible for the media – the Minister of Communications, Science and Technology. Government journalists are seen more as government officials and not as journalists per se. There is little independence and a lot of interference.

The one positive development is the fact that the Department of Broadcasting has recently published more progressive editorial guidelines which proclaim “editorial independence” for its publications. Bold steps are still needed to bring about a more satisfactory situation.

SCORING:

Individual scores: 1, 1, 2, 1, 1, 2, 3, 1, 2
Average score: **1.6** (2005 = 1.2)

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

ANALYSIS:

Sila News Agency, an independent agency which was set up in 2005, is still operating and offering news to all publications. A newcomer is *Front Page News*, which specializes mainly in feature stories.

The government-owned *Botswana Press Agency (BOPA)* has always made its material available to the private media as well. Most private newspapers do not use it, however, because on the whole it is sanitized and not well researched. The Agency is likely to be more independent if and when the general principle of transforming state into public media is accepted by adopting the draft broadcasting policy.

SCORING:

Individual scores: 3, 2, 3, 1, 3, 4, 3, 2, 2
Average score: **2.6** (2005 = 1.6)

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

ANALYSIS:

There is no regulation of competition – either for the economy as a whole or for the media industry. The government’s intention to come up with a competition policy has still not materialized although the Botswana Confederation of Commerce and Industry (BOCCIM) is presently pursuing the matter.

The proposed broadcasting policy – now deferred until further notice - deals with the issue of competition in the media sector-specifically and might offer some useful guidelines.

SCORING:

Individual scores: 1, 1, 1, 1, 1, 1, 2, 1, 1
Average score: **1.1** (2005 = 1.2)

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

ANALYSIS:

No incentives are being given to private media and media enterprises are even taxed. The playing field between government and private media is not level – not just because the state media rely on tax-payers money and do not have to worry about many operational and commercial challenges which affect the private media. Government also competes with the private sector for advertising in print and broadcasting media.

Due to its adoption of cost-recovery initiatives, this competition for ad spend has become even fiercer. The government broadcasting media have the largest reach but charge lower advertising rates than the commercial broadcasters. The *Daily News* with an estimated print-run between 60 and 70.000 is distributed for free and also charges lower rates than the private media, which means that it is undercutting their advertising market. This is exacerbated by the fact that the *Daily News* does not collect advertising revenue efficiently.

There has been an attempt to increase collection by demanding payment upfront. This has affected smaller advertising agencies in particular who do not have a large enough revenue base to afford this kind of payment. As a result more work has moved to larger advertising agencies, closing out the up-and-coming new ones.

The private media could – ironically – benefit from government's demand for payment upfront. They also have a competitive edge over the state-controlled media which lack credibility.

The new national private radio stations expected to be licensed soon will probably increase competition for the commercialized government radio station. The market will eventually determine what will happen.

Overall, there is no political will on the part of the government to improve the existing media environment. This can be attributed to mistrust of the private media on the part of politicians. Government is not giving any consideration to the support of small and struggling media as is being done in South Africa, for example, through the Media Diversity Development Agency.

The proposed broadcasting policy suggests that a fund be set up to help the independent broadcasting sector to survive. At present CEDA provides relatively cheap loans to the independent media.

SCORING:

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

Average score: **2.0** (2005 = 1.2)

2.10 *Private media outlets operate as efficient and professional businesses.*

ANALYSIS:

Most private media outfits are operating efficiently and as professional businesses. In the print sector, compared to the poor quality of the government news products, standards are high and this has enabled private papers to retain their share of the market.

The quality of radio programming seems to have gone down in order to control operating costs.

There has been increased diversification, especially in the telecommunications (e.g. headline news via SMS) and local music sectors. However, these have been increases in volume mostly while quality often is not yet up to scratch.

Generally, the private media outlets do not have any choice but to operate efficiently if they are to continue to survive in a small market. All media houses are trying hard to diversify sources of revenue instead of depending on advertising only. In the future they will need to invest more to keep their businesses afloat. More market research is needed in order to establish whether pricing levels are competitive. They could also do more to train their own people in management and leadership and become more creative in developing their production and editorial capacity.

SCORING:

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

Average score: **3.6** (2005 = 3.2)

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

ANALYSIS:

The government-owned *Daily News* is still fully and directly funded by the government.

SCORING:

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

Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

Ever since the Botswana High Court in 2001 declared unconstitutional a government instruction to all its departments and enterprises to stop advertising in *The Botswana Guardian* and the *Midweek Sun* because of their “persistent negative and often hostile reportage on government and its institutions”, the government has not openly discriminated against the private media in the placement of advertising. There is a perception, though, that if you do not speak well of the ruling party, it can come back to haunt you in a subtle way.

The media are not as dependent on government for advertising as they used to be. But there is still not enough openness about the use of public funds to prop up the government media.

An earlier study by Dr T. Balule on public sector advertising in the private media showed that there is need for safeguards against government manipulation of the private media. It also found that most government advertising is being placed in government and not the private media. Government should make the process more transparent.

SCORING:

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

Average score: **2.4** (2005 = 1.3)

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

ANALYSIS:

The advertising market is large enough and new titles are coming up all the time. The estimated figure of P400 million for the total amount of ad spend given in 2005 is actually conservative. P300 million is the figure arrived at in a study done by Methaetsile Leepile but this seems to exclude the book industry and ad spend from South Africa.

Titles which have long been on the market and have developed a brand for themselves manage to survive more easily than new entries into the field. Internet, radio and others have not yet explored the advertising market thoroughly enough. Overall, there is enough money out there to sustain the industry which is growing.

SCORING:

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

Average score: **3.8** (2005 = 3.0)

OVERALL SCORE FOR SECTOR 2: 2.4

(2005 = 2.0)

Sector 3: Broadcasting regulation is transparent and independent, the stare

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:

According to the 1998 Broadcasting Act, the National Broadcasting Board (NBB) is appointed by the minister in charge of broadcasting. The board comprises an officer from the Office of the President, an officer from the Ministry of Commerce and Industry, an officer from the Department of Cultural and Social Welfare, a representative of the Botswana Telecommunications Authority (BTA), and seven persons appointed from a list of 10 candidates nominated by a Nominating Committee. This Committee consists of a member of the Law Society, the Vice-Chancellor of the University and a representative of the Office of the President. The Board is funded by the ministry, reports to the ministry, and the BTA serves as the Secretariat to the Board.

Especially the role of the BTA as Secretariat was questioned, given that it creates the possibility of the BTA dominating the Board in its decision-making. The Board would need to have its own independent staff to do its work without direct interference from the BTA in order to be really independent and seen to be so.

There are plans to merge BTA and NBB to set up a combined body to deal with all aspects of broadcasting and ICT. The present minister regards such a merger as a matter of priority. Currently stakeholders have no information on the nature and structure of the envisaged Botswana Communications Regulatory Authority.

SCORING:

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

Average score: 1.7 (2005 = 1.5)

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

ANALYSIS:

As outlined under 3.1 appointments are made by the minister. The composition of the Nominating Committee might be seen as biased towards government, with two of its three members being a representative of the president's office and the Vice Chancellor of the university who is himself a government appointee.

An example for an alternative way of doing things is the Press Council of Botswana, where a Selection Committee invited people to apply and these were interviewed with the public and media present.

Interviews for NBB candidates took place behind closed doors. The names of potential members

were not published and so the whole process was not open and transparent.

Despite this appointments procedure, some panelists saw the actual performance of the NBB members as proof of their acting with an independent mind.

SCORING:

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

Average score: **2.3** (2005 = 2.0)

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

ANALYSIS:

With the new broadcasting policy not in place, the interests of the state continue to take precedence over those of the public, and government still has a strong political and economic grip on the state media – particularly the broadcast media.

Although regulations for licensing broadcasters were issued in October 2004, the NBB's work is hampered by the absence of a broadcasting policy. The Board, however, is free to implement these regulations regardless and issue licences. So far, it has granted licences to *Radio Botswana* and two commercial operators (*GBC* and *MultiChoice*). Licences for national private radio stations are to be awarded in the very near future.

One of the licence conditions for *Radio Botswana* is that it should have an independent board. However, the station was not given any time frame within which to transform into a public broadcaster, and the duration of the licence is ten years.

SCORING:

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

Average score: **2.1** (2005 = 1.3)

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 broadcasting policy was developed in an open and transparent manner. The public had a chance to submit proposals and comments and there was an extensive public consultation process. However, the policy has not been adopted by parliament and it can thus not yet serve as a basis for decisions of the NBB. Moreover, the existing document is widely regarded as a watered-down version of the original draft, in particular in regard to public broadcasting (see 2.4).

SCORING:

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

Average score: **1.3** (2005 = 1.0)

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:

Botswana does not have a public broadcaster and there is no board representative of society at large to oversee the operations of the service. *Radio Botswana* and *Botswana Television* continue to be directly controlled and managed by the Minister of Communications, Science and Technology.

The existing Broadcasting Act defines the “public broadcasting service” as “any statutory body which is funded either wholly or partly through State revenues”. This definition differs widely from all generally accepted definitions of Public Broadcasting.

SCORING:

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

Average score: **1.0** (2005 = 1.0)

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 or political parties as well as those with a financial interest in the broadcasting industry.*

ANALYSIS:

This requirement does not even begin to apply because there is no public broadcaster and no independent board to control it in the first place.

SCORING:

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

Average score: **1.1** (2005 = 1.0)

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

ANALYSIS:

There is no law on public broadcasting in Botswana and thus no guarantee of editorial independence of any sort.

SCORING:

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

Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

There is no such protection against arbitrary interference. The state broadcaster is funded by the government, which can cut or increase funding at its discretion.

SCORING:

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

Average score: **1.0** (2005 = 1.0)

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

ANALYSIS:

Botswana does not have a public broadcasting service.

85 percent of the population has access to national radio. For television the figures are 40 percent via terrestrial signals and 100 percent via satellite. Accessibility is being improved continuously.

SCORING:

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

Average score: **3.9** (2005 = 3.1)

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

ANALYSIS:

Although Botswana does not have a public broadcast service, it was conceded that the state broadcaster offers diverse programming. Overall, programming on radio seems more diverse than that on television. The two radio stations offer programming for most interests, news every hour (in both main languages), current affairs, entertainment, local music, sports, and call-in shows. On *BTV* local content has increased, with the station catering for youth interests, broadcasting local music programmes on most days of the week, and covering local sports.

There is no language diversity as no languages other than English and Setswana are being catered for.

SCORING:

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

Average score: **2.7** (2005 = 2.6)

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

ANALYSIS:

Given the direct control by government it is difficult for *Radio Botswana* and *Botswana Television* to offer fair and balanced information. There is bias towards the state rather than the public interest, with TV news being obliged to cover each and every minister's activities while paying little attention to stories about civil society (*BTV* is nicknamed "President Mogae's TV"). In radio, efforts are made to broadcast reasonably balanced news bulletins, and morning phone chat shows give space to all views and opinions.

SCORING:

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

Average score: **2.6** (2005 = 2.6)

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

ANALYSIS:

Local content on *BTV* has increased across the board, in particular in regard to local music. But there are still too few other local productions, such as dramas or talk shows.

Radio Botswana promotes local folk music and folk musicians. Royalties to the artists are not being paid, however, by any radio broadcaster in the country, including *Radio Botswana*.

SCORING:

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

Average score: **3.1** (2005 = 2.7)

OVERALL SCORE FOR SECTOR 3: 2.0

(2005 = 1.7)

ANALYSIS:

The standard of reporting has deteriorated over the last two years. There are too many and frequent mistakes occurring in the Botswana media without anybody seeming to be doing much about it. There is also a lot of speculation and sensationalism in certain sections of the local press – especially in headlines. Generally too little effort is made to get the other side of the story. Proper analysis, investigative reporting and in-depth coverage of issues of national importance are lacking.

The increase in the number of newspapers is spreading talent more and more thinly. Journalists are highly mobile and there is a high turnover of staff in most media houses. Many lack both training and work experience.

PCB has been running training workshops in the work place and expects the media to be familiar with their code of ethics and the need to carry accurate and balanced stories. Media houses themselves need to become more pro-active. They should create a culture of mentoring in their organizations and pay more attention to training. Editors should challenge their reporters more to do their work properly and make sure they adhere to the basic principles of journalism.

There is very little contact between the new Department of Media Studies of the University of Botswana and local media houses. The first head of the department actively promoted such contacts but the culture of interaction and cooperation has since died. This is unfortunate because the Department can help the media reflect on the quality of their reporting or broadcasting.

There is also no diversity of experts writing in the papers and it seems that always the same political analysts get a chance. One of the reasons cited was that a lot of people do not dare to come forward and express their opinion in writing.

SCORING:

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

Average score: **2.1** (2005 = 2.9)

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

ANALYSIS:

Overall, newspapers try to cover more or less the full spectrum of events and issues but there is a clear lack of in-depth and investigative reporting.

Many experienced journalists tend to be promoted and stop writing – which makes it necessary to train new staff in investigative reporting all the time. Others leave the profession for greener pastures, especially in public relations. Some newspapers are accused of being too cowardly and not taking up certain issues because they fear people in positions of power and influence.

Printing costs are very high and newspapers need advertisements in order to survive. The usual editorial/advertising ratio is 40:60. In view of increasing competition, the media can not afford to antagonize their advertisers. There is ongoing tension between the editorial and advertising teams, as the former always seek to cover only newsworthy events and not those directly linked to commercial interests and designed to make potential advertisers appear in a good light.

SCORING:

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

Average score: **3.1** (2005 = 3.0)

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

ANALYSIS:

Gender imbalance is not a serious problem in the country. Most companies and media houses are equal opportunity employers, with merit being the more important criterion for hiring rather than gender considerations per se.

Women are in decision-making positions as owners and/or editors at *The Voice, Botswana Gazette* and *Sunday Tribune*. *BTV* and *Radio Botswana* also have mostly women in their leadership positions.

When it comes to working on the beat, however, female journalists are often disadvantaged because they are not taken seriously by interviewees.

Given that very few women feature during journalism awards like those organized by MISA from time to time, the Botswana Media Women's Association (BOMWA) should be encouraged to make a greater effort to motivate women journalists to come forward and compete more for professional awards.

According to a study commissioned by MISA, only two media houses have gender policies in place (*Voice* and government media). Those that have no official policy claim to have unwritten gender practices and policies. Overall, there are no clear policy frameworks on gender mainstreaming. Organizations like Gender and the Media in Southern Africa (GEMSA) and Gender Links (GL) are active in helping the media to address the situation.

SCORING:

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

Average score: **3.1** (2005 = 2.9)

4.5 *Gender mainstreaming is reflected in the editorial content.*

ANALYSIS:

Various studies on the Botswana media such as a 2002 Gender Links study have shown that the editorial content of most media outlets is generally unbalanced, with 84 percent of all sources being male and only 16 percent female. This imbalance is getting worse rather than diminishing.

One of the reasons could be that while people generally do not trust the media and its accuracy in coverage, women are even more wary of being misrepresented and therefore tend to refuse to be

interviewed.

There is a strong cultural component to this as women perceive themselves as more vulnerable and not liberated enough even though they may have climbed up the corporate ladder. Many women in high positions will rather delegate a requested interview to a male colleague. Journalists need to make a deliberate effort to seek out women and get their voices heard.

Another reason for the imbalance is that news coverage is often merely event rather than issue driven, and that gender topics could be better addressed in issue driven stories.

SCORING:

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

Average score: **2.3** (2005 = 1.5)

4.6 *Journalists and editors do not practice self-censorship.*

ANALYSIS:

Self-censorship on the part of journalists is common. Botswana is a small society and many people know each other intimately. This leads to a tendency not to report things about each other for fear of being ostracized by one's own community ("He is my mate, I leave this out ...").

As far as possible, editors try not to censor themselves. But they do face some cultural constraints, such as respect for elders. Sometimes self-censorship is practiced when editors do not cover a story that could damage or offend a potential advertiser or high profile personality. Editors have to live with an "unbelieving society" that thinks newspapers are quite prepared to make up their stories. However, the situation has not become so serious as to have reached a "stage of unhealthiness".

Self censorship should not be confused with holding an opinion or taking a political position – which editors are entitled to do. Editors and journalists are also free to join political parties of their choice but they should not be seen to be blatantly peddling their party-political positions. Most newspapers and journalists, however, are not affiliated to any political party.

SCORING:

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

Average score: **2.4** (2005 = 2.5)

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

ANALYSIS:

Most newspaper managements do not interfere with the editorial independence of their publications.

Journalists are generally free to write what they want and editors only check their stories to make sure they are accurate and balanced. Editors are encouraged to be independent and non-partisan. This is included in their mission statements and holds true for most print media – with the exception of government media. Newspapers like *Mmegi*, *Botswana Gazette*, *Sunday Standard* and *Botswana Guardian* have editorial charters which define the relationship between their owners and editors. Some papers are owned by families and individuals who feel they have the right to interfere in the editorial work of their publications.

SCORING:

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

Average score: **4.0** (2005 = 3.0)

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

ANALYSIS:

Salaries for journalists in Botswana are mostly based on comparable industry salary levels. Journalists are expected to declare gifts and the nature of such gifts to determine whether or not they should be allowed to keep them. There are clear divisions between the editorial and the marketing departments in most media houses in the country.

While salary levels generally are high enough to serve as a disincentive for corruption, there are some cases of journalists allegedly being on the payroll of powerful people in business and politics.

SCORING:

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

Average score: **3.4** (2005 = 3.4)

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

ANALYSIS:

Short-term training is available and MISA informs media houses regularly on such opportunities. Many students were trained in media all over the world on government scholarships and locally at the University of Botswana. In addition there have also been many short courses offered by several institutions in the region. At the moment, there are even too many journalism graduates in the country and not enough full-time jobs available for them.

In spite of the various training options available, these do not seem to be making much impact. Journalists are either not actively seeking out these opportunities or they are not being taught appropriate skills. There also does not seem to be a culture of journalists challenging themselves to perform better.

SCORING:

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

Average score: **3.8** (2005 = 4.0)

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

ANALYSIS:

Some of the old media organizations like the Botswana Journalists Association or the Botswana Press Club seem to have collapsed or are dysfunctional. However, apart from the Botswana MISA chapter and the Botswana Media Women's Association, there are also a number of more recently established bodies like the Botswana Media Workers' Association, the Botswana Editors' Forum, Journalists Against HIV/AIDS, the Botswana Filmmakers Association and the Botswana Independent Producers Association.

SCORING:

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

Average score: **4.3** (2005 = 3.6)

OVERALL SCORE FOR SECTOR 4: 3.2

(2005 = 3.0)

COUNTRY SCORE 2007: 2.5

(2005 = 2.2)

Developments since 2005 and the way forward

Positive developments in the last two years

- *The most notable developments occurred in the regulatory arena:*
 - *The National Broadcasting Board (NBB), has advertised three new national private radio licenses that are expected to be awarded soon.*
 - *In October 2006, the proposed broadcasting policy for Botswana was tabled in Parliament, where it was debated at length and later deferred indefinitely. **In order to get the process going again, MISA has organised a number of public relations exercises such as breakfast meetings with members of parliament.***
 - *There has been some liberalisation of the communication technology sector in the form of the award of service-neutral licensing, which in turn is widely expected to accelerate the merger of the regulators NBB and the Botswana Telecommunications Authority (BTA). It will also allow for the production of more local content and increased accessibility of the mass media.*
- *The government ban on advertising in the various private newspapers has been relaxed or lifted altogether.*
- *The establishment of the Press Council of Botswana (PCB) has had a positive impact. Now most newspapers report more carefully, ethically and sensitively. There has also been a drop in the number of lawsuits – partly because some people now complain to the PCB instead of running to the courts every time they feel maligned by the press.*
- *Generally, previously hostile and antagonistic relations between the local media and the government have improved and this has been attributed in large measure to the establishment of a government ministry that focuses on the media sector and would like it to succeed as its core business – the Ministry of Communications, Science and Technology. Discussions with the new minister and her staff have become more constructive, productive and objective.*

Negative developments in the last two years

- ***The old Mass Media Bill, which introduces a statutory press council, and a new Security and Intelligence Bill have been tabled in parliament.** Given that government is determined to push through these two widely criticized pieces of legislation designed to curb the freedom of the media, the perceived normalisation of relations **between government and the media** could perhaps just be a lull before the storm.*
- *There have also been increasing harassment and assaults of photo-journalists at the courts of law and in full view of law enforcement officers who did not bother to arrest the culprits. MISA Botswana has already met with the Commissioner of Police over this matter – who acknowledged that this is unacceptable. Unfortunately, most media houses seem to be doing*

nothing while members of their staff are being abused and the Botswana Editors' Forum has also been silent on this matter.

- *Government is planning to revive its own printing press and stop relying on commercial printers which could dent profitability in the industry.*
- *There is still no access to information legislation in place.*
- *Foreign journalists perceived to be critical of government have been deported.*
- *There is a general apathy among editors in Botswana to take part in discussions on media issues.*

The main drivers or actors for change

- *Currently, change is mainly technology driven: Developments in information communications technology might make the media more accessible to more people – costs for production and distribution of media content could come down.*
- *The general public demands more local content.*
- *Various pressure groups like MISA, BOCCIM continue lobbying.*
- *The newly-established Ministry of Communications, Science and Technology should be able to focus on its mandate and on media issues in particular without these being crowded out by the diversity of other issues being handled by the Office of the President where the media was previously based.*
- *The NBB has learnt a lot from networking and interacting with other regional and international regulatory bodies and other structures. Its members are now more knowledgeable, confident and assertive than they were a few years ago. Lobbyists of regulatory authorities have also become more knowledgeable and smarter.*

Some of the possible obstacles for further positive change

- *The political landscape is expected to change with the change in presidential leadership in 2008. This will occur against the background of a weak and divided political opposition.*
- *The limited resources available to NGOs might force them to make more concessions to the political establishment.*
- *Media-owners and editors are not pro-active, not interested in media reforms, even too scared to get involved in debates on media issues.*
- *There is a lack of commitment to develop indigenous language media. Given that most media owners are afraid of taking the high risks involved in such an endeavour, the support of donors might be required – similar to what they did in the past to foster change in relation to media diversity and pluralism.*
- *Local language broadcasting might be negatively affected by the tendency of the youth to prefer English over indigenous languages.*
- *Language rights are not respected in Botswana but they are important for nation-building and long-term peace.*

- *Media organizations are disorganized and there is poor commitment to professional development and growth.*
- *AIDS is killing capable and trained media personnel and reducing the number of buyers of media products.*

Some of the activities needed over the next few years

- *The NBB should do more to sensitize the public on its work and to act more independently and proactively.*
- *MISA and other civic groups should intensify lobbying of the various authorities against unfavourable laws and policies.*
- ***MISA should take the lead in making citizens aware of the benefits of community radios and the establishment of a true public broadcaster.***
- *More test cases should be brought to court so that media law in the country can be developed further.*
- *The University of Botswana should introduce a community radio station and use this as a test case for the roll-out of community broadcasting to the rest of the country.*

The panel meeting took place at the Cumberland Hotel, Lobatse from 17 to 18 March 2007.

The Panel:

Dr. Tachilisa Balule, law lecturer; Ms Seatlholo Tumedi, English lecturer; Ms. Beata Kasale, publisher; Mr. Modise Maphanyane, media activist; Ms Felicitus Mashungwa, journalist; Ms Tholoana Phooko, attorney; Mr. Solomon Monyame, producer; Dr. Masego Ayo Mpotokwane, lecturer - environmental science; Mr Methaetsile Leepile, media consultant

The Rapporteur:

Mr. Sechele Sechele

The Facilitator:

Mr. Hendrik Bussiek