From "Nommer Asseblief"[i] to African Powerhouse? Challenges to Bringing South Africa's Communications Environment into the 21st Century

Report for the Freedom of Expression Project

DRAFT REPORT – NOT FOR CITATION

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Executive summary

This report forms part of a larger global project on freedom of expression and access to information in the 21st century. As one of a number of country reports forming part of this project, the report attempts to outline the current communications environment in South Africa, and highlight some of the limitations thereof given new and emerging forms of Information and Communication Technology (ICTs), as well as how these are accessed in a country as diverse and unequal as South Africa.

Section 1 of the report offers some background to the project itself, and how this shaped the methodology and research questions upon which it is based, as well as outlining in broad strokes the development of the communications environment in South Africa since 1994, and how this relates to South Africa's situation on the continent. It is noted that the vast inequalities that exemplify South Africa pose the major challenge to the realisation of substantive access to information and political participation in the country.

Section 2 offers a range of findings and analysis, beginning with the way that different media are accessed in South Africa in section 2.1. While the core of the project is to focus on the environment for connectivity, the South African case would offer an incomplete picture if the traditional media – radio, television and the print media were not considered, and so these are covered in addition to the environment for fixed lines and cellphones, and internet access.

This is then followed in section 2.2 with an outline of the policy and legal environment that shapes access to information and freedom of expression in South Africa. It is noted that while these rights are well-established in the Constitution, supporting legislation, and relevant international instruments, the question of accessibility is hampered by unequal access to the means of enforcing these rights in practice.

In section 2.3 the bodies and institutions that bear the responsibility for control and enforcement of the communications environment are outlined, and the challenge posed by the economic restrictions of the environment in which they operate is noted. This is characterised by a situation of competing demands that need to be prioritised, which poses a challenge to the aim of universal connectivity. Further competing demands and restrictions that are covered are the tension posed by the relationship between the state and the media system, as well as the demand for diversity of content, which in South Africa covers race, language, gender, culture and disability.

The final section, 2.4, offers some further consideration of access and diversity on the internet in the form of policies relating to ICTs; geographical, socio-economic and structural difficulties; and forms of access and content.

Section 3 contains some brief conclusions and recommendations based on discussion with the participants at a colloquium of experts in the area which was held on 19 November 2009.

1. Introduction

This report forms part of a larger global project on freedom of expression and access to information in the 21st century. As one of a number of country reports forming part of this project,[1] this report attempts to outline the current communications environment in South Africa, and highlight some of the limitations thereof given new and emerging forms of Information and Communication Technology (ICTs), as well as how these are accessed in a country as diverse and unequal as South Africa. To this end, the report follows the broad structure, methodology and key questions that are identified in the other country reports, as well as in the terms of reference for this project (referred to in 1.1 below).

It should be noted that the broader project of which this forms a part is concerned with communication as a facet of the broader right to freedom of expression, and the right to access information as integral to effective political participation. Therefore, while the project, and therefore the project report, are concerned with the ways in which information and participation are accessed and expressed, the underlying conception is one of a commitment to communication as a human right. The philosophy and the broader questions which this evokes are outlined in the project documents, and it is not within the scope of this report to repeat these here. The report therefore limits itself to commenting on how the human rights to freedom of expression, access to information and political participation are articulated in the South African context, while taking it as given that there is a broader theoretical and normative framework upon which this is based.

Since the early 1990s, South Africa has travelled a short but dramatic journey from oppression to democracy, and the stark contrast and contradictions which this journey has generated are highlighted in the communications environment today. The report therefore attempts to cast the information on the communications environment within the broader context of developments in the country, and is also mindful that this is a dynamic situation which is in a constant state of development.

1.1 Methodology and research questions

As already noted, the structure of the report and the research are broadly shaped by the parameters of the international project of which it forms a part. The specific terms of reference for the project were that a "layer model" be employed, and again, while the further details of how this model was developed are available in the project documents referred to above, it is worth outlining briefly here. The model consists of four layers:
1) ***Content***, which includes how the right to freedom of expression is articulated and expressed
2) ***Applications***, which covers how content is accessed and who provides these services
3) ***Infrastructure,*** which is the wires, cables and broadcast spectrum
4) ***Connectivity***, which covers how different devices connect people to sources of information

In addition to these four layers guiding the research, there are four normative guiding principles which are regarded as leading to a communications environment that serves the public interest. The report attempts to examine as aspects of the rights to freedom of

[1] The other country reports are from Kenya, Argentina, Indonesia and Brazil. For the full version of these reports, as well as the other project documents, see:
http://www.freedomofexpression.org.uk

expression, information and participation. These are 1) Accessibility; 2) Diversity and pluralism; 3) Participatory and transparent government; and 4) Openness, creativity and innovativeness. While the four layers outlined above form the framework for the kind of information that the report needs to include, the four principles are benchmarks against which this information can be measured to assess how effective the communications environment is in achieving the aims of serving the public interest.

The research methodology that was employed was to compile a draft report on the basis of the existing legislation and research, and then to supplement this with a round of expert consultations for further input into the draft report.

The specific content questions that the report attempts to address are:

- What is the current 'state of play' in terms of the law and policy environment for ICTs in South Africa?
- What are the implications of the current situation for the human rights to freedom of expression and political participation?
- What research currently exists on connectivity and ICTs in South Africa, who conducts it, and how freely available is it?
- What gaps in our research and knowledge exist and how can these be addressed?
- How does a country with vast inequalities close the gap between those who can use IT infrastructure to leverage economic and political power, and those who are isolated geographically and economically?
- What role should civil society and the private sector play in supporting the government to service the right of access to information?

It is also necessary to briefly say something about the use of quantitative data in this report, in particular the statistics in Appendix 1. This scope of this study did not extend to the conducting of primary research, and references to quantitative data are therefore based on the most recent information that was available at the time of writing. These instruments must necessarily be treated with a degree of caution, relying as they do on a range of survey instruments, as noted in the Appendix. This report makes no claims as to the accuracy of this data, nor does it attempt to interrogate the methods used in compiling this data. References to it are therefore purely for illustrative purposes. What this does highlight however is the need for some kind of accurate quantitative assessment of the communications environment in South Africa, and this is referred to in the concluding section.

1.2 The context

South Africa presents a unique case, in the sense that no other country in the study has experienced such a dramatic change in the legal and political context in such a short space of time. Context remains important in an historic sense too, as the inequalities that were engineered as a facet of apartheid continue to bedevil the current context[2] and nowhere is this more apparent than in the disparities in access to ICTs in South Africa. Furthermore, South Africa occupies a unique and ambiguous role on the continent, at one and the same time an economic powerhouse and destination for migrants and refugees alike, but also the country

[2] Different measures of inequality in South Africa exist, and while they differ in some respects, all agree that South Africa is either the single most, or one of the most unequal countries in the world. These inequalities have persisted since the demise of apartheid, and continue to be a major stumbling block to the equal enjoyment of the rights enshrined in the Constitution. This is explored in more detail below.

that is most deeply divided culturally, linguistically and economically in terms of the embedded contradictions of its colonial past. All of these facets are thrown into stark relief when one considers the challenges to the communications environment in the country.

1.2.1 Background to access to information in South Africa

It would be hard to exaggerate the difference between the current communications environment in South Africa and that from which it has developed in just two short decades. Few people who did not live in South Africa prior to the 1990s can appreciate the extent of the information restrictions, and the consequent poverty of infrastructure providing access to information that resulted. Television was not seen in South Africa prior to 1975, with the first test broadcasts, followed by the introduction of 37 hours a week of regular broadcasts in 1976.[3] Furthermore, apart from a wealthy and privileged few, it was only the white minority who had access to the limited infrastructure provided by the state, including the state controlled telephone company, and broadcasting of television.[4] Radio had been available, since World War I, but until the 1920s it was limited to amateur radio hams and experimental broadcasts. Licensed broadcasting began in 1924, and in 1936, with the formation of the South African Broadcasting Corporation,[5] public broadcasts in English and Afrikaans began. At the end of World War II, the apartheid government came into power, and quickly began to appreciate the importance of controlling the airwaves, including broadcasts in all of South Africa's languages, including remote areas in the former so-called black "homelands." Radio was long recognised as a useful instrument of control and misinformation. The main point to note is that far from the information and broadcast environment under apartheid being one of public service, rather it was one that was in the service of the state, and relied upon for the purposes of propaganda and control.

Similarly the press in South Africa has historically occupied either a supportive or an oppositional stance to the government, depending on under whose ownership a particular publication fell. While these divisions are not so hard and fast any more, it is still possible to discern those publications which are "independent" and those which follow the state or party line. However it was the role of the state, and of the (supposedly independent) public broadcaster in the form of the SABC, that was to prove most challenging in this rapidly changing environment (see 2.2.2 below).

Since the early 1990s, when the process of liberalisation and democratisation began to unfold, a different vision for the information environment began to emerge. This of course also coincided with the rapid expansion of the internet worldwide, and the development of ICTs, so the inception of a culture of rights to information and communication coincided with an expanded ability to exercise these rights, at least on the part of those who were able to access new methods of communication.

[3] It is worth noting that the introduction of television in South Africa, which had previously been opposed by the Nationalist government "on moral and ethical grounds" (Fourie, 2007: 14), coincided with the indirect purchase of the controlling share UPITN in what was later to become known as the "information scandal" of the 1970s. For more on the political consequences of this propaganda initiative, see Sanders, 2000.

[4] According to Bevan, 2008: 167 "by 1979, the broadcasts covered more than 80% of the white population, and 42% of the black population. However, there was still only one service and one channel … It was only at the end of 1981 … that the separate black [language] services were introduced."

[5] The current situation of the SABC is covered in section 2.2.2 below

In 1996, a document called ***Communications 2000: A Vision for Government Communications in South Africa*** was drafted by the Task Group on Government Communications, appointed by (then) Deputy President Thabo Mbeki, which sought to map out the post-apartheid communications environment and how this could be expanded to meet the needs of a newly and rapidly democratising country. While the 96 page final report made 83 recommendations in total, what is important to note is that the report paved the way for the establishment of the Government Communications and Information System (GCIS) which is the system by which the government communicates information to citizens on service delivery, legislation, and their rights and duties. The 2007-8 Annual Report of the GCIS shows that they are currently able to post staggering amounts of information on legislation, speeches, reports and the like on the South African Government Information Website (www.info.gov.za). In addition, they produce 2 million copies of each edition of ***Vuk'uzenzele*** government magazine, with distribution particularly in poor and rural areas via government facilities such as clinics, police stations and post offices, as well as door-to-door delivery. The magazine is also available in Braille, and a portion of its pages are translated into all 11 official languages.

A further development to note, coming out of the democratic government's commitment to communication, are the establishment of Thusong Service Centres, with a total of 123 being established by the end of 2008. These centres offer services from various departments such as Home Affairs, Labour, Social Development and Health, as well as making GCIS services available, telecentres, Post Office, libraries, agricultural extension offices and municipal services. While the effectiveness of these centres as hubs of communication is difficult to assess, the GCIS certainly deserves credit for their number and distribution.

While the role of the GCIS and the Department of Communications are covered in more detail in section 2.2.2 below, it is worth noting here the existence of such a department, as well as a number of subsidiary bodies charged with administering various aspects of broadcasting and communication in the country. Thus an environment with a constitutionally free press, freedom of expression and information exists side-by-side with a complex regulatory environment which is constantly beset with management woes and threats of government interference. Furthermore, the added impetus that the impending soccer World Cup in 2010 to be hosted in South Africa has had in beefing up both the budget and mandate of the Department of Communications must be noted.

However, the most significant and challenging aspect of the current South African human rights context is inequality in particular in so far as this impacts on people's ability to exercise their rights. To illustrate this from the perspective of the communications environment, South African households on average spend just 3.5% of their total consumption expenditure on communication (see Figure 8 in Appendix 1). While, somewhat shockingly, this exceeds the amount that is spent on education (just 2.4%), it does illustrate how in circumstances where limited amounts of income have to stretch to cover basic and essential goods like housing, food, transport and energy requirements, communication can be seen as a low priority item. It is also important to consider this expenditure within the more specific context of how income is spent when it is broken down by household demographic. Figure 9 in Appendix 1 graphically illustrates how those households previously classified as white[6] continue to enjoy a relatively more privileged lifestyle than those in other race groups,

[6] While South Africa no longer officially classifies it citizens by race as was done under apartheid, racial categories are still used for a number of statistical and legal empowerment purposes.

which inevitably means that they have a greater capacity to access information, and therefore to exercise their rights in various ways. While this inequality in access is a recurring theme in the case studies that comprise the broader project, this aspect requires special emphasis in the South African context.

1.2.2 South Africa in Africa

> South Africa is the economic powerhouse and leading telecommunications market of the continent, but a lack of competition in several key areas has slowed developments down in recent years and allowed the country to be overtaken by some other African countries in terms of certain key indicators (Budde.Com, 2007).

Since 1994, South Africa's relationship with the rest of the continent has also changed dramatically. Since joining the (then) OUA (now the AU) in 1994, South Africa has played a role in a number of continental initiatives, including hosting the Pan African Parliament. South Africa has also taken the lead on diplomatic and peacekeeping exercises on the continent, and furthermore note needs to be taken of the expansion of certain South African industries on the continent, most importantly the mobile phone network providers. The graph in Figure 6 in Appendix 1 shows that South Africa is fourth on the list of the top ten countries in Africa in terms of its overall number of users (approximately 4.6 million users).

Overall the picture for the expansion of communications in Africa is mixed and not favourable for ICTs, with the exception of the high uptake of mobile phones. The table in Figure 5 in Appendix 1 illustrates that with a few exceptions (which tend to be small relatively well-resourced former colonies or those that are still under the sovereignty of a European state), internet penetration on the continent remains below 10%, and the continental average is a just 6.8%. The discussion about the right to freedom of expression and access to information in Africa therefore needs to be considered taking into account this seemingly nigh-insurmountable difficulty in accessing even the most basic ICTs. This situation is even more pressing when one considers the lack of availability of broadband internet access on the continent, and the extent to which this constrains the ability of people to make the most optimal use of the available ICTs in terms of accessing information and exercising their rights.

The other important point to note is that South Africa is one of just 6 countries[7] in the SADC region that has a Constitution and legislation that actively promotes freedom of information and regards access to information as a right, while 8 others[8] have included this by default under the broader right to freedom of expression. While this is progressive in light of development of instruments by the AU (see 2.2.1.3 below), it is clear that the commitment to these rights on paper does not effectively translate into access for citizens. While South Africa is therefore fairly advanced on the continent in terms of its articulation of these rights, the important question to ask is the extent to which this legislation is effective in promoting the right of access to information, freedom of expression, and holding the state to account as a form of political participation.

[7] Malawi, Mozambique, the DRC, Tanzania and Madagascar are the others
[8] Botswana, Lesotho, Angola, Zambia, Mauritius, Zimbabwe, Namibia and Swaziland

2. Findings and analysis

2.1 Access to different media

As already noted, the reason this report focuses on the communications environment generally, rather than just concentrating on new technologies and the internet, is that the majority of South Africans remain outside of the new communications environment, and so are reliant on traditional media, such as radio, television and print media. This may be bad news for those who want to see the whole world connected, but it is good news if one takes a broader view of access to information and its impact on democratic participation, by whatever means, because there is no doubt that almost all South Africans have access to some form of medium of information (albeit state provided), even those who live in the most rural and remote areas. This issue is of course relevant not only to South Africa and the region, but to people in remote areas in developing countries globally, and the imminent move from analogue to digital (see section 2.4.3.3 below) has implications of both cost and accessibility for many of these people. This is also a provocative issue for those who are thinking about how to make new media accessible to people who are otherwise isolated by being off the electricity grid and not linked to a landline, let alone having access to the internet in any form. There is also some emerging research on how new ICTs can be harnessed in particular by rural communities to improve their livelihoods by increasing their knowledge and understanding of the markets for their goods in a cost-efficient way. The scope and potential for new ICTs to reach poor and rural people in creative ways that not only enhance their access to information, but also allow them to participate meaningfully in advancing their educational skills, also need to be considered.

2.1.1 Traditional Media: Radio, television and print media

By far the most widely available and used medium of broadcast and accessing information is the radio. It is estimated that some 94% of South Africans have access to radio in one form or another, and in many rural areas, the radio is usually the only electronic medium that people have access to. There are 16 regional or local commercial radio stations, some of them emerging from the independent radio stations of the apartheid era, when they operated from the former homelands and were therefore exempt from the draconian controls of the apartheid regulations. Six of these stations were sold off from the SABC in 1996, and eight new metropolitan station licenses have been issued since 1997. While these stations are subject to some public service programming requirements, they have fewer obligations than the SABC's stations, which is licensed by the Independent Communications Authority of South Africa (ICASA – see sections 2.2.1.2 and 2.2.2 below) with the express purpose of providing public service content. An interesting and potentially dynamic development is the growth of community radio stations – currently their share of listenership is 22% and is estimated to be growing (Duncan, 2009: 43).

Television, as noted above, was a relative latecomer to South Africa, offering extremely limited content. Currently, free-to-air television channels, which include the SABC's 3 offerings, as well as independent channel E.tv, reach 84% of the population. There are currently licenses issued for a further two SABC channels, but as their sources of funding are as yet being debated these channels have yet to materialise. Subscription television services

(both incidentally owned by Naspers[9]) are M-Net and Multichoice's DStv, currently reach less than 10% of the population, owing to the costs they involve. It is also worth noting that four additional subscription services were issued licenses in 2007, of which only one (E.tv's news channel) is operating, albeit in a modified and scaled down form from that which was originally licensed (Duncan, 2009: 43).

The SABC's role as a public broadcaster (see sections 2.2.1.2 and 2.2.2 below on its legal mandate) is somewhat ambiguous, and it has long been beset with managerial woes. Despite its ostensibly independent and representative role, government interference in the work of the SABC was a hallmark of the apartheid state, and has continued under the stewardship of the ANC. While the details of the state's interference in the SABC and its managerial and financial woes are the subject of a report on their own, it is worth noting here that the ability of the SABC to play its role of an impartial and representative public broadcaster is far from clear both in terms of its financial and managerial capacity, but also in terms of its ability to function as an independent body with a board free of political interference.

In line with trends worldwide, the uptake of print media in South Africa is in decline, reaching less than 50% of the population. The tabloid, the ***Daily Sun*** has the highest penetration. However, as Fourie (2007) notes, a number of the larger newspapers, in line with emerging ICTs, have websites where they publish online versions of their papers, updating the news more frequently than the traditional print format permits.

An interesting point to note is that the province of KwaZulu-Natal boasts no less than three newspapers published in isiZulu, each targeting a different market segment. Indeed ***Ilanga***, a bi-weekly family orientated newspaper, is South Africa's oldest newpaper, published since 1876, and it also has a respectably large circulation of more than 100 000 copies (Fourie citing Taunyane, 2007: 53).

2.1.2 Fixed lines and cellphones

South Africa's fixed line infrastructure and service have, up until recently, been dominated by Telkom, of which government is the majority shareholder, with 39%. It is difficult not to be cynical about the reasons why Telkom's monopoly has been allowed to exist for so long, considering the significant profits which the government reaps as a result of it majority share in what is a captive market. It is important to take note that of a total population of around 45 million people, Telkom serves only about 2.5 million residential customers or households, 200 large corporates, and around 550 000 large, medium and small businesses. However, as Ponelis and Britz remark,

> Even with such a relatively small customer base, Telkom has clearly used its monopoly to its advantage: since the year 2000, its operating profit margin increased from R1.54 billion to just over R9 billion in the fiscal year ending in 2007. In order to achieve such profit margins, telecommunications costs clearly must be high, indeed telecommunications cost in South Africa is

[9] Naspers, which was founded in as ***Die Nasionale Pers*** (the National Press) in 1915 with the express aim of serving the media needs of Afrikaner nationalists, today is a publicly listed multinational company. Its main focus is electronic media such as pay-television as noted here, internet and instant-messaging subscriber platforms and the provision of related technologies. They also retain a print media arm, which produces magazines, newspapers and books, and provides private education services.

> currently one of the highest in the world; numerous studies have found that Telkom's pricing is excessive (Ponelis and Britz, 2008).

Given these excessive, and protected, costs, it is scarcely surprising that the number of fixed lines has decreased over the past decade and continues to be in decline. Of course this is also due to the high degree of cellphone penetration in the country, but the exaggerated costs of operating a fixed line for either domestic or commercial use is almost certainly a factor too.

By 2006, this situation had provoked such a public outcry (with websites such as ***www.hellcom.co.za*** and ***www.telkomsucks.co.za*** springing up) that Telkom was forced to decrease its prices in line with inflationary pressures. However they compensated for this by retrenching nearly 50% of their staff, which, for a publicly owned company in an economy already blighted by unemployment should certainly raise eyebrows if not a few questions.

It was also in 2006 that South Africa's only competition to Telkom in the form of a second national operator, Neotel, was allowed to enter the market. Once again the government is a significant shareholder (30% in this case), but to date Neotel has struggled to gain a market share, mainly because of Telkom's monopoly on the fixed infrastructure, and therefore its ability to frustrate Neotel's attempts to forge new contracts. While Telkom of course denies this, the South African Competition Commission claims that there is "incontrovertible evidence that the country's low internet penetration, expensive data tariffs and high phone bills were a direct result of Telkom's continuing dominance in the marketplace" effectively neutralising their competition (Ponelis and Britz, 2008).

In so far as the question of fixed line access is of course bound up with the issue of the accessibility of the internet, Ponelis and Britz make the following point relevant to the central question that this project is seeking to address:

> In terms of accessibility, affordability and quality of service, South Africa's monopolistic fixed line market is underperforming relative to similar countries and the promise of universal access has certainly not materialised in spite of initial good intentions ... the situation regarding the right to communicate as well as the telecommunication policy and infrastructure development to date in South Africa has been and continues to be a matter of social justice (Ponelis and Britz, 2008).

While this point about social justice is well taken, it is important to note the retarding effect that this also has on the ability of the science and technology sector generally to perform optimally. This relates to the problem of a lack of broadband availability in South Africa (which is discussed in section 2.1.3 below), but just by way of illustration of how frustrating Telkom's monopoly on fixed lines can be, consider the following anecdote:

> In September [2009], a pigeon by the name of Winston beat Telkom's broadband service when he carried a 4GB memory stick from Howick to Durban in two hours – in which time the ADSL line had sent just 4% of the data (Smith, 2009).

Indeed, even the University of Cape Town itself, which is supposed to be the premier research university not only in the country but on the continent,[10] suffers from this frustrating lack of broadband, retarding the ability of researchers and academics to communicate with one another and access information freely. This relates to the point made by Berger below

[10] UCT is the only university in Africa to be ranked as one of the top 200 universities in the world, and one of only 8 from developing countries. See: http://www.timeshighereducation.co.uk/Rankings2009-Top200.html

that the future of broadband access in South Africa may need to be prioritised at institutional, rather than individual level.

The big success story of the communications sector in the past 15 years in South Africa is cellphone penetration, which according to some estimates is close to 100% (see Budde.Com). There are however major issues around connection costs – the two largest cellphone providers, MTN and Vodacom (who hold 38% and 51% of the market respectively), have recently been ordered to cut their costs of connecting between networks, which they had been accused of inflating to drive newcomer CellC (currently with about 10% share of the market) out of the market. However, with convergence emerging rapidly, these two large providers are also fast becoming the leading providers of broadband, which makes them players in the ICT marketplace too. The following section, which looks at internet access, should therefore also be read on the understanding that cellphones now frequently replace computers as the devices by which people connect to the net, both for the purposes of receiving information, but also for interacting through social networks.

1.2.3.3 Internet access

Access to the internet in South Africa is available through mobile phones (including modems provided by the cellphone providers), ADSL, and fibre-optic cable. Telkom's monopoly, until recently, extended to both the provision of ADSL and fibre-optic cable, as Telkom jointly owns the underwater Sat3 cable (together with France Télécom), which was the only one of its kind prior to the completion of the SEACOM cable this year (see below). Telkom charges other countries above-cost charges for access to broadband using the cable (USD 2000 per megabyte) which inhibits its use.

There are two key factors to note here. The first is that the relatively low access to the internet (at around 10% of the population – precise statistics vary) is largely as a result of the persistent high costs of connection, fuelled by inequality and the treatment of communication as a low priority item in the overall basket of goods that most households have to budget for, as well as the inflated costs of connectivity owing to the long term monopoly of Telkom.

The other factor that is becoming increasingly pressing is the issue of a lack of bandwidth, tied up with Telkom's monopoly on the provision of fixed lines and cables, which has only recently abated with the licensing of Neotel. One of the biggest factors affecting South Africa's connectivity is that South Africa has been slow to make use of broadband even though it came across it as early as 2002. MyADSL (2006) noting South Africa's lagging performance, made reference to how a monopolistic fixed line telephone network in the form of Telkom is part of the problem as the fixed line connectivity market is the one that determines broadband penetration. Another part of the problem is that of government's slow reaction, especially given that it is the majority shareholder is Telkom.

As already noted, one of the key developments that has taken place in promoting broadband is the final introduction of the SEACOM cable, an under ocean fibre optic cable along the east coast of the African continent. This development is seen as a positive although it is believed that the benefits will only become apparent in 2011. Industry analysts say that the purpose of the SEACOM cable is to bring high bandwidth connections to parts of Africa where broadband is rare and expensive. The new connections will give African countries the

opportunity to compete effectively on a global scale.[11] A further development to note in this regard is that SEACOM is set to be followed by the Eastern Africa Submarine Cable System, EASSy, both of which will, it is hoped, break Telkom's monopoly and bring connection costs down.[12]

Another recent development that has the potential to increase bandwidth is the launch of South Africa's second satellite, SumbandilaSat (isiVenda for "lead the way"), in September 2009.[13] Built by researchers at Stellenbosch University, the satellite's main benefits will be in the area of the monitoring of agriculture, water supplies and mapping infrastructure, but, "in addition to its agriculturally related payload, the satellite is expected to increase bandwidth already provided by South Africa's current and planned undersea cables" (http://appfrica.net/blog/2009/09/22/south-africa-launches-second-satellite, accessed on 29 September 2009).

However, a note of caution also needs to be sounded over this optimism. While competition at the level of service providers is necessary to bring connectivity prices down, the major stumbling block that is yet to be removed is that the "local loop" – in this case the copper wire infrastructure provided by Telkom that actually delivers ADSL to homes and businesses - has not yet been unbundled, and there are no plans for the local loop to be unbundled before 2011. This was the deadline set by former Minister of Communications, Ivy Matsepe-Casaburri, but so far there has been no progress towards this. If accessible broadband is to be realized, it is this unbundling that will have to occur in tandem with the reinvigoration of the service provider choices for consumers (Gedye, 2009).

And this then raises a further dilemma for the Department of Communications. According to Berger (2009c), the Department of Communications is currently being pulled in three different directions as far as prioritizing their expenditure is concerned. The SABC is calling for a R2 billion bailout, which it will need in order to continue to play the role of a public broadcaster.[14] However, the digital migration process, which is now irreversible, also has costs attached to it which cannot be ignored, which leaves pressure for government support for broadband rollout further down the list of priorities. The South African National Broadband Forum (whose documents are attached to this as Appendix 2) argues quite cogently that the state has a pivotal role to play in making affordable broadband available to all, and that this will bring a host of tangible benefits. There is already a Presidential National Commission on the Information Society and Development which falls under the remit of the Department of Communications, and whose job replicates that which the Forum is calling for. But as Berger points out, it is "comparatively simpler to bring South Africans (a functioning) SABC via digital broadcast transmissions rather than through interactive broadband" and indeed, in so far as broadband is mainly used for entertainment purposes where it is widely available, it is institutions rather than individuals that require high-speed

[11] See http://www.bandwidthbar.co.za/articles/seacom
[12] See http://www.africaneconomicoutlook.org
[13] This follows Nigeria's launch of NIGICOMSAT, which has had to undergo repairs, and RASCOMSTAR which was launched in 2007 by a 56-member conglomerate of African countries, but which suffered a helium leak and was left only partly operational. See: http://appfrica.net/blog/2009/09/22/south-africa-launches-second-satellite
[14] At the end of November 2009, the SABC was allocated a government guarantee of R1.473 billion, R1 billion of which was made immediately available. This would be used to pay for commissioned local content, and allow the SABC leverage in borrowing, which it needs to do in order to reverse its losses and repay its loans by 2014. See http://www.sevafrica.com/currentNews/State-BailoutMoney.shtml (accessed on 26 November 2009).

internet and global connectivity – "especially those in research and higher education, or in businesses with international dealings" (Berger, 2009c).

2.2 Access to information and freedom of expression

2.2.1 The legal framework

This section of the report seeks to outline the legal and policy instruments that comprise the access to information environment in South Africa. The right of access to information can be seen as an obliging the State to provide the practical means through which citizens can access information when they need to for purposes of participating in an open democracy. The notion of access to information as a human right is perhaps more pronounced in a democratic society such as South Africa especially given its past. Information and the free flow of communication through freedom of expression and press freedom are arguably paramount in this regard. The Constitutional era has therefore resulted in a number of tangible instruments, including the Constitution, domestic legislation, and South Africa's commitments under international law, all of which contribute to fleshing out the content of the rights under discussion here. However, these instruments also need to be treated with a degree of circumspection, as while the intentions which motivate them are clear, the actual enforcement of these rights in practice is something of a minefield for ordinary South Africans.

2.2.1.1 The Constitution

Section 16 of the ***Constitution of the Republic of South Africa***, Act 108 of 1996 deals with Freedom of expression, and provides that:

1. Everyone has the right to freedom of expression, which includes

    a. freedom of the press and other media;
    b. freedom to receive or impart information or ideas;
    c. freedom of artistic creativity; and
    d. academic freedom and freedom of scientific research

Subsection 2 contains the usual limitations, such as excluding propaganda for war, incitement to imminent violence, or advocacy of hatred based on various listed grounds such as racial or sexual discrimination.

The right of access to information is covered by section 32 of the Constitution:

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

It is important to take note here that the Constitution itself regards this right as having both vertical application (a right held against the state by citizens to access information held by the state), as well as lateral application in the sense of being a right held against others.

2.2.1.2 Domestic legislation

As far as South African domestic legislation is concerned, the most important piece of legislation is the ***Promotion of Access to Information Act,*** 2 of 2000 (PAIA). The Preamble recognises that the system of government before 1994 "resulted in a secretive and unresponsive culture in public and private bodies which often led to an abuse of power and human rights violations". But it also notes that the right of access to information "may be limited to the extent that the limitations are reasonable and justifiable" in terms of the limitations clause, section 36 of the Constitution. The Act applies to the records of both public and private bodies (section 3).

Section 33 sets out grounds on which a public body ***must refuse*** access to a record, including where such disclosure would involve unreasonable disclosure of personal information about a third party [section 34 (1)]; to protect commercial information that constitutes trade secrets [section 36 (1)]; if disclosure of the information could reasonably be expected to endanger an individual's life or physical safety [section 38 (a)]; and where the information requested includes information about research carried out on behalf of a third party, where disclosure would expose the third party, the researcher or the subject matter to serious disadvantage [section 43 (1)]. Section 33 (1) (b) sets out the grounds on which access to information ***may be refused***, which includes a situation where disclosure would prejudice the security of a building, structure or system, including a communication system [section 38 (b) (i) (aa)]. Section 50 provides that access ***must be given*** to the record of a private body if it is required for the exercise or protection of any rights; procedural requirements are complied with; and the grounds of refusal in sections 62-70 do not apply.

All in all then, PAIA is a fairly comprehensive piece of legislation which seeks to balance the right of access to information with other public policy concerns such as privacy and safety, and indeed it was hailed as a "landmark" by the South African Human Rights Commission (SAHRC) who took on the task of publicising the Act and making it available in all 11 official languages of South Africa. However, as the Freedom of Expression Institute (FXI) has noted, actually accessing information using PAIA, which requires one to go through the courts in a costly and time consuming David and Goliath style battle against the state, is often more than ordinary citizens can afford or are capable of (see Memeza's commentary on the Ibrahim Harvey case study). Furthermore, while the Act makes provision for citizens to request information from government, there is little recourse when their requests go unanswered.

As Memeza notes,

> There can be no doubt that South Africa is enjoying more freedom of expression and access to information than it has done for many decades, even centuries. However, there is still a need for more vigilance. It seems that a lot of public debates must still be encouraged on these issues so that they can actually penetrate the "grassroots" level. The other challenge we are facing is to address the censorship effects that flow from huge numbers of people not having adequate access to the means of receiving and producing information. This great need presents possibly the most daunting, yet diffuse, challenge to ensuring that access to information is rights owned and practices by all [sic]. Even though South Africa bears the most progressive legislative scheme for access to information in the region, the realisation of this right hasn't been without fault" (Memeza, undated [a]: 39-40).

It is also important to take note of the ***Independent Communications Authority of South Africa Act,*** 13 of 2000, by which ICASA (see 2.2.2 below) is established. The preamble to the Act recognises the "rapid convergence" of the fields of broadcasting and electronic communications, due to technological and other developments. Section 2 sets out the responsibilities of the independent authority established by the Act, which includes regulating broadcasting in the public interest and ensuring fairness and diverse views broadly representative of South African Society; and regulating electronic communications in the public interest. Section 3(4) provides that the authority must function without political or commercial interference, while section 4(3) obliges the authority to monitor the electronic communications sector to ensure compliance with the Act; to develop and enforce license conditions; approve technical parameters and transmitter and transmission characteristics to be used by licensees; and empowers it to conduct research and undertake enquiries.

The ***Media Development and Diversity Agency Act,*** 14 of 2002 identifies in its Preamble desirability of establishing such an agency (MDDA) "to help create an enabling environment for media development and diversity that is conducive to public discourse and which reflects the needs and aspirations of all South Africans." It also identifies the need to redress the exclusion and marginalisation of disadvantaged communities and individuals from accessing the media; and the need to promote media development and diversity through supporting community and small commercial media projects. It defines "diversity" in this context as "access to the widest range of sources of information and opinion", and equitable representation within the media. Section 2 of the Act establishes the Agency itself and section 2(4) mandates it to be impartial, perform its duties without fear, favour or prejudice, and without "any political or commercial interference". Section 3 defines the Agency's objectives, namely to promote development and diversity in the South African Media, consistent with the right to freedom of expression – particularly the freedom of the press and other media, and the freedom to receive and impart information and other ideas.

To these ends, the Agency is mandated to encourage ownership, control and access by historically disadvantaged communities, languages and groups to the media. The Board of the Agency is tasked under section 14(1) with, ***inter alia***, identifying historically disadvantaged communities and people not adequately served by the media, select projects, and to negotiate with public utilities, organisations and financial institutions in order to acquire indirect support for projects. Such support is contemplated as including discounts or subsidies on print and signal distribution, postal rates and telephone tariffs. Section 17 details the nature of support to be provided by the agency, which includes the provision of direct subsidies via cash grants, emergency funding to sustain media projects, training and capacity development, and identifying, gathering and distributing resources for media development.

The ***Electronic Communications Act,*** 36 of 2005 ("ECA") is to provide for the regulation of electronic communications in the public interest (section 2). To this end, it seeks ***inter alia*** to "promote and facilitate the convergence of telecommunications, broadcasting, information technologies and other services"; to "promote and facilitate the development of interoperable and interconnected electronic networks; to "promote the universal provision of electronic communications networks and electronic communications services and connectivity for all"; to "promote an environment of open, fair and non-discriminatory access to broadcasting services, electronic communication networks and to electronic communications services"; and seeks to promote the empowerment of historically disadvantaged persons. The Act is

extremely lengthy, and is regarded by some in the industry as a "labyrinth" (see section 2.2.2 below) and so some of its provisions are merely footnoted here for the sake of brevity.[15]

The Act also aims to "ensure that broadcasting services and electronic communications services, viewed collectively, are provided by persons or groups ... from a diverse range of communities"; to "ensure the provision of a variety of quality electronic communications services at reasonable prices"; and to promote the development of broadcasting services "which are responsive to the needs of the public".

The Act further seeks to ensure that broadcasting services "promote the provision and development of a diverse range of sound and television broadcasting services ... that cater for all language and cultural groups". The Act aims to ensure that broadcasting licenses are controlled by individuals or groups from a diverse range of communities; and to "ensure that broadcasting services are effectively controlled by South Africans". Section 5 provides that individual or class licenses may be issued to electronic communications network services; broadcasting services; and electronic communication services. In granting licenses, the authority must ensure that the services "viewed collectively, are provided by persons or groups ... from a diverse range of communities", and must promote the empowerment of historically disadvantaged persons. Section 8 provides that the terms and conditions for licenses may take into account ***inter alia*** whether the service "is intended for the public generally or a limited group" (such as other licensees; the license area of the service in question; the protection of subscriber's interests, including "transparency of information about services, tariffs and the rights of subscribers"); "the public interest in ensuring service interoperability, non-discrimination and open access" and interconnection; "any universal access and universal service obligations"; and the public interest in "ensuring the distribution of broadcasting services" and "facilitating the dissemination and development of a diverse range of sound and television broadcasting services". Notice of license applications must be published in the government gazette, and must "include the percentage of equity ownership to be held by persons from historically disadvantaged groups", which must be at least 30%. The

[15] Section 43 obliges an electronic communications network service licensee to lease electronic communications facilities to any other person licensed under the Act, and to persons providing services under a license exemption. The Authority is empowered to exempt a licensee from the obligation to lease fibre loops and sub-loops serving residential premises, in order to promote investment in new fibre electronic communications networks (provided certain prerequisites are met). In considering granting new public broadcasting service licenses, the Authority must take into account ***inter alia*** the demand within the proposed license area; the need for it in light of existing services; and the technical quality of the proposed broadcasting service. In determining whether to grant a community broadcasting service license, the Authority must take into account ***inter alia*** whether "the applicant intends to serve the interests of the relevant community"; whether it has the support of that community; and whether it "intends to encourage members of the relevant community ... to participate in the selection and provision of programmes to be broadcast". Section 52 forbids the granting of a broadcasting service license "to any party, movement, organisation, body or alliance which is of a party-political nature." Party election broadcasts may only be broadcast during an election period. Section 60(1) prohibits subscription broadcasting services from acquiring exclusive rights, preventing "the free-to-air broadcasting of national sporting events". See also section 64 which precludes a foreigner from directly or indirectly exercising control over a commercial broadcasting license, or having an interest in one of greater than 20%, and section 65 prohibits a person from directly or indirectly exercising control over more than one commercial broadcasting service license in television, or two in the FM or AM sound broadcasting service. Section 66 (2) prohibits a person who controls a newspaper from obtaining and retaining financial control of a commercial broadcasting service license "in both the television broadcasting service and sound broadcasting service", and section 66 (3) prohibits the possession of either such license if a newspaper controlled by such a person has an average circulation of 20% of the total newspaper readership in the area.

authority is empowered to restrict the control of an individual license "in order to promote a diversity of views and opinions."

Section 21 of the Act obliges the Minister responsible for Communications, in consultation with other Ministers and institutions, to "develop guidelines for the rapid deployment and provisioning of electronic communication facilities" and section 37 of the Act provides that any person licensed under the Act must, if requested, interconnect to any other person licensed under the Act. "Interconnection" is defined in section 1 as "the physical or logical linking of two or more electronic communications networks, electronic communications services, broadcasting services, services provided pursuant to a license exemption or any combination thereof".

Section 61 empowers the Authority to prescribe regulations regarding commissioning of independently produced South African programming. It may prescribe conditions requiring expenditure on local programmes and allocate time to local programmes. Electronic communications service licensees, providing broadcasting signal distribution or multi-channel distribution services, are required to prioritise the carriage of South African broadcasting channels; to "***provide universal access for all South Africans to broadcasting services***"; and to "provide a diversity of type of broadcasting services." [Section 62(1)].

Section 73(1) stipulates that internet services provided to public schools and public further education and training institutions must be provided at a 50% discount, while section 75 empowers the authority to "prescribe or impose through license conditions" measures for directories and directory enquiry services regarding, ***inter alia***, the protection of personal data, and the protection of privacy.

Section 80 retains the Universal Service Agency established under the now-repealed Telecommunications Act, and renames it the Universal Service and Access Agency ('USAA'). The USAA is mandated to "strive to promote the goal of universal access and universal service", and to "encourage, facilitate and offer guidance" to any scheme to provide universal access or service, telecommunications services as part of RDP programmes, and to "foster the adoption and use of new methods of attaining universal access and universal service".

The ***Broadcasting Act,*** 4 of 1999 is currently being reviewed and there is draft legislation being tabled to this end. The Act, and the current Bill under discussion are significant in that it is the constitutive Act of the SABC. The preamble to the current Act articulates the realisation that "the broadcasting system must reflect the identity and diverse nature of South Africa", and "is controlled and managed by persons or groups of persons from a diverse range of communities", and "must reflect the multilingual and diverse nature of South Africa by promoting the entire spectrum of cultural backgrounds, religious backgrounds and official languages" in South Africa. It also seeks to encourage "the development of South African expression" by providing "a wide range of programming that refers to South African opinions, ideas, values and artistic creativity". The explanatory notes to Chapter 1 state that "[f]reedom of expression and the journalistic, creative and programming independence of the broadcasters and independence of regulation are identified as guaranteed by the Constitution", and "recognise that the South African broadcasting system comprises public, commercial and community elements which make use of the radio frequencies that are public property and provides ... a public service necessary for the maintenance of South African identity, ***universal access***, equality, unity and diversity".

Section 2 establishes the objects of the Act as including, ***inter alia***, to "contribute to democracy, development [sic] of society, gender equality, nation building, provision of education and strengthening the spiritual and moral fibre of society"; to "encourage ownership and control of broadcasting services through participation by persons from historically disadvantaged groups"; to encourage investment and ensure fair competition in the broadcasting sector; and to "ensure efficient use of the broadcasting frequency spectrum". Further objectives include ensuring that the commercial and community licenses "are controlled by persons or groups of persons from a diverse range of communities in South Africa"; and that "broadcasting services are effectively controlled by South Africans". The Act seeks to "integrate multi-channel distribution systems into the broadcasting framework"; "provide access to signal distribution services for content providers"; "provide access to signal distribution services for broadcast content receivers"; and "encourage the development of local programming content".

Section 3 provides that the South African broadcasting system "ensures that the broadcasting system is controlled by persons from a diverse range of communities ... and within each element promotes ownership, control and management of broadcasting services by persons from historically disadvantaged groups." Public and commercial broadcasting services are obliged to comply with international technical standards, and "the broadcasting system must be readily adaptable to scientific and technological advances."

Section 5 sets out the various classes of licenses which may be issued, while section 6 establishes the SABC. Its objectives include making its services available throughout South Africa, and providing "sound and television broadcasting services ... and ... programmes of information, education and entertainment funded by advertisements, subscription, sponsorship, license fees or any other means of finance"; and providing "television and radio programmes and any other material to be transmitted or distributed by the common carrier for free to air reception by the public", and to provide to and receive from other bodies services, programmes and materials to be transmitted or distributed (section 8). Section 10 is important to note from the perspective of the requirement of diversity, as provides that the "public service provided by the Corporation" must "make services available ... in all the official languages". The Corporation is obliged, under section 22, to apply to ICASA for licensing to provide regional television services in appropriate official languages.

As noted above, a new ***Public Service Broadcasting Bill*** has just been tabled in Parliament, but looks set to get rushed through as legislation by February 2010, as the original deadline for comment on this Bill was 7 December 2009. On 7 December it was announced that this date had been extended to 15 January 2009, and extension described by the critics of the bill as "cosmetic" as this time period coincides with the closure parliament and most businesses for the Christmas vacation. A number of concerns have been raised about this Bill, not least that it gives expanded powers to the Department of Communications over the performance of the SABC board – whose performance is already a clouded and questionable issue. It also gives powers to the MDDA which currently fall outside of its area of authority, and the new legislation seeks to align broadcasting with the goals of a "developmental state" not the rights outlined in the Constitution. See Kupe and Skinner (2009) for further details on the limitations of the proposed legislation. Another aspect of the Bill that has provoked some heated debate is the proposal that the SABC no longer be funded through licensing and advertising revenue, but through a national levy of 1% imposed as an additional income tax. This would of course bring the SABC directly under the control of the government fiscus and

the Minister of Communication, fuelling fears that it will once and for all be transformed from a public broadcast to a "government mouthpiece" (see Underhill, 2009). This is discussed further in section 2.2.2 below.

A further piece of legislation that is relevant is the recently amended ***Regulation of Interception of Communications and Provision of Communication-Related Information Act,*** 70 of 2002 (RICA). RICA is described in Appendix 3 of this report, but it is worth noting here that the 2008 amendments to this Act have raised concerns about the right to privacy of citizens, and the power of the state to gather and use their personal information, based on their possession of communication devices.

2.2.1.3 International law

In addition to the domestic legislation outlined here, there are also a number of international instruments relevant to the South African communications environment. Foremost among these is article 19 of the 1966 International Covenant on Civil and Political Rights, which South Africa has both signed and ratified. Article 19 provides that:

> 1. Everyone shall have the right to hold opinions without interference.
>
> 2. Everyone shall have the right to freedom of expression; this right shall ***include freedom to seek, receive and impart information and ideas*** of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or ***through any other media*** of his choice.
>
> 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
>
> (a) For respect of the rights or reputations of others;
>
> (b) For the protection of national security or of public order (ordre public), or of public health or morals.

General comment number 10 (1983)[16] noted the following:

> "Paragraph 2 requires protection of the right to freedom of expression, which includes not only freedom to "impart information and ideas of all kinds", ***but also freedom to "seek" and "receive" them "regardless of frontiers" and in whatever medium***, "either orally, in writing or in print, in the form of art, ***or through any other media of his choice***". Not all States parties have provided information concerning all aspects of the freedom of expression. For instance***, little attention has so far been given to the fact that, because of the development of modern mass media, effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression*** in a way that is not provided for in paragraph 3."

According to the ***Universal Declaration of Human Rights***, everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to ***seek, receive and impart information and ideas through any media and regardless of***

[16] General Comment No. 10: Freedom of expression (Art. 19): .29/06/83.

frontiers. This was preceded by the 1946 UN General Assembly Resolution 59(1) which stated that "freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the UN is consecrated."

Furthermore, the African "Banjul" Charter on Human and People's Rights provides, in article 9, that:

1. Every individual shall have the right to ***receive information***.
2. Every individual shall have the right to ***express and disseminate his opinions*** within the law.

This was followed in 2002 by the Declaration of Principles on Freedom of Expression in Africa, which held that "public bodies hold information not for themselves, but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law."

These instruments are important to note, as the South African Constitution requires reference to international law in the interpretation of the rights in the Bill of Rights, so these instruments have local significance too.

2.2.2 Responsibility for control and enforcement

As noted above, there are a number of bodies constituted by legislation charged with controlling and enforcing various aspects of the communications environment in South Africa, as well as the Department of Communications itself. While it is not possible to give an exhaustive account of each of these, and to avoid repeating what has already been outlined in the section on the legislative framework above, these are outlined here in broad strokes. It is also important to note that in so far as many of these are statutory bodies, there is some degree of overlap between them, and it is not always clear how their mandate is to be fulfilled.

The ***Department of Communications*** (DoC) is the national department with overall executive and legislative oversight of the following, in terms of its "core functions":
1) To develop ICT policies and legislation that create conditions for an accelerated and shared growth of the South African economy which positively impacts on the well being of all our people and is sustainable;
2) To ensure the development of robust, reliable, affordable ICT infrastructure that supports and enables the provision of a multiplicity of applications and services to meet the needs of the country and its people;
3) To strengthen the ICT Regulator, ICASA, to enable it to regulate the sector in the public interest and ensure growth and stability in the sector;
4) To enhance the capacity of, and exercise oversight over State Owned Enterprises (SOEs) as the delivery arms of government; and
5) To fulfil South Africa's continental and international responsibilities in the ICT field.

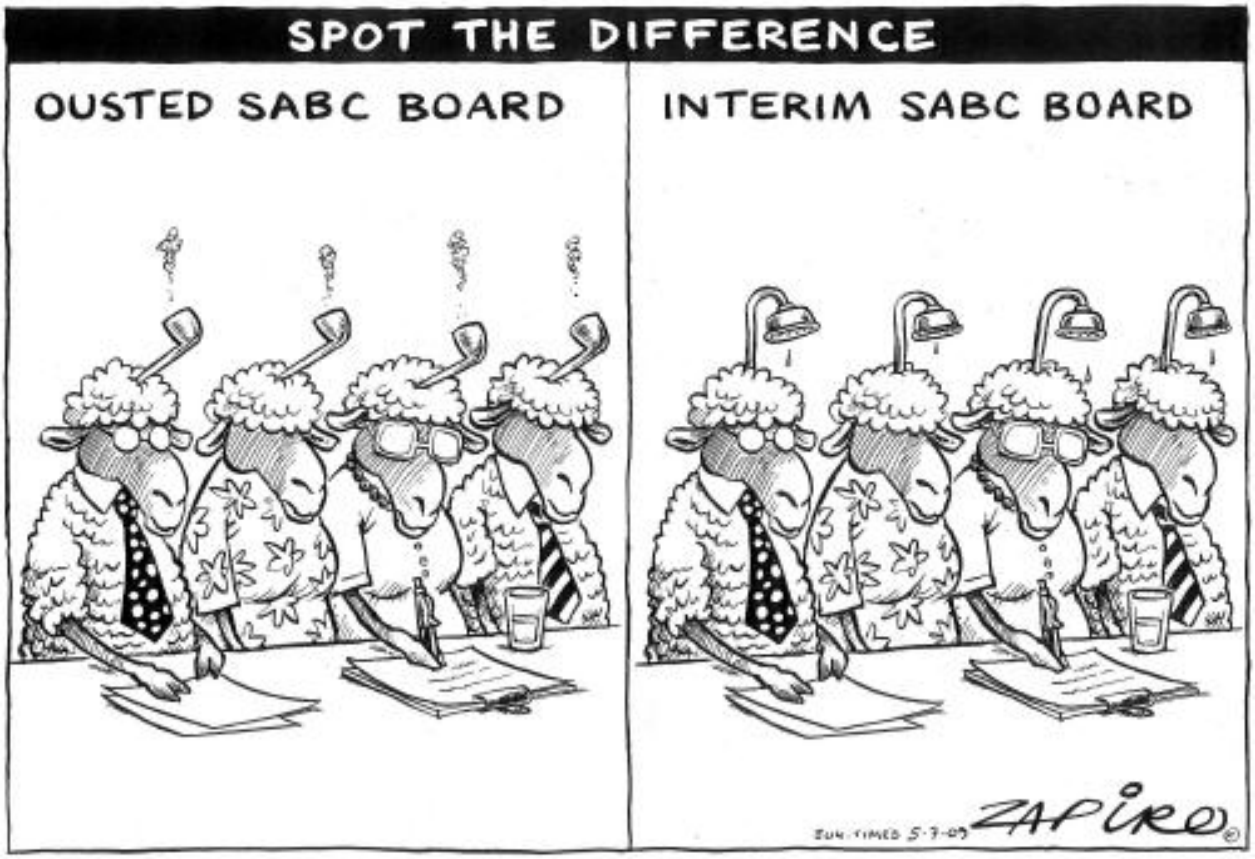
This is a tall order in light of some of the constraints identified in this report, but South Africa's commitment at the level of government to moving communications forward progressively seems fairly clear, and is an area that the state is not content to leave to the private sector. There is no doubt that the guarantees that South Africa had to give to Fifa in order the host the Confederations Cup and the football World Cup in 2010 that adequate

telecommunications would be in place during this period have given a boost to the importance attached to the department's work.[17] Nonetheless, this department has national oversight only, which challenges its capacity to administer ICT at provincial and indeed local level. This is also the department which is responsible for South Africa's digital migration from analogue in 2011, and this, along with the demand for broadband, as well as the continued viability of the SABC as a public broadcaster, strain both the budget and human capacity of the department to meet all of its commitments - see the points raised by Berger noted in section 1.2.3.3.

The second body, which has also been mentioned elsewhere in this report is the South African Broadcasting Corporation (SABC). While the SABC is, according the Constitution and the legislation discussed above, a public broadcaster which adheres to the "principles of independence, accountability and diversity"[18] the body has been beset with difficulties, many of them stemming from what is perceived to be political interference. In recent years the SABC has lurched from one crisis to another, from the blacklisting of commentators perceived to be unfriendly to the government, to it current financial crisis. At the moment it is under the stewardship of an interim board, tasked with both clearing up the SABC's financial situation as well as restoring its independence, but the following cartoon, which is reproduced here with the permission of the artist, reflects just how effective this restructuring is thought to be in the court of public opinion! (Note that the smoking pipes represent former President Mbeki's influence, while the showerheads are the hallmark of the 2009 Zuma Presidency according to this cartoonist.)

[17] See http://www.sabinetlaw.co.za/communications/articles/communications-annual-report-confirms-progress-ict-infrastructure-developmen

[18] The SABC's full mandate is available at: http://www.sabceducation.co.za/VCMStaticProdStage/CORPORATE/SABC%20Corporate/Document/About%20SABC/Legislative%20&%20Regulatory%20Organs/mandate.pdf (accessed on 1 November 2009)



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ICASA, the Independent Communications Authority of South Africa, as noted in section 2.2.1.2, is a statutory body which is responsible for regulating the South African communications, broadcasting and postal services sector. Most recently ICASA has been calling for the amendment of the Electronic Communications Act (also noted above), as in its current form it is difficult for ICASA to implement, especially Chapter 10 which deals with Competition. It is this chapter of the Act which has caused such difficulty for ICASA in lowering the interconnection fees between mobile operators in South Africa.

On 4 November 2009, the DoC announced that it would be making amendments to the Act in order to give ICASA more "teeth" in dealing with its industries, including the mobile phone industry. However this move is not without controversy, and indeed the CEO of Vodacom (South Africa's largest cellphone operator) is of the view that the Act itself is not the problem, but the fact that government is involved in the industry at all. This view, which is in line with allowing the private sector to operate freely and the market to prevail, he articulated thus: "The Government must get out of communications. Sure, they can drop interconnect rates, [but] they must allocate the remaining spectrum, [and] then they must let the industry be" (cited by Jones, 2009a). This is a provocative question, as it goes to the heart of the problem of just how much regulation, and what kind of regulation is needed in order to make information and ICTs accessible, without stifling freedom of information and expression. It is unlikely that the South African case holds the answer to this question, and indeed this is hardly unique to the country, but it is a questions which deserves to be flagged nonetheless in terms of the broader questions raised by the project.

GCIS, the Government Communication and Information Service, is a government department in its own right and not to be confused with the DoC. In fact the GCIS is established in terms

of the 1994 ***Public Service Act***, although it only actually came into being in 1998. The GCIS fulfills a specific niche role of providing and coordinating all information pertaining to government, and making that information as widely available as possible to the public. Some of its responsibilities have already been noted, in particular the provision of Thusong Centres in rural areas (see section 1.2.1 above), but the sheer volume of information that the GCIS is able to make available to ordinary citizens is staggering. Anyone with access to a computer or a handheld device can download any government document within hours of its production. While this success is of course tempered by the low rates of internet access in the country, it is nonetheless a significant achievement and plays an important role in the running of a transparent and participatory democracy.[19]

As noted above, the MDDA is another statutory body, "whose purpose is to enable historically disadvantaged communities and persons not adequately served by the media to gain access to the media." Its beneficiaries are intended to be community media and small commercial media. The MDDA has a board which annually calls for proposals, and then decides which projects to support or fund. These fall under the following areas:[20]

- Ownership and control of, and access to, media by historically disadvantaged communities, historically diminished indigenous language and cultural groups;
- Channelling of resources to community and small commercial media;
- Human resource development and capacity building in the media industry, especially amongst historically disadvantaged groups;
- Research regarding media development and diversity

Finally, the role of state owned enterprise, Sentech, needs to be mentioned. Originally Sentech was conceived as a provider of retail services in the communications market in South Africa and the continent, but these initiatives have not been a success. However, the Minister of Communications, Siphiwe Nyanda has a new plan for Sentech, which is the provision of broadband infrastructure to rural areas in South Africa, including the Thusong Centres. While the company has had a National Broadband Wireless Network in the pipeline for years, it has been unable to access the R3.5 billion that this initiative requires. Now, it is proposed that the role of Sentech be clarified in the ***Public Service Broadcasting Bill*** (see above), which will include broadcasting access in rural areas in addition to broadband. As appealing as this vision is, the availability of resources are of course as ever the potential pitfall. It is unclear just how this new role of Sentech's will be financed, and how this will impact on the services that it currently provides to the SABC, from which it gleans 54% of its current revenue (Mawson and Mahlong, 2009). This may well be a development that needs to be flagged for future follow-up on this project, but indicates that the potential exists to at least begin to bridge some of the "digital divide" that characterises unequal developing markets such as South Africa's.

2.2.3 Economic restrictions

"Access to electronic communication and network services especially broadband and the internet, remain unaffordable to large sections of our society."[21] It is well-recognised and

[19] For further information, see http://www.gcis.gov.za/aboutus/index.html
[20] Further details are available at the MDDA's website - http://www.mdda.org.za/
[21] Speech by the Minister of Communications, Siphiwe Nyanda at the South African Communications Forum Gala dinner, 16 October 2009. Available at:

scarcely controversial to point out that cost is an unavoidable factor that influences the means through which communication platforms are accessed by ordinary citizens as well as the number of industry players who provide these platforms. Due to this, some players within the communications industry, notably mobile operators, have recently come under political and governmental pressure. It has already been mentioned that earlier this year (2009), the Parliamentary Portfolio Committee on Communications called South African mobile operators, Vodacom, MTN and Cell-C to account with regards to the high interconnection fees – that is the fees they charge each other and other operators to carry calls on their networks. The rationale behind this pressure is the hope that lower interconnection fees will translate into lower call prices for consumers, says (McLeod, 2009) and thus enable an even greater potential for the use of mobiles as a communication tool for empowering citizens.

Some industry observers have noted that reducing the costs too quickly could lead to unintended consequences, not least of these being a shift in focus by the operators away from low-end, prepaid consumers, who it could become unprofitable to serve. The slow pace at which the Independent Communications Authority of SA (ICASA) has taken to deal with the issue raises the concern that government could become too aggressive in trying to deal with high prices. According to industry observers the danger is that if interconnection rates are reduced and there is no commensurate reduction in retail rates, politicians may feel the need to try to force down retail rates. It must however be made clear that regulating tariffs is a complex matter. It is a job that should be left in the hands of the independent regulator and not managed by politicians (McLeod, 2009).

In broadcasting the current migration from analogue to digital terrestrial television presents an array of possibilities. The cost of migration to digital in real terms means that most of the households with analogue receiving television sets are going to have to acquire set-top boxes so as to receive the new and digital frequency of content. As it stands in South Africa, government will have to subsidize consumers who will pay an average amount of R700 for the boxes (Berger 2009b). This clearly indicates that even with impending change being for the better, it will be costly especially for the already disadvantaged. The existence of the Universal Service and Access Fund, to which all the telecoms licensees are required to make regulator contributions, will aid in the governments aims of cushioning the costs involved in the digital cross-over on consumers. Once South Africa completes the switchover, it is likely to free up valuable radio frequency spectrum for broadband services allowing for even more connectivity and access (McLeod 2009).

However this raises questions about how freely this enhanced capacity is to be made available. There is a necessary tension between freedom of access and information, and the ability of the state to regulate fair access taking into account the multiple demands of diversity.

2.2.4 The relationship between the state and media

At the beginning of the report it was noted that there has been a long history of a standoff between the government and the independent media in South Africa. Control of the media, and its rapidly expanding forms, is therefore a tempting road for any state to go down, but it is particularly vexing in a country like South Africa that aspires to principles of free

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http://www.doc.gov.za/index.php?option=com_content&task=view&id=357&Itemid=457 (accessed on 20 October 2009).

expression, as well as the demands of public broadcasting and honouring the state's responsibility to make information freely available.

The December 2007 Polokwane Conference of the ruling party, ANC, gave what is perhaps the best indication of how it sees the media, and given the hegemony of the ANC in government, it is reasonable to assume that at least some of this thinking permeates the policies of the institutions noted in this report. At the conference it was placed on the agenda that there be put in place, a regulatory body in the form of a media tribunal for purposes of making sure that the media acts by prescribed means, indicating the potential for the means of communicating information to be placed under a defensive political system. The impact is that the information, to which all South African citizens have a right, can be limited, censored or not even provided if the ruling party were to see through their notion of a tribunal. It is also interesting to note the words of President Zuma himself, commenting on Polokwane and the role of the media:

> As we noted at the Polokwane conference in December, this situation has not changed much in the intervening period [since the first publication of ***ANC Today*** in 2001]. What we said in the launch edition of ***ANC Today*** remains true today: "We are faced with the virtually unique situation that, among the democracies, the overwhelmingly dominant tendency in South African politics, represented by the ANC, has no representation whatsoever in the mass media. We therefore have to contend with the situation that what masquerades as 'public opinion', as reflected in the bulk of our media, is in fact minority opinion informed by the historic social and political position occupied by this minority. There are many examples we can cite to illustrate this point. Every day brings fresh instances of a media that, in general terms, is politically and ideologically out of synch with the society in which it exists … though there may be plenty of newspapers and magazines on our news stands, and a multitude of radio and TV stations occupying our airwaves, the overall orientation of South African media is politically conservative. There are few, if any, mainstream media outlets that articulate a progressive left perspective - which is endorsed at each election by the majority of South Africans and represented by the ANC, its allies and the broader democratic movement. It was to answer this deficiency that the 52nd National Conference called for the movement to develop its own media platforms, making use of available technology, to articulate its positions and perspectives directly to the people. This needs to take place alongside the effort to transform the South African media environment so that it becomes more representative of the diversity of views and interests in society, more accessible to the majority of the people, and less beholden to commercial interests. During the course of the next five years, as has been mandated by Conference, we will pursue the development of these media platforms.[22]

This is a quite astonishing perspective in light of the ANC's thinly veiled control of the SABC, as well as its enormous publicity budget, which beggars that of any other political party. What this indicates is that this is another trend to watch in light of the proposed expansion of ICTs in South Africa, and the increased access to information and free expression that these offer.

[22] For the full version of his article see: http://www.anc.org.za/ancdocs/anctoday/2008/at02.htm (accessed on 11 November 2009)

2.3 Diversity of content

It scarcely needs repeating here that in terms of the mandate of the SABC as a public broadcaster in South Africa, and in terms of the requirements of the Constitution itself, content of information and its availability must take account of diversity. And in the South African context this means language (of which there are 11 official languages, as well as the recognition of sign language and Braille), sensitivity to the needs of women, youth, the disabled, the elderly and minority cultures. However the demand for diversity in broadcasting and communications as a matter of public policy is one which poses a number challenges and faces limitations, all of which are pertinent to the South African case.

2.3.1 Regulation and public policy

Guy Berger (2009a), in analyzing the government's move to create legislation for the communications industry, raises a few necessary points for consideration. The pieces of legislation in question have not been passed into law as they are still subject to pubic hearings.[23] They include the Revised Digital Broadcast Regulations, licensing state-owned Infraco; the Broadband Draft Policy Document; and the Local and Digital Content Production Strategy.

Amongst the considerations raised by Berger is the short-sightedness that has plagued ICASA in dealing with and not keeping up with the rapid changes in the communications sector. Note is made of the government's intention to be the champion behind ensuring more broadband and deepening the rate at which it plays a role in the economic development of the country. This can be found in the broadband draft policy document referred to in the previous paragraph. The problems that Berger highlights are the government's unwillingness to admit failures and support of regulatory institutions such as ICASA, so that they can do their functions better and keep in step with the technological changes that occur.

2.3.2 Limitations on diversity of content

2.3.2.1 Language

The issues of language and culture cannot be stressed enough as regards their impact on the effective collection and dissemination of information. South Africa is a country with diversity of languages and cultures and this invariably leads to the question of whether these language groups and cultures are effectively being reached. In the sphere of radio broadcasting an estimated 10% of the country is not covered for people who speak languages that are indigenous to that area (Duncan, 2009). This means that even with traditional media there are still audiences that are not being reached due to the factor of language. It highly unlikely that this will change much if not at all even though digital broadcasting provides more channels.

This report does not offer the scope to give a full exposition of the troubling question of language in the South African context, and so a few comments here will have to suffice. South Africa, as noted, has 11 official languages recognized by the Constitution, and the Bill of Rights furthermore guarantees the rights of Cultural, Religious and Linguistic Communities in sections 30 and 31 of the Constitution. There are numerous bodies that are

[23] At the time of article.

charged with upholding the linguistic rights of all communities, not least the ***Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities***, established in Chapter 9 of the Constitution, and the ***Pan South African Language Board***. However in addition to the arena of broadcasting and communications, the question of language continues to bedevil South Africa, most importantly in the area of education. A major problem encountered by children from disadvantaged backgrounds is that instruction at school is frequently not in their home language, exacerbating the existing prejudices and inequalities which these children fact. While this report cannot deal with the vexed question in any detail, it does raise a point that is returned to in the conclusion, which is whether or not the communications environment can provide methods to overcome these linguistic hurdles in primary education at least.

2.3.2.2 Gender, youth and disability

It is common cause that the inequality that has existed and continues to exist between men and women in society has an effect on that society at almost every level. This is applicable in the communications environment whereby there is a clear under-representation of women, not only as part of the audience but as owners and managers of content. The question that arises here is whether women and the issues relating to them are effectively addressed and whether they play a significant enough role in shaping content. Memeza notes that women are often ill-afforded the opportunities that men are, because of the lack of access to information about their rights.

Memeza states that a general measure of the extent of inequality between women and men in areas of socio-economic and political participation and decision making in SADC illustrates that women are still weak and vulnerable to men. He further cites a report by the Development Policy Unit Research of the University of Cape Town, ***Human Development Indicators in the SADC Region***[24] wherein the average distribution of communication and information amongst people in the SADC region is illustrated as being extremely low especially among the female population.

The findings found in the above report indicate the structural conditions and difficulties that are experienced by women. Memeza suggests that a gender analysis of access to information is also necessary in exposing the fallacy in countries that claim the practice of human rights, but where the women do not even know their rights or have access to information as to how they can enforce them if they do know. Ultimately, some of the problems that contribute to the lack of access to information and connectivity are physical in nature. A rural village in the middle of Limpopo is unlikely to have the kind of boundless options of connectivity and information to choose from as would the inhabitants of a city like Cape Town.

A similar argument can be made for the youth in terms of the content that is available and who is behind it. The communications environment shows clear signs of still catering for the adult middle class audience, particularly in broadcasting. Duncan (2009) highlights how some of the broadcasters have started to tap into this potential future generation of audiences and present users, by creating content that is linked with new technology and is immediate. But the unfortunate side-effect is that not all the broadcasters have a strategy for attracting the youth. The matter that seems to arise here is that for the youth to be attracted by traditional

[24] www.commerce.uct.ac.za/DPRU/p13.pdf

media, these media will have to rethink old, tried and tested methods of approach to audience development. This aspect feeds into that of forms of access and content below.

Disability and access to information also poses a thorny problem, as the definitions of disability are protean, but equally recognized under the Constitution. While some effort has been made to take into account deaf viewers of terrestrial television, for example, it is clear that this is an area which needs a great deal of further consideration, and no doubt activism, if the vision of equal access to information and freedom of expression is to be realized.

2.3.2.3 State media

The kind of media in which the state plays a significant role is public and public commercial broadcasting, as encapsulated by the SABC with its television channels and radio stations. The level of state intervention or participation in this platform is guaranteed by existing legislation such as the ***Broadcasting Act*** and ***Electronic Communications Act***. If we interpret media in its widest meaning, it would include telecommunications such as Telkom in South Africa of which government is a shareholder.

While something has already been said in this regard, it is important to once again flag the question of the role of the state in providing access to information while still adhering to the principles of freedom of information and expression.

2.4 Access and Diversity on the Internet

2.4.1 Policies relating to ICTs

South African Minister of Communications, Siphiwe Nyanda has, since assuming office, acknowledged the necessity for clear regulation and policy for ICTs. He has also reiterated the need to meet the 2011 deadline for switching over from South Africa's analogue broadcast to digital terrestrial television, despite industry concerns (McLeod, 2009). In the recently held South African Communications Forum the Minister reiterated the department's commitment for the finalization of an integrated ICTs Policy Framework as part of the long term vision of the sector. He further made the significant point of how government can work with institutions such as the South African Communications Forum (SACF) in creating and implementing the kind of policies which will have a positive impact on the country at large.

Oyedemi (2005) sets out what can be seen as akin to the objectives that need to be considered for purposes of policy that adds to and encourages access and connectivity to information. These are as follows:

- Enabling citizens to participate in the modern society
- Promoting national, political and cultural cohesion
- Promoting economic development
- Reduction of urban migration and facilitating the development of urban areas
- Elimination of the disparity between rural and urban areas

Of a similar mindset is the issue raised above is the paper by Clement & Shade (1998), The ***Access Rainbow: Conceptualizing Universal Access to the Information/Communications Infrastructure***, where the academic authors posited the various aspects concerned with creating and providing access and connectivity to information and communication. They also

highlight the importance of the perspective that the various issues should be seen in so as to create the right kind of policy (see a table summary of the report at appendix 1).

2.4.2 Geographical, socio-economic and structural difficulties

A major point that bears reiterating here is the difference of context and priorities in the developing world. Oyedemi (2005) refers to the myth of technocratic progress and efficiency whereby there is a tacit belief that technology and the access thereto can help solve all of society's problems. The general conclusion seems to be that even though the world is becoming more and more globalised, for countries like South Africa, the focus on the things that matter most for ordinary and vulnerable citizens, should not be forgotten, like unemployment, housing, and food security. While this point was made at the start of the report, the two maps contained in figures 11 and 12 of the appendix illustrate this point well. Figure 11 shows that even with the planned expansion of the undersea cables by 2011, Africa remains largely unconnected with the rest of the world. The future for connectivity then is one which is still very much up for debate in its present format at least. The second map also makes an interesting point but for a different reason. What this illustrates is that in spite of poor communication links in many parts of Africa, they are no more remote, or less "connected" in a very real physical sense than other parts of the world. This then opens up space for debate as to ***how*** connections to ICTs can be made in a way that perhaps take advantage of people's ability to access clusters of resources, rather than pursuing the developed world goal of a device in every pocket. Certainly in South Africa, where connections between people are a matter of hours rather than days according to this map, this is a line of thinking and planning that is worth pursuing.

2.4.3 Forms of access and content

The internet is the medium of the 21st century. It has not only grown at a staggering rate since its inception but has fuelled the effect of globalization, closing the physical spaces between countries and people. Second to it is perhaps arguably the cellular mobile phone which has also come to be seen and used as more than just a means of traditional communication, and is now also evolving as a means of receiving information too, in line with the trend towards convergence. Lastly we have broadcasting which is perhaps more prevalent and widely reached as a traditional medium of communication, especially radio broadcasting. The onset of the digital migration is expected to transform this aspect of the industry by opening it up to the potential that exists through convergence.[25] Some of these platforms as forms of access and content respectively are briefly set out here:

2.4.3.1 Internet

The internet, it must be noted, only refers to the web of information that exists in digital terms. The means through which this information is accessed is bandwidth and broadband which in turn make use of the physical structures of telephone lines and frequencies. However, as noted, the percentage of penetration of the internet in Africa remains low, at just 6.7% (see Figure 5 in Appendix 1).

[25] Convergence refers to the combination of or the integration of different mediums or media platforms into one or more. For example being able to use a computer through the internet, to watch television, listen to the radio, read newspapers or magazines, make and receive calls (VOIP). Convergence may, within the context of broadcasting refer to the integration of between broadcasting and telecommunication.

Search engines such as Google, Yahoo and MSN amongst others have come into existence and developed into monolithically profitable institutions. The former of these is the biggest of them all and has grown to a point of being perceived as a threat by the more traditional media who make use of the internet as an extension of their products. McLeod (2009) questions if the search engine giant is doing more than just spreading powerful reaches across the world and doing the opposite of what it claims, that is, assist traditional media in sustaining themselves and creating a more open society/world.

In an interview with Moneyweb's Alec Hogg, CEO of Google South Africa, Stephen Newton said that the Google approach or perspective is that when you build the internet or give people access to information, "the internet is going to grow and everyone is going to benefit from that. When there are more people being educated through online access…Google is going to be better and the economics will follow."[26]

Apart from search engines the internet has also seen creation of social media platforms come into a field of their own. Notable examples are Facebook, Twitter, and Blogging which have seen a large number of users sign up from every part of the world. These social network sites have come to fill a space left void by traditional media and that is the youth market, which of all the markets has increasingly become more familiar with the technology that is constantly changing. Social network sites also enable a direct influence on content, its creation and distribution.

2.3.4.2 Mobiles

As forms of access and content, however, mobiles have indeed come to be seen as a definite means to technologically enhancing the lives of many, not only in South Africa but the rest of the African continent.

Deon Liebenberg, who is the Regional Director for Sub Sahara Africa at Research in Motion (RIM) which is the company behind the BlackBerry® solutions, affirms this when he says that the rapid penetration of cellular phones will lead to the mass adoption of the Internet across the country and continent. Referring to a study, ***Africa Connected: A telecommunications growth story*** from Ernst & Young that found that market penetration of cell-phones in Africa is sitting at 37%, Liebenberg has noted that the continent has largely bypassed fixed-line telecommunications solutions in favour of mobile technology. In South Africa, mobile penetration is standing at close to 100%. Another related issue to note is the fact that since 2002 until the present (2009), numbers of cellphone subscribers in Africa have climbed by a compound annual growth rate (CAGR) of 49.3%, unlike the 27.5% of Brazil and Asia, according to the above Ernst & Young report. It is expected that by 2012, market penetration in Africa can be expected to climb to more than 60% (ITNewsAfrica, 2009).

Berger (2009a) points out that the trend of cell phone companies partnering with media institutions is unfolding across the SADC region, but also notes that the preference for the use of these innovations seems to be limited to those who are able to pay, again highlighting the issue and potential obstacle of costs. Jane Duncan (in Berger 2009) states that mobile television is already available through demand-driven data streaming on 3G cell-phone signals at a cost to subscribers. She notes that the content offered in this way is non South African and has little if any news oriented content. Duncan goes on to point out that mobile

[26] See http://www.moneyweb.co.za/mw/view/mw/en/page295799?oid=306091&sn=Detail

broadcasting is an important government and regulatory priority given the upcoming FIFA World Cup in 2010, but the delay in the licensing framework for DVB-H[27] by the regulator has left the industry frustrated. Noteworthy is the reality that even when this does happen, specially enabled cell-phones will have to penetrate the market for any substantial uptake to be seen.

2.4.3.3 Broadcasting: Being Digital

Lloyd (2009) in addressing the issue of public broadcasting in Southern Africa asserts that the process of migration to digital is extremely expensive as it requires the replacement of transmission and production equipment by broadcasters. Consumers will also have to purchase set-top boxes, as mentioned above. The incentive of the government to convert to digital appears to be based on what is referred to as the 'digital dividend' which can realised through freeing up frequencies, thus providing potential income for government in allocation of these frequencies. There is recognition of the opportunities as well as the challenges that exist in the migration from analogue to digital broadcasting; Lloyd (2009) sets them out as follows:

OPPORTUNITIES	**CHALLENGES**
Public broadcasters can easily and more cheaply meet public mandates like broadcasting on multiple language tracks to facilitate access by viewers with disabilities	Resources
Digital TV allows for multiple channels being broadcast on a single frequency which means restrictions on frequency are reduced	Cost of migration will eat into the existing limited funds available for public service programming
Allows easy access via TV, to e-governance services and potentially the internet	It is unlikely that most countries will be able to subsidize the purchase of set-top boxes by poorer people. This could negatively impact the penetration of television.
New channels mean potential for new competition[28]	One of the biggest threats is that which is faced by public and other broadcasters and that is audience fragmentation. This is a possibility if public broadcasters are not equipped to provide viewers with easy access to their services.
	Migration necessitates a review of the funding of public broadcasting. • It is unlikely that adspend will increase with more channels coming into the picture • Audiences targeted by commercial broadcasters will are likely to be wealthier • There is need for new ways of raising public funds.

[27] Digital Video Broadcast Handheld.
[28] In South Africa this can be seen with the 2007/2008 licensing of new payTV broadcasters by the regulations authority.

3. Conclusions and recommendations

The comments in this section are clustered into 4 areas: 1) Issues to do with inequality and how this impacts on access to information; 2) Issues relating to the provision of services that facilitate the communications environment; 3) Possible strategies and solutions to make communications more accessible; 4) Reflections on future research

Section 1.2 of the report notes that socio-economic inequality is one of the defining features of the post-apartheid landscape in South Africa, and the advent of democracy and a rights-based Constitution has done little to ameliorate this inequality. This has a number of implications for the communications environment and the rights of access to information and freedom of expression. First of all, this inequality is replicated at the level of the type of technology and access that people are able to afford. At the top of the scale, government, big businesses and wealthy individuals have access to communications devices and services that are on a par with the best in the world. And there can be no denying that an element of racial apartheid persists in this access, with wealthier households, the majority of which are still white, having better and more access. Further down the scale, regrettably, comes the scientific and research community, which struggles to compete with global colleagues in similar institutions owing to the lack of broadband and poor provision of service by monopoly Telkom. And finally, the majority of South Africans find themselves with cellphone access from a limited number of service providers, few if any places to access the internet, and reliant on the state provision of broadcasting in the form of radio and television.

This has a number of implications, not least of all for questions of language and education. The report has noted the efforts on the part of the Department of Communications to use its resources in the form of Sentech and the GCIS's Thusong Centres to make broadband access available to rural communities, and presumably these developments contain the potential to address some of the inequalities noted here. However, while these efforts are to be lauded, more needs to be done. The DoC, as a national department, needs to collaborate with other departments to ensure that this infrastructure has the desired effect of improving the quality of education to rural communities, and in particular those that are not currently being catered to linguistically, as well as in terms of the information it can provide to emerging small businesses in rural areas.

The second major issue to be dealt with is that of a lack of broadband as a result of Telkom's monopoly ownership of the "hard" infrastructure that most internet users rely on, regardless of who their service provider is. As long as this situation persists, it is unclear that any of the technological advances, such as the SEACOM cable and new satellite, will have the desired effect of mass rollout of broadband that they make possible. Another issue is the lack of competition in South Africa's mobile phone service providers. As has been noted, the lion's share of the market belongs to Vodacom and MTN, with CellC following behind and Virgin Mobile with a tiny fraction. In so far as cellphones are the almost universal communication device of choice for South Africans, and also as these service providers are now providing internet services too, a more competitive, and therefore lower cost environment would be welcomed. This requires the regulator in the form of ICASA to play a more proactive role in championing, and possibly even subsidising, access for low income consumers. The call here is therefore not for deregulation of the market, but rather for a constructive role for the various regulatory bodies, with the rights of access to information and freedom of expression in mind.

And this then raises the third point. How can communications devices be made more accessible to the majority of South Africans? One solution, which has already been noted, is to take communication nodes to the most remote and rural areas, and make wireless connections possible for these communities. So the aim here is not that there is a device in every pocket, but rather that remote communities have an accessible community centre where they can be assisted and supporting in accessing information and engaging with new forms of communication in exercising their right to freedom of expression. These centres also have the potential to play a critical role in bridging the gap between the quality of education received by rural learners and their urban counterparts. Particularly in the case of mother tongue instruction for younger learners, and in the case of instruction in specialist subjects for older ones, communications technology available at community level has the potential to be harnessed, through podcasts for example, to provide rare or specialist instruction even to those who are remotely located.

However it must be borne in mind here that communication centres may seem a luxury in many poor rural communities, with more pressing demands being for roads, piped water, sewerage, electricity and the building of schools and clinics. And these priorities are likely to be ordered by the problem of mismanagement (and sometimes theft) of resources at the level of local government in many of South Africa's municipal areas.

Another area of exploration is the kind of devices that people require for their specific purposes. For example, there have been some developments in the form of devices that are solar-powered, which have enormous potential to connect people in remote areas that are off the electricity grid and allow them some access to information. There is clearly room for this area to be taken up in the form of research and advocacy for devices that suit people's needs and lifestyles.

And this brings this section to the fourth point. What kind of research and innovation should South Africa invest in to bridge the gap between those whose access to information and communication is unfettered by cost and geography, and those for whom using a telephone is an exotic luxury? As noted already, research in low cost, energy efficient devices is one area that requires attention.

Another area that can be explored is that of refining the available quantitative information, and to calibrate this to consumer demand. Various national survey instruments exist, and a consumer driven survey giving an indication of the priorities of different communities in the communications environment would be useful. The most cost-effective way to achieve this would be to "piggy-back" this type of survey using an existing survey instrument to gain insight not only into what devices people currently use, but what developments they would use and value, and for what purpose. This information would be useful in setting the agenda both for research and for government policy in prioritising the kind of devices and connectivity that are required. And this feeds into questions about the alignment between current government policy and governance of the sector, and access to information and freedom of expression in practice.

A further area for research and enquiry within the broad framework of the freedom of expression project is how the South African experience relates to the rest of the continent. Presumably many of the lessons that are to be learned from the South African case are transportable to other contexts, and therefore the sharing of this information and reflections

on research and opportunities, and comparative experiences presents an opportunity to expand the reach of the project and its aims.

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[i] "Nommer Asseblief" – literally translated as "Number Please" - was the title of an iconic late-1970s Afrikaans sitcom, made into a film in 1981. The programme was intended to give a lighthearted reflection of life in small towns in South Africa, but its contemporary cultural interpretation is an expression of the backwardness of communications and television broadcasting in South Africa under apartheid.