

Changing media policy in South Africa

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The Media Monitoring Project (MMP) is an independent NGO that has been monitoring the media within a framework of human rights since 1993. The MMP has conducted research into the representation of a range of critical human rights related areas including, race and racism, Africa, gender, children and HIV/AIDS in the media. In 2004 South Africa will celebrate ten years of democracy, a wonderful achievement considering our brutal history but it is only ten years and some of the greatest challenges still have to be overcome. Before addressing how the MMP has intervened in the formation of new media policy in South Africa it is important to consider the context of the media in the country.

Apartheid affected every single aspect of South Africans' lives – the media were no exception. From the way media organisations were structured, the people employed, the stories selected, how they were written, edited and presented – every area was deeply impacted in a complex series of ways. Media policy and laws that regulated the media were tailor-made to restrict freedom of expression and subject the media to the extremes of the apartheid government.

In 1994, with freedom and a constitution centred on human rights, many of the laws and regulations that restricted media freedom were removed and new structures to deal with media policy were created. In particular a Parliamentary Portfolio Committee on Communication (PPCC) and the Independent Broadcasting Authority (This has now been merged with the telecommunications authority and is now called the Independent Communications Authority of South Africa (ICASA).) With such radical change not only in society but in government it was to be expected that there would be a plethora of new policies.

Policy interventions

The MMP from early on in its formation saw the need to try and inform media policies in South Africa and to help build our democracy. Since our submission to the Truth and Reconciliation Commission up to our most recent submission on Regional and local television the MMP has applied a human rights framework. The impact of this has been that our submissions have focused on the rights of citizens, the importance of freedom of expression, of diversity of opinions, of responsible government and of accountability.

While we can be generally pleased with the manner in which hearings and submissions follow due process in South Africa, in most instances the MMP has been one of a small group of civil society organisations to make a submission. Submissions tend to be made by media industry players or else from government and specific interest groups. Being a small NGO we do not have anywhere near the same legal resources as the majority of media industry players. On some levels this is a disadvantage as we do not always manage to cover every area that needs to be dealt with, although being a civil society organisation does have its advantages. Primarily, because we are independent the MMP comes with no agenda other than the one we openly declare – i.e. human rights. Thus while industry players will always try and work their submissions in their favour (be they commercial or government oriented) which often works against the interests of the general public they are ostensibly meant to be serving. MMP occupies the powerful position of being able to highlight critical areas.

Who have we made submissions to?

We have made submissions to the PPCC and to ICASA as well as to the South African Broadcasting Corporation (SABC). The SABC is South Africa's single biggest broadcaster and is also our public service broadcaster. In most instances the MMP has made submissions in response to a public process, in the form of responses to position papers, proposed changes or else requests for feedback on policy issues. Where possible the submissions are presented orally as well. MMP has made a number of submissions covering a range of different areas.

Generally our submissions take three forms:

1. They are a response to some proposed legislation. In this regard some of the submissions we have made focused on the formation of the Media Development Diversity Agency as well as the Broadcasting Amendment Bill. In each case, some of the key issues the MMP was strongly pushing for were accountable and open government. Initial drafts of these pieces of legislation allowed for considerable possible Ministerial interference as well as an undermining of our hard fought freedom and independence of the media.

2. Our submissions are also made in response to hearings or licence amendment hearings. This was the case when the PPCC called for hearings into the Transformation of the Advertising Industry. The MMP was the only civil society organisation to make a submission at the initial hearings and as a result the MMP continued to play a role in subsequent committee that were set up to address the problems that had been raised. In October this year the MMP made another submission to the Advertising Transformation Steering Committee where MMP proposed a monitoring system for advertising. MMP also made a submissions to ICASA over a commercial free to air television channel e-tv. These focused mainly on whether or not the channel was meeting the conditions stipulated in their licence conditions and whether they were in line with public service commitments.

3. MMP's submissions focus on specific media policies. Where we feel policy areas are weak MMP will attempt to highlight the weakness and then present possible alternatives. Some examples of these have been MMP's involvement in the updating and redrafting of the Broadcasters Code of Conduct. The broadcasters code covers all broadcasters in South Africa (radio and television and includes private, commercial, public and community broadcasters) and sets out key ethical principles that broadcasters agree to subscribe to. In this regard the MMP suggested the inclusion of clauses relating to a range of human rights issues, including gender violence as well as for the removal of outdated clauses that may have limited freedom of expression. A recent submission was made in response to a paper from ICASA calling for comment on the desirability and viability of regional, local and community television broadcasters.

In spite of the SABC as the public service broadcaster being made up of over 19 broadcasters, no clear policies relating to its public service mandate existed in a form that was applicable to all. Television news and radio news used different policies for example. In response to this and as a requirement of the Broadcasting Amendment Bill (the same one that the MMP had made a submission on) the SABC issued a set of draft editorial policies. MMP's submission addressed programming, news and information, language, universal access, local content, religion and education policies for the SABC. In each of these areas the MMP suggested clear positive human rights related policy guidelines. Specifically the MMP addressed: race, gender, disability, HIV/AIDS and children.

Do we have an impact?

On one level the answer is a simple yes for while changes to policies and pieces of legislation may not always be as far reaching as we would desire, in most instances changes are made. On another level given the range of different stakeholders, the political and other players involved it would be foolish and arrogant to assume that the changes that are made are as a result of the MMP. This indeed highlights the problem with making submissions - that their impact is difficult to determine with any accuracy.

In spite of this it is clear that the MMP does indeed have an impact. During, for example, the MMP's submission on the Media Development Diversity Agency, the then Chairperson of the

committee, Mr Nkenke Kekana said, 'it is essential that organisations like the MMP make such valuable contributions ... and I hope that the MMP will continue to exist long after we [referring to himself and the MMP Director] have gone.'

Nevertheless, we have limitations. Primarily these are a lack of resources, both in terms of capacity and finance to provide for expert legal advice. Putting together a good quality submission requires research into the issues involved (so as to allow for an overview of the areas that need to be covered) as well as a lot of thinking and, in the case of posing suggestions, careful wording. All these activities require a great deal of time and resources. We sometimes find ourselves begging another favour from expert legal friends.

What makes us successful?

We believe a human rights approach is one of the most successful strategies as it always shows a clear link between the content of the policy and concrete human rights principles. The advantage of this is that it makes it difficult for those with limited political or commercial interest to argue against.

As an independent NGO MMP holds no brief for media, government or commercial interests and so are often in the strong position of being able to comment and criticise on all areas necessary. While MMP's submissions are critical where they need to be, MMP also makes sure to credit positive aspects. It is also valuable for the MMP not only to criticise but to offer solutions. An example of this practice can be seen in the MMP's submission on the SABC's editorial policies where for those clauses the MMP felt were weak or ambiguous we suggested clear alternatives.

2004 looks set to be packed with new media policies and broadcaster licence applications. One of the biggest challenges is going to be the submission for the SABC's licence renewals. Because it is the public broadcaster our submission will need to focus on strong public service broadcasting ideals that take human rights into consideration and at the same time are balanced against what is practical and possible.

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