

# Media Transformation & the Right to Communicate



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# 1. Introduction: A vision for a just media transformation

Communication is the foundation of our collective humanity. Accessing information and being able to communicate and express ourselves are essential in order for us to organise, to participate in the economy and build our communities.

There is a renewed call for “media transformation” from the ruling party and others. Often this call uses the lack of transformation to justify proposals to limit media freedom. Counterpoising media freedom and media transformation suggests that these are two separate and unrelated goals. The Right2Know Campaign has consistently argued that media freedom and transformation are two sides of the same coin. Without media freedom the media would become the voice of the government; without a diversity of ownership and economic models (non-commercial and commercial) the media would be the voice of an economic elite. Media transformation is imperative. South Africa needs media transformation that goes beyond changing the race and gender composition of boards and staff bodies; it should ensure that the media reflects society (especially the majority working-class and poor) at the levels of

ownership, staff, and product.

When access to the Constitutional right to media freedom is concentrated in the hands of so few it runs the risk of becoming an elite privilege that cannot fulfil the vital role of a free media within a democracy. The emphasis on a narrow notion of racial transformation risks an elite transition that will see a new alliance of political and corporate elites merely replacing existing elites in the management of otherwise unchanged institutions.

It is only by extending access to the ownership and control of media production that we will ensure media freedom exists as a right in South Africa and not a privilege concentrated in the hands of a few who essentially share the same social and economic interests. Accountable mechanisms independent of the executive of government must be developed to facilitate the disbursement of public funding.

We want media that works:

- We want media that serve everyone in South Africa.
- We want media that informs us so that we can make our democracy work.
- We want media that can give us a voice.
- We want media that is diverse, telling all our stories from all

points of view.

- We want media that is free of government and corporate control.
- We want media that is not chained to companies that advertise, and their narrow interest.

We want to be the media:

- We want to access information and to tell our own stories.
- We want access to telephones, cellphones and the internet to be a basic right.
- We want our privacy protected and respected.
- We want our freedom of expression rights to be protected and respected.

## 2. Brief history of SA media

### 2.1 Under Apartheid

The Apartheid state, like authoritarian and undemocratic power anywhere, aimed to control the free flow of information in society. Privately owned and non-profit media critical of the government were banned and censored.

The Apartheid government put considerable resources into media sympathetic to their values and

goals, most notably the SABC (then a state broadcaster) and NASPERS (Die Nasionale Pers) a private media company that began as a newspaper publisher aiming at controlling the flow of information to Afrikaans speakers.

Today NASPERS owns Media24, Multichoice and DSTV and is South Africa's biggest media company controlling newspapers that account for just over 40 percent of total newspaper circulation in the country as well as the satellite television market (DSTV).

During the anti-Apartheid struggle, activists campaigned not only for media freedom, but for a greater diversity of media. This struggle gave birth to community media - media projects that aimed to give voice to marginalized communities serving their information needs and providing a platform for them to express their views and participate in the public sphere.

### 2.2 Post-1994

South Africa's 1996 Constitution protects media freedom as an explicit element of the freedom of expression. South Africa currently has a relatively free media with very few laws limiting the activities of journalists and publishers.

The 1994 transition saw the protection of media freedom and the commitment to promoting a diverse range of media that could serve the various sections of the South African public. The SABC, a state broadcaster that reported directly to government, was transformed into a 'public broadcaster' with greater independence to broadcast radio and TV programs and report news without direct government control.

There was a commitment to promote non-commercial and small commercial media. Hundreds of community radio stations went on air and in 2005 the Media Development and Diversity Agency (MDDA) was set up as a statutory body independent of the government to provide funding to small media.

But there are a number of very significant limitations and threats to media freedom in South Africa today. These include the intimidation, vilification and surveillance of journalists by politicians, the SAPS and the intelligence services, the Secrecy Bill that in its current form criminalizes journalists for being in possession of classified information, as well as the ANC's proposal to establish a Media Appeals Tribunal (MAT) that would likely see a statutory body (reporting to Parliament) evaluating the quality

of editorial content and imposing sanctions on journalists.

The past 21 years have not seen as much diversification of voices and perspectives in the media as should be the case given the complexity of South African society. Advertising and sponsorship are the primary sources of income for the media and, in order to be sustainable, media organisations cater for information needs of the wealthier sections of the population and promote perspectives that do not threaten their advertisers. This dangerous trend to commercialization of the media has spread to the public arm of the SABC and non-profit community media.

This commercialization of media (for-profit, public and community) has weakened diversity of views and news agendas carried by the media, and led to a prioritization of middle class and politically centrist views. Economic pressure has also seen the underfunding of journalism: fewer journalists are employed to do more work with less resources for research and investigation.

South Africa has enjoyed a blossoming of the Internet, including online publishing and participation in social networks. Increasingly accessible broadband and an impressive level of access to mobile

phones means that, for many people, the Internet has the potential to be an important environment for the production and distribution of media.

However, there are a number of limitations and threats to the free flow of information carried on the Internet. Affordable access to conventional Internet is confined to middle and upper classes, except for inadequate provision at schools and public libraries. The profiteering of cell phone companies makes the use of cell phones to access the Internet prohibitively expensive for the majority of people. In other parts of the world these companies have also shown their susceptibility to political pressure in instances when they have shut down their networks to prevent the spread of popular discontent. In addition, the government has passed laws (like the Regulation of Interception of Communications Act, or RICA) that undermine the ability of people to produce and exchange information freely and anonymously over cell phone networks, as RICA requires all networks to be capable of surveillance and retention of data.

Citizens will be unable to realize their right to know without secure communications, as communications users may be reluctant to convey information of crucial

public importance over insecure networks. There is also the proposal by the Film & Publications Board (FPB) for legislation in South Africa (supposedly to ban child pornography) that would see government control and censorship of the Internet.

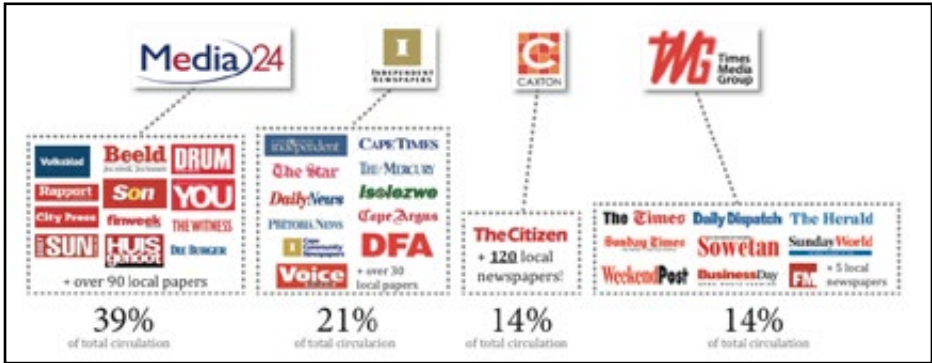
## **3. A Free and Diverse Media**

### **3.1 Print media ownership and control**

Much of the discussion surrounding the diversity and transformation of the press in South Africa centres on issues of print media ownership.

Government trade and competition policy has encouraged rather than contained media concentration. Monopoly ownership of print media has re-consolidated since the late 1990's. Naspers/Media24 - together with Independent Newspapers, Caxton and Times Media Limited - form part of a print media cartel that together controls over 80% of all circulation in South Africa. Naspers/Media24 controls over 40% of circulation.

Community and small commercial print media face unfair competition from the monopolies who either buy-out successful publications,



use their control of print and distribution to frustrate them, and/or launch competing titles with lower (cross-subsidized) advertising. In a country with such high levels of poverty, unemployment and inequality, it is untenable that the production and distribution of media goods should be dominated so overwhelmingly by market forces.

There must be less concentrated ownership and control of the media and a greater diversity of commercial and non-commercial media, and forms of journalism, that can serve all sections of the population and enable a greater diversity of voices.

Government must enable media diversity by protecting and supporting smaller media organisations. This must include public funding for media as a public good as well as strengthening the competition authorities to limit the size of large

corporations and roll back the media monopolies.

Many democracies around the world have passed laws to limit the size of media companies and ensure appropriate public funding. These laws are not understood as an attack on media freedom, but rather a democratic effort to protect the media from corporate control.

### 3.2 Public broadcasting (SABC)

Because many of us do not have access to a wide range of information sources that enable us to make informed choices, we rely heavily on the SABC. The ability of the SABC to serve the majority of South Africans is facing increasing political and commercial pressure. SABC is becoming less of an independent public broadcaster as its dependence on advertising undermines its independence.

The SABC has by far the greatest national reach and range of language offerings yet does not have the funds to produce quality public programming. This results in lots of reruns.

There are increasingly worrying signs of censorship and political interference – news items and shows that have been cancelled or not broadcast because of political pressure (e.g. The Big Debate, Miners Shot Down).

We want an SABC that clearly belongs to all people(s) of SA and has not been captured for the promotion of narrow political, commercial, or sectarian interests.

The obscene corruption, weak leadership and governance, and instability in the SABC's Board are a direct result of political interference at the Broadcaster. Parliament appoints Board Members without the authority or will to take responsibility for the Broadcaster and – more importantly – the Board must account simultaneously to Parliament and the SABC's single "shareholder": the Minister of Communications.

The SABC needs proper public funding to meet the needs of peo-

ple. Also, it is the public channels that make more money than the commercial channels – this raises the question of whether the SABC needs to have commercial and public arms.

The SABC must be a visionary public broadcaster that demonstrates a commitment to broadcasting local, quality, diverse and people-oriented programming. The SABC must be the home where our languages, our stories and our cultures come alive, and where we collectively discuss solutions to the many challenges we face.

The SABC must place an emphasis on local content that brings the people of South Africa together in dialogue on important and pressing political and social issues and advances social justice. Programming must be based on the principles of credibility, reliability, variety and balance.

### **3.3 Community media**

South Africa has over 200 community radio stations and five community TV stations. For those who live outside major cities, community media is the only alternative to the SABC and is often the only source of media that can focus on local issues that affect members of that com-



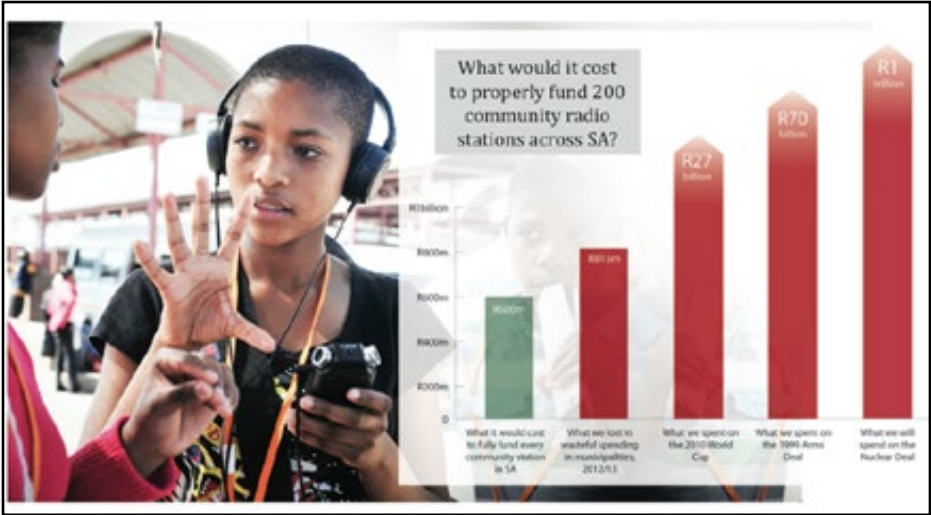


Photo: Childrens Radio Foundation

munity. By law, community media organisations should be non-profit, democratically controlled by their communities, and most have a mandate to serve the information needs of the poor and working class.

There are also hundreds of small independent and community newspapers that – like the broadcasters – could give a voice to the voiceless, and hold local elites to account. But most small and community media have failed to deliver on their democratising potential: instead they face a daily struggle to survive. They are largely dependent on advertising and must please their advertisers to maintain this trickle of income. Community and small commercial media have been left to fend for themselves in a hostile

marketplace. Many of these media serve sections of the population that are of very limited value to advertisers.

Government is the largest advertiser, meaning that many community media organisations will find it hard to take positions that are independent or critical of government. They survive on crumbs and don't have the funds to employ skilled and independent journalists, or hold discussions on the burning issues of the day.

Too many community media projects choose to play it safe by focusing on entertainment, doing 'public relations' for government or big businesses, and staying away from issues likely to upset local political and economic elites.

Community and small commercial print media also face unfair competition from the monopolies who either buy-out successful publications, use their control of print and distribution to frustrate them, and/or undercut them by launching competing titles with lower (cross-subsidized) advertising rates and access to large advertising sales departments and syndicated editorial content.

If we want a vibrant democracy we must invest properly in community assets like radio stations that give more power to the people, and that are democratically owned by the communities they serve.

If we want community media that serve the people, it must be paid for through the tax system. It would cost community stations about R3-million a year to offer a basic quality service. We must invest in non-commercial media. A good place to start would be to ensure every local community radio and TV receives a grant R3-million a year.

This investment in our democracy would be enough to give greater independence to media projects and let them employ skilled journalists to undertake investigations, hold those in power to account, and address the burning issues of the day.

We must demand proper public funding for community media.

R2K supports alternative and community media to ensure greater diversity. Apart from securing funding for these projects, we must demand that their content does not imitate the commercial media. They should present the voices and issues of the marginalized.

### **3.4 Digital Television (DTT)**

The transition to digital terrestrial television (DTT) has the potential to strengthen the country and people's basic communication rights in a number of ways. It has the potential to ensure everyone receives a vastly increased number of TV channels, transform ownership patterns, as well as free up valuable spectrum that can ensure greater access to high-speed Internet.

But there is a great risk that digital TV will further divide South Africans whereby those more wealthy will be able to pay for subscription services and get a wider range of and better quality services while the majority who cannot afford to pay are saddled with limited and poor quality services. Should the free-to-air digital TV content offering not be of high quality, nor offer substantial diversity, nor include a variety of (incentive) channels and



locally produced content, it stands to become a 'poor-person's-television' service thus further entrenching already acute communications inequalities.

The most important battle currently is to ensure that when the country switches to digital TV no-one gets cut off. To stay connected every TV set in every home will have to get a set top box (STB) to convert the digital broadcast to your existing TV. It is estimated that a set top box will cost between R700 – R800 in every home. We must demand that Set-Top Boxes should be made available, free of charge, to all who want them.

If we do not act, it is likely that in the future, South African television will be divided along Apartheid lines: like our education and health

already, there will be an expensive private service for those that can afford it, but the majority will have to make do with a poor quality public service, and those most marginalised will be cut off from receiving television completely.

Digital TV is also important because it will free up spectrum for telecoms networks – it is important that this new free spectrum is allocated more equitably, and not just to the usual big players. We note recent mentions of "open-access" provisions in the future licensing of such spectrum, and insist that this must be more than lip-service: it must ensure low entry barriers to new market competitors and nonprofit networks.

## 4. Media freedom and Independence

Freedom of expression is one of the cornerstones of a vibrant democracy, and one in South Africa which has been hard won. We must campaign to ensure an environment that enables journalists and other media workers to inform and lead difficult and controversial conversations that are in the public interest without fearing for their jobs or engaging in self-censorship. There should be no state or corporate censorship of editorial content. Journalists should have adequate resources to undertake their work.

### 4.1 Government threats to editorial independence

There are an alarming number of current and potential government threats to media freedom:

1. The Secrecy Bill: The Secrecy Bill in its current form criminalizes journalists for being in possession of classified information.
2. Proposed Media Appeals Tribunal (MAT): The ANC is pushing for a Media Appeals Tribunal to police the quality of journalism and impose fines or prison sentences. The MAT could extend to pre-publication censorship.
3. Internet Censorship: The Film

& Publications Board (FPB) wants broadly defined powers to police everything published on the Internet, including blogs, personal websites and Facebook pages, which amounts to censorship and is a violation of freedom of expression. This is an attempt to broaden the power of authorities to censor and restrict publishable content — the sort of action characteristic of an increasingly overbearing, paranoid and insecure state. The FPB's draft online regulations smack of unjustifiable censorship, are unconstitutional and must be scrapped.

4. Cyber Security: The Cyber-crimes and Cybersecurity Bill criminalizes unlawful access to, and interception of, broadly defined data, including personal and financial information, and provides authorities extensive powers of investigation, search, access and/or seizure. The Bill criminalizes the “dissemination of [a] data message which advocates, promotes or incites hate, discrimination or violence”. An offence would make it unlawful to distribute, share or broadcast prohibited speech, even for the purposes of analysis, comment or public scrutiny. It would constitute a criminal offence to share a link to an article or video which

constitutes prohibited speech. Such an arrangement, while not patently unconstitutional, may constitute an unreasonable restriction on freedom of information.

5. **Police Harassment:** With disregard for the law police often harass and intimidate journalists, refusing them access to sites and even destroying photographs illegally.
6. **Defamation:** Criminal defamation can be used as a means to silence critical voices and stop journalists from holding the powerful to account.
7. **Appointment of SABC Editor-In-Chief:** The undue influence of the Minister of communications in appointing senior staff at the Public Broadcaster.
8. **Government funding of Community Media:** The recently released draft Support Scheme for Community Broadcasters ties public funding of community media to production of content determined by the Department of Communications.
9. **Surveillance:** some journalists have wrongfully had their electronic communications and movements surveilled by the police and/or the intelligence services.

Together these threats discourage critical and investigative journalism

that uncovers information or promotes opinion that threatens the government of the day. They enable political interference in editorial policy and would have a chilling effect on our constitutional right to free expression. They discourage journalists and editors from publishing material that could land them in trouble with the proposed regulatory body, regardless that the story may be in the legitimate public interest.

All these threats must be challenged. The various sections of the media should be supported to develop and improve voluntary media accountability mechanisms, to strengthen the accountability of the media to the ethics of journalism and to society (noting the various efforts of the print sector to do so within the past five years).

## **4.2 The broadcast and telecommunications regulator (ICASA)**

A strong, independent ICASA (Independent Communications Authority of South Africa) is essential to a free and diverse media.

ICASA needs to systematically drive down telecommunication costs and create a broadcasting landscape conducive to the thriving of a host of diverse players including in particular public and community

players.

This body should be strengthened rather than abolished.

Without a strong ICASA, R2K's vision for entrenching the right to communicate will unlikely be realised in the current context. ICASA needs to be strong, independent and well-resourced. R2K is deeply concerned about government's systematic underfunding of ICASA.

One of the first issues to be resolved is funding. The capacity and inefficiency issues plaguing the Regulator could immediately be solved by putting a new funding model in place that ensures independent, long-term, sustainable funding.

ICASA needs to rigorously enforce local content quotas and African language programming.

The independence of the broadcast regulator (ICASA) from the executive arm of government and private sector interests must be defended and strengthened. This requires effective separation of ICASA from the Department of Communications and the Minister in order to avoid structural conflicts of interest.

### **4.3 Commercial threats to Editorial Independence**

We must defend the editorial freedom of editors and journalists from threats posed by media managers and owners.

To reduce costs and ensure sustainability or increase profits, there has been a trend towards media owners cutting editorial costs. This has meant fewer journalists carrying a greater workload and relying heavily on content produced by public relations people in government and the private sector as well as on syndicated content for news agencies. As official news sources are easier to access than grassroots sources, these have tended to dominate news agendas.

Media owners must invest in resources to enable quality journalism and assure the public of their commitment to independent journalism by:

1. Developing an Editorial Charter to be drafted by people and institutions entirely independent of the owners.
2. Ensure editorial integrity through the establishment of an Editorial Advisory Board, which would include members of citizens groups.
3. Ensure journalists are capacitated to focus on their work, through fair remuneration and sufficient number of staff.

## 5. Conclusion: An united citizen & progressive media alliance

A media independent of government and undue commercial influence is critical to providing citizens with access to information and an opportunity to express opinions vital to the functioning of our democracy.

We face a critical time as a nation, with an ever increasing inequality gap, restlessness among those denied access to basic services and amenities, and important debates and tensions on the meaning and the nature of media transformation and diversity, 21 years into our democracy.

As inequity deepens and social cohesion falters South Africa needs a media that can offer expression to the full range of voices and facilitate the substantive debates about the social and economic future of the country. In this sense media transformation is both urgent and critical to future of our democracy.

In a country as diverse as ours, multiple versions of truth will

contest for their expression, often in tense and uncomfortable interactions. It is a marker of maturity both individually and as a society to allow for freedom for expression of multiple voices. It is a freedom which is written into the foundations of our constitutional democracy and embodied through the editorial freedom of the media.

In a country such as ours, which has a history of suppression, we draw on the hard won battles of the past, not as a re-engineering of the past to serve new purposes, but to serve as instructive and as a marker of a standard of what we desire to be as a nation

The coming years will be critical for the defense and advancement of media freedom and diversity in South Africa.

We need a strong, united citizen & progressive media alliance to tackle the challenges.

Calling all Journalists, Radio, TV, Print  
Producers, & progressive civil society:

**Unite to advance media  
freedom for all!**

# Media Transformation Summits

**Cape Town  
Sat 21 Nov  
2015**

**Durban  
Sat 28 Nov  
2015**

**Jo'burg  
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Space is limited. To express interest in attending visit  
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