

Thematic debate

**"Free Independent and Pluralistic Media: Enabling Role of the State. The good practices"**

**Name:** Lumko Mtimde

**Organisational Affiliation:** Chief Executive Officer  
Media Development and Diversity Agency  
(MDDA)

**Location:** 4<sup>th</sup> Floor  
31 Princess of Wales Terrace  
Parktown, Johannesburg  
South Africa

Tel. +27 11 643 1125

Fax +27 11 643 1126

**Contacts/E-Mail Address:** [lumko@mdda.org.za](mailto:lumko@mdda.org.za)

**Website:** [www.mdda.org.za](http://www.mdda.org.za)

## **ABSTRACT**

“Any democracy for it to be sustainable, it needs free and diverse media. The freedom of the media must be protected by the legislative framework, in particular the constitution law and by implication be protected by an independent judiciary. An independent judiciary is vital and critical for any constitutional democracy. A democratic state has a responsibility to support and promote a free and diverse media, as this is in the interest of its citizenry and sustainability of its rule. Diverse views and opinions, diverse sources of information empower citizens to participate in a democracy.

In South Africa, the Media Development and Diversity Agency (MDDA) is an Agency established by the MDDA Act No. 14 of 2002 in partnership with the major print and broadcast media industry to create, support, promote and encourage an enabling environment for media development and diversity that is conducive to public discourse and which reflects the needs and aspirations of all South Africans. Its mandate enshrined in Section 3 of the MDDA Act which requires that the MDDA in giving meaning and effect to Section 16 (1) of the Constitution Act No. 108 of 1996, (amongst others) encourages the ownership and control and access to media by historically disadvantaged communities as well as by the historically diminished indigenous language and cultural groups, with an overall objective of promoting, supporting and encouraging diverse media.

In conclusion, state can participate in the promotion of pluralistic and diverse media, through its laws and interventions guided by principles of free and independent media like it happens in such countries as South Africa.”

## **Introduction**

Chairperson, distinguished and honourable IPDC Council members, all protocols observed, I thank you for the invitation to participate in this Council meeting and the thematic debate, “Free, independent and pluralistic media: the enabling role of the State”.

The theme debated is very important and central for our democracy, more as it comes many years after the Windhoek Declaration which was endorsed by UNESCO promoting press freedom, independent and pluralistic media. Chairperson, it is my considered view that it is not by accident that member states adopted declarations like the Windhoek Declaration and WSIS Declaration, etc. It is because of an acknowledgement of the importance of diverse and pluralistic media for the sustainability of democracy. Diversity of view and opinions promoting different perspectives enriches citizens to participate in a people driven democratic process. It is therefore in the interest of states to support media diversity and pluralism. Media being recognised as the fourth state (in addition to the legislature, judiciary and the executive) is an important medium for both state and citizens. It informs, educate, entertains and provide a platform for dialogue necessary for democratic discourse.

Chairperson, me being from South Africa I will draw my case study experience from the South African example, not to say or suggest it the perfect but it is premised from a commitment of supporting constitutional democracy which enshrines free, independent and diverse media. This unity in diversity as the former President Nelson Mandela always put it, is fundamental in the health of South African democracy.

## **South African experience**

Last year, South Africa was celebrating 32 years (after the 19 October 1977 most brutal actions against the media by the Apartheid government) with 15 years of legislative guarantees of press freedom and

editorial independence brought about by the first democratic elections in 1994. South Africa has undergone profound political and economic transformation over the last 15 years, resulting in new and strong political institutions that underpin democracy and a macro economic framework that encourages greater freedom and competition. The Constitution Act of 1996 protects and provides for the freedom of the media, freedom of expression and access to information. This is further supported by the legislative framework giving effect to the constitution, including the MDDA Act of 2002<sup>1</sup>, ICASA Act of 2000<sup>2</sup>, Electronic Communications Act of 2005, Broadcasting Act of 1999, Access to Information Act of 2000, Promotion of Administrative Justice Act, etc. including Chapter 9 of the Constitution which sets up institutions to support democracy.

The country has moved from racial discrimination to a non racial democracy where the rights of ordinary citizens are now protected and enshrined in a Constitution which provides a balance between the freedom of expression and the right to dignity and equality. Free speech and a free media are entrenched in the Constitution Act No. 108 of 1996 and the media operate in an environment free of oppression, persecution and the repressive legislation which sought to restrict and control the media. The democratic transition catapulted South Africa into playing a major role not only as a regional economic and political player in our continent Africa, but also an influential participant in the emerging markets. These significant changes are also reflected in the media industry. It is an industry characterized by a new energy of growth and greater access with a diversity of voices reflective of ethnic and racially diverse people.

It is therefore critical to appreciate the broader context, as we gathered here today debating this theme and celebrating media freedom, to emphasize the significant role media can play in helping the different people to communicate with each other in order to strengthen democracy, promote a culture of human rights and enable all to participate fully in economic growth and speed up transformation and development. Information is knowledge and power.

---

<sup>1</sup> Media Development and Diversity Agency Act

<sup>2</sup> Independent Communications Authority of South Africa Act

This can only be achieved if every citizen (where ever s/he is located, rural or urban, poor or rich) has access to a choice of a diverse range of media. Media also provides a window of transparency in government and injects life to a country's economy by publishing financial and market information to citizens, allowing them to participate freely and fruitfully in their country's economy. Access to communication and information empowers citizens, facilitate participatory democracy, and assist in defending, advancing and deepening democracy.

The media and broadcasting industry in South Africa is relatively open and reflects the country's diversity in respect of languages (as all eleven official languages are represented) and content in general. However, English is the most commonly used language, more so in print media and television. According to a recent published ownership and control of media report<sup>3</sup>, the major players in the media landscape in South Africa are identified as; Avusa, Caxton / CTP, Naspers (Media24), the Independent Newspapers Group, Kagiso Media, Primedia and the South African Broadcasting Corporation (SABC).

Radio is the most accessible medium of communication, with 94.1% of the adult population having access to radio. According to AMPs 2008 Television has a population reach of over 83.8%<sup>4</sup>. Whereas, according to the Audit Bureau of Circulation 2008 (ABC), newspapers and magazines have a population reach of 48% and 40% respectively.

Of interest, is the fact that South Africa's mobile penetration exceeds that of PC (computer) and internet penetration, and mobile internet penetration is still in its growth phase. South Africa is Africa's highest mobile website page impressions as measured by AdMob.<sup>5</sup>

The report concludes that the SABC dominates the radio industry, accounting for 41.6% of the total radio audience in the country. SABC has 18 public radio stations, divided into 15 public broadcasting service (PBS) stations and 3 public commercial services (PCS) stations. There are 13 private commercial radio stations which are regional or provincial stations; they have 16.5%<sup>6</sup> of the total radio

---

<sup>3</sup> Available on the MDDA website, [www.mdda.org.za](http://www.mdda.org.za)

<sup>4</sup> Amps 2008

<sup>5</sup> <http://www.bizcommunity.com/Article/196/78/29860.html> titled AdMob on realising the value in mobisites

<sup>6</sup> AMPS 2008

adult audience. ICASA (the regulator) has recently licensed 3 other commercial radio stations in the so-called “secondary markets”.

There is also the Worldspace which is a subscription satellite radio service offering a limited number of encrypted channels. Recently in 2007, ICASA licensed new commercial subscription television players being MULTICHOICE, On Digital Media, Telkom Media, esat and Walking on Waters to provide satellite television subscription services.

According to ICASA, there are 126 community radio stations, of which 87 stations are on-air. Community radio accounts for 4.6% of total radio audience<sup>7</sup>, according to AMPS data.

According to AMPS 2008, there are 11.1 million TV households in South Africa. The SABC has 3 public terrestrial television channels (SABC1, 2 and 3) with total viewership accounting for 69.3% of the total television audience. E.tv is the only privately owned free-to-air commercial terrestrial television station with an audience of 18.1 million, representing 22.3% of the viewing audience.

MultiChoice owns M-Net (Pty) Ltd which broadcasts the M-Net premium channel; the Community Services Network (CSN) which targets special interest communities; Sports and the digital satellite bouquet on DSTv. This has been the only pay TV and satellite broadcasting service in the country for 12 years until 2007. According to Multichoice, in South Africa the current subscription for DSTv is around 1.610 million and M-Net is 128 000 in the first quarter of 2009.

There are 4 licensed community television stations in South Africa; Soweto Community TV in Soweto/Johannesburg (Gauteng); Bay Television station in Empangeni / Richardsbay (KZN); Cape Town Community TV in Cape Town (Western Cape) and the Trinity Broadcasting Network (TBN) (Eastern Cape).

Print media is by far the largest sub-sector of media sector in South Africa (in terms of the number of titles and ownership). Newspapers in South Africa are printed in English, Afrikaans and some in the indigenous languages. About 940 million newspapers per annum circulate in South Africa, this includes mainstream (or commercial), local, small commercial and community newspapers.

AMPS 2008 indicate that the national newspaper readership is 15.2 million<sup>8</sup>. The economically strongest provinces such as Gauteng, Western Cape and KwaZulu-Natal, receive about 71.9% of the newspaper titles circulating in South Africa, accounting for 69% of the total newspaper readership – a total of 6.6 million readers.

---

<sup>7</sup> Please note that not all community radio stations are included in AMPS 2008 data. Only 34 community radio stations out of about 86 stations which are on-air are included in AMPS 2008 data.

<sup>8</sup> AMPS 2008

In terms of newspapers titles available; Gauteng Province accounts for 26.6%, Western Cape Province 19.8% and KwaZulu-Natal 25.5%. Northern Cape and North West Provinces receive the lowest number of newspaper circulation - below 10%. The referred report reflects that at least 504 magazine titles were identified. AMPS 2008, reflects magazine readership at 12.6 million<sup>9</sup>. The highest magazine readership is in Gauteng at 3.5 million readers followed by KZN at 1.9 million readers.

## Ownership and Control

Chairperson, free, independent and pluralistic media can only (I argue) be achieved through not only many media products but by diversity of ownership and control of media.

In South Africa, according to the referred report, the 13 private commercial radio stations have historically disadvantaged individual (HDI) ownership of 58% on average. On the television front, private commercial television station's HDI ownership sits on an average of 64.4% per television station. The changes in the broadcasting industry, reflects the success of the work of the then Independent Broadcasting Authority (IBA) (established in terms of the Independent Broadcasting Authority Act of 1993) and ICASA's regulatory and licensing interventions. One of the criteria to qualify for licensing enshrined in the IBA Act and now Electronic Communications Act is ownership by HDIs, limitations on foreign ownership to 20% and that broadcasting is effectively controlled by South Africans.

South African print media is concentrated among 4 major media players;

- Naspers through its subsidiary Media24;
- Caxton;
- Avusa and
- the foreign owned Independent Newspapers.

Media 24 is dominant in terms of circulation of newspapers according to the ABC. Regarding ownership, major print media players such as Media24 and Avusa have some degree of HDI ownership. Avusa has at least a 25.5% HDI shareholding as a result of Mvelaphanda Holdings acquiring part of Allan Gray's stake in the company and Media 24 has 15%.

This referred research shows that the print media landscape in the post 1994 South Africa has not transformed much in terms of ownership and control. However, credit should be given to the sector in

---

<sup>9</sup> AMPS 2008

terms of operational control by HDI management and editors. The majority of print media in South Africa is still owned / dominated by a few companies and individuals in spite of various interventions by the state through promotion of transformation processes.

It is worth noting that the media and broadcasting in South Africa is guided by the noble principles of editorial independence. The question of the degree of impact of ownership and control to editorial content remains a debatable matter in the media industry. But the legislative framework that exist promotes diversity in all spheres, from ownership, control, management, newsroom, sources of information and therefore diversity of views and opinions in order to enhance our democracy.

### **Apartheid broadcasting system**

Prior to 1994, South African broadcasting system existed for decades as one of the most politicised broadcasting system in the world. The politicisation of the broadcasting system was institutionalized and manifested itself at a variety of levels including:

- Policy determination and regulation;
- Service provision;
- Employment practices and recruitment; and
- Content production.

In line with the apartheid<sup>10</sup> philosophy which existed until 1994, service provision was meant to favour the advantaged according to the criteria of colour, class, geographic location and language. Apart from disseminating racial stereotypes and fragmenting the South African population on racial lines under the apartheid policy of 'divide and rule', content provided by the system was often political, particularly, the coverage of news and political events. Simply put the evolution of the South African broadcasting system and legislation has always been inextricable linked with its political situation, challenges and negotiated solutions.

---

<sup>10</sup> A system of racial separation that historically served white South Africans and in 1980s it became a severe burden on economic growth and political stability. It was internationally declared a crime against humanity.



The Pre-1994 broadcasting system was characterized by inequality of access, language, cultural and educational programming and lack of diversity and choice in services and in programmes. There was no clearly defined regulatory system with some operators fulfilling both a regulatory and broadcaster function. The regulation of the broadcasting sector was disjointed, with regulation and licensing shared by various state departments. The Broadcasting Act of 1976 did not specify the “Minister” entrusted with the administration of the Act and as a result the responsibility for broadcasting was shifted between Ministries including Foreign Affairs, Education, Home Affairs, Posts and Telegraphs and Information.<sup>11</sup> Content regulation was based on censorship and prohibition of publication and broadcasting of “undesirable material”. Essentially the broadcasting sector was regulated through three pieces of legislation, namely, the Radio Act of 1935; the Broadcasting Act of 1936 and the Broadcasting Act of 1976.

## **Democratisation and Freedom of the Airwaves**

Despite indications that the then apartheid government and the current ruling party<sup>12</sup> were involved in discussions on the possible political negotiated settlement, anti-media laws, censorship and harassment of journalist were highly prevalent. It was during period 1990 to 1993 that the civil society movements backed by the trade unions and liberation movements, that numerous actions and campaigns like Campaign for Open Media, Jabulani! Freedom of the Airwaves Conference, Free the Airwaves Campaign<sup>13</sup>, embarked on a concerted effort to pressuring the then government to agree to the following demands:

- The lifting of the State of Emergency in its entirety, since individual freedom cannot be divorced from freedom of expression;
- The repeal of all censorship laws;
- A moratorium on prosecution of journalists;
- The removal of government control of television and radio; and

---

<sup>11</sup> IBA. 1995. Triple Inquiry Report. Johannesburg: IBA. <http://www.icasa.org.za/>

<sup>12</sup> African National Congress

<sup>13</sup> South African Students’ Press Union (SASPU)

- The opening of information sources.

In its response to these demands the then government decided to appoint a Task Group headed by Professor Christo Viljoen, the then Chairperson of the SABC, to look into the future of the SABC. All the democratic forces under the banner of the Mass Democratic Movement (MDM) rejected the Task Force on the basis that the Task Group was unrepresentative and had sinister motives, including the privatization of broadcasting services. A call was made for an inclusive and democratic restructuring of the broadcasting sector, including the SABC.

As the political negotiations were still underway, a concern was raised about who would control broadcasting services during the anticipated transitional period. The members of the MDM were unanimous about the need to democratize and place the then state broadcaster in the hand of the public along democratic principles. It was during the Jabulani! Freedom of the Airwaves Conference<sup>14</sup> that participants drafted guidelines for freeing the media from political control and recommended, amongst other, the following:

- A Commission of Inquiry into broadcasting and the regulation thereof under a democratic constitution;
- Interim Broadcasting Consultative Committee that will develop a code of conduct for the SABC; and,
- An Independent Media Monitoring Commission to monitor the media activities.

## **Negotiated Settlement - CODESA<sup>15</sup>**

As indicated earlier the MDM was unanimous about the need for an independent broadcasting sector under the watchful eye of an independent regulator. In order to achieve this objective the issue had to be tabled at the multi-party negotiation forum. Indeed the matter was located under one of the five

---

<sup>14</sup> Held in Doorn, The Netherlands, August 1991

<sup>15</sup> Convention for a Democratic South Africa, which started to operate in December, 1991

negotiations working groups, which dealt with the formulation of a plan for the creation of a climate of free political participation.

With the political negotiations underway, the civil society movement decided to put more pressure by hosting a conference – *Free, Fair and Open* - to formulate proposals on how the mass media could contribute to a climate of free political activity during the transitional period. The civil society advanced the following as part of mechanisms to ensure free political activity:

- Legislative and constitutional changes;
- The depoliticisation of SABC control; and,
- Monitoring of the media during the transitional period.

However, the movement proposed that media content not be discussed at the negotiation table due to the political nature and divergent interest by participating political parties. Secondly, that media content must be independent of political interference.

## **Restructuring of the SABC**

With the suspension of the negotiations for a month the legislative and constitutional changes agenda was put on hold. However, pressure was mounted on the then government with respect to the depoliticisation of the SABC. The pressure was exerted through the Campaign for Independent Broadcasting. The Campaign agreed on the following:

- Opposed the unilateral restructuring of the SABC;
- Deal with the issue of control of the SABC;
- Called for the appointment of the representative board of the SABC;
- Called for the establishment of an independent broadcasting regulatory authority;

- Called for the re-integration of the TBVC<sup>16</sup> broadcasting services into the SABC.

Although the then government was vehemently opposed to a representative board of the SABC, it ultimately agreed with the demand and the new representative board of the SABC was sworn in April, 1993. The establishment of an independent board for the SABC was an achievement for independent broadcasting.

### **Independent Broadcasting Authority**

The necessity for an independent broadcasting authority was based on the need for broadcasting in South Africa to serve the public in such a way that the ideas of a democratic, non-racial, non-sexist and prosperous society are advanced. It was argued by the Viljoen Task Group that a proper regulatory body must be premised, amongst other, on the following principles:

- The new South African Constitution must guarantee freedom of speech, specifically with respect to broadcasting;
- Regulation of broadcasting by an independent and politically impartial body; and,
- Viewers and listeners must be given a greater choice and diversity of opinion through fair competition.

With the resumption of the Multi-Party Negotiation Process, two committees namely, Independent Media Commission and Independent Telecommunications Authority were established to deal with broadcasting matters. The Committees tabled a final IBA Bill after three month of their existence.

The IBA Act made provision, amongst other, for the following:

---

<sup>16</sup> Former homelands that were granted independence by the apartheid government due to their willing to collaborate with the apartheid policy. Transkei, Bophuthatswana, Venda and Ciskei (TBVC).

- Diverse range of radio and television services on national, regional and local levels;
- Three tiers of broadcasting services namely, community, commercial and public;
- Adherence to local content quotas; and,
- Cross media control to ensure diversity of ownership and plurality of voices.

The first major responsibility of the IBA, headed by the Council of seven individuals from different professional background, was to develop a national broadcasting policy framework adopted by parliament in 1996. The document was entitled Triple Inquiry Report, which contained recommendations on the following:

- The protection and viability of the public broadcaster;
- Local Content and South African Music; and,
- Cross-media control or limitations.

The IBA further developed several policy frameworks relating to the three categories of broadcasting, as mandated by the Act.

## **Constitutional and Legislative Changes**

The necessity for the new South African Constitution to guarantee freedom of speech, specifically with respect to broadcasting was finally accepted at the negotiations forum. The agreement was captured in the Interim Constitution<sup>17</sup> and final Constitution of the Republic of South Africa<sup>18</sup>, which provided for Freedom of Expression<sup>19</sup>. Further, the Section 192 of the Constitution provides for the establishment of an independent regulatory authority to regulate broadcasting in the public interest. It is this provision that lead to the promulgation of Independent Broadcasting Authority Act<sup>20</sup>. The provisions of section 192 was seen by most as a safeguard of the independence of broadcasting regulation against interference by industry, political parties and individuals except the public as a whole.

---

<sup>17</sup> Enacted in 1993

<sup>18</sup> Act 108 of 1996

<sup>19</sup> Section 16 under Chapter 2 that provides for the Bill of Rights

<sup>20</sup> Act 153 of 1993

After the adoption of the White Paper on Broadcasting Policy<sup>21</sup>, a process towards the amendment of the IBA Act was kick started. The public process finally resulted in the promulgation of the Broadcasting Amendment Act<sup>22</sup>, which in the main dealt with the restructuring of the SABC into a public and commercial division and also provided for SABC Charter that is intended to regulate the activities of the SABC.

Taking into account the advent of convergence government decided, after public consultation to merge the regulation of broadcasting and telecommunications under a new regulatory authority called ICASA<sup>23</sup>. The history of broadcasting in South Africa, has since inception, been characterized by politicization of the broadcasting system. ICASA was given the mandate to set up a broadcasting system based on universal service, diversity within the framework of national unity, democratization of the airwaves, nation building, education and strengthening of the moral fibre of society.

The fifteen years of independent broadcasting regulation in South Africa was characterized by an exciting and competitive broadcast industry forged in the crucible of the struggle against apartheid control, repression and censorship.

## **Milestones**

Some of the conspicuous achievements are:

- the transformation of the SABC from the state broadcaster to a public broadcaster;
- development of key policy and licensing framework for the three tiers of broadcasting categories;
- black ownership and control of commercial broadcasting services;
- licensing of community and commercial radio;
- licensing of commercial free to air terrestrial television service;
- started with the processes of licensing community and public regional television services.

---

<sup>21</sup> Adopted in May 1998 after receiving comments from the public.

<sup>22</sup> Act 64 of 2002

<sup>23</sup> Independent Communications Authority Act No. 13 of 2000.

Chairperson, it's clear from the above that the intervention of a democratic state through progressive policy, legislation and regulatory interventions has assisted the achievement of this diverse media in the broadcasting industry in South Africa.

### **The birth of the Media Development and Diversity Agency (MDDA)**

There have always been two broad categories of the print media in South Africa - the one that championed the interests of the oppressed and exploited such as the Guardian, New Age, The Spark, Inkululeko, African Communist, Umsebenzi, Sechaba, Mayibuye, SASPU National and The World. The second category was owned by a few conglomerates.

The former category of the media was “.....brutally suppressed and banned”. On the other hand, the latter category of media “.....underpinned the system of apartheid colonialism and fascism. This section of the media has never forgiven the black people and the democratic forces for having defeated apartheid colonialism. There was absolutely no difference in substance between the English and Afrikaans press. Their common denominator was that Africans would never be equal to the white colonial masters. They were not the victims of apartheid.”<sup>24</sup>

Chairperson and distinguished members the South African media is not a monolithic institution, and any examination of the role of the South African media during apartheid therefore has to distinguish between its various sectors - each of which had particular objectives and characteristics, and each of which played a particular role, during the period under review. Control of the media was one of the most important tools in the apartheid arsenal, and a battery of censorship legislation undoubtedly played a role in helping to ensure the survival of the regime - in particular, in ensuring ongoing support from its key constituencies by keeping them in the dark. The South African media operated in a political, commercial and economic environment which favored the interests of the ruling class, and which helped to entrench the skewed economic development of our country. Afrikaner and English

---

<sup>24</sup> Speech by Dumisani Makhaye, ANC KwaZulu Natal Member of Parliament, during the KwaZulu Natal Legislative Budget Debate on 5 May 1997

capital were the primary stakeholders in the commercial media sector, and they profited greatly from the economic injustices which resulted from apartheid. Monopolistic practices (and legislation) ensured that the commercial media was able to conspire against any who threatened its interests. It is fair to say that freedom of the press only applied to those who were rich enough to own one.<sup>25</sup>

Parliament in South Africa, recognizing the exclusion and marginalization of disadvantaged communities and persons from access to the media and the media industry, resolved to establish the Media Development and Diversity Agency (MDDA), to help create an enabling environment for media development and diversity that is conducive to public discourse and which reflects the needs and aspirations of South Africans.<sup>26</sup> MDDA is also set to promote media development and diversity, by primarily providing support to community and small commercial media projects.

The basis of the objects of the MDDA Act, arises from amongst others the Constitution of South African, which provides for amongst others;

*“16. Freedom of expression*

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

*“32. Access to information*

1. *Everyone has the right of access to*
  - a. *any information held by the state; and*

---

<sup>25</sup> African National Congress Submission on Media to the Truth and Reconciliation Commission  
September 1997

<sup>26</sup> MDDA Act No. 14 of 2002



- b. *any information that is held by another person and that is required for the exercise or protection of any rights.”<sup>27</sup>*

The above sections 16 and 32 of the Bill of Rights, summarizes in brief the motivation why media development and diversity is critical for our country. Also, these lay a foundation for a legislative intervention towards the achievement of the objects of the MDDA Act. Further, this intervention by the state, followed civil society advocacy work for such an establishment.

### **Role of MDDA**

The MDDA has been established to develop media diversity in South Africa by providing financial and other support to primarily community (non profit) and small commercial media projects. The MDDA currently (in its six years of existence) supports 272 different projects around the country (in all nine provinces). It acts through a Board appointed through a public participatory process by the President on the recommendation of the National Assembly. Whilst funding and supporting this media, the MDDA is prohibited by law from interfering with its content. Further the Board is protected to act independently without any fear, favour or prejudice. They take an oath to that effect before taking office.

The MDDA Act defines ***community media*** as:

- any media project that is owned and controlled by a community where any financial surplus generated is invested in the media project ,

And ***small commercial media*** as

- Independent media enterprises or initiatives that are run for personal gain as micro, very small or small businesses as classified in the National Small Business Act No. 102 of 1996.

On the radio front, it is easier as stations are licensed as community radio stations by ICASA, whereas on the print media front, all local newspapers call themselves community newspapers. There are currently more than 100 licensed community radio stations in South Africa.

---

<sup>27</sup> Constitution Act No. 108 of 1996

Print media is not regulated in South Africa, it is self regulated under the Press Ombudsman<sup>28</sup>. This does not always mean they meet the above criteria of small commercial media as defined in the Act. For example, Caxton newspapers are all called community newspapers. The MDDA support a number new print media initiatives around the country. All of these cover audiences/areas neglected by existing media.

### **Financing mechanism for the MDDA**

In terms of the MDDA Act, Government, major print and broadcasting companies established a partnership in order to assist in the development of community and small commercial media in South Africa, for promoting media development and diversity and furthering the objects of the MDDA Act. This partnership is based on a voluntarily mechanism for the cross-subsidization and commitment for media development and diversity. Accordingly and in line with Section 21 (1) of the MDDA Act, a contract for a period of five (5) years was signed by major print and broadcasting companies, for the purpose of effecting the above-mentioned partnerships.

In 2006, the President promulgated the Electronic Communications Act of 2005 (ECA) which provides for a different dispensation with respect to the financing of the Media Development and Diversity Agency (MDDA). As a result of this Act, the Broadcasting Service Licensees have renewed their funding agreement with the MDDA to be based on a contribution of 0.2% of their annual turn-over of licensed activities. *Section 89 (2) of the ECA provides that the Authority<sup>29</sup> must prescribe—*

- (a) the basis and manner of determination of such contributions, which must not exceed 1 per cent of the licensee's annual turnover or such other percentage of the licensee's annual turnover as may be determined by the Minister after consultation with the affected parties, by notice in the Gazette; and*
- (b) the dates when such contributions become payable and the manner in which they may be paid.*

Section 89 (3) of the ECA provides that broadcasting service licensees contributing to the Media Development and Diversity Agency (“MDDA”) must have their *annual MDDA contribution set off*

---

<sup>28</sup> <http://www.ombudsman.org.za/>

<sup>29</sup> ICASA

*against their prescribed annual contribution to the Universal Service and Access Fund*<sup>30</sup>. The ECA therefore provides a sustainable mechanism to support and further the objects of media development and diversity. Having said so, there remains a challenge as the funding for print media is not prescribed in law or regulation; instead it's based on a political will from the mainstream print media.

## **Conclusion**

Chairperson, clearly, state intervention through policy and legislation, which support media development and diversity, can enable free, independent and pluralistic media. The interventions should always be guided by the principle of promoting media freedom and independence. This is the critical vigilance as surely the temptation is always there to want to interfere with content but in a constitutional democracy (my emphasis), law can protect media against any such interference, if it arises.

Our experience and observation during the past decade of regulating communications indicates that the public has confidence in an independent regulator, which is obliged to act objectively and professionally, without undue interference from political parties/government, industry or consumers. This delicate and complex task is exacerbated by the need to constantly strike a balance between various interest groups (political parties, industry and consumers). We should note that the task, however complex and difficult, is not insurmountable. The unique private public partnership leading to the establishment of the MDDA, provides for state involvement without interfering with content, media freedom and its independence.

Thank you for your time.

---

<sup>30</sup> Universal Service and Access Fund is not run by the MDDA, it falls under the jurisdiction of a different body called the Universal Service and Access Agency of South Africa (USAASA, formerly USA)