



CHAPTER 8

**MEDIA
ACCOUNTABILITY
MECHANISMS:
SELF-REGULATION, INDEPENDENT
AND STATUTORY REGULATION**

BY LUMKO MTIMDE

Lumko Mtimde

Lumko Mtimde is a graduate of the University of the Western Cape and the University of South Africa having completed a BSc. degree in Physiology and Biochemistry and a Postgraduate Diploma in Telecommunications and Information Policy respectively. He has extensive policy, regulatory, leadership and management experience in the information and communications environment having served firstly as the CEO of the National Community Radio Forum before being appointed in 1998 as a Councillor of the Independent Broadcasting Authority (IBA) by President Mandela in terms of the IBA Act – a position he held until 2000. From there he did consultative work for a wide range of organisations within the sector, including UNESCO, Open Society Institute of Southern Africa (OSISA), AMARC Africa, SACOD, Article 19 and the Department of Environmental Affairs and Tourism of South Africa.

From 2001 - 2002, he became General Manager /Chief Director (Broadcasting Policy) in the Department of Communications, Ministry of Communications. He was then re-appointed as a Councillor of the Independent Communications Authority of South Africa (ICASA) by President Mbeki and served from 2002 until 2006. Mtimde has served on a number of Boards including the SABC, AMARC International (Canada), TRASA (now CRASA) (Botswana), NetTel@Africa (Tanzania), RIARC/ACRAN (Benin), and the Institute of the Advancement of Journalism (IAJ), etc. He has received a number of recognition awards from AMARC, NCRF, etc.

Currently, his Board membership includes: World Summit Awards (Austria); MICTSeta: Alfred Nzo Development Agency (ANDA); KwaBhaca Community Support and Development Trust (KCSDT); Mvenyane Education Trust (MVEET) and Zakeni Burial Society. He has also held several leadership positions including that of Vice President of AMARC International, President of AMARC Africa, Deputy Chairperson of TRASA (now CRASA), Chairperson of KCSDT, and, Chairperson of MVEET, etc.

In 2006, Lumko became the Chief Executive Officer of the Media Development and Diversity Agency (MDDA), a position he holds to date. He writes in his personal capacity.



CONSTITUTIONAL FRAMEWORK

The media in South Africa operates in an environment free of oppression, persecution and the repressive legislation which, in the past, sought to restrict and control it.

Freedom of speech, freedom of expression, access to information and free media are all entrenched in the Constitution of South Africa, provided for in the Bill of Rights. The state is duty-bound to respect, protect, promote and fulfill these freedoms. Giving effect to the Constitution is the legislative framework: the Media Development and Diversity Agency Act of 2002 encouraging media diversity and access to media by all; the Independent Communications Authority of South Africa Act of 2000; the Electronic Communications Act of 2005; the Broadcasting Act of 1999; the Access to Information Act of 2000; the Promotion of Administrative Justice Act of 2000; and Chapter 9 of the Constitution which sets up institutions to support democracy.

The Promotion of Access to Information Act of 2000 is in practice used extensively by the media, by individuals and by other interest groups to gain information for a number of purposes. This has enhanced investigative journalism in South Africa, fostering a transparent society.

THE WINDHOEK DECLARATION AND MEDIA DIVERSITY

The United Nations Educational, Scientific and Cultural Organization (Unesco)¹ member states adopted declarations such as the Windhoek Declaration² and the World Summit on Information Society (WSIS) Declaration³, promoting press freedom and independent and pluralistic media. This was in acknowledgement of the im-

portance of diverse and pluralistic media for the sustainability of democracy. A diversity of views and opinions promoting different perspectives enriches citizens and enables them to participate in a people-driven democratic process. It is therefore in the interest of all states to support media diversity and pluralism.

The media is recognised as the fourth estate (in addition to the legislature, the judiciary and the executive) and is important for both state and citizens. It informs, educates, entertains and provides the platform for dialogue which is necessary for democratic discourse. For any democracy to be sustainable it needs free and diverse media. The freedom of the media must be protected by the legislative framework, in particular by the constitution and, by implication, by an independent judiciary which is vital for any constitutional democracy. A democratic state has a responsibility to support and promote a free and diverse media, as this is in the interest of its citizenry and of the sustainability of its rule.


The 13th of February is a date proclaimed by Unesco as an occasion to draw attention to the unique value of radio, which remains the medium reaching the widest audience and is currently taking up new technological forms and devices. The world celebrates radio broadcasts and improved international cooperation among radio broadcasters. Decision makers are encouraged to create and provide access to information through radio, including community radio.

The South African experience is premised on a commitment to a constitutional democracy which enshrines free, independent and diverse media. Former president Nelson Mandela always emphasised that unity in diversity is fundamental to the health of South African democracy.

¹ <http://en.unesco.org/>

² 'Windhoek Declaration on Promoting an independent and pluralistic African Press' and the values which it enshrines, namely freedom of expression, independent and pluralistic media and press freedom.

³ <http://www.itu.int/wsis/docs/geneva/official/dop.html>



Parliament, recognising the exclusion of disadvantaged communities and persons from access to the media and the media industry, resolved to establish the Media Development and Diversity Agency (MDDA), an agency established by the MDDA Act No. 14 of 2002, to create, in partnership with the print and broadcast media industry, an enabling environment for media development and diversity that is conducive to public discourse and which reflects the needs and aspirations of South Africans.

The MDDA primarily provides support to community (nonprofit) and small commercial media projects. The objectives of the MDDA Act arise, inter alia, from the Constitution of South Africa, which provides, in Sections 16 and 32 of the Bill of Rights:

16. Freedom of expression

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

32. Access to information

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


The above demonstrates that media development and diversity is critical for our country. The Bill of Rights lays a foundation for legislative intervention towards the achievement of the objectives of the MDDA Act and civil society advocacy.

The MDDA acts through a board appointed by the president on the recommendation of the National Assembly after a public participatory process. The MDDA funds and supports the media, but is prohibited by law from interfering with its content. The board acts independently without any fear, favour or prejudice, board members taking an oath to that effect before assuming office. The MDDA mandate is enshrined in Section 3 of the MDDA Act, which requires that the MDDA – in giving meaning and effect to Section 16 (1) of the Constitution – encourages the ownership and control and the access to media by historically disadvantaged communities as well as by the historically diminished indigenous language and cultural groups. The overall objective is to promote, support and encourage diverse media.

The partnership with the private sector is based on a voluntary mechanism for the cross-subsidisation and commitment to media development and diversity, on the assumption that the work of the MDDA, in capacity building, skills development, promotion of media literacy and research, serves the interest of the entire media and broadcasting industry. The established mainstream media taps into trained personnel from the community and small commercial media, making this cross-subsidisation a kind of investment in training.

In 2006, the president promulgated the Electronic Communications Act of 2005, providing for a different dispensation with respect to the financing of the MDDA. As a result of this Act, the Broadcasting Service Licensees have renewed their funding agreement with the MDDA to be based on a contribution of two per cent of their annual turnover of licensed activities.

Media can play a significant role in helping different people to communicate with each other



in order to strengthen democracy, promote a culture of human rights, enable all to participate fully in economic growth and speed up transformation and development. Information is knowledge and power. Every citizen, whether rich or poor, whether living in rural or urban locations, should have access to a choice of a diverse range of media.

BROADCAST MEDIA REGULATORY FRAMEWORK

Section 192 of the Constitution establishes an Independent Communications Authority (Icasa) to regulate broadcasting, telecommunication and posts in the public interest. The regulator acts within the parameters of the policy and law, prescribes regulations, imposes measurable licence terms and conditions, monitors compliance with the licence conditions and manages the frequency spectrum.

The broadcasting statutory framework is independent and is complemented by a self-regulatory institution, the Broadcasting Complaints Commission of South Africa (BCCSA)⁴ an independent judicial tribunal that acts without fear or favour and which was established by the National Association of Broadcasters⁵ (NAB) in 1993. It adjudicates complaints from the public about the broadcasters, which are members of the NAB. The BCCSA was recognised by the Independent Broadcasting Authority (IBA, now Icasa) in 1995 in terms of section 56(2) of the IBA Act 1993. The BCCSA has no jurisdiction over election broadcast complaints. Such jurisdiction resides with the Complaints and Compliance Committee (CCC) of Icasa. The CCC also has jurisdiction to hear complaints about content against broadcasters which are not members of the NAB. Complaints other than those which relate to the content of broadcasts all fall under the jurisdiction of the CCC.

PRINT MEDIA REGULATORY FRAMEWORK

Print media is not statutorily regulated in South Africa. It is self-regulated under the press ombudsman⁶ and the Press Council's South African press code, procedures and constitution.⁷ The press code is a tool for governing ethical behaviour among journalists, which has to prevail, as the print media is a powerful communication tool.

Resolutions by key stakeholders such as the African National Congress (ANC) in its 52nd Conference in Polokwane in 2007 challenged the existing self-regulatory system (press ombudsman and Press Council) declaring this ineffective and needing to be strengthened to balance the rights of the media with those of other citizens, guided by the values of human dignity, equality and freedom enshrined in the Bill of Rights.

Subsequently, the Print Media SA (PMSA) and the South African National Editors Forum (Sanef) set up the Press Freedom Commission (PFC), a body of nine persons, selected from outside the media community. They were given the task to review the system of press regulation in South Africa. Chaired by the honourable former chief justice of South Africa, Pius Langa, the independent PFC was inaugurated in July 2011 and was mandated to complete its work and submit a report by March 2012.


In August 2011, a task team set up by the Press Council of South Africa published a review report outlining proposed changes to the press code and the functioning of the office of the press ombudsman. The Press Council said that the review was undertaken 'partly because the five-year term of office of the present Press Council is coming to an end; and partly because of criticisms directed

⁴ <http://www.bccsa.co.za>

⁵ <http://www.nab.org.za>

⁶ <http://www.ombudsman.org.za>

⁷ <http://www.presscouncil.org.za>



at the print media by the ruling African National Congress'. Subsequently, the PDMSA initiated the Press Freedom Commission (PFC), the report of which was published in April 2012.

According to its terms of reference, the primary objective of the PFC was "to ensure press freedom in support of enhancing our democracy which is founded on human dignity, the achievement of equality and the advancement of human rights and freedoms. The secondary objective was to research the regulation of, specifically, print media, locally and globally. Self-regulation, co-regulation, independent regulation and state regulation were examined."⁸

The PFC report concluded that an "independent co-regulatory mechanism, not including state participation, would best serve press freedom in the country". The report indicated that this would "also enhance the role, accountability and responsibility of the press in the promotion of the values of a free and democratic South Africa, and in upholding the rights, dignity and legitimate interests of the people".⁹

The PFC in its *Executive Summary on Press Regulation in South Africa*¹⁰ recommended the following:

- An effective and responsible regulatory system manifesting administrative fairness and institutional independence from the industry it is to regulate be set up. It must also ensure optimal accessibility by removing the waiver requirements of complainants and removing the characterisation of the complaints procedure as arbitration.
- A system of co-regulation independent of government and composed mostly of persons drawn from various sections of the

public outside of the press industry. The emphasis was on having mostly public figures on the Press Council so as to avoid the possible subjectivity of the press.

It was further argued that the PFC had selected this regulatory mechanism as a "response to the expressed public dissatisfaction with the current system and with the public's rejection of government involvement in press regulation. Independent co-regulation can be defined as: a system of press regulation that involves public and press participation with a predominant public membership but without state or government participation. It is accountable to the public."¹¹

The PFC also acknowledged public concern that sanctions applied against press infractions were perceived to be ineffective. This led to a revision of these and a hierarchy of infractions and corresponding sanctions have now been suggested. This includes 'space fines' for offences pertaining to content, and 'monetary fines' for publications that flout the summons and rulings of the ombudsman.

How the press should handle children and issues concerning children was also advanced in the PFC report and improvements made on what appeared in the standing press code. In this section, guidance has been given on how to protect the dignity, rights, privacy, image and interests of children.


The Commission also considered the issue of 'media transformation' (structural and content) as a significant number of submissions outlining the importance of transformation in the overall democratisation of the new South Africa were received. Ownership and its influence on

⁸ Press Freedom Commission: Report on Press Regulation in South Africa: April 25, 2012 pg 7

⁹ Ibid pg 7

¹⁰ Ibid pg 7

¹¹ Press Freedom Commission: Report on Press Regulation in South Africa: April 25, 2012 pg 7



content was also cause for concern. The recommendations arising from the report include considerations of content diversification, skills development and training, a media charter and support for community newspapers.

The PFC finally recommended significant changes in how the PCSA should be governed, its composition and appointment processes, the Appeals Panel, as well as to the complaints procedure in order to ensure that all changes can be effected. In addition, the PFC Report carried further proposals for strengthening ethical standards in the Press Code, which included:

- Widening the role of the public in the regulatory system by proposing that there be more members of the public (7) than the media industry (5) in the PCSA;
- Similarly, strengthening the participation of the public in the Appeals Panel by increasing the number of public members above that of press members;
- Widening accessibility by limiting the public advocate's sole power of deciding what complaints are eligible for hearing;
- Widening accessibility to the adjudicating system by expunging the waiver requirement of complainants;
- Strengthening public access to the regulatory system by widening the basis of third party complaints;
- Strengthening the protection of children and their rights, dignity, privacy, image and interests;
- Strengthening the press code with regard to the right of reply and on court reporting;
- Revising the regime of sanctions based on a hierarchy of infractions and their corresponding sanctions, with a scale of space fines and monetary fines; and

- Suggesting considerations for content diversification, skills development and training, a media charter and support for community newspapers.¹²

From the PFC Report it is clear that there is convergence of ideas in respect of the importance of the independent regulation of media.

At its 53rd Conference held in Mangaung, the ANC noted that in the main the PFC report captured its concerns, and emphasised independent regulation and media accountability. The 53rd Conference accepted the PFC report and reaffirmed the call for Parliament, guided by the report, to conduct a public inquiry on:

- Balancing the rights enshrined in the Constitution (the right to dignity, freedom of expression and media), guided by the values enshrined in the Bill of Rights (human dignity, equality and freedom);
- Transformation of the print media (media charter, ownership and control, advertising and marketing and the establishment of a media accountability mechanism, the Media Appeals Tribunal);
- A media accountability mechanism in the public interest, including investigations into the best international practices without compromising the values enshrined in the Constitution; and
- What regulatory mechanisms can be put in place to ensure the effective balancing of rights – which may include self-regulation, co-regulation and independent regulation.

The ANC believes that any media accountability mechanism should be independent of commercial and party political interests, should act without fear, favour and prejudice, should be em-

¹² What the Press Freedom Commission recommends. Executive Summary of the Press Freedom Commission's Report on Press Regulation in South Africa. Press Freedom Commission: April 25, 2012 pg 8



powered to impose appropriate sanctions and must not amount to pre-publication censorship.

RATIONALE FOR EFFECTIVE INDEPENDENT AND STATUTORY REGULATION

The African Charter on Human and Peoples' Rights and the Declaration of Principles on Freedom of Expression in Africa acknowledge the right of the press to set up effective systems of complaints adjudication.

The ITU ICT regulation toolkit¹³ correctly argues that effective regulators are normally associated with being independent to some degree. It is universally accepted that the rationale for establishing independent, often sector-specific, regulatory institutions is based on ensuring non-discriminatory treatment of all players in the liberalised market. According to the toolkit, the emphasis on non-discrimination arose from broad imperatives aimed at ensuring, inter alia, that cooperation is enabled in a competitive environment to ensure that a level playing field exists between unequal entities in the marketplace. The UN Task Force on Financing ICT (22 December 2004) has observed that: 'The introduction and strengthening of independent, neutral sector regulation has helped to reinforce investor confidence and market performance, while enhancing consumer benefits.'¹⁴

'Statutory' simply means created by law. It does not automatically mean unconstitutional in respect of the constitutionally protected freedom of the media. It does not mean draconian law. The South African legal system clearly provides for accepted principles for guaranteeing independence which guide the many independent statutory institutions such as the Independent Electoral Commission (IEC), the Office of the


Public Protector, the Human Rights Commission, the Commission for Gender Equality, Icasa, the MDDA and the South African Broadcasting Corporation.

In the court case *New National Party vs Government of the Republic of South Africa and Others* [1999] ZACC 5; 1999 (3) SA 191 (CC); 1999 (5) BCLR 489 (CC) (at paras 74 and 75), the then deputy president of the Constitutional Court, Justice Langa, argued: 'The IEC is one of the state institutions provided for in Chapter 9 of the Constitution and whose function under section 181(1) is to "strengthen constitutional democracy in the Republic".' Under section 181(2) its independence is entrenched and, as an institution, is made subject only to 'the Constitution and the law'. For its part, it is required to be impartial and to 'exercise [its] powers and perform [its] functions without fear, favour or prejudice'. Section 181(3) prescribes positive obligations on other organs of state which must, '... through legislative and other measures ... assist and protect [it] to ensure [its] independence, impartiality, dignity and effectiveness ...' Section 181(4) specifically prohibits any 'person or organ of the state' from interfering with its functioning. Section 181(5) provides that 'These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year'.

Although Constitutional Principle (CP) VIII enacted in Schedule 4 of the interim Constitution (the Constitution of the Republic of South Africa Act 200 of 1993) provided for regular elections, there was no CP which required the establishment of an independent body to administer them. Nevertheless, in the first certification judgment, this court commented as follows on

¹³ <http://www.itu.int/itudoc/gs/promo/bdt/flyer/87876.pdf>

¹⁴ <http://www.itu.int/wsis/tffm/final-report.doc>



the independence of the Commission as provided for in the constitutional text it was dealing with:

NT 181(2) provides that the Electoral Commission shall be independent and that its powers and functions shall be performed impartially. Presumably Parliament will in its wisdom ensure that the legislation establishing the Electoral Commission guarantees its manifest independence and impartiality. Such legislation is, of course, justiciable.


In elaborating on the independence of the Commission, Langa DP said:

In dealing with the independence of the Commission, it is necessary to make a distinction between two factors, both of which, in my view, are relevant to 'independence'. The first is 'financial independence'. This implies the ability to have access to funds reasonably required to enable the Commission to discharge the functions it is obliged to perform under the Constitution and the Electoral Commission Act. This does not mean that it can set its own budget. Parliament does that. What it does mean, however, is that Parliament must consider what is reasonably required by the Commission and deal with requests for funding rationally, in the light of other national interests. It is for Parliament, and not the executive arm of government, to provide for funding reasonably sufficient to enable the Commission to carry out its constitutional mandate. The Commission must accordingly be afforded an adequate opportunity to defend its budgetary requirements before Parliament or its relevant committees.

The second factor, 'administrative independence', implies that there will be no control over those matters directly connected with the functions which the Commission has to perform under the Constitution and the Act. The Executive must provide the assistance that the Commission requires 'to ensure [its] independence, impartiality, dignity and effectiveness'. The Department cannot tell the Commission how to conduct registration, whom to employ, and so on; but if the Commission asks the government for assistance to provide personnel to take part in the registration process, government must provide such assistance if it is able to do so. If not, the Commission must be put in funds to enable it to do what is necessary.

This was concurred by Judge Yacoob J in the matter of Independent Electoral Commission v Langeberg Municipality (CCT 49/00) [2001] ZACC 23; 2001 (3) SA 925 (CC); 2001 (9) BCLR 883 (CC) (7 June 2001) where the judgement states that the Commission cannot be independent of the national government, yet be part of it:

[30] The Commission has tried to make some point of the fact that the conduct of the election falls within the national legislative authority of Parliament contending that this is a factor which points to the Commission being part of the national sphere of government. This is an oversimplification. It is true that the Commission must manage the elections of national, provincial and municipal legislative bodies in accordance with national legislation. But this legislation cannot compromise the independence of the Commission. The Commission is clearly a state structure. The fact that a state structure has



to perform its functions in accordance with national legislation does not mean that it falls within the national sphere of government.

[31] Our Constitution has created institutions like the Commission that perform their functions in terms of national legislation but are not subject to national executive control. The very reason the Constitution created the Commission - and the other chapter 9 bodies - was so that they should be and manifestly be seen to be outside government. The Commission is not an organ of state within the national sphere of government. The dispute between Stilbaai and the Commission cannot therefore be classified as an intergovernmental dispute. There might be good reasons for organs of state not to litigate against the Commission except as a last resort. An organ of state suing the Commission, however, does not have to comply with section 41(3).

The point here is that 'statutory' does not mean an independent regulatory body will not be independent and that media freedom will be stifled. An independent statutory regulatory body is accountable to the Constitution and the law through Parliament, acting without fear, favour or prejudice and without any commercial or party political interference. In line with the constitutionally guaranteed freedom of expression, an independent statutory regulatory body cannot impose pre-publication censorship. As in the case of broadcast media in South Africa, it can complement and strengthen the self-regulatory body. It can provide an appeal mechanism for citizens dissatisfied with the self-regulatory body's rulings.

INDEPENDENT STATUTORY REGULATION

An effective independent statutory regulatory body encourages professionalism in journalism, discourages shabby journalism and irresponsible reporting, encourages compliance with the press code, protects human dignity and privacy, and strengthens democracy. The body's independence is protected by law and the Constitution. Journalists will still have editorial independence, will conduct investigative journalism, will expose corruption; and will inform, empower and educate society. The law (as in the MDDA Act) can ensure that the body must not interfere in the editorial content of the media.

'Independence' is a fundamental principle for which all regulation (such as industry codes and legal systems) should strive. Any review of regulatory systems should be premised on assessing which form will ensure the greatest independence from differing interests and therefore reinforce the credibility of such mechanism. As our Constitutional Court has found, perceptions of independence are affected by a range of issues including the appointment and funding of any regulatory body.

Independent regulation should be understood to mean independent from the industry, from affected parties, from commercial and political interference and from government. The founding documents of a regulatory body (its constitution, or a law in the case of a statutory body) must enshrine the independence and protect it. Similarly, the law should protect the freedom of the media, freedom of expression, the right to access information and all the noble principles of a democracy. The law should protect the editorial independence of the media.



LAW-MAKING PROCESSES

The law-making processes in South Africa are public and participatory. People make inputs to the parliamentary processes and public inquiries. For the noble democratic principle of public participation to exist, the media should report accurately and fairly, thereby empowering citizens with the correct information in order to shape laws in the public interest. Differentiation must be clearly drawn between reporting on a matter and the media's editorial interpretation – which may be right or wrong.

The South African legal system provides for effective checks and balances which will ensure that any bill or law is within the constitutional framework. Any law in South Africa must pass the constitutional test, for the Constitution is the supreme law.

CONCLUSION

Public policy can enhance the promotion of pluralistic and diverse media, through laws and interventions guided by the principles of free and independent media in line with the African Charter on Human Rights and Human Dignity.


Media must provide a transparent window into government and inject life into a country's economy by publishing financial and market information to citizens, allowing them to participate freely and fruitfully in their country's development. Access to communication and information empowers citizens, facilitates participatory democracy, and assists in defending, advancing and deepening democracy. Free, independent and pluralistic media can be achieved not only through a range of media products but also by diversity of ownership and control. Free and di-

verse media supports, promotes and strengthens democracy, nation building, social cohesion and good governance.

South Africans are looking forward to the envisaged Parliamentary public inquiry, noting the above concerns and objectives of the investigation into the desirability of the Media Appeals Tribunal aimed at strengthening and complementing the self-regulatory system; ensuring its effectiveness and providing an appeal mechanism for citizens; overseeing complaints about violations of the Press Council Code of Conduct; and of citizens who may not be satisfied with a ruling of the press ombudsman and Press Council. This public inquiry will certainly be guided by the PFC report and its recommendations.

The outcome must encourage professionalism in journalism, discourage irresponsible reporting, and strengthen our democracy. The media must report news truthfully, accurately and fairly, and by so doing promote high standards in media. The media must provide the public with all sides of the story in order to empower all participants in this discourse.

A regulator must be independent and effective. An effective regulator needs to be pro-active in ensuring that all it regulates complies with the code of conduct/press code which it prescribes to and publishes. An effective regulator should balance independence with other principles, including accountability, transparency and predictability. These principles should be enhanced by clarity regarding the roles and responsibilities of the self-regulatory body and the independent statutory regulator. Interested parties must be able to provide relevant input into a decision through a consultation process. The regulator



must be transparent and make available all relevant information in a timely fashion. This will enhance the confidence of interested parties in the effectiveness and independence of the regulator, and it will strengthen its legitimacy. No one will believe that decisions are biased, arbitrary or discriminatory. Consequently, all regulatory rules and policies, the principles for making future regulations and all regulatory decisions and agreements should be a matter of public record. The public must be able to obtain redress easily and quickly when the regulator has acted arbitrarily or incompetently. Adherence to these principles enhances confidence in and the credibility of the regulator and reduces regu-

latory risk, which reverberates positively with investors. These types of safeguards produce a balance between independence and accountability.

South Africa is in the process of reviewing its media accountability mechanisms including its regulatory framework and systems, as in many other countries such as New Zealand and the United Kingdom. Lessons learned from both the South African experience post 1994, and international experience, will assist the country in developing the best practice for good journalism, an informed and knowledgeable society, and for deepening our democracy.