The Governance and Regulation of the South African Broadcasting Industry: A case study of the South African Broadcasting Corporation and the Independent Communications Authority of South Africa.
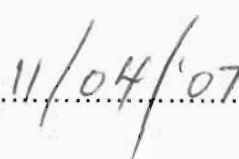
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Submitted to the Faculty of Humanities, Social Sciences and Development, University of KwaZulu-Natal, in partial fulfillment of the requirements of the degree of Master of Arts in Culture Communication and Media Studies.

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I, **Zwakele Ngubane**, hereby declare that this is my own work, and that all other people's work has been fully acknowledged. I further declare that I have never before submitted this work for an award of a degree to this university or any other university. This work is being submitted in partial fulfillment of the requirements of a Master of Arts Degree in the Faculty of Humanities, Social Sciences and Development at the University of KwaZulu Natal, Graduate Programme in Culture, Communication and Media Studies, Howard College Campus, Durban South Africa.

Signature:.. Date:....11/04/'07...............

Zwakele Ngubane

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Thank you all

List of Acronyms and Abbreviations

ANC	African National Congress
ABC	African Broadcasting Corporation
AS & TS	Association of Scientific and Technical Societies
BBC	British Broadcasting Commission
BSC	Broadcasting Standards Commission
COM	Campaign for Open Media
DNH	Department of National Heritage
DSTV	Digital Satellite Television
FAWO	Film and Allied Worker's Organisation
FM	Frequency Modulation
IBA	Independent Broadcasting Authority
IBU	International Broadcasting Union
ICASA	Independent Communications Authority of South Africa
IEA	Institute of Economic Affairs
IRTCEFPSB	International Round Table on the Cultural and Educational Functions of Public Service Broadcasting
ITA	Independent Television Authority
ITC	Independent Television Commission
ITV	Independent Television
MDDA	Media Development and Diversity Agency
M-Net	Electronic Media Network
MM-CM	Committee of Experts on Media Concentrations and Pluralism

NP	National Party
NWICO	New World Information and Communication Order
Ofcom	Office of Communications
Oftel	Office of telecommunuications
PSB	Public Service Broadcasting
RA	Radio Authority
RCA	Radio Communications Agency
SABC	South African Broadcasting Corporation
SATRA	South African Telecommunications Regulatory Authority
UK	United Kingdom
USA	United States of America

Abstract

The 1994 democratic elections, which were the first of their kind in South Africa, served as a significant turning point for the country as they marked the end of an oppressive regime and the beginning of a long sought after dispensation; democracy. The change in dispensation was not only limited to the political sphere but naturally filtered through to every aspect of South African life including the broadcasting industry. In fact, leading up to the elections, a number of negotiations had begun centered around the necessary restructuring of the national broadcaster; the South African Broadcasting Corporation (SABC). In regard to this moment in history, Raymond Louw (1993: 01) mentions that, there had "never been a time in South Africa when debate about media, its conduct, structures, ownership and control ha[d] been so intense".

The negotiations were deemed important for a number of reasons. Firstly the media, by virtue of their perceived power and ability to influence the general public, are a highly contested domain. It was therefore essential for a consensus to be reached on how the SABC, for example, would be managed during this time so that no parties would be left at a disadvantage. Secondly, the SABC had earned a reputation as the Nationalist government propaganda machine and therefore had to be freed of this undemocratic burden. The paper is thus a case study of the SABC and the Independent Communications Authority of South Africa (ICASA). Issues of ownership, control, regulation and the role of public service broadcasting will be discussed primarily from a political economic perspective.

Chapter One

Introduction

South Africa has seen many significant changes in the past few years: the release of Nelson Mandela in 1992 and the first democratic elections in 1994. The changes however did not only take place on the political front. The South African media industry has also been influenced dramatically by the change in political climate.

During the apartheid era, the South African Broadcasting Corporation (SABC) was seen by many as closely aligned with the national party government. This proved problematic on a number of levels because the SABC had a monopoly over broadcasting and as a result voices opposing the government of the day found it difficult to air their opinions.

In a democratic dispensation such as the South African situation at present, the airwaves are considered to belong to the public, not just the government or media moguls. It is therefore important that a situation whereby one political party or institution has exclusive access to the airwaves is avoided at all costs.

Debates surrounding issues about whether the government should participate more actively in the regulation of the communications industry, or whether it should allow for a more liberalised market system, are still unsettled. This paper will address some of these issues, drawing mainly from the paradigm of political economy.

This study in essence is a look into the functioning of the current SABC as a public broadcaster and also the role played by the Independent Communication Authority of South Africa (ICASA) in ensuring a broadcasting environment that reflects the democratic principles of the country. The paper study therefore will examine the relationship between the ICASA, the SABC and the government.

Along the way, the paper will attempt to answer questions such as: why is it important to have regulators with an emphasis on public service instead of the free market system model of broadcasting? What mechanisms are there to ensure that regulators are not influenced by external forces? What is the role of the public broadcaster and is this role adequately fulfilled by the SABC? It is also important to note that this study primarily will concern itself with broadcasting and not telecommunications even when discussing the ICASA.

The first chapter will be a discussion of the paradigm of political economy where I will demonstrate why this paradigm is relevant when discussing issues of regulation and how instrumental it can be in the formulation of solutions to problems regarding regulation.

The second chapter concerns itself with theories and concepts that inform regulatory practices today. It is in these sections where I argue that even in a rapidly changing society owing to technological advancements that point towards deregulation as a solution; regulation is not only a matter of important but a matter of necessity.

The third chapter gives a historical background of the advent of broadcasting where there is a brief discussion on Britain and the United States of America. The bulk of this chapter addresses specifically the advent of broadcasting in South Africa and how it was managed.

Chapter four is a discussion of the British Broadcasting Corporation and the Office of Communications as I will draw comparisons between the British broadcasting model and the South African since the latter was based on the former. The chapter will then continue to discuss the South African regulatory system that is a discussion of the Independent Communications Authority of Communications.

Chapter five deals specifically with the concept of public service broadcasting in relation to the South African Broadcasting Corporation and it is in this chapter where I argue that the concept of public service broadcasting is flawed and needs to be redefined in order to address the inconsistencies between theory and practice.

In chapter six I engage in a final comparison of the broadcasting models of the two countries in question. I then conclude the study with a few reflective thoughts and suggestions for a way forward.

Literature Review

Political Economy

This study is essentially a critical analysis of the South African regulatory system, but before one can undertake such an exercise, it is important to first position the study within a particular framework that will guide and inform the analysis. The approach that this study will draw from is that of political economy. This particular approach is useful and relevant to this study because it concerns itself with the way in which capitalism, institutions belonging to the state, the public and the industry all influence each other.

In essence political economy analyses and attempts to explain the dynamics of social, political and economic interaction. The question to answer at this point would therefore be: how does regulation feature in the political economy of communication? One could at least provide two answers in this case. The first could simply be that whenever there are interactions between powerful 'players', in this case, the media industry and its owners, the state and the general public, where there may be divergent interests involved, there needs to be a 'referee' (i.e. an independent regulator) to ensure that all parties are treated fairly and that stability and order are achieved and maintained. This kind of intervention has

become increasingly important since there have been examples in the past of authoritarian states who abuse their power through the control of media output. In some cases it's the media owners who abuse this power with the interests of the public being consistently trampled upon. These concerns have lead to substantial research being conducted, particularly in North America and Europe, around such matters within the framework of political economy. The second answer could be that there are in fact different forms and approaches to regulation. One of these is referred to as capitalist regulation, which comfortably falls within the ambit of political economy, and can be defined as the study of the transformation of social relations since, as a result, new forms are created (Aglietta, 1979), which is what much of this study is about. It is therefore becomes clear that a political economic approach to communications and the regulation thereof is in a sense an organic theoretical progression.

At this point it seems necessary to take a closer look at political economy as an approach, in terms of how it came about and what it is exactly. Vincent Mosco (1996: 25) describes political economy as the "study of the social relations, particularly the power relations that mutually constitute the production, distribution and consumption of resources". From this definition one can deduce that it requires the analysis of a social dynamic from a more economic perspective.

There has been and probably still is a lot of disagreement surrounding the issue of what constitutes political economy; the two main partially conflicting perspectives on political economy are what has been termed the classical approach and the neo-classical (Alt and Schepsle, 1990). The classical approach has its roots in three main traditions (Roll, 1942). The first is the Lockean tradition of political philosophy derived from the ideas of self-interest, private property and the labour theory of value. The second was the mercantilist tradition which contributed the notion of exchange value and finally the French physiocratic notion of laissez – faire (Gilpin, 1977). This paradigm considered

institutions as entities that required close monitoring due to their tendency to strip individuals of independence and freedom in terms of choice and social interaction. Institutions were also considered inhibitive towards the free flow of ideas. From this perspective, government therefore, "bore special watchfulness because the tradition of sovereignty, which gave it power to defend the realm, could easily be used to create special privileges, including combinations that would restrain industry and trade" (Mosco, 1996: 40). The pre-1994 government of South Africa is a particularly good example of this as it held a tight grip on the broadcasting industry (among others) through its control over the SABC and its protection as a monopolistic corporation, making it virtually impossible for new participants to compete for the same market.

In essence, theorists belonging to this school of thought such as Adam Smith (1937) held the view that government interference/intervention should be kept to a minimum as it could inhibit the growth of industry and that "individuals were capable of using reason to maximise their self-interest and, by extension the interests of society" (Mosco, 1996: 40). This statement comes across as pleasing and sensible at first glance, but if one understands it correctly, the author is saying that people are sensible enough to pursue and fulfil their personal needs and this pursuit of self-interests translates into the interests of society as a whole being fulfilled as well. If this is the case then, one would have to disagree because it is precisely the tenacious pursuit of self-interests that has resulted in the extreme concentration of media ownership in certain parts of the world, particularly the United States, and this according to many theorists working within the field of political economy, is not particularly a good situation. It is not ideal because diversity and pluralism are seriously compromised under such conditions, which is not good for society as whole. The issues of concentration and pluralism/diversity will be discussed in greater detail in subsequent chapters.

Taking the discussion back to the classical paradigm, it is important to note that although the intervention or participation of institutions like the government are to

be scrutinised with great scepticism, even Smith (1937), a major proponent of the classical paradigm, acknowledged that the government's responsibility should not be limited to only dealing with national defence. From the way in which the classical paradigm is presented, particularly with regard to Smith's notions, one can deduce that it is an encapsulation of the difficult task of balancing two conflicting ideas: self-interest and benevolence. This dilemma is still being grappled with by regulators today, with those on the one hand who support the idea of a free market system and on the other, those in favour of a well regulated industry where public interests are considered a priority.

The classical paradigm has been extensively criticised by its critics as a result of it being perceived as defending the idea of an unbridled market due to the oversimplification of its concepts (Mosco, 1996). Some even went so far as to call the classical paradigm a 'dismal science', questioning the rationality of a paradigm that defends the practice of excluding the masses of people from the fruits of their own sweated labour. An economy that is driven by self-interest is automatically capitalist and capitalism, as can be argued, thrives on the exploitation of the labour force and this is precisely why critics view this paradigm as problematic, it sets out to justify and naturalise, to a certain extent the process of exploitation (not only of labour).

The neoclassical approach came about as a result of a number of developments that took place approximately during the last half of the nineteenth century. One of the more influential developments that gave rise to a shift from the classical to the neoclassical paradigm came in the form of Bentham's utilitarian attack on the classical defence of natural law and rights (Mosco,1996). Bentham (1890) argued that the sole determinants of moral and ethical behaviour should be pain and pleasure and not a natural code as expressed by the classical paradigm. The focus in this case is on maximizing pleasure over pain through the recommendation of the necessary social changes that can bring this about. Furthermore, this paradigm does not concern itself with the needs or the rights of

human beings but rather more on the wants. One can therefore deduce that, although there may be discrepancies regarding the idea of what constitutes neoclassical economics, it can be generally agreed that this paradigm has two main concepts at the core of its existence; utility and profit maximization. It is important to note that similar to the classical paradigm, theorists of the neoclassical view also held the belief that "[I]nstitutions, which might be considered as prior to and conditioning individual behaviour are de-emphasised"[1].

The neoclassical paradigm also has its fair share of critics. It is frequently criticised for being too idealistic, "it does not focus on actual economies, but instead on describing a "utopia" in which Pareto optimally obtains"[2]. A number of assumptions held by theorists of this paradigm have been criticised, such as the idea that individuals act rationally. It is clear that this notion ignores certain aspects of human behaviour such as greed. Some individuals will do whatever it takes to accumulate wealth and as a result end up behaving in an irrational manner, with much disregard for society's best interests. Marxian political economy criticised the neoclassicists for being too narrow in their focus through the exclusion of social issues, the state and class struggle. Despite the weaknesses of the neoclassical paradigm, it seems to have triumphed to a certain extent as some of its core principles are applied in public policy and what has evolved out of this paradigm is what is referred to by economists as mainstream economics.

As earlier mentioned, there are a number of perspectives of political economy and they seem to be modifications of previous forms, just as the neoclassical paradigm is a modified version of the classical paradigm and as some may argue an improvement. Another one of these is referred to as public choice theory or new or positive political economy. Theorists of this view saw "regulation as an

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[1] http://en.wikipedia.org/wiki/Neocalssical_economics
[2] http://en.wikipedia.org/wiki/Neocalssical_economics

organizational market that tends to be captured by rent-seeking civil servants who increase the amount and scope of regulation, even as they restrict access to valuable information, in order to maximize their gains" (Mosco, 1996: 53). As a result of such views within the framework of political economy, there was a trend in the 1980's that favoured deregulation as a solution for the apparent state restriction on competitive activity.

The Political Economy of Communication

So far the paper has discussed political economy as a theory or explanation for the advent of capitalism; it is now time to link this theory to the field of communication studies. In this section, the paper will demonstrate how political economy can be used to analyse and study the phenomena that take place within the field of communication.

A political economy approach to communication was influenced by the changes that began to take place in the press industry, electronic media and telecommunications. In the past these modest enterprises were often family-owned but later transformed into major corporations (Mosco, 1996). The challenge for early political economists was of describing the practices and structures of these large corporations, and even more importantly, looking into the implications of the possession of substantial power by these enterprises. The question of how much power is in the hands of those who own media companies and how this can influence society is a major question still dealt with by researchers and academics today. This particular issue will be dealt with in greater detail further on in this section.

According to Philip Graham[3] political economy of communication has its roots in the concept of 'knowledge monopolies'; a concept developed by Canadian economist Harold Innis (1942, 1944, 1950, 1951a, 1951b). 'Knowledge monopolies' is a concept based on the notion that throughout history certain

privileged groups such as priests, kings, bureaucrats and scientists have enjoyed exclusive access to certain kinds of knowledge. Other contributors to the development of the field of study are Horkheimer and Adorno (1947/1998) particularly with their essay on the 'culture industry' which continues to be of great relevance even today.

Initially, the political economy approach tended to focus more on production through the examination of the growth of the communication industry. As the industry grew and these products were being consumed on an increasingly mass scale, political economists began looking at other aspects, such as social relations and the organisation of consumption. They began seeing the growth in consumption as a "structural response to the economic crisis of overproduction and as a social response to the political crisis" (Mosco, 1996: 74). In essence they began grappling with the changes that were taking place in a more holistic manner. Political economy also began looking at the state's role as a producer, distributor, consumer and regulator of communication. This was a crucial step because the involvement of the state in such a way was to be treated with great scepticism as the state was considered, generally by political economists as inhibitive with regards to economic activity. Based on examples in history, the state has always taken a keen interest in telecommunications and broadcasting technologies. In the United States, Britain and South Africa, to name a few, when radio first emerged, the state was very quick to adopt the responsibility of regulation and in certain cases outright control over the industry. This occurrence reiterates the observation made by Innis (1942, 1944, 1950, 1951a, 1951b) in his conception of knowledge monopolies.

During the early development of political economy, there was a preoccupation with supporting social movements for public access and control of media institutions. The reality of state-owned media institutions was not very pleasing to theorists of this paradigm and were therefore advocating privatisation. As the

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[3]http://www.philgraham.net/MME%20Chapter_Final.pdf

trend of privatisation and deregulation gained momentum however, it became more and more apparent that privatisation was creating disparities in terms of access and content that seemed to promote government propaganda, was now largely reflecting market pressures. The communication industry was moving from one form of control to another, instead of being controlled by the state it was increasingly being controlled by market demands and capitalist objectives.

A further issue that became of particular interest to political economists, with all the changes that were taking place, particularly the expansion of the industry, was media imperialism. This arose from the fact that media products were now being exported to other countries and the concern was that the direction of flow was particularly from the developed to the developing or underdeveloped countries. This unequal economic relationship raised concerns because media products are also cultural products and this constant consumption of foreign culture by the developing world could lead to cultural imperialism. In an effort to minimise this imbalance and the consequential effects of it thereof, concerned groups and organisations got together and the New World Information and Communication Order (NWICO) was formed (McQuail 2000; Fourie 2001; Doyle 2002). The problems briefly discussed above are just some of the factors that motivated the development of the political economy of communication industry.

The analysis of the communication industry through the political economy approach posed a number of challenges for its theorists. Some of the fundamental concepts did not seem to be suitable or capable of dealing with some of the problems that arose out of the ever expanding industry and as a result there was constant need to look for alternatives. The neoclassical approach for example was considered by some, including Vincent Mosco, to be "particularly unsuited to the analysis of the communication industry because most of its fundamental characteristics occupy the area that neoclassical economics reserves for exceptional cases (Mosco, 1996: 77). For example the fact that a news broadcast was not used up in the process of consumption lent ambiguity to

its treatment under orthodox economic approaches (Mosco, 1996). One of the problems presented by the communication industry was that there was uncertainty about the nature of the primary commodity because the industry was in the market for both programming and audiences, both rather unconventional in nature. Mosco (1996) focuses more on social change, social process and social relations whereas the focus previously had been more on structures and institutions. He does this by developing a map of political economy using three main entry points; commodification, spatialisation and structuration.

Commodification

Commodification can be described as a process whereby use values are transformed into exchange values, (cf. Marx and Engels 1848) in other words "transforming products whose value is determined by their ability to meet individual and social needs into products whose value is set by what they can bring in the marketplace" (Mosco, 1996: 143). Another source defines commodification as "the transformation of a non-commodity into a commodity, to assign a monetary value to something that traditionally would not be considered in monetary terms, for example, an idea, identity, gender." One could consider for example, a subsistence and a commercial farmer to illustrate this point. A subsistence farmer grows vegetables and keeps livestock to feed his family and so he does not produce on a large scale. His vegetables and livestock are therefore useful to him in the sense that his family's needs are satisfied in terms of nutritional sustenance. On the other hand a commercial farmer will grow vegetables on a much larger scale and when they are ready; he harvests and sells them to retailers for a profit. The vegetables have therefore transformed, in terms of value from being useful to the individual, as in the case of the subsistence farmer, to being valuable in the sense that they can be exchanged for something else, money. So the process of producing and exchanging objects for money is commodification.

The process of commodification is a fundamental aspect of capitalism because it

allows for the continued accumulation of wealth. Without commodification, capitalism cannot exist because it is through producing and selling products, transforming from use value to exchange value, that the accumulation of wealth takes place. The communication industry like any other is a capitalist one and therefore also goes through the processes of commodification. The most obvious commodity in the communications industry is the content. The commodification of media content is basically the transformation of pieces of information into marketable products. A newspaper (a commodity) for example is made up of numerous pieces of information called news that have been written and edited by journalists and editors. This newspaper is then sold in the marketplace to make a profit. The distinguishing factor about the media commodity however, is that over and above its ability to generate profit, it also contains textual messages which can influence or shape the thoughts of its consumers. This is a crucial point because it therefore suggests to an extent that he who controls what the people read, hear and see via media products, controls what they think about and perhaps even how. Media ownership and control is as a result, a major concern for regulators.

The other commodity in communications is the audience and according to Dallas Smythe (1977) the audience is the primary commodity of mass media. Smythe was the first to popularize the insight that the programmes created primarily are for the purpose of attracting audiences so as to deliver them to advertisers. In other words advertisers will pay for their adverts to be broadcast when they are guaranteed a large audience, for example sitting in front of their television sets. The only way to attract large audiences at a particular time is dependent on convenience of course but also on the provision of popular programming. In the case of newspapers, advertisers are mainly interested in acquiring space to advertise on newspapers they know are read by a substantial amount of people. Smythe's views therefore shift the emphasis from the whole notion of the media industry being about creating ideologically saturated material as its main objective towards it being about constructing audiences. The significance of the

audience commodity is expressed by Mosco (1996: 149) when he states that:

> The process of commodification thoroughly integrates the media industries
> into the capitalist economy not primarily by creating ideologically saturated
> products but by producing audiences en masse and in specific
> demographically desirable forms for advertisers.

According to Eileen Meehan (1984) however, the primary commodity is not the
audience itself but the audience ratings. She believes that since it is only the
ratings that are exchanged and not the messages or the audiences, they are the
primary commodity. Such information (ratings) is used in the improvement of the
commodification of content. It is through such information that content,
advertisements included, are tailor made to suit a particular audience group and
as such are referred to by Mosco as cybernetic commodities. There are
numerous factors that constitute the commodity and the process itself in the
media industry.

Commodification has made such an impact that this process "has been extended
to institutional areas such as public education, government information, media,
culture and telecommunication that were certainly created out of a range of
contested forces and motives, but which nevertheless preserved principles of
universal access..." (Mosco, 1996: 153). The extension of commodification to
such areas has been influenced by the decline in economic growth and the shift
in political power towards the conservative right. As a result of this, institutions
that provided services based on the principles of universality, equality and social
participation are "increasingly reduced to a market logic that equates rights with
market power" (Mosco, 1996: 154). This explains in part why public broadcasters
are finding it increasingly difficult to function.

Finally, Mosco argues that the success of commodification can be attributed to
the way in which political and economic power has been used in this regard.

Commodification is perceived as the natural order and thus a basic reality of social life, instead of as a process of power.

Spatialization

Spatialization has been referred to by Henri Lefebvre as the process of overcoming the constraints of space and time in social life (Henri Lefebvre, 1979). This has been made possible generally through the rapid development of technology. A basic example of how time and space have been overcome is through the development of the aircraft. Before the aircraft it would take travellers months in certain cases to journey from one country to another but now it's a matter of hours. In terms of communications one could consider the example of satellite technology in that it allows people to witness live events taking place in other countries, in the comfort of their own homes. In this regard, both time and space are made insignificant. Spatialization is a significant factor in the communications industry in that it impacts on the production, distribution and location of media companies or institutions. Due to spatialization it is now possible for a media company to produce the same media product, for example a magazine, in a number of different countries, with the necessary modifications in terms of language, all at the same time (Doyle 2002). Distribution channels have also become extremely efficient with technological advancements in the transportation industry such as the aircraft. As a result of these factors it is becoming less and less important where a company is based and this can enhance the effects of media imperialism for example. Communication studies and spatialization, otherwise referred to as time-space distanciation or time-space convergence (Baudrillard 1988; Giddens1984), are inextricably linked because communication technologies play a major role in overcoming time and space constraints, as in the example of satellite communication. What is of crucial importance though, is the question of; to what extent has spatialization impacted on the media industry and has it been positive or negative?

The political economy of communication addresses spatialization chiefly in terms

of the way in which it enhances corporate power in the communication industry (Mosco, 1996). The enormous growth of media companies due to spatialization has increased the level of concern among academics, regulators and other social movements. This is the case because such growth can lead to concentration and in extreme cases monopolization, which invariably leads to fewer information sources. There are still disagreements however on the concepts of concentration and the extent to which they impact either positively or negatively on society.

Structuration

Structuration theory was founded by Anthony Giddens and through this theory he proposes an alternative conception of the notion of structure to that of functionalism and even structuralism as he feels that neither of these conceptions are adequate for the demands of social theory (Giddens, 1982; 1984). The primary suggestion made by Giddens is that "the rules and resources [structure] drawn upon in the production and reproduction of social action are at the same time the means of system reproduction (1984:19). This suggests that structures exist as a result of human agency, but they also form the basis of their own creation and this is what he refers to as the duality of structure. Mosco (1996: 212) further explains by stating that "[S]ocial life is comprised of the mutual constitution of structure and agency". Structure and agency are therefore inextricably connected.

The relevance of structuration to this discussion lies in the fact that it is an "approach to social life that aims to address goal-oriented, reflexive human action, without giving up on understanding the 'sutures' of power that mutually constitute social action" (Mosco,1996: 213). The attempt to regulate the media industry is a goal-oriented, reflexive action. It is supposed to address or rectify certain problems that exist in the media industry. Unfortunately there are forces that make it difficult to achieve this goal. One could therefore see within the context of the communication industry agency as the formulation and implementation of regulation policies and the structure as capitalism. In the

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conception of structuration, it is therefore important not to make the mistake of emphasising human agency (regulatory policies) over structure (capitalism/market forces), because as shall be further demonstrated, market forces can be extremely difficult to overcome, regardless of how determined regulators may be. The emphasis of agency over structure results in a conception of structuration that neglects to acknowledge the presence of power.

In the communications industry companies have been able to accumulate enough power to significantly increase the production of media and information commodities and even influence government regulatory policies. Structuration in this sense expands on this idea of power by examining how it operates at a micro-level. This process demands that one examine, for example the decisions a major company takes when deciding which company to acquire or with whom an investment should be made. Mosco (1996: 214) suggests that there is a tendency to explain or justify such decisions by reducing them down to a question of profit maximisation, "when there's in actual fact a set of micro-power struggles that can grow out of narrow interests of specific executives or board members". This is a crucial point because it suggests that when a company has accrued enough power, certain members of its board or executives can use the company to achieve personal goals or interests that may not necessarily be in the best interests of industry or society at large. Studying the impact of power at a micro-level requires the consideration of the social aspect as well. When dealing with the question of power and the role it plays in the equation of structure and agency, it is essential to consider that "[A]gency is a fundamentally social conception that refers to individuals as social actors whose behaviour is constituted out of their matrix of social relations and positioning, including class, race and gender" (Mosco, 1996: 215).

Social class within the conception of structuration allows one to examine the mutual constitution of agency and structure on a social level. Social class is a categorical construction that defines a category of people based on their

economic standing measured by wealth/income. By studying social class one begins to uncover other vital factors, such as how media elites continue to produce and reproduce ideologies that justify or naturalise their control and power. Other studies of social class, within the political economy of communication framework focus on how class rule takes place within the process of policy formulation and regulation. These studies on social class help towards understanding the way in which the process of elite rule and consequentially the marginalisation of lower classes is structured. Within communications class structure is important in terms of the relationship of social class to access to communication commodities (Garnham 1990). Due to the increased commercialization and privatization of public institutions such as public service communication systems and the gradual reduction of social service education and health care budgets, economic factors have become more significant in determining access to services, including communication. "There is a clear correspondence between income and the likelihood of a personal computer in the home" (Mosco, 1996: 219). In the United States of America during the 1980's, funding for public broadcasting was gradually eroded and the system was forced to rely on corporate support. As a result public broadcasting became increasingly commercialised and also "came to embrace the programming interests of those class constituencies that took up more of the funding responsibility" (Mosco, 1996: 219).

Based on the concepts and issues discussed above, it is evident that there are a number of major problems and issues that need to be taken into consideration when formulating and implementing media policies, whether one is arguing for a free market system or state regulation. The regulation of the communications industry, as a result of increased commodification, spatialization and structuration has become an extremely complex task. There are a number of arguments and issues to consider especially when operating within a democratic dispensation where fairness and equality are key components. Media ownership and control

and the accompanying consequences are key issues in the regulation debate as well. The next section will discuss issues surrounding media ownership and control, such as the question of pluralism and how this can be affected by media concentration, but will begin with a brief discussion of some of the ideological beliefs that underpin some of the broadcasting policies we see today.

Chapter two

Conceptions of Social Communication (Broadcasting)

Kenneth Dyson et al (1988: 64), notes three basic conceptions of social communications (broadcasting) that constitute the ideological backgrounds that inform broadcasting policies and they are:

> social communications as the protection of good taste; social communications as the distribution of information and the sharing of experience according to individual preference and personal choice; and social communications as distribution and sharing of information and experience according to need.

The conception of social communications as the protection of good taste fundamentally is conservative in that it is aimed at maintaining or preserving the social order from any form of disruption. This conception is also based on the idea that good taste is represented by traditional values and norms and not the expression of people's wants and desires. There will therefore be a difference between a person's sense of good taste and this "depends upon mental cultivation, an exposure to the best in the tradition of his society" (Dyson et al, 1988: 65-66) and his preferences, as these are derived from the individual's personal interests. An individual might think it important and in good taste to watch informative documentaries and programmes dealing with current affairs and yet end up watching action movies and soap operas. One can immediately see the conflict between a conservative conception of social communications and the conception of social communications as individual preference. The third conception of social communications demands that programmes be produced and distributed according to basic human needs. Educational programmes, for

example, can be considered as a need because without education and knowledge, people may be disadvantaged and as a result may be inhibited in terms of self-development. Within the context of this conception of social communications, "[B]roadcasting is seen as remedying some deficiency of knowledge or experience" (Dyson et al, 1988: 66). This conception of social communications conflicts with the others in a sense that what may be considered as being in good taste may not necessarily be what an individual needs, the same applies between what an individual needs and what an individual wants. One could consider for example a Grade 12 student who, towards his or her final exams may choose to watch movies over the learning channel on SABC television where school work is revised.

The ideas or notions of what social communications should or should not be are based on wider social perspectives and each of the three conceptions of social communications mentioned above, each fall under a correlative set of assumptions about how society should function. These sets of assumptions can be referred to as social models and they represent society either as a hierarchical order, as a competitive market or as a cooperative community. The first model considers society as being divided into vertical ranks with those occupying the highest positions being in possession of the largest portion of cultural excellence and good taste (Dyson et al, 1988). Within the context of this model, these people have the responsibility of protecting the hierarchy of ascending good taste. This model also displays very little faith in human nature, as it holds the view that without any form of prevention, anarchy would prevail due to competitive individualism. This model, like the notion of social communications as being responsible for the protection of good taste, can be said to be elitist as it supports and suits those already in a position of power and high class and therefore advocates for the maintenance or preservation of the status quo.

The second model views society as a competitive market. In this context, there is no fixed social order, individuals are independent and free to act in their own best

interests, within certain boundaries of course. Based on this model the responsibility of social communications lies in responding to the variety of interests in the society. Here the view of human nature is more positive and the individual becomes a "source of economic activity by his enterprise and innovation" (Dyson et al, 1988: 68). This model correlates with the conception of social communications as the distribution of information and the sharing of experience according to individual preference and personal choice, with a free market system where the industry is left to regulate itself.

The third model views society as a cooperative community and is based on the idea that the individuals of a particular society are bound together by mutual dependence. Society is viewed as an embodiment of relationships amongst diverse social groupings and individuals with unique experiences. In this context, social communications then becomes responsible for bringing these diverse groups, cultures and individuals together to form some kind of common culture. This model supports the conception of social communications as distribution of information and experience according to need. Some of the programming on SABC has been illustrative of this idea through programmes like *Suburban Bliss* (cf.Roome,1998), where a black family moves from the townships to the suburbs. Upon their arrival, they begin to encounter challenges as they try to co-exist with their white neighbours. Ultimately, they do find a way to co-exist through learning to be more tolerant of each other's cultures and habits and as a result come to embody the proverbial 'rainbow' nation, the common culture. There is also the placement of emphasis on the importance of equal status between the broadcaster and the viewer in order to promote, through the broadcasting policies, equal access and participation. This model has socially motivated objectives, underpinned by democratic principles.

Some of the work that best encapsulates the fundamental principles of this model and how it supports the conception of social communications as distribution of information according to need is that of Raymond Williams. Williams, in this

regard was inspired by a colleague of his by the name of F.R Leavis, who had as central themes to his work, cultural disintegration and a need for the restoration of the traditional values of organic communities. Leavis was opposed to a commercially oriented conception of social communications as he believed that it could only generate a 'clever', trivial and feckless culture (Leavis, 1964). Not to be mistaken as being too conservative, he was very critical of ruling class culture and of the "pretentiousness of its mere cultivation" (Dyson et al, 1988: 79). Leavis believed in a society whose culture embraced and was deeply rooted in the community, it had to be a community that conveyed vivid life, "Culture was not regarded as a gift from natural superiors to natural inferiors, or such as are capable of receiving it" (Dyson, 1988: 79).

Williams believed that social communications should embrace more and more people and should not be restricted to catering for only the elite. Social communications was also to be a platform for open discussion.

> The central purpose of social communications was, accordingly, to recover 'a knowable community', one that was not exploitative but that was based on the humanistic concept of social use rather than the mechanical concept of the market (Dyson et al: 80).

In essence the commodification of social communications was seen to be limiting and suppressive of other areas of human experience and relationships. Williams further makes the point that unfortunately most of the cultural institutions are in the hands of speculators whose only interest is not the health and growth of society but the generation of quick profits. Social communications is not only meant to include all sectors of society but should also be educational. Broadcasting should involve "the provision of an outlet for the diversity of social forces and the illumination of the struggles and contradictions at the heart of society" (Dyson et al, 1988: 81). For such an interaction to take place, it would be of vital importance to have flexible and open structures of ownership and control in broadcasting.

It is quite evident that conceptions of social communications are mainly based on ideological beliefs of how societies should function and each model has its merits and flaws. The question is; which is most acceptable? In certain eras or periods one is considered more acceptable than the other depending on what stance is taken by those in power at a given time. To illustrate this point, consider the first director-general of the British Broadcasting Commission (BBC), Lord John Reith. It could be said that John Reith saw society as a hierarchical order, and as a result, subscribed to the idea of social communications as being responsible for the protection of good taste and the avoidance of anarchic behaviour. Lord Reith considered broadcasting as having a civilising mission and therefore believed that "broadcasters had a moral duty to use radio as an instrument of enlightenment" (James McDonnel, 1992: 02). The task of broadcasting also became the protection of the social order by holding up high the ideal of cultural excellence (Dyson et al, 1988). One of the ways in which attempts were made at preserving cultural excellence was through the transmission of classical music programmes. In light of this Reith found it essential for broadcasting to be assigned through and regulated by the state (Teer-Tomaselli, 2005). Such an arrangement would help ensure that the broadcaster maintained a sense of moral obligation, a public service motive, assured finance and monopoly status, which is what Reith felt were the makings of a good broadcaster.

Reith's conservative ideas however could not remain popular and dominant indefinitely due to the social changes that were taking place. Commercialism was increasingly becoming the norm, particularly with the rise of the commercial press and commercial cinema. More popular music began playing on BBC radio. The 1950's consumer boom led to the establishment of Independent Television (ITV) in 1954 and as a result there was intense competition for ratings, in other words competition to get the most viewers. Due to this competition it was the taste of the general audience that determined broadcasting content and not so much the importance of upholding good taste. This does not however mean that such principles were abandoned; there was just a little less evidence of their

implementation. Lord Reith's views of how society should function determined the way in which the BBC functioned during his term as director general, and even after. This was the case because his views were not significantly challenged and were then taken for granted as the natural order. This is how and what influences regulatory policies, if the dominant views within a particular society are of an autocratic nature, then the policies regulating the media will naturally be the same.

Views opposing elitist programming however, began to emerge in the 1950s and 1960s. With the success of the commercial television lobby in 1954 and later, that of the local commercial radio lobby in 1971, more and more people began challenging the view of broadcasting as a protector of good taste and supporting a more market orientated conception of broadcasting (Collins, 1987). The first director general of the Independent Television Authority (ITA), Sir Robert Fraser, supported the idea of a people's television. This was a system where popular pleasures and interests would be the guiding principle. It was Fraser's conviction that the structure and content of broadcasting should no longer be determined by "rigid institutions that offered a restricted diet of morally and intellectually nourishing programmes" (Dyson et al, 1988: 74). Following this outlook towards broadcasting, the Institute of Economic Affairs (IEA) offered a model based on market forces derived from the model of social communications as the satisfaction of individual preferences. In this context broadcasting was seen as a transaction between the viewer and the broadcaster and no longer as a public good. This model is epitomised by pay-per-view or subscription television, where the content providers rely primarily on subscription fees to bring the viewers high quality entertainment. This form of broadcasting is epitomised, today in South Africa, by Electronic Media Network (**M-Net)** and Digital Satellite Television **(DSTV)**. The high subscription fees of such broadcasting make it difficult for a significant portion of the South African population to gain access to such entertainment. Such services would only be accessible, mostly to people in the middle and upper income class groups. This model of social communications is

constituted by the view that consumer choice should determine content and also by the belief that a market model would result in more pluralism by removing the concentration of power from broadcasters easily influenced by government. It was hoped that this could be achieved by making it easier for new content providers to enter the market.

Despite Lord Reith's views that in order for a broadcaster to function successfully, it has to have a monopoly status, today it is generally accepted that a monopoly is harmful to broadcasting as it may inhibit diversity/pluralism. This seems to be one of the points that the models of society as a market system and society as co-operative community agree on. The concern and preoccupation with the issue of ownership and control of the media is not a recent occurrence. The following section will now discuss ownership and control with regards to pluralism/diversity.

Ownership and Control

One of the reasons as to why the ownership and control of the media is of such major concern is because of the profound influence it is thought to have on the socio-cultural, economic and political lives of the individuals of a society. This perceived power of the media therefore means that he/she who controls the media can influence society in a number of crucial ways and if this power is used irresponsibly the consequences could be for example the repression of certain sectors of society. One could act irresponsibly through the abuse of political power or the under-representation of some significant viewpoints. It is therefore believed that media concentration narrows the scope or the range of voices that participate in the media and as a result pose a threat to the interests of society (Aufderheide, 1994; Doyle, 2002). This suggests therefore that the solution to ensuring that no single voice dominates the media platform is to put in place measures that will promote pluralism and diversity. Based on this idea it becomes clear that one of the principle functions of any regulator particularly in broadcasting should be to implement and enforce policies that curb media

concentration while at the same time promoting pluralism.

Pluralism can be defined as "...the presence of a number of different and independent voices, and of differing political opinions and representations of culture within the media." (Doyle, 2002: 11). In other words there must be variety within the media. This suggests the avoidance of a situation whereby one particular voice, political opinion or culture dominates broadcast channels. Within a democratic society this only makes sense because democracy is characterised by, among others, principles of fairness and equality but even more importantly the concept of freedom of speech.

A European organisation concerned with the escalating concentration of media and its effects, the MM-CM (Committee of Experts on Media Concentrations and Pluralism) focuses on a slightly different aspect: "Media pluralism should be understood as diversity of media supply, reflected, for example, in the existence of a plurality of independent and autonomous media and a diversity of media contents available to the public" (Doyle, 2002: 12). This definition introduces the idea of not only having variety in terms of media content but also in terms of suppliers. So, according to this definition it is not enough to have for example one company that promises to represent all the different cultural denominations, political parties and opinions. There must be a number of different companies representing a number of different aspects of that particular society.

According to Jan Van Cuilenburg (1998: 72) however, "Media diversity refers to media content: media diversity is heterogeneity of media content in terms of one or more specified characteristics." He goes on to say that this definition tries not to equate the diversity of suppliers with content diversity because:

> Highly competitive media markets may still result in excessive sameness of media contents, whereas one should at least theoretically not exclude the possibility of media oligopolies or even monopolies to produce a highly diverse supply of media content (Van Cuilenburg, 1998: 72).

This view makes the argument for regulation that much more challenging because while regulators justify their intentions of minimising the formation of monopolies by saying that they threaten pluralism, it could be that these very same monopolistic structures are the best way in which pluralism can be provided for. This sentiment is enforced by Gillian Doyle (2002: 13) when she says:

> Higher levels of market domination mean fewer competing suppliers; fewer competing suppliers imply a more cost-effective use of resources; the availability of more resources for innovation implies an increased range of output; more diverse output implies greater pluralism.

Based on this point, how can regulators justify their insistence on standing in opposition to media concentration, if it is possible that this very concentration can enhance pluralism as explained by Doyle above? Thomas Gibbons notes that "Generally, the free speech principle supports a presumption that the democratic interests of both speakers and audiences are best served by not regulating the media, either through restraints over content or by special controls over economic arrangements" (2000: 305). It has been argued that in this way greater opportunities are provided for encouraging a free flow of information and opinion. However there are two major reasons that suggest that the opposite may be true. One reason is that:

> Freedom of speech itself entails that a basic amount of information should be available – for speakers to speak about. On this view, a right to be informed is considered necessary to enhance the worth of any speaker's statements and is regarded as justifying some restriction on media content if that makes room for a wider variety of fact and opinion (Gibbons, 2000: 305).

Secondly, pluralism may actually advance one of the objectives that the free speech principle aims to secure which is democratic discussion and participation in order to ensure that the audience can choose freely from a wide variety of sources.

The answer also lies in the fact that although it is theoretically possible for

oligopolistic and monopolistic companies to provide programming that is diverse, there are numerous examples where media moguls and in some cases the government have lost sight of society's interests and furthered more personal goals. So it cannot be taken for granted that media moguls, especially if they have no major competition, will take it upon themselves to innovate and increase the range of output for the benefit of society, when there are tried and tested methods of maximising profits, which do not always have society's best interests at heart. This point does, however suggest that when discussing pluralism, one should not simply rule monopolies out as totally destructive since the debate is more complex than that.

Gibbons makes a distinction between two different forms of pluralism; external and internal. External pluralism refers to diversity in media supply as suggested by the MM-CM. "This means that such material is supplied by a variety of programme or information producers, editors or owners" (Gibbons, 2000: 306). External pluralism can therefore be achieved through the creation of structural safeguards which prohibit for example one company from merging with another if it is considered to be already in control of a significant portion of the market. Internal pluralism on the other hand refers more directly to the plurality of content where the substance of each media outlet's material is required to reflect a range of opinions and subject matter. This distinction by Gibbons assists in the understanding of pluralism as, at the very least, a two dimensional concept rather than a single one. This therefore suggests that focussing on only trying to increase the number of suppliers within a specific market for example would not be sufficiently effective. One would have to address both dimensions and ensure that there are also rules in place that promote content diversity.

The concept of pluralism could be perceived simply as an ideal as it tries to ensure equality and fairness but with questionable feasibility. This is the case because although "the standard rationale is that the media are just giving people what they want, it is more the case that the media are giving advertisers what their corporate customers want" (O'Brien, 1998: 04). The media industry is like

any other when it comes to economics because the purpose of any company, including media firms, is to generate as much profit as possible. The idea of pluralism however doesn't exactly enhance this objective. Pluralism means there must be diversity in terms of content, but media firms tend to cater more for those that will result in a substantial income and neglects those that don't promise to be economically viable. Television broadcasting firms for example rely heavily on the income they receive from advertisers. Advertisers will only advertise on channels they know will be watched by the most number of people they are pitching their products to. So these are of course people who would be capable, first of all, of buying the products on offer and secondly these are people that fall into some significant population group. So ultimately one could say that it's the advertisers who determine what programmes should be broadcast, "Procter and Gamble, the world's number one advertiser explicitly prohibits programming which could in any way further the concept of business as cold, ruthless and lacking all sentiment or spiritual motivation" (Herman and McChesney, 1997: 7). So a programme wanting to expose, for example the exploitation of a group of people in the manufacture of a certain product, could end up not making its way to the television screen because Procter and Gamble and many other companies alike would not want to be associated with such a programme. This is but a basic example of some of the forces that are at work within the industry and it is clear how they can make pluralism difficult to achieve. The point being made here ultimately is that it can be extremely expensive yet not very profitable to cater for the interests of a minority group as articulately illustrated by Jean-Claude Burgelman (1997: 128):

> It is also much more difficult to realize a return on investment when a programme is made for an audience of 6 million people, in a language that few understand (and thus needs dubbing, extra promotion, etc, to be exported), than when the same is done for an audience of 50 million.

In a society where the media industry operates within a free market system; it seems that the only people who would get representation in the media are the

affluent and those who form a significant part of the population, although this may not necessarily always be the case.

It can be argued that pluralism with regards to media content or content diversity is threatened, broadly speaking, by the pursuit of increased profit margins explained through concepts of commodification and spatialization. There are however other constitutive elements that may have an impact on pluralism such as the size/wealth of the market, diversity of suppliers, consolidation of resources and diversity of output.

Doyle (2002: 15) mentions that in a free market economy "the level of resources available for the provision of media will be constrained principally by the size and wealth of that economy, and the propensity of its inhabitants to consume media". In essence, the size and wealth of the economy will determine the level of resources, so if the economy is relatively small, then the chances are that the level of resources will only allow for a limited level of pluralism in terms of media output. This also suggests that the number of media content providers will be limited because a small market simply cannot support many suppliers. It therefore follows logically then that the larger and wealthier the market, the greater the resources available for the provision of media, which means that such markets can afford to provide for diverse media output. Since a larger market can support many media suppliers, the size of their audiences will be large enough to stimulate audience segmentation practices, resulting in a situation whereby minorities are also catered for (Doyle, 2002).

The diversity of suppliers is a crucial component of pluralism. The basic notion is that if there are many independent suppliers of media products, then there will be a diverse range of content output. Of course this may not necessarily be the case; it is quite possible to find a situation whereby there are a number of different suppliers all producing more or less the same media products. Although this may be the case, there is a greater chance of witnessing greater pluralism in

the media if there are a number of independent suppliers rather than in a monopolistic situation. The lack of diversity of media suppliers can lead to a narrowing in the diversity of political opinions available as in the case of Silvio Brerlusconi, who used his three television stations, which reached 40 percent of the Italian audience, to promote his own political party in Italy during the 1994 March elections (Bagdidkian, 1992; Graham and Davies, 1997).

Another crucial factor that can exert some level of influence over pluralism, is the consolidation of resources. This basically refers to how the resources that are available for media provision are actually managed. The way in which the resources are managed depends, to some extent, on the decisions made at the political level in terms of how much should be kept for public use and how much can be sold off to private companies for example (Stephen and Law, 1988). In a free market system however, decisions on how resources will be managed are primarily the prerogative of the market players. In an enabling market, the tendency would be for companies to merge because "the more homogeneity possible between different services held in common ownership (or the more elements within a programme schedule which can be shared between 'different' stations), the greater the opportunity to reap economies" (Doyle, 2002: 23). The effect of the consolidation of resources depends on whether the purpose is to strengthen the market share of existing media products or whether it is used to support the production of new and innovative products. Of course if the purpose is to achieve the former, then pluralism is negatively affected, if however it is the latter, then pluralism is enhanced.

The diversity of output is a crucial aspect of political and cultural pluralism. It is therefore important that the content produced even though it is by different companies is not standardised, it must be diverse in nature. The existence of a number of different political voices in the media is important. The representation of the different cultures of a society must be evident in the programming, even if doing so may not initially be economically viable. This is where the problem

arises within a free market system, because the chances of providing for such programming are highly unlikely because few companies, if any would be willing to broadcast a programme that wasn't economically viable. With public service broadcasting, however, it is the responsibility of the broadcaster to ensure that all sectors of society are culturally represented and that all political voices are given a platform (Curran, 1979).

The preceding sections have briefly discussed mainly two types of theories and concepts; those that seek to explain certain phenomena that take place within in the media industry and those that can be applied in order to resolve any undesirable occurrences. The study will now take a historical look at the broadcasting industry mainly the British and South African as the objective is to ultimately draw parallels between the systems in both countries looking at both function and regulation.

Chapter three

Early Regulation of Broadcast Media

The example of the United Kingdom and the United States

Broadcast regulation has existed almost as long as the medium itself for numerous reasons. It has however been under a constant state of evolution since its conception. Over the years and with the changes of political ideologies that arise with each era, ideas on the regulation of broadcasting have been transformed to conform to the reigning ideologies of a society. This section of the dissertation will give a brief historical account of the advent of broadcasting and the attempts to regulate it.

Broadcasting began with the development of radio in the early 1920s. With this development came the automatic intervention by the government because it was seen as a potential threat to national security. It was feared that amateurs making

their own receivers could intercept certain messages being sent through the airwaves by military officers and thus jeopardise national security.

In Britain the government had a tight grip on new technologies in that the *Telegraphy Act* of 1869, for example gave the post office the exclusive right to transmit telegrams within the United Kingdom and the post office was a government department. A further Act of 1904 gave the Postmaster General control of wireless telegraphy, and when wireless telephony developed, he regarded that too as subject to his control.

When the first Great War ended in 1918 it became difficult for the British government to justify their stance against the transmission of a regular kind of service for the general public on military grounds. As a result in 1920, the Post Office permitted "the Marconi Company to make broadcasts from its transmitter at Writtle near Chelmsford, but was instructed to avoid encroaching on the secret point-to-point transmissions of the armed forces" (Crissell, 1997:13). This is exemplary of early forms of basic regulation, where the government simply assumed control and determined how the medium was to be used.

Due to complaints stemming from the view that "this use for entertainment of what was primarily a commercial and transport control medium was frivolous and dangerous" (Williams, 1974: 32), the Marconi Company was banned temporarily and it was not until in 1922 that they along with other companies began regular broadcasts. These companies were however not permitted licences on a permanent basis by the Post office as it did not want to deny other companies access to a limited number of frequencies in the future.

In the United States of America, the only two laws dealing with radio were the *Wireless Ship* Act of 1910 and the *Radio Act* of 1912. Both of these primarily regulated ship-to-shore and ship-to-ship maritime communications (Krasnow, Longley and Terry, 1982). With the emergence of broadcasting in the 1920's, the

then secretary of commerce, Herbert Hoover attempted to use the 1912 Act as a statutory basis for regulation of broadcaster's use of frequencies. In 1921 he designated 833 kilohertz as the frequency of broadcasting and in 1922 added 750 kilohertz as a second broadcast frequency. Soon realising that the previous laws were not enough to deal with the rapidly growing and increasingly complex industry, he called for a broadcaster conference in 1922 "to discuss ways of controlling the use of these radio frequencies" (Krasnow et al, 1982: 11). The main concern at the time was to formulate some form of regulatory policy that would assist in the orderly allocation of frequencies. Two months after the conference had been convened, it was decided that self-regulation would not be the ideal course to take and as a result recommendations were made, stating that legislation authorising government control over the allocation, assignment and use of broadcast frequencies be passed.

The first conference did not make much of a difference in terms of the operation of broadcasters and as a result, Hoover called for a second conference in 1923 to determine ways that would lead to the reduction of radio reception interference caused by the crowding of stations. Despite continued attempts by Hoover to remedy the situation, the problem of frequency crowding persisted. Eventually in 1926 a court ruling deprived him of any authority to regulate radio frequencies, power or hours of operation (Collins, 1990).

Due to the lack of an official regulator, by 1926 the chaotic conditions had become more pronounced and strong demands began coming from the public and the radio industry for congress to take action. Taking action proved rather difficult because "despite having held several hearings, the House and the Senate had been unable to agree on basic points about who would regulate radio" (Krasnow et al, 1982: 12). The House on the one hand was in favour of the secretary of commerce to retain the authority to issue out licences and on the other hand the senate thought it better to establish a permanent and more independent radio commission. Senator Clarence C. Dillot Washington,

Chairman of the Senate Interstate Commerce Committee, argued that the influence of radio on the social, political and economic life of the American people and the complex problems of its administration "demand that Congress establish an entirely independent body to take charge of the regulation of radio communications in all its forms" (Krasnow et al, 1982: 12). After much debate on which course to take regarding regulation, the Radio Act of 1927 came into existence and it reflected a compromise on both sides. There was a division of responsibilities between the secretary of commerce and the new Federal Radio Commission.

The way in which government, in particular the British, was anxious to gain control of radio broadcasting and have exclusive access to it is demonstrative of Harold Innis' notion of knowledge monopolies. The government saw it best to monopolise radio as they foresaw the potential it had in terms of effective transmission of information Classical political economy immediately raises concerns and explanations as to why such a situation (government control) would be undesirable.

The present section has given a brief account of the advent of broadcasting as it took place in Britain and the United States of America (USA) as these countries were among the first to experience the new technology. It has been clearly demonstrated that in both cases the government took a keen interest in the administration of radio broadcasting under the main justification of maintaining order in the airwaves through spectrum allocation. It is worth noting that the USA was not as successful as Britain in achieving this initially. The case of Britain will be discussed in greater detail in the sections to follow as I wish to draw a comparison between South Africa and Britain with regards to the approaches the two countries have taken in dealing with broadcasting. This is primarily due to the fact that the British broadcasting model has been considered by many as the embodiment of the public service approach (Kuhn, 1988) which has been adopted by a number of countries including South Africa.

As in the case of Britain, the government of South Africa also became involved with the regulation of radio almost from the very beginning and a history of South African broadcasting clearly demonstrates this which will be the topic of discussion for the section to follow. The section on South African broadcasting history is relevant in the sense that it gives the reader an idea of the unique socio-economic and political climate that existed at the time and will be crucial in explaining and contributing to the understanding of the changes that later took place especially when drawing a contrast between the South African Broadcasting landscape and that of the British.

South African Broadcasting History

Broadcasting in South Africa can be said to have begun in the early 1920s since it was at this time that enough amateurs engaged in broadcasting that the government, through the office of the Postmaster General, issued licensing regulations in 1923 (Orlick, 1970). The state took upon the responsibility of issuing licences and acting as some form of regulatory authority from the onset. "The state called for the application of licences for the purpose of carrying out official broadcasting by wireless in the Union of South Africa" (Hayman and Teer-Tomaselli, 1989: 25). A number of applications were received but only one licence was granted in each urban area and it was the local authorities that were considered appropriate for conducting broadcasting as opposed to private individuals. Ultimately three licences were issued by the state and they were to the Cape Peninsular Publicity Association, the Durban Corporation and in Johannesburg the Association of Scientific and Technical Societies (AS & TS). These three stations began broadcasting in 1924, licensed under Act No 10 of 1911.

Radio, then, in the 1920s and early 1930s was primarily an urban and English phenomenon, both linguistically and culturally. A number of legislative challenges

however arose because the act in place only took into account radio telephony. "This legislation was inadequate in enforcing the payment of listener's licence fees, because the legislation assumed that the owner of the receiver apparatus could be as easily identified and located as could the user of a two-way apparatus" (Hayman and Teer-Tomaselli, 1989:25). However successive modifications of this aspect of radio and broadcasting legislation have been made, until the radio licence was itself abolished in the 1980s when income from television licences and advertising on radio and television were deemed adequate (Rosenthal 1974). At the time, it seems, no successful solution to the licence problem was found as the three radio stations, instead of accumulating capital, were running at a loss. As a result the Johannesburg station discontinued broadcasting at the end of 1926.

Schlesinger, a successful entrepreneur in the fields of insurance, theatre and film was later approached by the then Postmaster-General, Madeley to assist in the maintenance of a broadcasting station in the Transvaal area (Rosenthal, 1979). Schlesinger agreed but had conditions of his own, he required that the licence period be ten years and not five years as it had previously been, he also requested that his new organisation, the African Broadcasting Corporation (ABC) be given the licences of the Cape Town and Durban stations when they expired. Among his other requests was that "legislation be modified so that production of a valid listener's licence should be compulsory on purchase of a radio receiver" (Hayman and Teer-Tomaselli, 1989: 25).In 1927 the licences of the other stations were ceded to the ABC but the licence period remained the same (five years). The consideration of the new legislation was to be made at an early date but was only introduced after the Second World War. Despite Schlesinger's business acumen, the ABC was by 1929 operating at a deficit and he approached the government for assistance. Schlesinger proposed measures such as the government subsidising the ABC from an import tax on receivers and also the government taking over the assets and allowing the company to go into liquidation (Rosenthal, 1979). Other suggestions were that the government could

collect the licence fees and pay the ABC its share and also establishing subsidised relay stations in Bloemfontein and Pretoria.

The ABC, however was unsuccessful in its bid to the government for assistance and as a result turned to commercial means. For example, the ABC reached an agreement with the retailers of domestic radio receivers which resulted in the introduction of the 'Blue Free Voucher Scheme' which increased sales of both receivers and listener's licences, as well as offering an opportunity for income to the listeners (Hayman and Teer-Tomaselli 1989). The Blue Free Voucher Scheme proved to be very successful and "once it was fully operational, listenership and thus sales of licences increased rapidly. As a result the ABC was able to meet not only its running expenses, but also carry out improvements of a capital nature, particularly transmitters" (Horwitz, 2001:56). The commercial orientation of the ABC was however offensive to important sections of both the Afrikaans and the English community. This was mainly due to the fact that Schlesinger's commercial techniques required him to maximize his audience by focussing on the most popular programmes, which meant that the ABC had very little programming for the Afrikaans community. Commercialism bothered the English speakers, because it went against British hierarchical and elite notions of culture.

As a result of the dissatisfaction of both sides of the white community and the constant financial difficulties of the ABC among other reasons, there was a move to place broadcasting under the state (Rosenthal 1974). John Reith, director-general of the British Broadcasting Corporation (BBC), after an invitation from then South African Prime Minister Hertzog in 1934 to recommend a new structure for broadcasting, suggested that the service be taken over by a public corporation funded by the national treasury (Union of South Africa, 1934) (Horwitz, 2001:57). The proposal was supported by both the English and the Afrikaans communities as this would follow more along the lines of the BBC model and also allow for more Afrikaans programming. The newly formed SABC

then proceeded to buy out the operations of the ABC for 150 000 pounds and began broadcasting in August 1936. Under the Broadcasting Act of 1936, the governor general was given the authority to appoint members of the SABC Board of Control which comprised of nine members, roughly half English and half Afrikaans speakers. It is significant to note that at the time no other licence would be issued to another potential station without the consent of the SABC, this means that the SABC played both the role of broadcaster and regulator.

The attempts to apply the BBC model to South African broadcasting proved problematic because of the hostility between the Afrikaans and the English, even though attempts were made to equalise programming on the single medium wave channel. It was however not easy to accomplish this and as a result the bulk of programming reflected the urban, English, elite norm (Rosenthal 1974). The unhappiness on the Afrikaner side was also due to the BBC broadcasts which were seen as propaganda. The airing of BBC news on South African radio finally ceased in 1950 and the SABC established its own news section. The board attempted to deal with the problem of low Afrikaans language programming in a number of ways but proved to be rather unsuccessful.

The board eventually decided the best way to deal with the problem would be to establish a commercial channel. The government then appointed a commission to investigate the matter. After its investigation, the commission approved the decision but advised that it be provided by an independent organization, outside the SABC, since it was a public utility. The government accepted the approval given by the commission but ignored their advice when it came to who should run the commercial venture and awarded the right to introduce a commercial station to the SABC. **Springbok radio** was launched in 1950 and was funded through advertising. Due to the fact that the advertisers were mainly English the station "still retained an overall English character" (Horwitz, 2001: 59).

The black African community was also catered for with regards to radio services.

During the Second World War the SABC, in joint partnership with the Department of Native Affairs had established a single channel service, utilising wire and loudspeakers, which transmitted to compounds, hostels and residences in some black townships. In 1945 however the service was shutdown when the department of Native Affairs withdrew its support.

The purpose of this cable service, however was not purely entertainment and education, it was also about social control, the cable service was designed with the intention of orienting the emergent urban black labour force to the prevailing ideology at the time (Horwitz, 2001). The service was revived in 1952 and according to the 1952 SABC annual report, was to provide entertainment and also contribute towards the prevention of crime and also contribute towards the education of the Bantu (SABC Annual Report, 1952:36)

The SABC has been perceived as a *tool* for the nationalist government by a number of activist groups (see media policy debate) although others argue this isn't completely true there are elements of truth to this statement. Since the SABC was, from its inception, a state corporation, when the nationalist government came into power in 1948 they had the power to make some changes and they were more often than not measured on how a particular policy would affect the Afrikaner people rather than on the grounds of economic or administrative rationality. "This culture created a hierarchy of people in the parastatal managements, many of whom were there for reasons of ethnic loyalty and personal security, primarily to serve the public or even carry out the job" (Horwitz, 2001: 61). The intentions of the nationalist government were made clear from the beginning because as soon as they came into power; members of the broederbond were moved into the SABC board and other key management positions (Berger, 2001)

According to Graham Hayman and Ruth Teer-Tomaselli (1989) the long-standing SABC practice of airing informative talks by impartial experts was gradually displaced after 1948 by programmes oriented toward Afrikaner nationalism, particularly programs promoting and defending the government's apartheid policy. Inquisitive and independent individuals were not welcome in the top ranks of the SABC. A liberal Cape Afrikaner named Gideon Roos, who believed in the Reithian credo of impartiality, clashed constantly with the Broederbond-dominated board as it endeavoured to transform broadcast programming. As a result the SABC even suffered financially due to the government's reluctance to assist. When Roos was ousted, however, in 1960, by Piet Meyer, who facilitated a good relationship with the Nationalist government, the financial fortunes of the SABC improved. Government decided to pay for the installation of a VHF/FM system, permitting the creation of flexible network of six high fidelity channels. Government also granted a long-term loan to SABC and authorized the collection of licence fees on second and third radio receivers" (Hayman and Teer-Tomaselli 1989).

In keeping with the consolidation of apartheid, the 1960 broadcasting amendment created an "equai but separate" structure for the administration of black programmes. Government began paying a subsidy for the production of programs for **Radio Bantu**. The three original white channels became national in 1959. Three more regional channels carrying advertising were introduced; **Radio Highveld** in 1964, **Radio Good Hope** in 1965 and **Radio Port Natal** in 1967.

The present section has been a relatively detailed account of the history of South African broadcasting and has hopefully presented the reader with a clearer picture of the dynamics at the time. As has been demonstrated, over and above the inevitable challenges that a country and a government would have to face with the introduction of a new technology South Africa had to also deal with the underlying power struggles that were taking place based on racial grounds. As a result the development and service of broadcasting did not take place equally in

the sense of catering for all the different sectors of South African society which were so clearly segregated. Due to this phenomenon, when the political climate began to change in South Africa one of the primary topics to be raised for discussion was the issue of media policy in South Africa as will be discussed in the section to follow.

The Transformation Process

The South African media landscape has been marked by significant changes over the past few years mainly due to the political transformation process that has been taking place in the country. The 1994 elections were a significant turning point for all South Africans on many different levels and broadcast media was certainly one of these. Leading up to the 1994 elections were a number of conferences and negotiation meetings between members of the National Party government, civil society groups, the previously exiled African National Congress (ANC) and other groups and organizations with vested interests in the future of South African media. According to Eric Louw (1993: 11) "[T]he civil war and the military conflicts of the 1980s were transformed into a struggle for power via negotiations and political manoeuvring in the 1990s".

The Viljoen Task Group

The debate about media policy and the role to be played by the media in the process of democratic transformation can be said to have begun with the appointment of the Viljoen Task group on 23 March 1990, a month after the unbanning of the ANC. The Task group was appointed by the South African Cabinet to advise it on a broadcasting policy. The appointment of this Task Group, however, was met with criticism from both liberal and leftist commentators; with claims that the Group's membership was unrepresentative of all South Africans and that its deliberations were being held behind 'closed doors'. The Film and Allied Worker's Organisation (FAWO) activists saw a need to protest against this process, as they believed the media policy issue belonged

in the public realm. As a result they engaged in discussions with members of the Campaign for Open Media (COM), who then organised a march on the SABC's Aukland Park headquarters in August 1990 (Louw, 1993).

Despite protests, the Viljoen Task group continued behind closed doors except for one session, which was held as an open meeting on 28 November 1990. In response to the claims of the Task Group being unrepresentative, Christo Viljoen mentioned that "[T]here are so many groups, organizations, companies, institutions and individuals who could claim to have a stake or interest in the broadcasting industry that it would have required an enormous Task Group to satisfy their demands" (Louw, 1993: 29). The Task Group did however call on the public to make written or oral submissions on any aspect of broadcasting and these were received.

The Task Group moved forward by identifying three problems prevalent in the then system of broadcasting regulation. These were; an outdated legislation, lack of a comprehensive, long-term policy on broadcasting and fragmented control over aspects of broadcasting. It was noted that the broadcasting sector had been overseen by a number of different Cabinet ministers and this had resulted in a lack of continuity and therefore direction. The Task Group felt that it was important for a group of professionals and experts in the field to be responsible for the regulation of broadcasting as in other countries. It was therefore proposed that there be an Independent Broadcasting Authority. Along with the proposition of an IBA, came the conditions that the commissioners be vetoed

> by a Parliamentary committee (implying multi-party involvement); a 'sunshine clause' specifying that all deliberations of the IBA except confidential financial details, are a matter of public record; the IBA's accountability to Parliament; and a Broadcasting Court to review and redress, if necessary, findings and rulings of the IBA (Viljoen and Cronjé, 1993: 34-35).

The Task Group completed its investigation and submitted a report, which then became accessible to the public. There was even a debate on Radio 702 between Michael Markovitz of FAWO and Professor Christo Viljoen on 18 September 1991. In this debate Markovitz criticised the Task Group for being vague and not acknowledging the complex nature of the transformation process. This was evidenced by the absence of recommendations regarding interim arrangements for the control and regulation of broadcasting (Currie, 1993). FAWO also felt that the Task Group was partial towards the government by not mentioning the misuse of the SABC for political purposes. The fact that the Vice Chairman of the Task Group was also the Chairman of M-Net, became another point of criticism as this was seen as the reason why the report contained no remarks concerning "**M-Net**'s blatant refusal to comply with local content percentages negotiated in 1986, i.e. to have a domestic content of thirty percent after five hundred subscribers had been reached" (Currie, 1993: 54).

On the positive side, FAWO did acknowledge that the Task Group had made some good recommendations particularly those regarding the reduction of the dependency of the public broadcaster on advertising revenue and the suggestion to remove signal distribution from the control of the SABC.

Jabulani! Freedom of the Airwaves Conference

The Jabulani! Freedom of the Airwaves conference held in Doorn, Holland in 1991, is another initiative of the many that made up the contributing forces towards the transformation of broadcasting in South Africa. The conference was organised in order to discuss ways of moving forward into a democratic dispensation where the media would no longer be under the direct influence of the government. Concerns regarding the states plan to restructure broadcasting were also raised. It was argued that the government shouldn't be able to privatise the SABC during negotiations. It was suspected that the state wanted to remove broadcasting from the political sphere so that when a new government came into power they would not have the SABC at their disposal as the National Party

government had. Willie Currie articulates this viewpoint by stating that "the strategies of the state and big business aim at restructuring broadcasting before a new government comes to power or a new constitution comes to force." (Willie Currie in *Jabulani! Freedom of the Airwaves*, 1991: 9). The government at the time and big business leaders were arguing for a policy that favoured market regulation. The problem with this principle is that it tends to exclude the poor, who were and still are mainly the black people of South Africa. It was time to introduce change into the broadcasting sector but market regulation was not the answer.

To suggest ways of bringing about change, the conference also dealt with issues surrounding the *Radio Act* of 1952 and *Broadcasting Act 73* of 1976. The major problem noted with the *Radio Act* was that the Minister of Home Affairs and the SABC had the power to veto the granting of a broadcasting licence. It is undemocratic and inappropriate for a broadcaster to take up the roles of player and referee. As a result of the government/SABC veto, the SABC was entrenched as a monopoly in the free-to-air category and with only M-Net functioning as a pay-per-view broadcaster. The SABC was established through *Broadcasting Act 73* of 1976 and it also defined its powers and activities. The problem was that it allowed for the State President in consultation with the Minister of Home Affairs to select the SABC board, which was constituted by some powerful members of the Broederbond. Michael Markovitz, one of the delegates at the conference, stated that, "The broadcasting Act, read in conjunction with the Radio Act, has ensured that the control of public broadcasting remains firmly in the hands of the Broederbond/National Party axis." (*Jabulani! Freedom of the Airwaves*, 1991: 38).

The conference covered a number of issues regarding broadcasting and ultimately came up with a few recommendations as to how to move forward. One of the recommendations was to divide the broadcasting sector into three sections, public Service, commercial and community broadcasting. The

conference was of the view that public broadcasting should remain accountable to the people who constitute its viewer/listenership and not to its source of funding. It was also established that since South Africa has a diverse population and also has to deal with deficiencies created by the apartheid system, "the public broadcaster must be held responsible not only for popular entertainment and unbiased information, but also for educational programming" (*Jabulani! Freedom of the Airwaves*, 1991: 67). With regards to the funding of the public broadcaster, it was recommended that an investigation be carried out in order to determine the viability of cutting on advertising and perhaps subsidising the broadcaster through either licence fees or levies on services. It was noted that commercial broadcasters had just as much of a responsibility as the public broadcaster and should therefore have guidelines with regards to procedures concerning advertising. As far as community broadcasting is concerned, it was perceived that this sector should be participatory and should be owned and controlled by the community itself.

There were a number of other initiatives such as a media policy workshop, which took place at Rhodes University in 1990 and a conference, entitled "Free, Fair and Open Media", hosted by the Campaign for Open Media (COM) held in 1992. "These initiatives culminated in the democratic and transparent appointment in May 1993 of a new governing board for the SABC, and the setting up of a regulatory body – the Independent Broadcasting Authority (IBA), the following year" (Tomaselli and Dunn, 2001: 125). The appointment of the SABC board however was not a smooth process. Firstly the appointment of the selection panel was marred by controversy and secondly when the selection panel had appointed 25 people as board members, the "State President intervened, and persuaded the panel to change seven of its names as well as the Chairperson" (Louw, 1993: 65). Based on the controversial discussions that took place during the transformation process it goes without saying that broadcasting was and in fact still is a highly contested domain. In the case of South Africa it has had a detrimental effect.

It should be acknowledged that South Africa has had a relatively unique historical experience which will be carried through the generations for many years to come and this will take place on many different levels - socially, economically and politically. The historical landscape of the broadcasting industry in the country is a minute glimpse into the effects of apartheid, the struggle for freedom and ultimately the attainment of what many refer to as democracy. This reality filtered through into every aspect of society. With regards to broadcasting, the policies put in place by government were to a large extent oppressive which was consistently characteristic of the government at the time across the board. Hayman and Tomaselli attribute this to:

> ...a great linguistic, ethnic, racial and cultural diversity among the population, and history of segregationist policies based on and exaggerating these diversities. Partly as a result of this, class conflict over the distribution of wealth has been more extreme than in the USA and the UK, requiring a great degree of *repressive* activity by the dominant group in order to retain its power (1989:23).

I believe this goes to explain the complexity of the history of South African broadcasting because over and above the challenges of regulating the use of a new technology as faced by other countries such as Britain, there was also this other issue of perhaps intentionally using it to retain power or at the very least making sure that it does not fall into the hands of others who may use it against the government.

The next section takes a closer look at how the advent of broadcasting was dealt with in Britain particularly with regards to legislation and policy.

Chapter four

The British Broadcasting Corporation

Broadcasting regulation has become increasingly complicated over the years due to the many factors that need to be taken into consideration. With democracy as the current dominant political ideology in most countries, it is necessary for all policies to include and apply to all sectors of society. Which means that even with broadcasting, all members of the public should be catered for. The difficulty however, as already pointed out in section 3, is that the media industry is like any other business, the ultimate goal is to maximise profits. As a result of this some sectors of society may find themselves neglected. To avoid this occurrence, regulators need to step in and implement policies that will safeguard these democratic principles because a "free and diverse media are an indispensable part of the democratic process" (sic) (Doyle, 1996: 85). Public broadcasters should be a part of the solution to such problems. Their principle motive should not be profit maximisation but serving the public in all its diversity. This is of course complicated by the fact that public service broadcasters do not operate in a vacuum, they are also subject to economic pressures. Such considerations need to be taken into account when formulating media policies.

This section will briefly discuss some of the media policies that have been implemented in the United Kingdom (UK) as this is a country with a somewhat similar broadcasting model to that of South Africa, for comparative purposes. There will then be a discussion of some South African media policies and implementation as well as the interactions between the regulator and the broadcasters, in particular the public broadcaster. The British Broadcasting Corporation (BBC) is the national and public service broadcaster of the UK and is publicly funded mainly through the collection of licence fees. It was established as the British Broadcasting Corporation in 1927. Before that it was called the British Broadcasting Company and was created and owned by six radio manufacturers and was in essence run as a commercial venture. The company

was seen as "a monopoly to enrich the six large firms" (Hood and O'Leary,1990: 06) by smaller companies and the government, in an effort to resolve the matter set up a committee in 1923 that "would look into broadcasting and prescribe how it should be managed" (Hood and O'Leary, 1990: 06). According to McDonnell (1991), the British Broadcasting Company was having problems with the fact that people were avoiding the payment of licence fees which were payable upon the purchase of BBC wireless sets by acquiring experimenter's or home constructor's licences. The BBC saw as a solution, an increase in the other licence fees and the application of stricter measures for those who don't pay at all by the Post Office. It was however reluctant to do this, but nevertheless, the Post Master General set up a committee in 1923 to review the whole question of broadcasting. The committee decided that for the time being the BBC should remain a private company. It did however acknowledge that the wave spectrum was a valuable entity and should be public property managed by the state through the Postmaster-General. It also suggested that a standing committee, possibly called the Broadcasting Board should be set up by statute to assist in the technical and general operation of broadcasting.

The committee came to the conclusion that the airwave spectrum of the country should be considered as public property and therefore thought it necessary for the control of such a powerful instrument to remain in the hands of the state.

As a result of the committee's findings and conclusions it was decided that the company be handed over to another body, which then became the British Broadcasting Corporation. This body was to act as a Trustee for the national interest and was also to carry out duties that corresponded with those of a public service, (Hood and O'Leary, 1990). With Lord John Reith's conception of the BBC as a public broadcaster, the organisation had a duty to provide a signal that every citizen with the proper equipment could pick up. In order to prevent the likelihood of direct government control over the public entity, it was decided that a board of governors be elected. He also believed that the public broadcaster

could not be morally and socially neutral, "what it expresses is the consensual view of society – that body of opinion which is generally accepted by all 'sensible' people and which requires no further definition" (Hood and O'Leary, 1990: 10). This statement could be interpreted as too utilitarian, meaning that the public broadcaster is to cater and express the views of the majority while sidelining any alternative views which may contradict the more popular opinions.

Despite the Director General's (Lord John Reith) seemingly good intentions, the BBC was often accused of being subservient to the government. It has been cited that in an effort to avoid offending the great dictators of the Thirties, the BBC did not discuss crucial issues such as the rise of fascism and the plight of those suffering from the depression. Such instances have led some to the view that the BBC "did not discharge what many would now see as its public duty: to provide a forum in which the great political and social issues of the day were debated" (Hood and O'Leary, 1990: 11). Ralph Negrine shows that the description of the BBC as being neutral was a misleading one because "The BBC has never been ideologically neutral. Moreover, in the past it has been the subject of fierce political controversy, most notably over its role in the 1926 General Strike and the 1956 Suez crisis" (1989)

What makes such instances even more problematic from a democratic point of view is that the BBC had monopoly status due to the fact that it had entered an agreement with the Post Office which disallowed the establishment of any commercial stations in Britain. As far as broadcasting was concerned, the public only had one voice, one viewpoint. This meant they only heard on their radio sets what the BBC wanted them to hear and nothing else, "[T]he BBC was dedicated to the promulgation of mainstream views. Any views that lay outside the mainstream found difficulty in finding a voice over the air" (Hood and O'Leary, 1990: 12). This was made even more serious by the fact that the press was also subject to government pressures with a few exceptions, (Hood and O'Leary, 1990).

The BBC's Monopoly status was soon challenged when entrepreneurs saw a gap that they could fill. This gap was created by Reith's decision to only begin broadcasts on a Sunday at 12:30pm and even then these programmes were to be of an entirely religious nature. Due to the fact that commercial broadcasters were not allowed to broadcast in Britain, an entrepreneur by the name of Leonard Plugge began beaming programmes into Britain from stations located in Southern Ireland or the European mainland (Crissell, 1997). Although Plugge had started out by buying airtime on certain foreign stations within reach of Britain and then selling that airtime as advertising space to British companies, in 1931 he founded **Radio Normandie** which broadcast from the Northern coast of France, providing a very clear signal. **Radio Normandie** proved to be popular with the audiences and began doing very well in terms of revenues from advertising. Another station, Luxembourg, began broadcasting in 1933 although this meant ignoring the International Broadcasting Union (IBU) which was a body put in place to allocate wavelengths. Like Normandie, Luxembourg aired populist content. The BBC, being unhappy about this put forward strong requests to the IBU, to get both Normandie and Luxembourg off air but without success.

The monopoly status of the BBC was becoming increasingly problematic for a number of people, even a former Director General of the BBC, Sir Frederick Ogilvie (1 October 1938 – January 1942) who expressed his concerns in a letter to the Editor of a newspaper (*The Times*) in 1946. His letter was particularly in response to the decision made by the Labour government to renew the BBC charter without a public inquiry into the BBC as had been demanded by various people. Ogilvie was surprised by the fact that the government was willing to settle the future of public service broadcasting without the public's input. He also went on to express his views on the monopoly, stating that "Freedom is choice. And monopoly of broadcasting is inevitably the negation of freedom, no matter how efficiently it is run, or how wise and kindly the boards of committees in charge of

it" (*The Times*, 26 June 1946 quoted in McDonnell, 1991: 20). Despite protests from various people, including Ogilvie, the Labour government released a White Paper in July of 1946 rejecting the calls for a public inquiry and reaffirmed its position and belief that only a monopoly public broadcasting service could guarantee that all sections of the public in all areas of the country would be offered a 'balanced' range of programmes.

It was only in 1949 that the Labour government finally launched an inquiry into the future of broadcasting. The Committee to conduct the inquiry was led by Lord Beveridge. During this time the BBC prepared its evidence for the Beveridge Committee. The BBC's position was in line with the beliefs of Lord John Reith as they argued that monopoly status enabled the BBC to carry out its duties unhindered and therefore allowed for a high maintenance of standards. The BBC argued in this document that competition would lead to a lowering of the standards as they would be more inclined to please the viewers in order to keep them watching with populist programming.

The Beveridge Report was released in 1951 and it recommended that the BBC remain a monopoly. It did however emphasise that safeguards be taken in order to avoid any possible abuses. The Committee also stressed that ultimately, "the highest social purpose of broadcasting was education" (McDonnell, 1991: 28). "The duty of the broadcasting authority is not to please the greatest possible number of listeners but to keep open the channel for communication of ideas of all kinds, popular and unpopular" (McDonnell, 1991: 29). There was however, a member of the Committee by the name of Selwyn Lloyd, who opposed the idea of a BBC monopoly. He believed that a commercial radio and television system set up to compete with and complement the BBC would be more beneficial for the general public, particularly in terms of choice and the expression of alternative views. Although Lloyd never advocated for an American system of broadcasting, he made it clear that he wanted a system that fell somewhere between the American and British one. Despite Lloyd's attempts to counter the

Committee's report, the labour government issued its White Paper seven months later and as had been expected, it followed Beveridge's recommendations.

The Labour government fell from office before it could affect its last White Paper. The Conservative party, which took over from the Labour government, drafted its own White Paper in 1952 which was not very different from that of the Labour government. The White Paper supported the continuation of the BBC monopoly but mentioned that some additional safeguards be put into place in order to avoid the likelihood of the Corporation being used to achieve political ends. The White Paper did however mention that "[T]he present government have come to the conclusion that, in the expanding field of television, provision should be made to permit some element of competition when the calls on capital resources, at present needed for the purposes of greater national importance makes this feasible..." (McDonnell, 1991: 31).

The more significant change took place with the release of the Conservative government's 1953 White Paper. The Paper called for the setting up of a regulatory body to oversee commercial television. The body itself, would of course function as a public enterprise. The following year in 1954, commercial television was established through the passing of the *Television Act*. The Act set out the duties and responsibilities of the new regulatory body which was named the Independent Television Authority. The government also stipulated that there would be no sponsoring of programmes, which is where advertisers would buy time on television transmitters and provide and control their own programmes. This was a step taken by the government in order to avoid the over-commercialisation of television. It was relatively clear from the onset that the government was very weary of the introduction of commercial broadcasting. This was demonstrated by the conditions which had to be met by the Authority, which were not equally applied to the BBC.

> The Authority was also instructed to reach an agreement with the Postmaster-General, the minister who was then responsible for broadcasting, to decide how frequently the commercial breaks could come. In the event, the interval

between the breaks was set at approximately twenty minutes. What is interesting about the ground-rules laid down by the Act is that there are no such detailed prescriptions in the Charter of the BBC (Hood and O'Leary, 1990: 23).

Television proved to be very popular in the 1950s and there was a tussle between the BBC and the Independent Television (ITV) companies for the rights to a third television channel. This is the main reason why the Pilkington Committee was set up in 1960. The BBC and the ITV companies had to put forward their cases in an effort to convince the Committee as to why they should be granted the third television licence. After both sides had presented their cases and much deliberation, the Committee released a report in 1962. The report condemned commercial television stating that the system had a fundamental weakness, which was its obligation to serving two contradictory purposes. The Committee claimed that commercial television, on the one hand, was meant to use its power to influence values and moral standards, which therefore meant that they should provide a wide range of content material. On the other hand they were expected to provide a service to advertisers (Hood and O'Leary, 1990). The Committee felt that these two did not coincide and as a result, in terms of television, the purposes of broadcasting were to a certain extent not being realised. The Committee commended the BBC and awarded them the third television licence.

As a result of the Pilkington Committee report a new *Television Act* was put in place in order to bring commercial television fully into the public service framework (McDonnell, 1991). The 1963 *Television Act* stipulated that independent television should from then on function as a public service.

Studying the various topics of debate that took place regarding broadcasting policy, it becomes clear that in Britain, the concerns surrounding broadcasting were mainly centred around issues of spectrum allocation, government control, ideological neutrality or rather the lack thereof, commercialisation of the airwaves

and of course Rethian principles. These were all issues to be dealt with in South Africa as well to some greater or lesser extent, however, there was an extra dimension to be considered when dealing with South African broadcasting which related to the concerted effort to exclude specific sectors of society (further entrenched through segregationist policies) and if they were to be included it was primarily for the purposes of further social control through the orientation of the dominated group to the prevailing ideology (Fourie, 2001).

Having just discussed the historical aspect of British broadcasting and comparing it to the South African case in this section, it seems appropriate to continue and discuss the more contemporary broadcasting landscape of Britain and thereafter draw comparisons.

The Office of Communications

It is clear that in the past the British Government had a major influence over broadcasting (especially public service) since this area was usually left to the responsibility of government officials in particular the Post Master General. Over the years much has been done in an effort to limit the amount of not only political, but also economic influence. The most significant improvement has been the introduction of independent regulators. The current official regulator of the communication industries, with responsibilities across television, radio, telecommunications and wireless communications services in the United Kingdom is known as Ofcom; short for Office of Communications. Ofcom was initially established in the Office of *Communications Act of 2002*, but received its full authority from the *Communications Act of 2003*. Before the establishment of Ofcom however, each sector of the electronic media industry was assigned a specific regulator separate from the rest. In broadcasting there were three main regulators, namely the Broadcasting Standards Commission, the Independent Television Commission and the Radio Authority. In essence all three of these were governed by the *Broadcasting Act of 1996*.

The Broadcasting Standards Commission was the statutory body for both standards and fairness in Broadcasting. It covered all radio and television, both terrestrial and satellite. It had three main tasks as established by the *Broadcasting Act of 1996* and they were to produce codes of conduct relating to standards and fairness, secondly to consider and adjudicate on complaints and thirdly to monitor, research and report on standards and fairness in broadcasting.[4] The Commission was funded by the Department of Culture, Media and Sports.   The independent Television Commission was responsible for the licensing and regulation of all television services broadcasting in or from the UK except for BBC license fee funded services and S4C. It was responsible for setting and monitoring standards for programme content, advertising, sponsorship and technical quality including the administration of a range of penalties if standards were not met.[5]

The Radio Authority was responsible for the licensing and regulation of all commercial radio service providers in the UK and this had to be done in accordance with the *Broadcasting Act* of 1996. The Authorities three main tasks were to plan frequencies, to appoint licencees with a view to providing viewers with a wider range of choice and to regulate programming and advertising. The Radio Authorities only source of income came from an annual licence fee paid by the licencees of the Authority.

 At this point it seems necessary to briefly discuss the 1996 *Broadcasting Act* which guided these three regulators before returning to Ofcom and discussing the current policies.

The B*roadcasting Act* of 1996 was meant to promote diversity and choice for consumers and to set a framework that would allow for an environment

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[4] http://www.bsc.org.uk/index1024.htm
[5] http://www.4rfv.co.uk/brieflisting.asp?scategory=47&company=13450&start=0

conducive to industry growth and development in all facets. The government saw it as important for the broadcasters to be liberated so that they could take full advantage of the technological advancements and market opportunities that were taking place and still are (Doyle 2002). According to the Green Paper on Media Ownership of 1995, which addressed some of the concerns and objectives of the 1996 Broadcasting Act, the Government decided that there was a continuing case for specific regulations governing media ownership but there was also a need to liberalize the existing ownership regulations both within and across different media sectors (Doyle 2002). The two key priorities of the Act were the promotion of pluralism which is of a socio-political nature and that which is of an economic nature; the promotion of the economic development of industry which would mean the preservation of competition, promotion of efficiency and the encouragement of the international competitiveness of UK media firms.

Despite the fact that the issue of safeguarding pluralism was presented as essential, what was suggested in the Act was offering less than before in the way of protection of pluralism, "In effect, the new media ownership provisions allow for radio, television and newspapers in the UK to be supplied by fewer media owners than had previously..." (Doyle, 2002: 106). The reason for this is that the general trend in Europe was to increasingly deregulate in order to accommodate the technological changes that were taking place. Furthermore there was a strong case presented by stakeholders in the industry for deregulation whereas there were few persuasive proponents working to counter the arguments coming from industry;

> The absence of an influential supporting constituency for pluralism meant that it – the so-called main objective for the new media ownership rules – became consigned to ministerial rhetoric rather than any meaningful priority for those drafting legislative changes (Doyle, 2002: 107).

A member of the Department of National Heritage (DNH) (an organisation previously responsible for the formulation of certain broadcasting policies) stated that during this time the DNH needed to work out how much needed to be done in order to buy off most of the media and, in particular, the newspaper sector of the media, to the extent that they would back up their proposals. This indicates that careful steps were taken so as to appease the media industry stakeholders and gain their support. It has also been mentioned that negotiations took place between the government and the media which paved the way for media owners to get exactly what they had hoped for – fewer restrictions (Doyle, 2002). It is clear that the formulation process of the policies contained in the Act was not free of undue influence from stakeholders in the industry and from the government and this is reflected in the way that the Act adheres to market forces. Nevertheless new legislation has since been passed although certain aspects of the 1996 Broadcasting Act are still in effect.

In December of 2000 the Government released a White Paper stating that in light of the new converging market conditions it was necessary to reform the rules which protect media plurality. The White Paper emphasized the importance of access to a diverse range of services. The White Paper, however, proposed for a further relaxation of ownership rules. It had been hoped that the ushering in of a new government after the victory of the Labour Party in the 1997 elections would result in some changes but it still seemed that pluralism was "consigned to the back burner while the real priority driving media owneship policy changes [is] a desire to facilitate the ambitions and concerns of major UK commercial media players" (Doyle, 2002: 123). The need to compete on a global scale against companies from the US, for example, put pressure on media policy-makers to relax ownership rules.

The main point made by the White Paper was the idea of rationalizing and co-ordinating regulation in the UK right across the converging telecommunications

and broadcasting sectors. The key proposal was the creation of a single regulatory entity called Ofcom.

In December 2003 Ofcom inherited the duties that had previously been the responsibility of five regulatory bodies; namely the Broadcasting Standards Commission (BSC), the Independent Television Commission (ITC), the Office of telecommunuications (Oftel), the Radio Authority (RA) and the Radio Communications Agency (RCA).

Ofcom comprises of a board which provides strategic direction for Ofcom, with a Non-Executive Chairman, five Non-Executive Directors and three Executive Directors including the Chief Executive Officer. The executive is a team of senior managers who are responsible for the day to day running of Ofcom. In addition to this it also comprises of board committees and advisory committees. The Non-Executive Chairman and Directors are appointed by the Secreatary of State for Culture, Media and Sports. This can be problematic when dealing with the issue of government influence over broadcasting because if the board (influencial decision-makers) are appointed by a government official, one can argue then that the regulator is simply an extension of the Governemnt. Under normal circumstances, where government might not have a vested interest, this would not be a problem. In the case of broadcasting however any government is well aware of its influential power and so for government to have some way of influencing the decisions made by the regulators of this industry can be cause for concern.

Ofcom derives its main duties and responsibilities from the *Communications Act of 2003*. According to the Act, Ofcom's principal duty is to "further the interests of citizens in relation to communication matters and to further the interests of consumers in relevant markets, where appropriate by promoting competition"[6].

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[6] http://www.ofcom.org.uk/about/sdrp/

More specifically Ofcom's duties fall within six areas;

1. Ensuring the optimal use of the electro-magnetic spectrum;

2. Ensuring that a wide range of electronic communications services - including high speed data services - is available throughout the UK;

3. Ensuring a wide range of TV and radio services of high quality and wide appeal;

4. Maintaining plurality in the provision of broadcasting;

5. Applying adequate protection for audiences against offensive or harmful material; and

6. Applying adequate protection for audiences against unfairness or the infringement of privacy.

Clearly the designated duties of Ofcom take into account the concerns and issues already discussed in the previous sections such as pluralism and diversity. One wonders how much of a priority these issues are especially when pitted against market interests.

The regulator is accountable to the British Parliament through the submission of an annual report. In addition to this, Ofcom is accountable to the Public Accounts Committee for propriety and value for money and also according to the *Communications Bill*, Ofcom may be inspected by the National Audit Office.

The *Communications Act of 2003* grants the regulator extensive powers in connection with the management of the electromagnetic spectrum. It adopts a market-based approach to spectrum management where Ofcom may permit

companies to sell their rights to use the spectrum (spectrum trading) subject to restrictions aimed towards the protection of the public interest. The reason provided by the Government for this is that it allows for more efficient means of reallocating the spectrum than administrative planning. This can be interpreted as a move towards the direct commodification of the electromagnetic spectrum which should in principle be a public entity. It has been stated that the incoming service provider would have to comply with certain restrictions but this slightly shifts the responsibility of spectrum allocation from the regulator to service providers. Spectrum trading can have undesirable consequences because one might find a situation where the spectrum is auctioned and sold to the highest bidder, giving those with limited financial resources little chance of entering the market. This creation of financial barriers can further exacerbate the problem of attaining and maintaining pluralism.

With regards to content the Act introduced a new and more liberal three-tiered system of regulation. The first tier applies to all broadcasters and concerns itself with ensuring that the basic level of obligations are met, for example that the programming output of all UK television and radio broadcasters complies with basic domestic, European and international standards. This includes matters such as general taste and decency, accuracy and impartiality, the protection of minors, advertising and sponsorship. The second tier which applies only to public service broadcasters and public/commercial broadcasters concerns itself with obligations which can be quantified or measured. Ofcom is thus responsible for ensuring that service providers comply with conditions such as quotas regarding content. If these quotas aren't met, the regulator has a number of options with regards to sanctions that can be imposed. The third tier of content regulation concerns itself with the provision of what may be referred to as high quality programming by the commercial PSBs – ITV licencees (ITV 1,2,3 and 4), Channel 4 and Channel 5.[7] This category includes a number of quality and diversity obligations such as the provision of educational and religious programs.

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[7] http://con.sagepub.com/cgi/reprint/11/3/75

It also requires the service providers to ensure that their obligation to cater for minority interests is reflected in their programming. These obligations however are to be enforced and monitored through the means of self-regulatory structures. Ofcom may only step in if upon a review of the situation it has been found that the service provider has failed to fulfill these obligations, unless of course the reason is of an economic nature. According to the Government the decision to apply self-regulation with regards to the qualitative aspects of public service broadcasting is intended to allow broadcasters greater flexibility in meeting these ideals.

The aspect of media ownership regulation in the *Communications Act* has generated much criticism especially with regards to the provisions that liberalise media and cross-media ownership rules. The decision to liberalise was guided by three main factors put forward by the government. The first was the need by UK commercial media for new sources of investment; secondly it was believed that the source of investment was irrelevant provided effective content regulatory structures were in place; thirdly the ownership rules had to reflect the reality that the media were now competing in a global market.[8] As a result media ownership restrictions have been significantly weakened. For example a fifteen percent upper audience limit for ownership of UK television broadcasting companies and a rule which banned single ownership of the two ITV licenses were both revoked. Another change was the abandonment of a points system which limited ownership of radio broadcasting across the UK to a 15 percent share of commercial audiences.[9] The government justified the shift towards a more liberalised market by stating that:

> Whilst the need for a plurality of media sources remains clear, we are committed to a deregulatory approach to media markets. From a commercial point of view, further liberalization would

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[8] http://con.sagepub.com/cgi/reprint/11/3/75
[9] http://con.sagepub.com/cgi/reprint/11/3/75

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benefit existing companies and potential new investors, providing for further consolidation, greater efficiency, more scope for investment, and a more significant international presence. Growth and investment provide opportunities for innovation, and this should result in new, improved and cheaper products for the consumer.[10]

Both the 1996 *Broadcasting Act* and the 2003 *Communications Act* acknowledge the importance of diversity and pluralism especially through the advocation of competition within the media industry. However, It is unfortunate that the policies being set in the best interests of the existing service providers negate any efforts made towards the achievement of pluralism and diversity. "Under the new rules, many regions in the UK may eventually receive radio broadcasts from stations owned by only two companies other than the BBC"[11]. Economic interests continue to override those of the public because even public service broadcasters increasingly find themselves under pressure to yield to economic pressures in order to generate sufficient income to go towards the production of quality programs. Steven Barnett (2004) expressed his concerns about the 2003 Communications Act in the following words:

In more general terms, the duty on Ofcom to secure 'light touch regulation' and to withdraw from its regulatory duties where possible, owe more to a traditional economic model of regulation which may well be appropriate for the telecoms sector. For broadcasting, it is a much riskier approach[12].

Although British broadcasting has been heavily regulated in the past (Negrine 1988) mainly in the interests of the public according to Rethian principles (A monopolistic public broadcaster) which were "largely and deliberately in ignorance of audience preferences" (Kuhn 1988: 05) there has been a significant shift towards the deregulation of media policies.

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[10] DTI and DCMS, Constitution on Media Ownership Rules (November 2001), p.7.
[11] http://con.sagepub.com/cgi/reprint/11/3/75

The present section of the paper has clearly demonstrated that the changes that have transpired in Britain over the years can be attributed mainly to the need to address technological advancements in the industry and the rising concerns with regards to issues of pluralism and diversity although market concerns and the ability to compete globally seem to have taken precedence as indicated by the relaxation of ownership rules. The changes that have taken place in South Africa on the other hand, as discussed under the section *The Transformation Process,* have been in a sense revolutionary and have been primarily politically motivated. The most dramatic of these changes of course is the change in political climate from an apartheid regime to a more democratic one. The following section outlines the developments that have taken place in South Africa post-1994 in terms of broadcast policy.

Broadcasting Regulation in the 'New South Africa'

Following the numerous discussions that took place during the transformative period, the Independent Broadcasting Authority (IBA) was established in order to regulate broadcasting in a democratic environment while the South African Telecommunications Regulatory Authority (SATRA) was to regulate the telecommunications industry separately. However, primarily due to convergence, the two regulators were merged, amidst concerns and speculation, to form the Independent Communications Authority of South Africa (ICASA) in July 2000 through the *ICASA Act* (of 2000).

According to the *ICASA Act* (2000) the authority is to act through a council. The council is headed by a Chairperson supported by six councillors. The chairperson and councillors are appointed by the president on the recommendation of the National Assembly for terms between two to five years. Directly accountable to the council is the Chief Executive Officer. (see fig.1 below).

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[12]http://www.mediaed.org.uk/posted_documents/The_2003_Communications_Act.htm

CHAIRPERSON

COUNCILLOR   COUNCILLOR   COUNCILLOR   COUNCILLOR   COUNCILLOR   COUNCILLOR

CHIEF EXECUTIVE OFFICER

SM: Communications & Customer Relations

CHIEF FINANCIAL OFFICER

GM BROADCASTING SERVICES

Financial Manager

SM: Admin, Procurement & Library Services

GM: Policy Development

SM: Licensing & Monitoring

SM: HR Management & Development
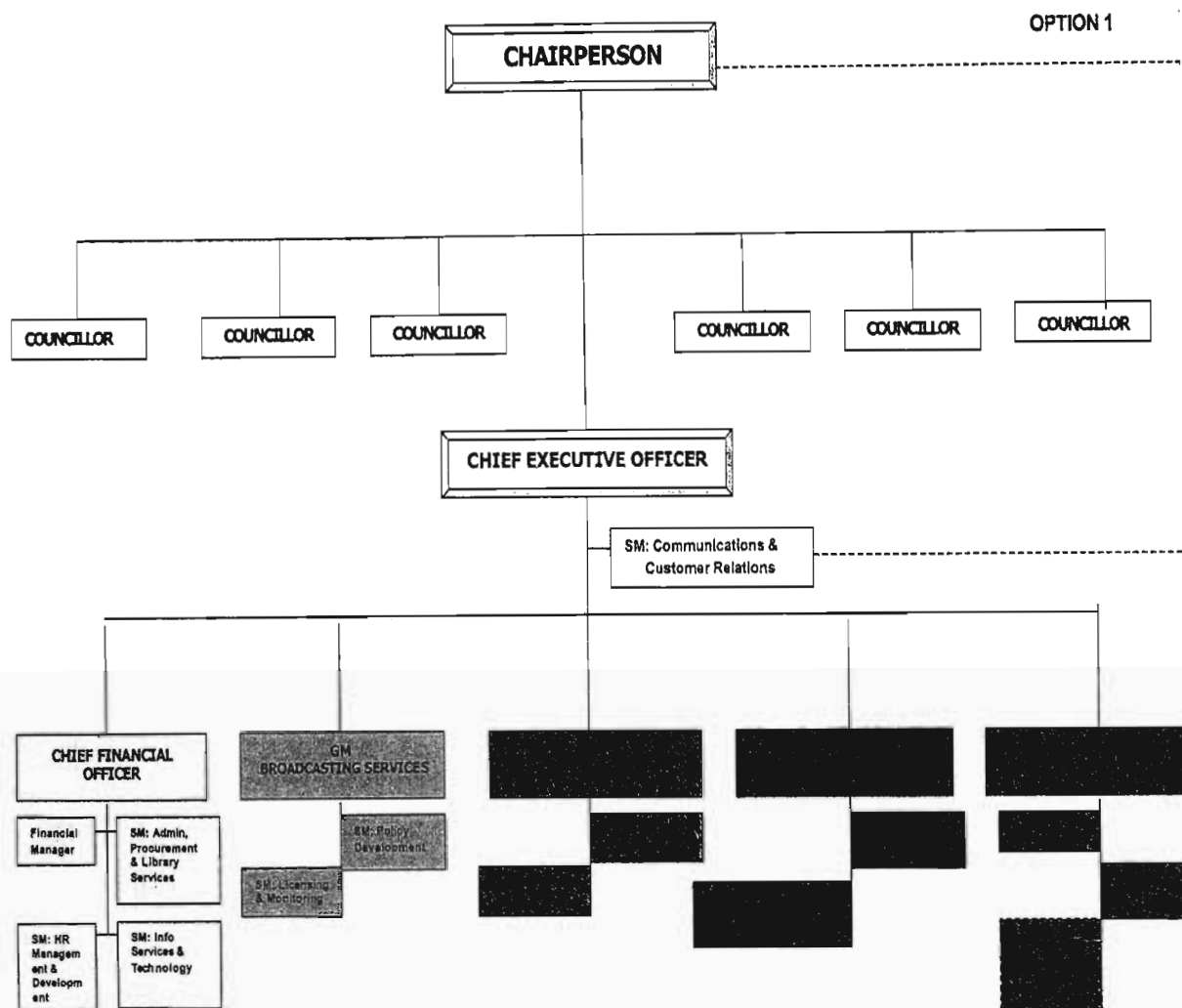
SM: Info Services & Technology

FIG. 1: Organogram of the ICASA[13]

With regards to broadcasting the ICASA draws its mandate mainly from the *Broadcasting ACT 4 (of 1999)* and the *Independent Broadcasting Authority Act (of 1993).* Other forms of legislation that govern broadcasting are the *Independent Communications Authority of South Africa Act (of 2000), Media*

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[13] Source: http://www.icasa.org.za/Content.aspx?Page=38

Development and Diversity Agency (MDDA) Act (2002) and the *Promotion of Access to Information Act*, 2000 to mention but a few. For the purposes of this exercise; *Broadcasting Act 4* (of 1999) and the *Independent Broadcasting Authority Act of 1993* will be discussed in greater detail.

Legislation/Policy

The Independent Broadcasting Act of 1993 took effect from 30 March 1994. Its main task was to establish an independent regulator that would function with the interests of the public at the core of its existence. Although the IBA was transformed and incorporated into a larger structure, the ICASA, "[T]he provisions in the IBA Act that establish the regulatory framework for broadcasting in South Africa still remain in force" (Mochaba et al, 2003: 75).

The key provisions in the Act refer mainly to the issuing of licences, the defining of the powers granted to the Minister and also the issue of media ownership. With regards to licences, firstly, the Act prohibits any signal distribution and broadcasting service from taking place without a licence. The ICASA is granted the power to invite licence applications through the publication of a notice in the *Gazette*. The licensing process is only public to the extent that, firstly, the ICASA may hold public hearings before issuing a broadcasting service licence (this is based solely on the discretion of the ICASA) and, secondly, it is required by the Act to keep a record of all documentation related to the licensing process and to ensure that this is made available for public inspection. It is interesting to note that, based on the Act; the ICASA is solely responsible for the selection of the successful applicant with no involvement from the executive arm of government. (Mochaba et al: 2003)

Organisations with existing licences may apply for their renewal before the expiry date. The ICASA may only refuse to renew a licence if, during the licensed period, the licensee has failed to comply with the licence conditions. Refusal of licence renewal may also take place if there has been a failure to comply with the

provisions stipulated in the Act and the ICASA is convinced that should the licence be renewed, these failures will continue.

The Minister of Communications may at times require the ICASA to conduct special investigations and inquiries in order to determine priorities for the development of the broadcasting industry. Although the Minister may also issue policy directions to ICASA, the authority is not required to follow these policy directions but only to take them into consideration.

Sections 48 to 51 of the Act address the issue of media ownership and it is stipulated herein that no one or more foreign persons may be in direct or indirect control of a commercial broadcasting licence. There is also a prohibition on any one company having direct or indirect control of more than one commercial television broadcasting licence. The issue of cross-ownership is also addressed and it is stated that a person who controls a newspaper may not "control a radio or television licence in an area where the newspaper has an average ABC circulation of twenty percent of the total newspaper readership in the area." (Section 52(2) (b).

The Broadcasting Act of 1999 was mainly established in order to provide a framework for the public broadcaster under which to operate. Secondly, it was to establish a new broadcasting policy for South Africa as well as to clearly define the role and powers of the Minister of Communications with regards to the regulation of broadcasting.

The Act deals extensively with the public broadcaster. The charter set out in the Act requires the SABC to provide programmes in the South African official languages that offer a plurality of views. It also requires the SABC to provide viewing that advances the national and public interest. The charter makes it clear that the public broadcaster should have a code of practice that ensures the equitable treatment of all segments of the South African population particularly

through the equitable treatment of all official languages. As a public broadcaster the corporation is also expected to provide programming that is fair, unbiased and independent from government and commercial interests. With regards to revenue, the corporation may receive income from advertising, sponsorships, grants, donations, licence fees and grants from the state.

With regards to the organisational structure of the SABC, the Act stipulates that the broadcaster should consist of two separate operational divisions. These are a public service division and a commercial service division. It goes on to say that the two divisions be separately administered both having independent financial records and accounts. The commercial service division of the SABC is subject to the same policy and regulations as those applicable to other commercial broadcasting services. Over and above such regulations the commercial services division is also expected to subsidise the public services.

The ICASA is empowered by the Act to monitor and enforce compliance with the charter by the SABC but at the same time highlights the importance of the SABC's right to "freedom of expression and to journalistic, creative and programming independence as enshrined in the Constitution" (Mochaba et al, 2003: 79).

The board of the SABC consists of twelve non-executive members (the first board consisted of twenty five members but this number was later changed) and then three other executive members. The twelve non-executive members are to be appointed by the President on the advice of the national assembly. The public are to participate in terms of the nomination process. The President then designates one of the members of the board to the position of chairperson and another as deputy chairperson.

Chapter five addresses commercial broadcasting services in general. Commercial broadcasters are expected to provide a diverse range of

programming catering for a wide section of the public. As a whole they must also provide programming in all the South African official languages. Such programming must, as a whole, "reflect the culture, character, religion, needs and aspirations of the people in the regions that they are licensed to serve subject to licence conditions" (Broadcasting Act, 1999: chapter 5 30(2) (a)). Another important element to be considered is the requirement of the provision of a significant amount of South African programming and also the inclusion of news and information programmes. The Act also deals with community broadcasting services and basically requires that a particular station be managed and controlled by a board which must be democratically elected from members of the community in which the station will be broadcasting. The programming should also address the needs and aspirations of the community while playing a developmental role.

Based on broadcasting policy South Africa is rightfully considered a democratic country and this is demonstrated particularly the broadcasting Act embraces principles of equality, unity and diversity. However one wonders to what extent it is actualised in reality. It is important to acknowledge and congratulate the government's attempts at a more democratic media policy but even more importantly, there needs to be a way of establishing whether the policies that embrace democracy so emphatically simply remain on paper or in actual fact do come to fruition.

During the apartheid era there is no doubt that broadcasting in South Africa was discriminatory particularly along colour lines. In the democratic dispensation it is hoped that this is no longer the case and the changes that have taken place over the past few years demonstrate a concerted effort towards the acknowledgement and respect of different race groups (cf. Horwitz 2001; Teer-Tomaselli 2005). This is particularly evident through the availability of programmes in the various official languages, especially news bulletins. Discrimination, however, does not begin and end with race as the issue. Discrimination based on the economic

status of an individual or group is also just as undemocratic and unacceptable. Although this is the case, due to the highly capitalist and commodified environment within which broadcasting takes place, economic discrimination seems to go unnoticed and therefore unaddressed.

With all these issues to deal with, it is clear that the Authority faces many challenges on a number of different levels but for the purposes of this study I'd like to point out two contemporary fundamental issues. Firstly it is faced with the challenge of regulating a highly dynamic industry with multiple changes (particularly technological) constantly taking place.

> Digitization, international agreements, converging services, proliferating platforms and prospects of additional services are all affecting the conduct of media regulation worldwide, transforming the ways media regulation is considered and debated by scholars, activists and players alike (O'Regan, 2000:5).

The implications therefore become that whatever policies are formulated or amended have to be flexible in order to accommodate whatever possible new developments that may arise in the near future while at the same time "...secure[ing] significant benefits for the wider society and the economically disadvantaged" (Dunn, 1995: 37).

Secondly the ICASA has inherited an industry with a past that has been both constructive and detrimental at times. Constructive in the sense that there was a strong drive towards providing infrastructure for the enablement of effective broadcasting made possible by the financial support from government received by the SABC but detrimental due to repressive media policies. To simply criticize the regulator for certain glaring flaws, therefore, would be remiss without having a full appreciation for the complexities with which it must contend. With regards to the past; the ICASA must now 'level the playing field'[14] as it were when it comes

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[14] This refers to the implementation of media policies that reflect a desire for the institutionalization of democratic principles in the industry through the fair accommodation of all sectors of society.

to the distribution of resources and service delivery. It now has to ensure that all sectors of society are catered for in an equally satisfying way; something that was not a source of major concern for those responsible for regulating broadcasting pre-1994. As one of the interviewees put it "ICASA is expected to be God". They have to satisfy stakeholders on all sides. This means having to ensure that the broadcasting industry in South Africa thrives by encouraging competition and foreign investment while at the same time avoiding media imperialism and promoting local content. Clearly, the ICASA has an extensive set of mandates to which it must abide, which at times can be conflicting, therefore placing it in the unenviable position of having to choose one over another. It is therefore essential for such an organization to be absolutely clear about its primary functions and purposes.

The obvious and elementary answer to the question of what the ICASA's function and purpose is, is that it should regulate. It is crucial, however, to go beyond this blanket term 'regulation' and clearly define what it means to regulate to the ICASA and how they go about achieving this. An interviewee[15] stated that ICASA regulates the industry by issuing licenses, he went on to say, "but before that we do research within the industry. We look at gaps within the industry so as to identify areas that require improvement". So the ICASA not only strives to ensure that broadcasters for instance adhere to licensing conditions and other various policies, it also works towards the development of the industry. According to ICASA's own description, the Regulator has the mandate to:

- o make regulations and policies that govern broadcasting and telecommunications
- o issue licenses to providers of telecommunication services and broadcasters

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[15] Some senior managers of the ICASA were interviewed as part of the data collection exercise carried out for this study.

- o monitor the environment and enforce compliance with rules, regulations and policies

- o hear and decide on disputes and complaints brought by industry or members of

- o the public against licensees

- o plan, control and manage the frequency spectrum and

- o protect consumers from unfair business practices, poor quality services and harmful or inferior products[16]

Based on the above functions the ICASA is involved in formulating policies in such a way that it promotes the development of the industry. It also monitors and enforces compliance with these policies. Further, it mediates, manages and takes on the role of public defender. In formulating regulations and policies the ICASA goes through a process whereby research is conducted to determine which areas require attention. After such research has been carried out the authority then proceeds to compile discussion papers which are then published. This gives stakeholders and the general public the opportunity to air their views. A position paper is then produced based on the responses to the discussion paper. Regulations, policies and sometimes license conditions are derived through this process.

The Authority is guided mainly by the IBA Act when formulating policies or performing any of its other abovementioned functions. The ideological principles and stance adopted by the IBA Act will be discussed further in this section suffice to say however that it incorporates aspects of social responsibility and libertarianism.

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[16] http://www.icasa.org.za/Content.aspx?Page=17

Principles of this nature can only be achieved by such an organization if it enjoys a certain level of independence from government. An interviewee stated that "in so far as broadcasting is concerned we are completely independent in the sense that we develop regulations and policies and we implement those policies without being approved by the Minister". Another interviewee pointed out that "In terms of Section 13 of the IBA Act; we are meant to consult (with the Minister) but we have the final say". The independence of the ICASA is therefore guaranteed by the IBA Act in terms of the formulation of policies and regulations. The independence of the Authority does come into question however when one considers the fact that it is ultimately funded by treasury an extension of government. In the financial year of 2004 the ICASA received R138 million which was increased to R187 million in the financial year of 2005[17]. The increase has been attributed to the need for the settlement of the Authority's value added tax liability. This is where the problem arises with such organizations, even in the case of the SABC. If the ICASA cannot be funded by the government because this will compromise its independence then how else can it be funded? If it were to turn to industry it would be accused of bowing down to economic pressures. The only solution in such a case would be to have in place mechanisms to ensure that government has no influence. In other words other political parties especially opposition parties would have to be involved in the selection process of candidates to be appointed to the ICASA particularly candidates in influential positions. As it stands at the moment for example, the president nominates candidates under the advisement of the National Assembly to undertake the role of chairperson of the ICASA. There is little input from other political parties. This implies that the government has carte blanche when it comes to the staff of the independent regulator. Who is to say that the government won't ensure that the position of ICASA chairman is occupied by someone whose ideological stance is in line with that of the ruling party? Who's to say that such a situation won't hinder principles of pluralism and free speech if these very principles in a particular case can result in the tarnished image of the ruling party?

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[17]http://www.info.gov.za/annualreport/2005/icasa_a_report05.pdf

The SABC was involved in a situation which brought into question its independence as a public broadcaster which is meant to serve the general public of South Africa and not the ruling party. One can only wonder if the same is not taking place at the ICASA. The situation involves the withdrawal of a documentary which was feared to portray Mbeki negatively. The producers of the documentary were even gagged and threatened with law suits if they uttered a word to anyone regarding the content of the documentary. [18]

The ICASA and certainly the SABC have ties with the government to some extent or another and this therefore brings into question the notion of independence. Can we legitimately talk of an independent regulator? According to the World Book Dictionary (2000), independence means freedom from the control, influence, support or help of others. Given the above definition, it would be safe to say that neither the ICASA nor the SABC can claim to be fully independent.

The purpose of this section was to discuss the changes that have taken place in South Africa post-democracy particularly with regards to policy and to highlight some of the new challenges that now face regulators and the country as whole with the objective of then comparing these developments to those that have taken place in Britain. Before that is done, however, it seems necessary to discuss the South African Broadcasting Corporation (SABC) in order to determine how these changes have affected the national public broadcaster.

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[18] http://www.iol.co.za/index.php?set_id=13&art_id=vn20060612031142623c759874

Chapter five

The Public Service Ideal and the SABC

What is public service broadcasting?

Academics, various writers and organisations in the field have found it difficult to agree on a clear definition of public service broadcasting. There is however a relative consensus on the origins of the concept. One of the first people to coin the term and conceptualise this notion was Lord John Reith (Director General of BBC 1927-1938) who played a crucial role in the formation of the BBC which was created "in order to protect and to exploit that national resource [frequency spectrum] while at the same time, keeping a certain independence from government" (McDonnell: 1991: 02). Reith conceived of public broadcasting as having four dimensions. He believed that firstly, it should not be susceptible to commercial influence; secondly it should serve the whole nation; thirdly it should be organised as a monopoly; and finally it should meet high programming standards (McDonnell: 1991). John Reith believed that the public broadcaster had the responsibility to educate, inform and entertain members of its society. Radio, according to Reith, was to be used as an instrument of enlightenment. Freedom from commercial interests was of particular concern for John Reith and perhaps the reason why he was so adamant in the belief that a public broadcaster can only function optimally if it enjoys a monopolistic status. He was opposed to competition in the form of private or commercial broadcasters as these would oblige the public broadcaster to compete for audiences and result in the compromising of quality and independence. As was observed after the introduction of commercial television in 1954 which provided audiences with a popular alternative to the 'high standard' programming; the BBC was obliged to "broaden its notion of public service broadcasting to justify a programme policy that began actively to welcome some of the populist elements it had resisted for so long" (McDonnell, 1991: 03)

Similar views to that of John Reith emerged later although perhaps not as

extreme. Paddy Scannel (1989) believed that the fundamentally democratic thrust of broadcasting should lie in its accessibility to virtually the whole spectrum of public life. A public broadcaster should ideally not only be accessible but also cater for all the different sectors of its society through a variety of programming content. Alum Mpofu (1996); Ruth Teer-Tomaselli and Kwame Boafo (1996) mention that a general consensus has emerged around eight basic principles and objectives for public service broadcasting.

The first is geographic universality. As already mentioned, Public Service Broadcasting must be available to every member of society regardless of their remoteness and inaccessibility. The second principle is that of universal appeal. It is crucial for PSB to provide a wide range of programming content in order to service a diversity of public needs. Such a principle, particularly in South Africa, with its wide range of cultural and linguistic groups becomes ever more so important and even more challenging to meet. This is more so the case from a financial or economic point of view in a sense that catering for all sectors of society, including minorities, might prove more expensive yet not particularly profitable. The public broadcaster cannot, therefore, become obsessed with its audience share because as soon as it does so, it loses sight of its role and purpose and easily neglects minority interests. It is for this reason that public broadcasters must not be dependent on advertisers for revenue.

Thirdly, there is to be universality of payment. The logic behind this principle is that since the public broadcaster is to be accessible to all members of the society they should all pay a fee for the service in order to ensure its survival.

Distance from vested interests is a crucial principle as the independence of the public broadcaster is vital. There cannot be any undue influence over programming provided by the broadcaster which may lead to the provision of biased content. This is however difficult to achieve in practice. As history has shown PSB is particularly susceptible to political interference especially during

the 1980s and 1990s. The problem arises with the very concept of PSB. How is it possible for a broadcaster, operating within a capitalist system where everything and anything can only be made possible with the injection of capital, cater for all and still be independent? Ultimately someone has to cover the operating expenses and it is always going to be the state, advertisers or a combination of both. The likelihood is that whoever pays will dictate the ways and means of operation. Licence fees are unfortunately not enough to cover all the operating costs.

According to Ruth Teer-Tomaselli (2005: 209) the success of the claim to political independence depends on:

- The willingness of politicians to abstain from interfering with the day-to-day running of the broadcaster.

- The ability of broadcasters to resist political interference by remaining in control of the reporting and analysis of news and content affairs.

- Public confidence: the acceptance by both pressure groups (reviewers, commentators, political analysts, academics) and the general public...that the broadcasting service is indeed independent

Looking at these three points it becomes clear just how improbable it would be to legitimately talk of an independent public broadcaster. With television now being perceived as an agenda setter for political debate and as having influence on the public profile of political parties (Mpofu: 1996) it is unlikely that politicians will be particularly willing to abstain from interfering, whether directly or indirectly, with the daily running of public broadcasters in South Africa. Recently, the SABC received major criticism from non-affiliated media and the public for failing to

broadcast a scene whereby Deputy President Phumzile Mlambo-Ngcuka was booed offstage by a pro-Zuma (former Deputy President) ANC Youth League[19]. The head of news and ex-ANC spokesperson responded by stating that their cameraman was not present at the meeting and this explained why the SABC had not broadcast the footage. This statement was however later falsified by footage released by eTV showing the SABC cameraman at the meeting also filming the incident.

The fifth principle is the special relationship to national identity and community. It is important for a public broadcaster to cover events of national interest such as general elections, state occasions and national sporting events. Under this principle also falls the idea of the public broadcaster being responsible for promoting a form of national identity. This can be seen as particularly important in a country like South Africa which has experienced many years of deliberate fragmentation and separation. The public broadcaster can now play its part in unifying the country but at the same time being very careful not to turn a blind eye to certain negative activities such as government corruption for example in the name of unification.

Minority interests should also be an important aspect of public broadcasting. These interests should be catered for not only in terms of race but also in terms gender, language and socio-economic status.

Programming quality

Since no theorist has succeeded in adequately defining the notion of quality as an objective characteristic (Mpofu: 1996) the meaning and purpose of this principle should lie in the commitment to provide programming that coincides with the ethical commitments of public service philosophy. In this case the idea of determining quality in terms of high and low culture which was how John Reith seemed to determine programming quality is rejected as inappropriate.

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[19] http://en.wikipedia.org/wiki/South_African_Broadcasting_Corporation

Editorial freedom is a problematic principle as with most if not all the abovementioned principles. Based on this principle, editors/programme makers should be able to do their jobs without interference from individuals, parties or organizations with vested interests, provided they abide with the norms of media professionalism.

To further explain public broadcasting Teer-Tomaselli (2005) mentions three overlapping rubrics: broadcasting as a public utility, broadcasting in the public sphere and broadcasting to serve the public as audience. Broadcasting as a public utility views broadcasting as a necessary social service, which places the responsibility of providing and maintaining a universal access network capable of delivering broadcast services across the country on the shoulders of the national broadcaster. Just as services such as electricity, water, basic education and health care are provided for by the government in one way or another in many countries, either at no profit or on a subsidised basis, within this paradigm, the state is expected to play a similar role with regards to the provision of broadcasting. The reception of these signals is thus treated as a necessity and not a privilege or luxury.

Broadcasting in the public sphere requires that public service broadcasters view its listeners/watchers as citizens rather than consumers. The aim should be to inform them through the provision of accurate news and current affairs programming. Once again the issue of impartiality is raised in this instance. The purpose of PSB is perceived as the provision of "a space in which people are able to receive information about, and to discuss and debate, issues of importance to a political community, all of which enables them to participate in society as informed citizens" (Teer-Tomaselli, 2005:204).

With regards to serving the public as an audience, the emphasis is on prioritising the needs and aspirations of the listeners and viewers. The broadcaster is,

therefore, expected to (in keeping with Reithian principles) educate, inform and entertain. This means that there must be a commitment to balanced scheduling across the different programme genres, in other words one institution should cover the full spectrum of the public's needs and tastes. The issue of the provision of local content is also highlighted in this paradigm as there are many foreign (particularly American) programmes imported for South African television due to the fact that it's actually cheaper than producing programmes locally. This, therefore, aims to minimise a form of media and cultural imperialism through the insistence on the production of local content and protection of the local industry.

These ideals of public service are simply guidelines for a model of a noble nature. Like with most if not all models there is always the tendency to experience major difficulties and unforeseen obstacles when it is time to implement and put into practice what has been conceived in the minds of the engineers of such models. It would therefore be misguided to conceive of these ideals as static and inflexible. They should serve as a reference point from which alternative solutions can be derived when certain aspects meet some form of resistance in practice. The concept of public service as an ideal model of broadcasting has been increasingly questioned and to a certain extent even considered no longer applicable to the contemporary broadcasting landscape (particularly by supporters of the free market system). This point leads on to the next section where I will discuss some of the shortfalls of the public service ideal and the obstacles that challenge its rationale.

The problem with public service broadcasting

Console Tleane and Jane Duncan[20] (2003: 71) sate that:

> The SABC has been forced into financial self-sufficiency, leading to an ever-increasing dependency on advertising revenue, a source of funding that has in-built biases towards historically privileged audiences (Console Tleane and Jane Duncan, 2003: 71)

The concept of public service broadcasting as was conceived by Reith particularly with his assumptions on what was best for society and his general idea of running a public broadcaster can be considered (in a more contemporary discourse) as perhaps too idealistic and essentialist. It can also be argued that certain aspects of his conception of public service were plagued with many flaws and have never been truly achieved even when looking at what has been termed the model case of public service (the BBC) which was often accused of being subservient to the government and catering mainly for the socially elite.

> The assumption was that if you liked music you could not be displeased with Bach or Beethoven, and if you liked the theatre you could not be discontented with Shakespeare. But many listeners did not greatly care for these things and felt that the amount of air-time they occupied was not just undemocratic but elitist...programmes of classical music or drama simply reflected the values of those at the higher end of the social scale. (Crisell, 1997: 28).

Reith presumed to know what the public needed and took it upon himself to provide this, overlooking the fact that listeners/viewers are not a passive and homogeneous mass. It can also be claimed that his idea of good or high standard programming as he wanted to provide was rather narrow, after all it can be agreed that this by its (very nature) is a rather subjective notion. It was ultimately

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[20] Console Tleane and Jane Duncan work for the Freedom of Expression Institute (FXI) a liberal think tank dedicated to the maximisation of diversity and plurality of political views. The FXI strongly opposes the neo-liberal agenda of corporatisation, which they see as attacking the very basis and rationale of public service broadcasting

an elitist notion which isolated a significant portion of the population. However, some of these flaws were later acknowledged and addressed by successors of Reith.

The difficulty with public broadcasting lay not only with internal contradictions but also with external factors; after all PSB never did and never will exist in a vacuum. Historically, the main challenge facing public broadcasters was political interference. In more recent times the challenges facing public broadcasters have come to include the extensive commodification/commercialisation of the media industry. This is what Alum Mpofu (1996: 17) refers to as "a striking invasion of the cultural and informational sphere by economic interests." It is these economic interests that complicate the PSB problem even further.

The development of new technologies in the field of broadcasting has resulted in an increasing amount of media products and producers which has in turn resulted in more intense competition for public broadcasters. They no longer enjoy the monopoly status they used to in the past. The increase in competition has forced public broadcasters to focus more on strategies for increasing their audience share and gaining the attention of advertisers rather than trying to fully live up to their public service ideals. In the case of the SABC this is particularly alarming considering that according to Ruth Teer-Tomaselli (2005) more than 85 per cent of SABC operating revenue is derived from advertising. The BBC, to this day, has no advertising at all. This goes to demonstrate how strong the presence of commercial interests is within the SABC and the severity of the problem. The implications of such a dependency on advertising stand in sharp contrast to the ideals and principles of public service broadcasting. This therefore calls for an urgent evaluation of public service funding models particularly in developing countries where there aren't many financial resources to invest in PSB.

To further delineate the factors that influence PSB, I'd like to refer to the

following. Based on a synthesis of the discussions held during the International Round Table on the Cultural and Educational Functions of Public Service Broadcasting (IRTCEFPSB) (Teer-Tomaselli and Boafo 1996: 184) the crisis now faced by public service broadcasters can be attributed to a number of factors or even global trends:

I. Market forces have been favoured by ideological and political tendencies in an age of 'information capitalism', and the competition makes public service broadcasting institutions appear as liabilities on the public purse;

II. Rising costs and inflation, taken together with falling revenue from licensing and market share, have tested governments commitment to provide continued adequate funding ;

III. New technologies, most notably digital signal compression and editing as well as cable and satellite signal distribution, have undermined the concept of spectrum scarcity as a rationale for regulation

IV. The ideal of a national broadcasting system as a mainstay of indigenous culture is undermined by the disparity between the low cost of imported programmes and the high cost of indigenous productions

To make matters worse:

[T]here are those among supporters of the free market philosophy who believe that only the market can ensure the necessary freedom from state control and coercion. Therefore, any system of broadcasting that is supported by the state, in whatever form, is seen to be open to abuse and possible censorship or propaganda (Teer-Tomaselli, 2005: 200).

It seems, therefore, that there is a strong desire to see some form of a phasing out process of PSB due to the growing perception of this concept as obsolete or perhaps out-dated and therefore no longer necessary as highlighted by Alum Mpofu (1996): "Because of the seemingly endemic problems facing PSB, free market arguments have been advanced as superior organising models for broadcasting, plunging the legitimacy of PSB into further crisis".

However, such a perception would be misguided to an extent since a free market system is not without its own faults. Markets have a tendency of not producing, high quality and in sufficient quantity, the less popular but essential programming in education, research, children's programming (other than in cartoons), dramas in minority languages and other specialised programming (Teer-Tomaselli, 2005). Essentially market-driven models tend to cater less for the minorities or the socially under-privileged. The responsibility of PSB is thus great and it is essential that it lives up to these expectations. Console Tleane and Jane Duncan (2003:27-28) further illustrate this point when they mention that "market failure was patently obvious as laissez-faire capitalism led to the uneven distribution of goods and services based on class: hence the development of regulation". The following section is a discussion of some of the challenges that the SABC in particular has had to deal with as a public service broadcaster, particularly in the context of an ensuing change in political climate and function as a public broadcaster in a democratic dispensation.

A Case of the SABC

The Restructuring Process

The following section will take a closer look at the SABC beginning with a discussion of the restructuring process. The section will demonstrate that certain decisions and courses of action taken during this time might have been unintentionally detrimental to public service broadcasting values.

The restructuring of the SABC began in the 1980s when the then management divided the Corporation into business units. The Triple Inquiry report played a major role in the further restructuring of the SABC which came about as a result of the *IBA Act (of 1993)* when it called for "...investigations into the viability of public broadcasting, cross media ownership rules, and local content provisions..." (Horwitz, 2001). The report recommended that public service broadcasting be funded through a mixed system constituted by advertising and sponsorship, licence fees, government grants and other forms of income such as the merchandising of products and leasing of facilities (Tleane and Duncan, 2003). For radio, the report recommended the licensing of eleven full spectrum language stations and "the sale of eight regional stations; **Lotus, Good Hope, KFM, Algoa and its split, BRFM, and RRN East Coast, Orange (and its split Goudveld), Highveld and Jacaranda (and its split RMFM)**" (Tleane and Duncan, 2003: 61). After the Triple Inquiry was presented to the government the following changes occurred. Eleven stations (Ukhozi, Umhlobo Wenene, Ikwekwezi, Ligwalagwala, **Motsweding, Lesedi, Thobela, Phalaphala, Munghana Lonene, SAfm and Radio Sonder Grense)** remained under the SABC while three (Metro fm, 5fm, and Lotus fm) were converted into public commercial service stations.

In 1997 the first Green Paper on broadcasting in South Africa was released and it recommended two models for the transformation of the SABC, the first model being that of a traditional public broadcasting charter like the BBC. The second proposed model was to corporatise the SABC and have it run like a public company with the state as the sole shareholder. The preferred model by the government was the corporatisation of the SABC and this was outlined in the *Broadcasting Act 4 (of 1999)*. In 2000 the SABC was divided into commercial and non-commercial arms. The intention was for the commercial arm to cross-subsidise the public service functions of the non-commercial arm. This move was also aimed at limiting the dependence of the SABC on government funding since the government's willingness to fund the SABC was becoming increasingly

doubtful. The effects of this however do not look positive. After the corporatisation process had barely begun the SABC took the decision to close its offices in Thohoyandou, Umtata and Giyani for cost reasons and relocated the staff to Pietersburg and Port Elizabeth. These offices provided over eighty percent of the content for public service radio stations like **Phalaphala and Munghana Lonene**; this is no longer the case. When commenting on this incident Jane Duncan (2001: 29) mentions that "...this move on the part of the SABC could be seen as an attempt to disinvest further in already marginalized language groups". One wonders also as to whether the mixed model with the idea of cross-subsidisation is really working; "PBS stations are increasingly coming under pressure to attract more advertising revenue. This suggests that the cross-subsidisation model is not working" (Tleane and Duncan, 2003: 125).

The SABC has undergone a significant amount of restructuring in an attempt to live up to the more socio-democratically inclined principles of public service but also at the same time making attempts to remain commercially viable and competitive due to economic pressures. The brief discussion on the restructuring of the SABC has been an attempt at demonstrating that the public broadcaster is characterised by practices that are potentially detrimental to public service broadcasting values. The question of whether the restructuring undertaken has been a step forward or not can be answered by comparing the SABC's performance to the eight principles discussed earlier.

Geographic Universality

The public broadcaster is meant to reach all members of a given society, regardless of geographic location. This requires an extensive amount of infrastructure and can be rather difficult to achieve particularly with a big country. The SABC has been making efforts to meet this demand and

> [S]ince 1999 until 2003, ten new transmitters have been making SABC radio available to 2, 7 million more people. Plans are on track to activate

three more transmitters for **Lesedi FM**[21] and **Ukhozi.** Transmitter expansion for SABC 1 and SABC 2 has been approved by ICASA to reach more people. On completion the SABC 1 footprint will increase from 83% to 89%, SABC 2 from 85% to 91%[22].

As far as radio PSB is concerned, it reaches approximately 74 percent of the adult population of South Africa. Clearly there are still some pockets of society that are not being serviced by the SABC. It is encouraging though that an effort is being made and perhaps in the future this will cease to be an issue.

Universal appeal

The SABC is making efforts with regard to universal appeal, particularly the provision of news in the various official languages. Despite the obvious changes the SABC has made since the old apartheid regime it is still criticised for not catering for certain sectors of the population. Numerous academics and commentators have expressed concern over the significant dependence of the SABC on advertising (Holt, 1996; Mpofu, 1996; Tleane and Duncan, 2003; Teer-Tomaselli, 2005;) due to fact that advertising as a source of revenue that targets particular audiences runs counter to one of the fundamental tenants of public broadcasting, namely, to target audiences universally. One can deduce from this statement that due to the very fact that the SABC relies so heavily on advertising makes it incapable of targeting audiences universally.

The issue of a public service broadcaster relying on revenue gained from advertising is to be taken very seriously because if one were to take note of the fact that approximately 35 percent of the population attracts 68 percent of ad spend on the top four [LSM 6-10] (Tleane and Duncan, 2003: 70) it becomes clear which sectors of society will be prioritised by the broadcaster at the expense of the lower LSM. One couldn't be too far from being correct if he/she

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[21] South African indigenous language radio stations
[22] http://ww.sabc.co.za/portal/site/menuitem.1c307ed6a93b5447f37146125401aeb9/

were to conclude by saying that the SABC has simply made a transition from racial discrimination to a more subtle economic form of discrimination.

Universality of payment

South Africa has a history of license payment defaulting and it is noted that since 1992 up until recently licensed television sets were declining by a hundred thousand a year. In January 1998, the SABC mentioned that as much as six out of ten households were 'pirate viewers'[23]. The SABC has since undergone an aggressive campaign to encourage South Africans to pay their television licenses with the catch phrase 'It's the right thing to do'. Such commercials were broadcast regularly on SABC television. The SABC set out to track non-paying users with a device that could somehow detect whether a certain household was operating an unlicensed television set or not. The SABC would even go to the extent of sending some defaulters letters notifying them of the fact that they had been identified as 'pirate viewers' and threatening legal action. This technique did not seem to be working and the SABC changed its approach and offered people who had television sets but had never obtained a license the opportunity to do so without having to pay for the time since the purchase of their television sets. The same amnesty was not however shown to those in arrears. This problem makes it more challenging for the SABC to perform is duties because it loses out on a substantial amount of revenue each year. There are approximately six million television sets form which licenses could be obtained in the country, but only three point six million of these appear on the SABC database. Of this 3.6 million, one point seven million regularly pay their TV licenses, but the number of payers is expected to rise to two million within a year. This lack of co-operation simply aggravates the economic crisis that the SABC finds itself in.

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[23] http://www.cbn.co.za/archive/98-jan/satelli3.htm

Distance from vested interests

South African media policy demonstrates a great wariness of vested interests particularly where broadcasting is concerned even for commercial broadcasters. The *IBA Act* stipulates that foreign persons or organisations may only obtain no more than a twenty percent share of any South African commercial broadcaster. As far as the public broadcaster is concerned the State is the only shareholder. One could argue that this places the independence of the SABC into great question. The very fact that Snuki Zikalala (a known ANC figure) is head of news at the SABC is indication of this. To further create cause for concern; he has on occasion been involved in cases where he has been seen to use his position to protect the interests of the ANC. Political influence in the SABC is arguably still present. However, Tleane and Duncan, 2003: 95 believe that

> While there are arguments to the extent that being dependent on the state can render public broadcasting [manipulatable] by political forces, particularly if we take South Africa's history of total state control into consideration, it is also undeniable that in the same way that the state has to fund education, health, welfare and many other special services, public broadcasting must be funded by the state.

Besides political influence, economic influence is probably the public broadcaster's greater challenge and it manifests itself in the form of the broadcaster's dependence on advertising and thus greatly compromises its position as a public broadcaster. According to Duncan (2001: 27), "The Corporation has always been inordinately dependent on advertising, relative to other public (and even state) broadcasters in other countries. This reality has and still does severely curtail the corporation's ability to become a bona fide public broadcaster". Certain SABC radio stations have undergone a gradual transformation towards a more commercially motivated position. A case in point is **Thobela FM** which changed its programming content after conducting market research that revealed that it would benefit more if its programming was geared more towards serving the interests of urban, upwardly mobile listeners rather than the rural, illiterate, and poor listeners who happened to be the traditional and loyal listeners of the station (Holt, 1996; Tleane and Duncan, 2003).

The issue of PSB funding in South Africa is a complex problem with no quick solution. If one were to agree with Tleane and Duncan, then one would have to insist on a more effective means of ensuring that the state funding of PSB did not translate into state influence. At least this way the broadcaster would be free from economic influence. However, looking at the current trends around the world it does not seem as though this a likely option; "Faced with ever decreasing subsidies from governments many public broadcasters have been forced to reposition themselves in ways that make them eventually serve the interests of capital rather than the interests of the public" (Tleane and Duncan, 2003: 95).

Special relationship to national identity and community

The *Broadcasting (Act of 1999)* mentions that public service is "...necessary for the maintenance of national identity, universal access, equality, unity and diversity..." (*Broadcasting Act 4* of 1999: 01). The SABC is thus charged with the responsibility of broadcasting events of national interest such as national team matches, presidential inaugurations and so forth. The SABC broadcasts a fair amount of national team matches and occasions and has been seen to contribute to the creation of a national identity through various initiatives.

> As public broadcaster, the South African Broadcasting Corporation (SABC) has apparently assumed some responsibility for communicating the message of national unity. This is epitomised by the repetitive jingle on SABC-TV: "*Simunye* - We are one". The content of certain radio and television programmes, and even some private sector funded advertisements convey the message of nation building. For instance, South African Breweries who are the chief sponsors of the national soccer team (the *Bafana Bafana*) have promoted Castle Lager with the slogan "One Beer, One Nation". As cultural carriers, the media have been crucial in disseminating the rhetoric of 'rainbowism'. (Mochaba, 2001)

Minority interests

Since the SABC relies on advertising it can be argued that programming on its channels will reflect the interests of those mainly targeted by advertisers and in South Africa these would be groups falling into LSMs 6-10. According to Tleane and Duncan "With respect to television, 44 percent of the population attracts 60 percent of ad spend" (2003:70). It is clear that the SABC is forced to prioritise people falling into higher LSMs despite that it is a public broadcaster. Certain SABC radio stations have even repositioned themselves in order to attract more lucrative audiences:

> Thobela FM effected programme changes with this in mind. The station changed its programmes after 'market research' indicated that it would benefit much more if the nature and content of programming was skewed to suit the interests of urban, upwardly mobile listeners rather than the rural, illiterate and poor listeners who happened to be the traditional and loyal listeners of the station (Tleane and Duncan, 2003: 98).

Programming quality

Production costs are exorbitantly high for television programmes; it is usually more affordable to purchase these from other countries already made. With the SABC having to be financially independent, its public service mandate which requires more locally produced programmes places an even greater strain on its financial resources. As a result the quality of programming is inevitably compromised. Most of the television programmes made locally mainly come in the form of current affairs and actuality. The other slots, namely film, drama series and comedy, are dominated by poor quality American made products Tleane and Duncan, 2003)

When it comes to news as part of programming Russell Baker (1996:215) claims that "...the absence of investigative and fresh news on the SABC is often highlighted." The absence of investigative and fresh news is often attributed to an over-dependence on news wire services which results in the reception of news

stories that have already been covered. Ultimately such a phenomenon is the result of poor editorial practices but more interestingly; financial constraints.

Editorial freedom

Editorial freedom is a critical point because one could argue that this is where the media are most vulnerable to influence. As already demonstrated in the case of Snuki Zikalala such influence is present in the SABC although not as blatantly as in the apartheid era. As pointed out by Tleane and Duncan, (2003:110) certain stories are suppressed by the editors themselves for political reasons;

> A more comprehensive coverage of the story was allegedly suppressed by some editors who apparently felt that the story was an embarrassment to the South African government, leading to one journalist stating that he felt like "calling the international media to cover the story because we ourselves were incapacitated."

It is clear that the SABC has made some improvements but there are still many problems and areas where it falls short and thus makes it difficult to talk of the SABC as a public service broadcaster in the true sense of the word.

Chapter six

Comparative discussion

The paper has thus far discussed the differences between the South African and the British broadcasting landscape briefly and mainly from an historical perspective. The aim at this juncture is to engage in a brief comparative discussion of the broadcasting policies from the two countries on a more contemporary note.

Before 1996 in Britain there were as many as four different regulatory bodies dealing with different aspects of broadcasting; the Broadcasting Standards Commission, the Independent Television Commission and the radio authority whereas in South Africa the Independent Broadcasting Authority saw to most of the issues relating to broadcasting although there was the South African Broadcasting Standards Authority as well. One wonders whether the British system was run more effectively due to the existence of multiple regulatory bodies or not especially considering the fact that radio and television had their own separate regulatory authorities. As digitization and convergence became increasingly pertinent issues, requiring prompt attention, the rationale became that of consolidation.

An interesting contrast between the two countries is the fact that in Britain there is a greater emphasis on liberarlisation and a move towards deregulation as compared to the South African case. This could be attributed to the fact that South Africa is lagging behind Britain in terms of development, since it is after all considered by some as still a developing country, and therefore must have different goals in terms of broadcasting compared to Britain. After all the unique needs and objectives of a country and the factors relevant to that country or society will/should ultimately inform policy decisions (Servaes 1999). Britain's policies are more market orientated and they tend to promote the notion of liberating broadcasters in order to allow them to compete on a global scale because due to technological progress other countries can now easily broadcast

in Britain. Since trying to find ways of preventing trans-border broadcasting is more complex a problem to deal with, it is considered a better option to ensure to that they are able to compete globally. South Africa, on the other hand finds itself in a situation, in which it wishes to improve its competitive standing within the global economy, and therefore is to some extent drawn to policies of liberalisation; but cannot fully commit due to resistance to the wholesale transformation to a market driven economy (Teer-Tomaselli, 2005).

A disturbing similarity is that although the Office of Communications (Ofcom) has a slightly more complex structure of governance in terms of the constitution of the board of executive and non-executive members and advisory board committees as compared to that of the ICASA, board members of both regulators are appointed by the President which puts into question their state of independence. The question of independence is also brought into question on the grounds of funding. The ICASA in particular is funded by treasury which is an extension of government.

The seemingly decreasing importance of pluralism and diversity in Britain as indicative in the 1996 Broadcasting Act is also a point of contrast in comparison to South African policy on this issue. While the media policies in Britain are market driven one could argue that the South African policies are more culturally and socio-politically motivated. To illustrate this point one need only look at the fact that the ownership rules in South Africa haven't been relaxed as much as they have been in Britain. In South Africa there is also the consideration of the fact that there are eleven official languages and the Broadcasting Act of 1999 calls for equitable treatment of all languages. Clearly British media policy makers have adopted a 'light touch' approach where South Africa's display a greater concern for issues of ownership and control and diversity/pluralism.

Conclusion

The challenge of achieving a balance between serving the interests of the public and simultaneously meeting the demands of industry has existed for decades and still proves to be an illusive goal. Despite this it is one that must be tirelessly sought after especially in a country such as South Africa. In a highly contested environment such as broadcasting; it is easy to overlook the interests of those that don't have the economic or political might to create a platform on which to express their views, opinions and cultural beliefs and thus risk the prospect of slipping into oblivion.

History has demonstrated that those who do not own the means of production easily fall prey to oppression and dependence on the 'master' and are therefore opened up to exploitation, degradation and eventually a loss of identity and self-respect. This is a detrimental result for any society and thus cannot be allowed to take place without efforts to curb this process. The existence of public broadcasters thus becomes a crucial element in this respect

Unfortunately it is not simply the existence of public broadcasters that remedies this problem because public broadcasters by their very nature are vulnerable to a multitude of external forces since they do not function within a vacuum. As expressed by early theorists of political economy the government "bore special watchfulness because the tradition of sovereignty, which gave it power to defend the realm, could easily be used to create special privileges..." (Mosco, 1996: 40). The study has thus discussed the uncomfortable relationship between public broadcasters and the state. It has become clear throughout the course of my research that as much as there needs to be distance between the state and the public broadcaster, there is an inescapable bond between the government and the public broadcaster because of funding. If the public broadcaster is expected to fund itself and rely increasingly on capitalist principles it becomes no different to a commercial broadcaster. More often than not; programming reflects the funding method. The question that subtly runs the course of the study is: How

does one separate funding from programming?

The existence of regulators should be the answer to this question and to some extent has been. The unfortunate instance in the South African context is that the independence (which is a critical factor in the effective functioning of the authority) of the regulator comes into question on a number of levels as discussed in the study. What has worked for Britain is the in terms of their public broadcaster is the fact that they do not have advertising and therefore do not fall prey to market pressures because citizens pay a rather significant television licence fee. In the South African case this is not a feasible solution due to a significant portion of the population who simply wouldn't afford a licence fee increase. The SABC is struggling to attain the low licence fees as it is. The best solution therefore when it comes to public broadcasters and regulators is that there be a stipulation stating that people who sit on the board of councils in such organisations be representative of a number of political parties particularly the opposition party. The appointments of such people should also be the made by parliament as a whole and not the just the President.

The paper has discussed a theoretical approach into the discussion of broadcasting regulation where there was a focus on three aspects of political economy, commodification which explains why it is important to have regulators since as a result of it companies and organizations may tend to ignore public interest and function only to service market interests. The second was spatialization which looks at the media from a technological point of view and how this technology compresses space and time allowing, for example through satellite television, a broadcaster to transmit a particular event internationally simultaneously. The implications of such (one of which being media and cultural imperialism) are immense and therefore require the attention of regulators. Structuration was also discussed in terms of human agency and how as result the structure can perpetuate practices detrimental to the public interest.

The study has focused solely on broadcasting and has discussed the importance of regulation in the industry including the challenges in doing so. i have drawn comparisons between the British model and that of South Africa order to ascertain a way forward for South African broadcasting.

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Appendix

Interviews conducted with members of staff from the ICASA

Interviewee.1
What are the primary functions of the ICASA?

We regulate the industry by issuing licences, but before that we do research within the industry. We look at gaps within the industry so as to identify areas that require improvement. So from research we move onto discussion papers, which are published, and we then get views from the various stakeholders and community at large. From that you then get a position paper. From that position paper you can then get regulations and sometimes licensing conditions. So that is one area; we look at gaps through research and have discussions and then develop policies. The other way of regulating is by issuing licences to broadcasters and also by investigating the categories of the broadcasting sector which have not been developed. For example if we think that community broadcasting has not been developed well, we then look at how we can develop it. Recently we've been busy with the nodal points, so if we feel that the rural areas have not been served well we then through licensing issue licences for those areas. So basically its regulation and then contributing towards the development of the industry. We regulate in the public's interest.

What are the guiding principles that the ICASA uses when regulating?

The IBA Act has a list of guiding principles; for example the upliftment of previously disadvantaged communities. We look at diversity; there are quite a number of them its just that I can't remember all of them but they are listed in

section 2 of the Act.

Which other organizations does the ICASA consult or interact with regards regulatory duties?

The broadcasters themselves, basically organisations formed by the broadcasters, the Department of Communications. Then you have a number of stake holders in the industry like the National Community Radio Forum, the Media Development Agency the Freedom of Expression Institute. So you have the organizations which cater for the interests of the industry and the interests of the public such as NGO'S. We also communicate with the community at large.

What is the nature of your relationship with the Portfolio Committee on Communications?

Well I can't say much about that but they are the portfolio committee in parliament, they are an oversight committee in parliament. So we from time to time account to parliament for our policies, the operations of our organization. That committee sometimes conducts hearings regarding legislation. At the moment we have legislation in the pipeline, in fact it's a bill. It's called the ICASA bill. That Committee doesn't only consult with us; it consults with broader stakeholders in the industry.

Can you elaborate a little more on your relationship with the Department of Communications?

In so far as broadcasting is concerned we are completely independent in the sense that we develop regulations and policies and we implement those policies without being approved by the Minister. The DOC in our case is mainly a stakeholder but as we know they are vested with the powers of developing legislation around broadcasting but we then implement that legislation and the

policies.

How is the ICASA funded?

We get funding from the treasury although I'm not the right person to comment this.

What is ICASA'S position with regards to the trend towards deregulation?

I can't comment much on that as I'm not the right person perhaps the policy department can answer that question. Safe to say, however, that ICASA had recommended to parliament to relax regulations around ownership.

Can you briefly comment on why there are still areas in the country that aren't receiving radio signals?

Again I'm not in a position to answer that question. I'm sure the policy department will be more equipped at answering that question.

Do you feel that the SABC as a public broadcaster is meeting its requirements?

We have not been monitoring the SABC closely, the reason being that the licensing conditions we had for the SABC were very superfluous. They were not very specific. We have recently re-issued the amended licensing conditions for the SABC, which are detailed in terms of their mandate. We will now start making sure that they comply with those conditions because it's difficult to monitor compliance with a mandate without guiding principles or specific conditions. We also look at each individual radio station and TV channel because, remember, each radio station will have its specific stipulations for example uKhozi has a

specific group which it targets in terms of language and area and its conditions will also be different for example from SAfm.

What about the fact that the SABC still relies heavily on advertising for revenue even though it's a public broadcaster?

Obviously it would seem as though there is conflict of interest where the advertisers may end up driving the mandate of the SABC because of the percentage they contribute towards their revenue. It shouldn't be like that but again what I'm telling you is based on the perception that I have its not based on research. Unfortunately I cannot answer authoritatively on that. Perhaps the research department can help you there or the licensing department.

Could you possibly elaborate on the concept of public-commercial broadcasting and why it has come about?

It would be for example 5 fm. It's a broadcaster of the SABC but like Metro fm it has a commercial interest. SABC 3 is another example. It has a public mandate because SABC has a public mandate but mainly it helps the SABC to raise funds.

Is the fact that it's relying on some form of commercial means not a problem with regards to its public mandate again going back to that question?

I wouldn't say so because there's a clear division now. It's not like in the past where it was not clear; where a station would adopt a commercial structure whereas it's supposed to be public. Now it's clear so if you licence a station you know it has a commercial imperative or a public one. The aim also is to help raise funding; to subsidise the public branch.

In your opinion, would you say the South African broadcasting media industry is diverse and has achieved pluralism?

Yes, I think it has come a long way. I think it is diverse since it caters for the different needs of communities. I think that now within the community sector we have Christian radio stations for example, I mean religious radio stations. So you have radio stations which cater for the Muslim religion you have those who cater for the Christian religion and those who cater for a particular culture. These are public interest radio stations, radio stations serving communities of interest instead of geographical. There is diversity and within each broadcaster for example diversion of news is promoted so you can't have a radio station which focuses on one area.

There is a long way to go, but in terms of marginalised languages there is something being done. That's why we now have SABC four and five to cater for those although they haven't been licensed as yet.

Due to increased competition as a result of the introduction of community stations and other similar factors; some broadcasters have called for a more liberalised media industry especially with regards to media ownership and control. What is the ICASA'S position on this issue?

ICASA is for competition but again you have to do your research and check whether the particular community or area is ready for that kind of competition. For example you can't lump KwaZulu-Natal in the same basket as Gauteng and give them competition they cannot handle. ICASA is for competition, we have always argued for the relaxation of ownership rules.

Is there any situation in which the Department of Communications would be in a position to overrule a certain policy you may have decided to

implement?

I can't think of any, in fact this hasn't happened.

Interviewee no. 2

What are the key conditions or requirements that commercial broadcasters must meet in order to be granted a licence?

They must have funds, they must comply with ownership rules and regulations and also licensing conditions.

What are your guiding principles when deciding on whether to issue a licence to an applicant or not?

The main guiding principle is that of diversity. We want to ensure that there is diversity especially with community broadcasting.

When it comes to commercial broadcasters; diversity can be a little trickier to achieve how do you deal with this sector of the industry?

The trick there is to try and balance the interests of their target market with the licensing conditions.

M-net has an open window which is a period from 5pm to 7pm where viewers without M-net decoders can watch its programmes. This is a cause for concern for other broadcasters such as e-TV for example because during this time they have to compete for non-subscribing viewers with a subscription broadcaster. What has the ICASA decided to do about this?

The authority has ruled that the window be closed because of the very fact that it

becomes unfair for M-net which is a subscription broadcaster to compete with e-TV and the SABC both of which are free-to-air broadcasters.

What is your position as the ICASA with regards to the global trend towards deregulation?

That question would be better answered by the policy department.

<u>Interviewee no.3</u>

What other institutions does the ICASA consult with in carrying out its functions?

It depends on the area but in principle we do consult a lot with the stakeholders either informally in the process of developing legislature or formally through a section 28 inquiry. Remember I mentioned earlier on we issue out a discussion document where people are then given 30 days to respond and in addition to that we also have public hearings where people that have indicated during the response period that they want to give oral hearings are given this chance. We also consult with government or other departments. We are specifically required by section 28 to consult with the Minister of Communications when we finalise our regulation process. We also interact with self-regulatory bodies and industry bodies, the self-regulatory bodies that we would interact with would be the Advertising Standards Authority in matters that relate to the regulation of advertising, the Broadcasting Complaints Commission of South Africa which relates to broadcasting content and the code of conduct related regulation issues. We also have a memorandum of understanding with the competition commission in as far as dealing with market and competition issues is concerned. In the telecommunications side I think the competition imperatives are a lot broader. In terms of broadcasting we've tended to have been confined to mergers and acquisitions. We also have a memorandum of understanding with the Media

Diversity and Development Agency (MDDA), what the MDDA is meant to do is to promote the growth of smaller media enterprises or organizations across the board ranging from community newspapers and radio stations and television. Their mandate is a lot broader but the way in which we perceive it is that they also assist in terms of assessing or diversity mandate and also our development and access mandate, we have working relationship with them. There are two examples that I can point out where we had to deal with other departments as far as South African content development is concerned. We tried having a commissioning forum and one for musicians where we looked at developing, even though this wasn't really our area because remember we deal with broadcasting, not publication or production but the quotas that we set influence production and impact on the recording industry and so we have a relationship with the Department of Arts and Culture through an initiative called Bushito which is aimed towards developing the South African music industry in its totality; the whole value chain. That is why we set quotas in terms of what we expect with regards to the amount of South African music played by radio stations. Obviously according to their regulatory mandate; we also want to impact on that production process.

In terms of the final decision; how much power would the Minister of Communications have with regards to the implementation of policies?

In terms Section 13 of the IBA Act; we are meant to consult (with the Minister) but we have the final say. We haven't found ourselves in a situation where we are at loggerheads because obviously we are working towards the same goal but Section 13 does give us the final say. She can set policy direction but she has to consult with us. It's a good working relationship; I always emphasise functional independence. We work towards the same policy goal but she's supposed to set the overarching policy and we're supposed to set the micro policy whereas she deals with macro policy. This emanates from the bottom-up. Section 28 enables it to work from the bottom-up.

So what you find is that you are always working in parallel with the Minister?

There's hardly ever any duplication, there could be duplication in terms of the area but in terms of the approach... remember the Minister sets policy that cuts across, we deal with policy that'll enable us to enforce. There's never been a directive that came from the top-down, there's section 13 which allows for that to happen but it's always been from the bottom-up. We make recommendations, we make regulations. So there are three areas in the IBA act that we need to look into in this regard, section 13 which talks about the powers of the Minister and the powers of the regulator and the working relationship between them section 78 gives us the power to make regulations, section 28 which gives us as the regulator the power to initiate the policy process inclusive of a public inquiry.

What is your position as the ICASA with regards to the global trends towards increased concentration on the one hand and deregulation on the other?

We have section 48, 49 and 50. We've reviewed the way in which its relevance might impact on the digitalised environment we still believe that we should work towards media diversity, its one of our regulatory imperatives. Section 2 says that we should work for a diverse and independent media environment, especially a broadcasting environment. What we've done in terms of the review is that we've actually relaxed it somewhat in the sense that we've allowed for a bigger proportion and we've also included a discretionary clause that could allow for more foreign investment. Obviously in a converged environment, there are going to be more challenges either than just circulation. Remember it's based on the circulation of newspapers. There could be other platforms that come into play but in as far as it's the law; it remains the law. The difference might be in how you implement it and how you would consider other aspects. One of the things that

we looked at is how it would impact on the digitalised environment.

Why is it that certain areas are still not receiving radio and television signals within South Africa, is it a question of viability or infrastructure?

It's a mixture of all of the above. Its mostly infrastructure which is the underlying reason but when the PBS was licensed and the Triple Inquiry came into being there were percentages that broadcasters were meant to have covered as part of the licensing conditions. Some of the things the technical department should be measuring are to see how far. But there'll always be those gaps. One of the things that we've allowed as a legacy and which we're in the process of reviewing is the existence of self-help stations. Self-help stations are like re-transmitters, because part of the problem of areas not receiving coverage could either be the fact that the topography is such that you would need to have an additional transmitter to be put in that place for people to receive and it would not make economic sense for the broadcaster to set up another transmitter and so in the mean time self-help stations can serve as a temporary measure to allow people to receive. So like I said it's a mixture of the above, sometimes it doesn't make economic sense, but economic sense for the PBS should not be the major determinant. There should be plans or indications of when signals should reach those places. Sentech has the obligation of ensuring that universal access happens.

So there is something being done about it?

There is something being done about it, but like I said we're reviewing the self-help station policy to ensure that it reaches the goal which is to be a temporary measure until such time that universal access takes place, but all broadcasters have obligations. If you look at the
e-TV licence, there are certain areas that they have to cover.

In your personal opinion; do you believe that the SABC meets its mandate as a public broadcaster?

I would say that its in the process of meeting its mandate, obviously the picture that's being presented right now is based on the licence conditions that it had in June this year we amended the licence conditions. What the licence amendment process is meant to do is to clearly distinguish the extent to which the SABC would operate as a commercial concern and the extent to which it is to operate as a public broadcaster. The broadcasting act allows the SABC to be divided into two divisions one that is a public broadcaster and one that is a commercial broadcaster. The division is mainly meant to be an organizational division not a licensing division. The licensee needs to be SABC but what the licensing division does is that it places certain programming obligations on pure PBS system, the PBS side but the PBS is not supposed to be threatened by commercial concerns but to enable SABC to be able to tap into the advertising revenue market then there are certain channels that are meant to operate on a purely commercial basis to be driven by audiences, to be driven by advertising imperatives but at the same time the division is meant to be in such a way that the commercial side, funds the PBS side but the PBS side cannot cross-subsidise the commercial side. In a nutshell; even though in some aspects in terms of the programming that it carries in terms of the languages that it carries in terms of the way in which programmes are scheduled the SABC may appear to be more commercialised than public. That occurrence is in the process of being reversed in the sense that the commercial side will operate commercially and the public broadcaster would then concentrate on meeting the public mandate inclusive of a certain quota in news a certain quota in languages. What we've done is that we've taken, because we understand that it's an investment, a gradual approach. In three years time the SABC is going to look totally different and that refers to sound broadcasting and television broadcasting.

M-net has an open window which is a period from 5pm to 7pm where

viewers without M-net decoders can watch its programmes. This is a cause for concern for other broadcasters such as e-TV for example because during this time they have to compete for non-subscribing viewers with a subscription broadcaster. What has the ICASA decided to do about this?

We've decided that next year the open window be closed. It was a well considered decision. It was a public process a licence amendment process. We've put together a document that talks to it. Part of the reason is the fact that we allowed the situation to continue until such time that there was a decisive subscription broadcasting policy which came out in June. The week after that we then made the determination that next year we're are going to close the open window. Outlining for one that for a long time M-net was operating, by virtue of an open window, a free-to-air service which was an anomaly in a subscription. It was not making for fair competition in the sense that during that time slot it was competing for a higher LSM audience base with all the other broadcasters that are meant to only operate on the basis of advertising revenue, whereas they could source subscription fees, so the open window is going to be closed.