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Reconciling editorial independence and public accountability issues in Public Broadcasting Service: editorial policies at the South African Broadcasting Corporation[1]

ABSTRACT

A public broadcaster is pulled in two directions: There is the need to be accountable to the public, and the imperative to be editorially independent at the same time. The first implies parameters and control systems; the second points to the need for autonomy. This distinctive tension marks out a key difference between public and private broadcasting (through the *public accountability* component), and between public and government-controlled broadcasting (through the *editorial independence* proviso). Several dimensions can be identified in regard to assessing accountability and editorial independence, and also to the way that policy can work to integrate these two apparently contradictory imperatives. In 2004, the South African Broadcasting Corporation (SABC) was required in effect to mediate the complex challenges in this tension by formulating detailed editorial policies and systems. The significance of the SABC experience also extends to understanding the nature of policy more broadly.

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[1] *Much of this paper is based on research by Denis Jjuuko who conducted substantial research into the topic for his MA thesis in the Department of Journalism and Media Studies at Rhodes University in 2004 (see Jjuuko, 2006). An early version of it was presented to Asia Media Summit, Kuala Lumpur, 9 – 11 May, 2005.*

INTRODUCTION

During 2003, the infamous "sexed-up dossier" report by BBC reporter Andrew Gilligan led to intense state pressure to tighten the broadcaster's quality control systems and editorial policy protocols. This pressure on the BBC provided a case in point for many governments to capitalise on (see Bloom, 2004). In South Africa, State President Thabo Mbeki approvingly cited the Inquiry's view that the BBC had defective editorial controls, and he saluted the BBC leadership for apologising and taking "corrective steps" (Berger, 2004a). While this was going on, South Africa also faced a potential squeeze on the SABC by the country's Ministry of Communications which started in 2002 with a proposal to prescribe a set of editorial policies for the broadcaster. This paper analyses what happened, with attention to how this experience relates editorial independence and public accountability. In order to make sense of what happened, this paper first proceeds via a short detour through theories of public broadcasting.

1. DEFINITION OF PUBLIC BROADCASTING SERVICE

The essentials of PBS are suggested in various studies as being editorial independence, public accountability, universal service and access, programme diversity and pluralism so as to cater for all the needs of the public, and freedom from the paymaster and any form of interference that jeopardises the norms of media professionalism (Mendel, 1998; Habermas, 1989; Opoku-Mensah, 1998; Hills, 2003; Certimedia, 2003; Mpofu, 1996).

Many have also painted this form of broadcasting as one that is non-commercial, and instead supported, primarily, by public funds for public purposes (McChesney, 2000; McQuail, 2000). However, PBS in countries like South Africa is mainly funded by advertising. Such funding models stir debates about the impact of commerce on PBS programming and independence, and therefore about the essential character of a public service broadcaster when it also competes commercially for audience and advertising share (see Duncan, 2002). What does accountability to the market mean for *public* accountability? As will become evident, this has been a key issue for the SABC. Significantly, the initiative of requiring editorial policies from the SABC was part of the same law that provided for fully-fledged corporatisation of the institution.

Another factor prompting debate about the nature of PBS is the democratisation of countries previously burdened by a government-controlled broadcaster. Here the challenge is often seen as being to change such enterprises into public utilities free of any government interference – including that of a democratically elected government (see African Charter on Broadcasting of 2001; Kupe, 2003a). But if political freedom from the power of even an elected government is needed for editorial independence, to whom and what does PBS then account?

A third dimension of debate is that if PBS is supposed to serve neither profit purposes nor political interests, what then does it mean to serve the "public"? What is defined as public service in terms of overall public interest, as well as minority interests? And to what extent should PBS also define and serve the "national interest" as distinct from "public interest"?

The nature of PBS in relation to all these matters is not something clear-cut or settled. This is evident in South Africa, where Chapter Four of the Broadcasting Amendment Act (RSA 2002) stipulated, idealistically, the roles of PBS as being, inter alia, to:

• Make services available to South Africans in all the 11 official languages,
• Strive to offer a broad range of services targeting, particularly, children, women, the youth and the disabled,
• Provide significant news and public affairs programming which meets the highest standards of journalism, as well as fair and unbiased coverage, impartiality, balanced and independence from government, commercial and other interests.

Critics, however, assert that the South African broadcaster's commercialism has compromised delivery on the first two of these public services listed above, and further that there is a pro-government bias that contradicts the "balance" and "independence" of the third point (See Tleane and Duncan, 2003; FXI, 2004; MMP, 2004; Fourie, n.d.).

Against this background, it is the elaboration and operationalisation of editorial independence and public accountability, and how the enterprise manages the relationship between them, that are key to judging the extent to which a PBS differs from a government-mouthpiece on the one hand, and commercial sector media on the other (or, indeed whether it represents a fusion of both). The mediation of this matter in 2002-4 became, in the SABC's case a question of developing internal editorial policies to give effect to the Broadcasting Amendment Act's requirements around public service and editorial independence.

2. PUBLIC ACCOUNTABILITY

Public service broadcasters are expected to be editorially independent and yet also to account editorially to the public (as distinct from the government) (Tleane and Duncan, 2003).[2] There are several ways a public service broadcaster can demonstrate its accountability to the public.

One of these is through a public board of governance. As Tleane and Duncan (2003) observe, such a board should represent the broad spectrum of public opinion, and – as necessary condition for this – be appointed through an open and transparent process. In South Africa, such board members are appointed through parliamentary nominations to the President, and which then collectively also accounts to the public through the legislature. (At the same time, the South African board has to account in business respects to the sole shareholder of the corporatised entity, viz. the state as represented by the Minister of Communications).

A second form of accountability is through responding formally to criticism, including participation in industry complaints bodies. In the case of South Africa, the SABC is a member of the National Association of Broadcasters (NAB), which in turn operates a voluntary, statutorily recognised and independent-of-government complaints body called the Broadcasting Complaints Commission of South Africa (BCCSA).[3] The third mechanism is through reporting to broadcast regulators which

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[2] *Financial accountability is a different matter, although defenders of public broadcasting may see a loophole in this that can allow governments to constrain editorial independence through control of budgets.*

[3] *The BCCSA includes seven members who represent viewers and listeners, drawn from nominations received by the NAB after placing adverts in the electronic media. The BCCSA also has another seven members drawn from the electronic media industry as proposed by NAB.*

are supposed to hold their licensees accountable. In South Africa, Icasa monitors licensees, adjudicates complaints and institutes investigations into contraventions by broadcasters. This function focuses mainly on broadcasters who are not members of NAB, but it also deals with complaints that do not fall within the BCCSA's jurisdiction. Other measures of accounting to the public may include advisory councils and public meetings (Tleane and Duncan, 2003:73).

These measures have been exhibited in varying degrees by the post-apartheid SABC, but – as will be discussed below – by 2002 at least, diverse stakeholders (for diverse reasons) nonetheless felt that the corporation was still insufficiently accountable.

3. EDITORIAL INDEPENDENCE

Public service broadcasters are expected to be independent in the sense of having the ability to make editorial decisions without being controlled by anyone else. In PBS, this means that programming and related decisions should be free from interference that prevents them from fulfilling their public mandates (Warren, 1998). In this context, editorial independence provides a layer of insulation from any potential form of corrupting influence (Mendel, 1998:10). This can be analysed at four different levels.

First, the concept of editorial independence protects the right of newsroom staff to make day-to-day decisions regarding editorial matters. Barker (2000) argues that editorial independence provides the right to journalists and editors to make decisions on the basis of professional criteria such as newsworthiness of an event or its relevance to the public's right to know, and in accordance with the codes of ethics of journalism. It is, in this interpretation, primarily independence from the biases and values of owners where such may be contrary to the norms of free and professional journalism (Berger, 2003b), but also independence from other groups that may provide funding – in this case, advertisers and business sponsors.

Second, editorial independence is the independence of editorial as a whole from the exclusively economic imperatives of a media institution, and in particular from those staffers who are responsible not for the integrity of editorial content, but for generating revenues for the business. Third, the notion can also be assessed in regard to the extent to which reporters are, to a degree independent of their editors. This relates to the professional autonomy and responsibility of each rank-and-file journalist, and it featured prominently in an inquiry at the SABC in 2006 (see Sisulu and Marcus, 2006). A fourth level is the independence of journalists from their sources (Berger, 1997).

It is clear that underpinning these levels of editorial independence there needs to be institutional independence from government and the business sector. Such status should also be guaranteed to the regulatory bodies that oversee the activities of the public service broadcasters (Kupe, 2003a). In South Africa's case, there is a constitutionally-enshrined independent regulatory authority, viz. the Independent Communications Authority of South Africa (Icasa), which keeps broadcasting services at an arm's length from government.

While editorial independence is arguably something that should be relevant to all forms of broadcasting, in PBS it necessarily goes hand in hand with a unique accountability to the public in whose name it operates. As elaborated below, accountability in PBS is not just within professional norms, but also within a framework of defined public service.

4. TENSIONS IN EDITORIAL INDEPENDENCE AND PUBLIC ACCOUNTABILITY.

It has been argued that public broadcasting should be a "package deal" whereby "there is no independence without accountability, and no accountability without independence" (FXI, 2002). Indeed, the two are indispensable elements for defining public broadcasting. But it is also the case that they pull in different directions. Although other perspectives may not perceive any substantial dichotomy between these imperatives, a tension is particularly visible when they are viewed from the perspective of those within the institution. Editorial independence directs a public service broadcaster away from vested external interests. Public accountability pushes in the reverse direction towards externalities that are supposed to represent the general interests of the public. It is in order to regulate – or even reconcile – such a tension that PBS editorial policies can be seen to play a central role. Ideally, such policies spell out what the content is of "editorial independence", and what criteria and mechanisms are required for "public accountability". Crucial to both is a need to elaborate what amounts to public service. While many public (and other) broadcasters worldwide do have editorial policies (see CBA, 2004), the significance of these protocols for mediating between editorial independence and public accountability is not always recognised.

In spelling out its character in the form of an internal policy, a PBS demonstrates that its editorial independence does not mean unlimited licence. Instead, such policy should specify that independence means accountability in relation to professional journalism norms and ethical standards in the first instance. Yet, because even private broadcasters ought to be accountable to such standards, professional autonomy does not, on its own, specify what public accountability entails, nor how this frames and defines the activities of a specifically public service broadcaster. This is where PBS policies also need to elaborate upon the meaning of a public service mandate. Finally, PBS policy should also specify mechanisms or systems for accountability, so that besides for elaborated criteria there are also systems for ensuring that the public service broadcasters meet their mandates.

The upshot of all this is that, although editorial independence may mean that editorial staff take full control of content without conceding influence to political or commercial interests, these individuals still have to work within specific policies and systems that guide them on fulfilling their mandates (Berger, 1999). This means editorial free rein only within a policy framework that puts professional standards and public interest above all else (Berger, 2003b). The content and parameters of such policy, and its system of accountability, are central to how this issue is managed. It is against this backdrop that we can proceed to analyse the SABC's editorial policy experience. However, a short excursion into policy theory is valuable in order to appreciate the origins, developments and prognosis of this experience.

5.   UNDERSTANDING POLICY

Policy can be taken to mean a plan or course of action intended to influence and determine decisions and actions (Hornby, 2000). How policy works can be assessed according to diverse paradigms, in particular functionalism, liberal pluralism, power, radical democracy, and chaos (see Berger, 2004b). In summing up the paradigms, policy can be integrative and harmonising or continuously contested. Policy can also be checked by those affected by it, or be potentially empowering. Its absence (or lack of specificity) can create either a messy vacuum or a flexible environment. Applied to public broadcasting, political or business control of a public broadcaster can be avoided through the formulation of policies that are functionalist in nature and therefore capable of serving all sections of the entire society. Cognisance should, however, be taken of the contested interests in policy, and of whether grass-roots input of (eg. such as junior staffers or audiences) is present or incorporated. The power paradigm points towards where final decisionmaking and responsibility lie.

A final insight into policy is the difference between policies as such, and values, codes and implementation systems. Values are key foundation stones of policies, especially in respect of editorial independence and public accountability. Values moreover inform the specific cultural form that editorial independence and public accountability take in a given society. Codes are the mechanisms by which the actual policy guidelines are supposed to be put into practice: they are the written rules that state how people in an institution should behave. Systems prescribe implementation mechanisms for the whole. It stands to reason that good policy is clearly based on values, and is also made implementable through defined codes and system procedures. It follows that editorial independence and public accountability should be defined and operational at all levels - values, policy (guidelines), codes and systems. In the case of SABC, it is important to analyse its editorial policies in terms of this total "package".

What is also important is that effective policies should be able, ultimately, to inform the development of measurable targets to be achieved through defined programmes of action. Without this, policy remains a mere wish list (for the SABC's case, see MMP, 2004; Misa, 2004).

6.   ORIGINS OF SABC EDITORIAL POLICIES

It is fair to say that under apartheid the SABC was accountable only to the political rulers of the period and their diverse apparatuses (at various stages, the Broederbond, security services, Ministers, the President) and that it enjoyed no editorial independence (see Krabill, 2001; Bussiek and Bussiek, n.d.). This changed as a result of the negotiated settlement which took SABC out of the realm of political dependence (at least temporarily) (see Minnie, 2000). The stage was set for self-regulatory systems to come to the fore as an obverse of the process of authoritarian external compulsion being consigned to history.

Continuing in this vein, and following a participative public policy process (via a Green and then White Paper), the Broadcasting Act of 1999 was enacted. It included a Charter which guaranteed

the SABC freedom of expression and journalistic, creative and programming independence (see RSA, 1999).[4] This situation was the product of years of contestation – both between broadcasters (eg. the private sector vs the SABC), and between government and broadcasters. Overall, however, there has been the ascendancy of a power paradigm ethos over a participatory one (see Horwitz, 2001; Harber, 2005). As part of this, government in 2002 concluded that the SABC was too much a law unto itself, and that intervention was required to ensure that the corporation was accountable for public service (amongst other things – see below). Other critics of SABC's perceived shortcomings in 2002 included the ANC as a party that criticised the SABC's failure to provide equitable broadcasting in all official languages (ANC, 2002, see also http://www.dispatch.co.za/ 2002/09/30/southafrica/BANC.HTM). The then chairperson of the Portfolio Committee on Communications had also been a frequent critic on the same issue, as was the Pan South African Language Board. (see for example, http://www.sabcnews.com/politics/government /0,2172,43166,00.html). Similar criticisms (and more) were made by the Freedom of Expression Institute (FXI) and the Congress of South African Trade Unions (Cosatu) (see Tleane and Duncan, 2003).

It was in this context, therefore, that the Broadcasting Amendment Bill was promulgated in August 2002, and in which – amongst many other aspects – the government stipulated the need for editorial policies and a code of conduct to be introduced at the SABC. (The relationship between these two prescribed instruments was not spelled out). In motivating the bill, the Minister of Communications, Dr Ivy Matsepe-Casaburri, drew attention to the language imbalances and urban-centrism of broadcasting in South Africa, but she also added less-clearly public service criticisms about programming content which left "much to be desired". Thus, she criticised programming "dominated by content that most of the time is about far away countries and events that have no bearing on our existence". The result was that "at times foreign rulers are given carte blanche access to our living rooms to propagate their propaganda when our own leaders cannot enjoy the privilege to air their views on important matters about our own country". To address some of these problems, detailed policies on all aspects of the operations and services of the SABC were necessary, she argued. In her words, "the public broadcaster as a publicly owned organisation must account to the public as expressed in Parliament. … This will require an understanding of the Board's responsibility to develop policies that will be out in the public domain and thus serve as a tool for management accountability." (Matsepe-Casaburri, 2002). Accordingly, the wording of the Bill (RSA 2002a) specified that the corporation's Board (i.e. as distinct, for example, from the SABC staff) should prepare appropriate policies. Further, and more seriously, the bill empowered the Minister to approve (and by implication, or reject) the resulting policies. The scope of such policies would be for news, programming, local content and language. In regard to the public service wing of the SABC, this list also required policies on education and on universal service and access.[5]

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[4] *According to FXI (2002), ten of the clauses of the Charter came almost verbatim from the BBC's Charter. Even so, the law did also reflect many specifically South African inflections of the meaning of public service broadcasting.*

[5] *Although universal service is not, strictly speaking, an editorial matter, it was nonetheless treated as one of the group of editorial policies in the SABC's description of the whole initiative.*

Another contentious aspect was that the Bill proposed to remove the clause in Section 6 of the 1999 parent law whereby the SABC's governing Charter provided the corporation with freedom of expression and journalistic, creative and programming independence. This was to be replaced with terminology that required "accurate, accountable and fair reporting". Other sections in the Bill added the words "responsible reporting". The draft law also stated that "the Board and individual journalists of the Corporation shall be subject to the policies of the Corporation … and act in the best interests of the Corporation". The Bill took further the 1999 law's reference to public interest in requiring the SABC reporting "to advance national and public interest of the Republic in accordance with the Constitution" (RSA, 2002a; see also http://iafrica.com/news/sa/162095.htm; http://www.sabcnews.com/politics/government/0,2172,41336,00.html).

Additional elements of the Bill were a requirement for the SABC to have two "management boards" – to be appointed by the Minister – from the members of the overall Board. One was to be responsible for the commercial wing, and the other the public service.

While government presumably hoped to see the Bill passed in its initial form, the Parliamentary Portfolio Committee on Communications opted instead to call for public comment. It also scheduled public hearings during September 2002. During the public debates that followed, the Minister stated: "Somebody must hold you accountable. The question is what is the nature of the accountability without saying you are interfering … So … we say how do you exercise that accountability on behalf of the SABC Board and management over people who do their work. I think that's the main thing. It's not in order to say you must go and interfere." http://www.sabcnews.com/politics/governement/0,2172,41336,00.html She was further quoted as saying: "If you are a broadcaster in news and you give misinformation that can cause the rand to slide, this means they are not accountable to South Africa." The SABC thus had to make sure that its staff "through carelessness or intended or unintended ways did not undermine the economy of the country through not doing their homework". According to the report, she added: "We want accountability, we also want to ensure that you don't have somebody who can actually cause you wars because of what they broadcast." Despite her concerns, she stated that the ANC government she represented did not intend to control the SABC in any way (Sapa 2002). Finally, she also drew attention to the provision that the policies were to be drafted by the SABC Board, and not by the government itself (see http://iafrica.com/news/sa/162095.htm).

Notwithstanding these points, counter-arguments were made. Various stakeholders accused the Minister of seeking increased governmental rather than public accountability of the corporation (Tleane and Duncan, 2003:170; Holomisa, 2002). Among the critics were the regulator Icasa, and indeed, the SABC itself. Icasa (2002) identified with criticisms of the SABC's language delivery, saying that the corporation was "in effect delivering LESS in terms of its language obligations [capitals in the original]" than seven years earlier. However, it stated that, rather than becoming involved in the control of broadcasters, government should use its legal power to issue a broad policy directive to address the issue.

Icasa further pointed out that the South African Constitution precluded the executive from taking over its broadcast regulatory functions. It noted that its founding Act provided that no Ministerial policy direction "may be issued which interferes with the independence of the Authority or which affects the powers and functions of the Authority". Accordingly, the regulator argued that the Bill "may be unconstitutional in that it seems to usurp a power exclusively reserved for the Authority" in regard to the provisions for the Minister to be the authority that approved policies for the SABC. This procedure, said Icasa, would also subvert its founding act that required it to administer a "Code of Conduct for Broadcasting Services". In addition, Icasa argued that the policy areas listed in the Bill were regulatory matters and "should rather be imposed as licence conditions".

Icasa further noted: "Notwithstanding the SABC's adherence to the BCCSA Code, section 6(4) implies that the SABC may have to comply with a Ministerial Code on news and current affairs programming." Labour federation Cosatu, in its comments on the Bill (Cosatu, 2002a), also made reference to the BCCSA Code of Conduct – to which SABC subscribed, and suggested that the Bill's requirement for an SABC code was unnecessary.

Icasa also criticised the provision for the Minister to nominate the envisioned commercial and public broadcasting management boards. Said the regulator: "It bears repeating that the Board members are appointed in terms of section 13 of the Broadcasting Act by the President upon the advice of the National Assembly, following a public and transparent process. The Minister has no involvement in the appointment process of the Board." Similarly, Cosatu (2002a) maintained that the proposal suggested Ministerial interference.

An important additional criticism by Icasa was in regard to the proposed deletion of the freedom of expression section of the Charter. It said that this step would imply "that the Corporation will no longer enjoy such freedoms" (Icasa, 2002).

For its part, the SABC described the requirement that its policies be submitted to the Minister for approval as "inappropriate and unconstitutional". It further said there was sufficient sectoral regulation of journalistic ethics and principles to ensure fair and accurate reporting, and, in addition, that it would also have its own Code of Conduct and policies for reporting (see SABCnews.com September 17, 2002, 11:30; http://www.theherald.co.za/herald/2002/09/17/news/n16_17092002.htm).

Another point was raised by the South African National Editors Forum (Sanef) to the effect that the Bill subverted the authority of the Board by vesting its powers with the Minister, and that this essentially stripped the SABC of its "independence from Government".[6]

Although the Minister had argued that the SABC would be able to broadcast as it saw fit within the anticipated policies, this was interpreted by opposition members of parliament as a way to make the corporation, including its board and individual journalists, accountable to the Minister.[7]

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[6] *Mathatha Tsedu, then chairperson of Sanef, presented his organisation's submissions to the Parliamentary Portfolio Committee on Communications during the public hearings of the Broadcasting Amendment Bill of 2002. Retrieved on December 15, 2004 from http://www.pmg.org.za/docs/2002/viewminute.php?id=2084. See also: http://www.irinnews.org/ report.asp?ReportID=29402*

[7] *Minutes of public hearings conducted by the Parliamentary Portfolio Committee on Communication during the Broadcasting Amendment Bill of 2002. Retrieved on December 15, 2004 from http://www.pmg.org.za/docs/ 2002/viewminute.php?id=2055. See also http://www.sabcnews.com/politics/government/0,2172,43166,00.html*

Some critics also suggested that the bill would give government the power to define "accurate" and balanced reporting (see Cosatu 2002a and 2002b; Tleane and Duncan, 2003; FXI, 2002; Holomisa, 2002; http://www.sabcnews.co.za/politics/parliament/0,2172,43275,00.html). Connecting the Ministerial policies approval issue with the independence clause deletion, Cosatu (2002a:7) said these provisions would reverse the movement towards "a truly independent public broadcaster", and that they "raised the spectre of a state or state-controlled broadcaster".

What further came under criticism from stakeholders was the national interest reference in the Bill. Icasa (2002) said the Bill's definition of 'national interest' as constitutional values (of dignity, non-racialism, multi-partyism, etc.) was superfluous because broadcasters were already subject to the Constitution. The SABC said that the reference to 'national and public interest' was "unintelligible as well as undermining of the SABC's independence" (http://www.theherald.co.za/herald/2002/09/17/news/n16_17092002.htm). Cosatu (2002b) recommended deletion of the Bill's attempt to define the national interest. In the subsequent view of media activist Jane Duncan (2002), the Bill represented the government seeking "to impose its own definition of what constitutes the national interest".[8]

What was evident in all this was that the proposed editorial policies were part of a wider package of measures that seemed aimed at prodding the SABC towards the model of a government broadcaster.

7.   REVISING THE POLICY PROJECT

In response to the lobbying, the parliamentary committee rejected the Minister's approach. However, it still saw value in SABC having editorial policies, as a mechanism of deepening the corporation's public accountability. Against this background, it therefore rewrote the legislation with seven major changes (see RSA, 2002b).

First, parliament described the purpose of the editorial policies as being to ensure SABC's compliance with Icasa's Code of Conduct, the corporation's own licence conditions (although at the time they were still rather general – GB), and the objectives of the Act. The latter refer to the development of South African expression in various ways including a plurality of content "from a South African point of view" and which should advance "the national and public interest".

Second, while parliament retained the formulation of the SABC Board needing to prepare and submit policies (as distinct, for instance, from SABC management and/or staff), it said these should be submitted to Icasa (i.e. not to the Minister). This preserved independence, but it went against Cosatu's preference (2002a; 2002b) that parliament should approve the policies. Third, and perhaps strangely, the new Bill specified only submission of the policies to Icasa – in other words it did not authorise Icasa to approve or reject the policies. The Board was thus the supreme arbiter of the policies (constrained only by the need to ensure they were within the parameters and purposes spelled out in the legislation).

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[8] *The debate on "national" and "public" interest in South African media cannot be gone into depth here, but see Barratt (2006); Duncan (2003); Bloom (2002) and Wasserman (2006).*

Fourthly, in part clarifying the code issue, the revised Bill required that these policies should ensure compliance with the Icasa Code of Conduct. (The BCCSA Code – which in fact mirrors the Icasa one – was not mentioned). This revision further changed the requirement of SABC producing its own "Code of Conduct" to a "Code of Practice".[9]

Also, and following proposals by Cosatu (2002a; 2002b; 2002c) amongst others, the revised Bill compelled the SABC Board to adopt a participatory approach by ensuring public involvement in the development of the policies. It is noteworthy that this thrust emanated from civil society, not from the SABC. Significantly, and distinct from the editorial policies process, the revised Bill also instructed the SABC to provide suitable means for regular public inputs and to ensure that such public opinion was given due consideration. All this represented a privileging of a participative over a power approach to policy formulation.

Further, the parliamentary committee dropped the original Bill's attempt to scrap the clause which guaranteeing the SABC freedom of expression and journalistic, creative and programming independence. The revised Bill also dispensed with the provision about "the best interests of the Corporation" as well as the phrase "responsible reporting". Instead, it made reference only to "a high standard of accuracy, fairness and impartiality". However, despite the representations, the Bill's original inclusion of an objective of advancing the national and public interest remained.

Finally, parliament accepted representations by Cosatu (2002b) that there should not be lesser policy requirements for the commercial wing of the SABC. Instead, all of the six envisaged policy areas would now cover the corporation as a whole. In addition, the field of religious programming was appended – meaning that the field as a whole thus covered news, programming, local content, languages, universal service and access, and education.

All this was put into legal effect in February 2003 when the 2002 Broadcasting Act (as amended) was gazetted (RSA 2003). The seven steps listed above warded off changes compromising the South African public broadcaster's editorial independence of government. The issue that remained, however, was that of increasing SABC's public accountability. In large part, this fell to the elaborations in the editorial policies.

8. SABC DRAFT EDITORIAL POLICY AND PUBLIC CONSULTATIONS

In April 2003, the SABC Board released a draft editorial policy document (SABC, 2003). This stated that the policies were intended to guide the editorial staff in daily decisionmaking. Once finalised, the policies would also clarify what the general public was entitled to expect from the national public service broadcaster (SABC, 2003). As required, the policies covered programming, news, language, education, universal service and access, local content, and religion. Not all the policies were entirely new; some had been drafted in 1995. Many points in the policies covered the substance of editorial independence through conventional journalistic ethics and standards. Other provisions, as discussed below, dealt with the particularities of public service broadcasting in the South African

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[9] *How such an instrument relates to a policy as such was left unspecified. Although the SABC website has subsequently featured a "Code of Practice" mirroring parts of the Editorial Policies document, the latter also has its own section titled "Editorial Code", which is not the same as the "Code of Practice" as such.*

context of overcoming the injustices of the country's past, treating the 11 official languages equitably, and promoting democracy and nationhood (SABC, 2003).

As part of the six-month public consultation process around the drafts, the SABC distributed summaries of the policy document in six languages through post offices. It further advertised in the press, used its own broadcast channels to call for comment, and convened public meetings in many provinces (Kantor, 2003).[10]

At the end of the consultation process, the SABC said there had been 920 written submissions, 847 of which were from individuals and 73 from organisations (Hassen, 2004:11). He added that there had also been internal consultations within the corporation, although it is not clear just how far the participatory paradigm extended in this regard. According to Kantor (2003), the programming policy attracted the largest number (600) of comments. The next most commented-upon policy was language, followed by policies in respect of religion and news.

The ANC described the exercise as "a model for public policy development" (ANC, 2003). According to the SABC itself (2004b), "this depth of consultation on editorial policy is believed to be unprecedented for a public broadcaster anywhere". These claims, however, need to be placed alongside the criticisms of prior inaccessibility of the SABC (See Duncan, 2002; MMP, 2004), and a comment by a provincial premier: "I trust that the public broadcaster is engaging in this public participation process because it truly believes that the people have an important role to play, and not merely to comply with the law." (Ramatlodi, 2003; see also Berger, 2003a).

According to Hassen (2004), no substantive changes were suggested in the submissions to the local content or universal access policies. In the other policy areas, changes were suggested and some taken on board by the SABC. However, although the consultation represented "public accountability" in practice, when the SABC Board released the final editorial policies in early 2004, the modus operandi was along power paradigm lines in that the corporation did not clearly elaborate on what criteria had been applied to evaluating the public comments. The fact of consultation per se seems to have been deemed by SABC to legitimate its final outcome. Nevertheless, where there had previously been a blank space, there were now policies which gave substance to the meaning of editorial independence, public accountability and public service, and, in so doing helped clarify their relationship.

9. DEFINING PUBLIC SERVICE IN SOUTH AFRICA

Commendably, the policies were clearly founded on articulated values (specified as being based on the South African constitution and relevant legislation such as the Charter). These cover: healing the divisions of the past; promoting respect for democracy and human rights; and, reflecting the diversity and unity of the nation. The document then leads onto seven "core editorial values of the SABC". Four of these can be categorised as related to the SABC's interpretation of public service in South Africa – "equality" (serving all languages, universal access); "nation-building" (including

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[10] *See for example http://www.gpg.gov.za/docs/pr0709.html; http://www.sabcnews.com/economy/ business/0,2172,64239,00.html; http://www.sabcnews.com/south_africa/general/0,2172,63186,00.html; http://www.sabcnews.com/sci_tech/telecomms/0,2172,62116,00.html*

national identity and information needed for democracy); "diversity" (reflecting diverse languages, cultures, provinces and people); and "human dignity" (avoidance of stereotypes and prejudice).

The Programming Policy in particular – with its overarching impact on all commissioning, producing and scheduling of programmes – seems to conform to the broad ideals of PBS in saying that the SABC aims to meet the needs of "all audience segments" (SABC, 2004:7). It refers to these as the "young and old, urban and rural in all the provinces, speakers of all the official languages, and people of every religious persuasion" (2004:7). In addition, it states that SABC encourages programmes that are "identifiably South African" and that "contribute to a sense of national identity and of shared experience, and to the goal of nation building" (2004:7). This is a functionalist approach in that it portrays the public service broadcaster in terms of the whole and therefore as independent from the majority, or a single minority, and as accountable to all.

The Programming Policy covers the issues of "taste and decency"; audience advisories; "offensive" language; stereotypes and discrimination; violence; privacy and dignity; grief and distress; phone-ins; children; and, sex and nudity. It also clarifies what should be expected of an independent public service broadcaster by stating that:

> Although the SABC makes every effort to minimise what audiences might find distasteful or tasteless, the public broadcaster does have to deal frankly with controversial topics and cannot avoid tackling issues because of the risk of offending certain people (Editorial Policies, SABC, 2004:8).

Special reference to the South African context is evident in how the Programming area repeats the earlier reference to healing the divisions of the past, and goes on to say that the SABC should therefore not promote discrimination on grounds of either race or various other criteria. Colour, according to the policy, should only be mentioned when relevant to the story. On gender, the policy stresses that the "SABC undertakes to strive to ensure that its programming…does not promote violence against women, depict women as passive victims of violence and abuse, degrade women and undermine their role and position in society, promote sexism and gender inequality, and reinforce gender oppression and stereotypes" (2004:12). The policy adds that "just as the SABC does not condone racist material, or unnecessary violence, it does not present sexuality, or exploitative or non-consensual sexual relations, as acceptable" (2004:17).

These provisions are what can be expected of PBS in South African post-apartheid conditions. A similar character exists in regard to the other policy issues and areas. The Language Policy section notes that in developing national identity, the SABC has to bring marginalised languages, cultures and identities into the mainstream "so that they can develop and flourish, and become a core part of our nation building project" (2004:26). It then provides guidelines on equitable treatment for languages. In similar vein, the policy area of Universal Service defines obligations against a South African historical background, referring specifically to the need to address the poor quality of African language radio services and the broadcast legacy created by apartheid's geographic

segregation. The Local Content section follows the Icasa regulations, though inserting a "Black Economic Empowerment" component (2004:43). In the Religion section, SABC says it "seeks to correct gender, racial, religious and resource allocation imbalances associated with religious broadcasting in the past" (2004:45). Education Policy section makes reference to the country's constitution and to SABC contributing "to the national project of righting the wrongs of decades of Apartheid education" (2004:48).

Another South African dimension of public service is in the Programming Policy's interpretation of privacy and dignity by linking these to constitutional rights, while noting that circumstances may mean that a public right to information may take precedence over privacy (2004:14). While the draft policies said the SABC would not disclose the HIV status of anyone without their express consent, the final version added the phrase "unless it would be in the public interest to do so" (2004:14). (This part of the policy also describes HIV/Aids as a "national tragedy" and says that SABC should be guided by the need to destigmatise the pandemic and create empathy for people living with Aids).

There were some criticisms of the way the SABC interpreted public service (see Cosatu, 2002a, 2002b; FXI in IFJ, 2002). Broadly, however, it can be concluded that the editorial policies do adhere to the spirit of public service broadcasting, and that they are appropriately elaborated in the specific context of South African history. It is also, crucially, within this framework – to which the SABC must account – that editorial independence has to work.

10. HOW THE POLICIES DEFINED EDITORIAL INDEPENDENCE

Editorial independence is dealt with in several sections of the policies, all of which are generally in line with conventional journalistic ethics. The Mandate section of the policy document lists editorial independence as a "core editorial value" and defined as the provisions of the Charter which enshrine journalistic, creative and programming independence of staff, as well as freedom of expression (2004:3). In the ensuing Editorial Code are a number of protocols related to editorial independence. These include: comprehensive and undistorted news; editorial decisions not influenced by political, commercial or personal considerations; news merit; no gifts that could compromise editorial integrity; protection of sources; and timely corrections. There are other points about right to privacy; the use of covert methods of information gathering; and sensitivity in representing violence and grief.

Editorial independence receives further backing from the Programming Policy section remark that "freedom of expression" should be at the heart of all programmes (2004:7), and the further reminder that the South African Constitution protects even unpopular and offensive speech. The same section states that attempts to curb speech could stifle artistic creativity which "is fundamental to broadcasting" (2004:8).

Editorial independence is particularly apposite to news, current affairs and information programming. This section of the SABC's editorial policies repeats the legal guarantees of freedom of expression

and journalistic, creative and programming independence, adding that this legal status makes editorial independence fundamental and especially important in respect of news (2004:19). The policy then goes on to lay down certain prescriptions for objectivity, accuracy, fairness, impartiality and balance. It further states that staff "may not allow their professional judgement to be influenced by pressures from political, commercial or other sectional interests" (2004:20). The policy here associates itself with the corporation's Editorial Code, which spells out in part the importance of holding to the values of editorial independence. The policy thus states:

> We do not allow advertising, commercial, political or personal considerations to influence our editorial decisions. The SABC is expected to provide information, and as part of this duty should evaluate, analyse and critically appraise government policies and programmes. The SABC is not the mouthpiece of the government of the day, nor should it broadcast its opinion of government policies, unless they relate directly to broadcasting matters (2004:20).

The above principle is directly in line with PBS norms of editorial independence in that it tries to eliminate elements of the power paradigm of control by government, dominant political parties or business groups.

The policy section on news also includes a principle that calls for restrictions on sponsorship of news, current affairs and information programmes. This, the policy says, is "to preserve the editorial independence and integrity of the programmes concerned" and to "ensure that editorial control of programmes remains with the broadcaster" (2004:25). (It is also a requirement of the 2002 law that editorial independence is not influenced by the presence of advertising and sponsorship.) Such a principle is essential if PBS is to deal with conflicts of interests that could arise from sponsorship mix. The news policy further deals with investigative journalism, public opinion surveys, protection of sources, covering suffering and distress, events of "national importance", and elections. None of the provisions here could be construed as infringing on editorial independence.

However, national interest as a circumscription of editorial independence was an issue of debate around the draft policies. For example, the ANC, in its submission (ANC, 2003) proposed that the SABC should avoid the "creation of a wrong perception that a strand of thought that is unpopular will as a result of this value be accorded the same status and presented as equal to a significant consensus in society". Other submissions (from civil society) criticised the notion per se. However, the final policies do not pick up on this interpretation of the national interest point. It is only noted at the outset that the Charter in the 2002 law commits the SABC to advancing both the national and the public interest.[11]

Assessed in terms of the four levels of editorial independence discussed earlier in this article, there is independence of the owner (i.e. of the state as represented by the government), and independence of funders and power elites. The policies pay some respect to independence of editorial from the immediate business interests of the institution itself, and to independence of

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[11] *Objectivity as a value in editorial independence also attracted attention in the submissions. According to the MMP (2003), it is an impossible ideal and "when inserted into media codes, renders them useless". The NGO suggested that it should be explicitly recognised as an ideal to be striven towards. The policy document, however, interprets objectivity as the exclusion of personal views of staff being reflected in programming, which is squarely in the terrain of editorial independence.*

editorial staff within the occupational hierarchy.[12] The issue of independence from sources is relatively neglected. However, despite these limitations, the positive side is that independence is not presented as if it were in a vacuum. As demonstrated, in addition to the elaboration of public service (discussed above in the previous section), the policies do seek to entrench and elaborate respect for associated journalism ethics and standards.

11. MECHANISM AND PROCEDURES FOR ACCOUNTABILITY

The policies address some facets of accountability. Among the "core editorial values" is "accountability" whereby SABC management and staff are stated as being accountable to the Board which has to ensure compliance with the Charter. "Transparency", another value, is spelt out as honesty and openness in relationships with the shareholder (government), stakeholders, suppliers and the public (2004:3). Accountability for the policies is stated within them as being in the form of annual reports to parliament.

Further, the Editorial Code says "we foster open dialogue with our viewers and listeners, as we are accountable to the public for our reports" (2004:5). In the News policy section are provisions for right to reply and for dealing with apologies and corrections. The Programming section tackles complaints (SABC, 2004:16-18). Submissions on the draft policies did suggest a shortened complaints procedure (Misa, 2003) and an ombudsman (ANC, 2003) – neither of which were taken up. Nevertheless, the policy does spell out a procedure for complaints specifically about contraventions of the policies, saying that these could go as high as the Board.[13]

The draft policies, according to an SABC fact sheet (n.d.) "provide a high level description" and not "operational detail". This level of abstraction persists in the final policies and has negative implications for putting them into practice and for SABC's accountability for such implementation. The draft policies failed to give any specifics on monitoring and reporting in regard to four of the seven policy areas. The final version improved on this, but it still left this matter blank in two areas – news and programming policies. Public accountability is made meaningful (though not quantifiably) through such monitoring (which generally in the document includes a commitment to publish the results in SABC's annual report to parliament). The policy problems in this area mean that accountability is inevitably weakened. Another weakness is that while all policies are slated for review after a number of years, the document is silent on how and by whom. More controversially, the policy documents also lay down a particular mechanism and system to ensure internal accountability within the corporation – viz. upward referral. Reasons of space and focus preclude further discussion of this complex debate, although an indication of the importance of this issue

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[12] *Arguably both could be weakened by the proposed "upward referral" system, but this complex matter would have to be discussed in a different article that would also examine the significance of the SABC inquiry into blacklisting of experts (see Sisulu and Marcus, 2006).*

[13] *Hassen (2004) argues that it was because the SABC was already subject to an independent complaints tribunal which included nominees from the public (BCCSA), that the suggestion of an independent ombudsperson was not adopted. However, the SABC did acknowledge that the BCCSA only considered complaints against its own Code of Conduct. Hence, the Corporation decided that a clause be inserted in the revised policies covering complaints on contravention of SABC's specific editorial policies. These were to be directed to the Manager: Broadcast Compliance, and in the event of a serious contravention, to be referred upwards and ultimately to the Board.*

emerged in the SABC's 2006 inquiry into the blacklisting of expert sources at the broadcaster. The report here showed that even an improved version of the draft Editorial Policies on upward referral systems did not prevent management practices that undermined public broadcasting principles (see Sisulu and Marcus, 2006).

Nonetheless, it is the case that on the whole, there are a range of measures in the Editorial Policies which do elaborate the mechanisms for public accountability in a way that was not previously evident. On the other hand, the final policies do not say anything about the other legislative requirement of the SABC providing a means for regular public inputs and taking public opinion seriously.

12. DISCUSSION AND CONCLUSION

The editorial policies deal extensively with defining the public service, editorial independence, and public accountability, all of which ensure that the SABC is defined as a public, rather than a government, broadcaster. Yet, despite its public service obligations, SABC is still in many respects run as commercial broadcaster. This character raises complexities for the editorial policies.

It appears that the SABC expected to be able to implement the policies in that it explicitly argued in the Introduction that these are based on the assumption that the existing funding model and mandate remain constant (2004). However, a policy framework that would effectively exclude advertising or commercial influences on content, and also provide equitable treatment for all languages, is hard to operate successfully when business imperatives run counter to these objectives. Indeed, the commercialisation of the broadcaster (notwithstanding its division into two wings) could render impractical these aspects of the policy (as well as that on local content) (Berger, 2003b). While the editorial policies, if implemented, keep the SABC independent of being a government broadcaster, they do not necessarily mean it fulfils all its public service obligations.

Related to this is a limit that the policies did not envisage the development of measurable targets for assessment. Indeed, the SABC motivated against detailed licence conditions in 2005 on the basis that it already had editorial policies. Icasa nonetheless increased the accountability of the SABC by setting out detailed and, unlike the policies, quantifiable conditions – especially as regards marginalised language provision – as part of the corporation's new licences. These conditions may go some way towards ensuring that, notwithstanding the business model, accountability will be strengthened and some of the policy principles will be implemented. However, there is a profound tension in this matter.

Policy is, of course, not practice, and how the SABC is implementing these policies is subject to further research. It will come as no surprise, however, if it is found that a range of paradigms are again in operation. First, the complexity and scope of the policies may mean that "chaos" reigns, with few of the corporation's journalists reading or recalling the contents of the 60-page publication. Second, there are sure to be internal politics around which policies are implemented, which are not, and how any of them are interpreted. Power may be selectively wielded in the enforcement

of policy points, or in tolerance of chaos. The extent to which the SABC maintains editorial independence and public accountability through these policies will be contested by many forces. Another dimension will be the extent to which the policies serve merely as symbolic legitimation.[14]

However, despite the problems, the policies in at least some respects are intended to create integration and harmony in the interests of fully-fledged public broadcasting. They do spell out what the SABC should understand by "public service". Their stipulations on editorial independence could help ensure that no undue influence is brought to bear on the SABC's content. Their protocols on reporting and review could further function to develop the substance and mechanisms of accountability. Whether the editorial policies do so relies in part on continuing momentum from the original policy formulation process, and the shape of broader evolving dynamics of government, civil society, competitive broadcasters, and the SABC staffers themselves.

In overview, it is fair to say that the experience reveals a project where editorial policies have been introduced with the aim of balancing the SABC on a tightrope between editorial independence and public accountability. There are, as a result, now elaborated guidelines to which the SABC can be held to account. According to Kupe (2003b), for the corporation, this may "turn out to be a classic case of being hoist by one's own petard" – which is exactly part of the public accountability that explicit editorial policies in general entail. All this has also been reinforced by Icasa's subsequent relicensing. Thus, the elements are in place for an integrated way of dealing with editorial independence and public accountability – something that takes the SABC's character forward from where it was previously.[15] There is an explicit system, as distinct from an arbitrary one. It is a significant step towards both concretising what is meant by editorial independence and public accountability (and public service in South Africa), and institutionalising a mediation of the tensions between them. All this helps define the nature of the SABC as a public broadcaster in the post-apartheid democracy that is South Africa. Finally, it is also a rich experience that exhibits some insights from a paradigmatic approach to policy analysis, and, as such, it reveals a degree of relevance of this particular case study for policy studies more widely.

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[14] *One possible instance of this was in an SABC response to criticisms that the new Managing Director of News, Dr Snuki Zikalala, a former government spokesperson, would be biased towards government. The SABC spokesperson said: "We are guided by our editorial policies and charter within which he will function, all the time striving for objectivity and impartiality. There is no ways he will favour the government." (http://www.mediaweb.co.za/ArticleDetail.asp?ID=2709). Of course, policies need to be enforced, and it is here that SABC's actual performance must be assessed beyond its claims as regards political impartiality.*

[15] *This is not to say that there was a complete vacuum prior to the policies development, although there had not been policy on local content, nor on universal service and access prior to this. The Mandate section, for example, updated the 1993 Editorial Code. The Programming section replaced Guidelines on Programme Content approved by Board in 1995, and brought these up to date with the new Icasa Code of Conduct for Broadcasters. The Language section also replaced a 1995 policy, and spelled out for the first time how SABC would interpret "equitable treatment". Religion replaced a 1995 policy with two major changes regarding quotas and sold airtime. (Kantor, 2003)*

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