GLOBAL TRENDS IN PUBLIC SERVICE MEDIA (PSM)

A discussion document commissioned by the SOS Support Public Broadcasting Coalition (SOS) to guide discussions on the future of PSM in South Africa

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FOREWORD

Uyanda Siyotula:
National Coordinator of the SOS Support
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The global transformation from public service broadcasting (PSB) to public service media (PSM) in today's dynamic media environment necessitates a closer look into the sustainability and relevance of PSM. As an advocacy group dedicated to promoting effective and sustainable PSM in South Africa, the SOS Support Public Broadcasting Coalition (SOS) commissioned this research in support of informed discourse and advocacy on the future of the South African Broadcasting Corporation (SABC). Given the SABC's ongoing financial challenges, exacerbated by audience losses because of the unprecedented flawed digital migration process and migration to online services, it became paramount to explore global trends amidst this digital transformation to better understand critical constructs of PSM in the current age.

SOS commissioned the first phase of this multi-phased research project. It is an important piece of work that surpasses its direct advocacy role to serve as a comprehensive resource for stakeholders, researchers, policymakers, media practitioners and other interested parties committed to advancing PSM and universal access to public interest content - nationally and globally. It has enabled SOS to provide a foundation for future PSM research endeavours while also identifying best practices from around the world. Amid the pending finalisation of the government's White Paper on Audio and Audiovisual Media Services and Online Content Safety and the SABC Bill, this research can feed into South Africa's policy and legislation processes - specifically in so far as these relate to the advancement and sustainability of PSM and public interest content produced and distributed by a variety of independent and credible media sources.

We are grateful to our highly skilled and extremely invested research team led by viola c.milton. The three chapters, written by viola c. milton, Kgothatso Mampa, and Michael Markovitz respectively, offer profound insights from a global perspective into different PSM systems, from PSM sustainability to regulatory frameworks and innovative funding mechanisms in the digital era. Further, these authors propose actionable recommendations and a preferred approach for the South African context.

This research signifies a timely investigation into three crucial aspects influencing the future of PSM. It begins by exploring key trends in ensuring sustainability, diversity, accessibility, accountability and relevance in PSM content and services, along with an overview of how PSM globally responds to the challenges of digitisation, political interference and increased competition from commercial players.

The next chapter unpacks the importance of governance, regulation and funding in PSM sustainability, specifically the need for overhauling legislative frameworks to ensure fit-for-purpose legislation and regulatory mechanisms that advance adaptation to technological developments and changing audience behaviours.

Lastly, the research explores new funding mechanisms to ensure PSM longevity and sustainability. This includes a mixture of a radical overhaul of existing mechanisms, including the TV licence fees, and an exploration of new funding sources in the digital era.

While this document highlights trends and best practices around the world, follow-up research requires an inclusive and participatory approach from a wide range of stakeholders, including government, to ensure that further developments on PSM in South Africa align with international standards and best practice. Developing a solid knowledge base to signpost strategies and mechanisms for an effective and sustainable SABC is important. As such, SOS encourages organisations and individuals from various walks of life to pursue further research on some of the key areas outlined in the last section of the report on further research.

BIOS OF THE RESEARCHERS

viola milton: Professor in the Department of Communication Science at the University of South Africa (UNISA)

viola c. milton is Editor-in-Chief of Communication: South African Journal for Communication Theory and Research. Her research focuses on the negotiation of media policy in South Africa as well as issues of media, citizenship and identity. She has authored and co-authored dozens of articles and book chapters in the fields of communication and media studies. She co-authored New Voices Over the Air: The Transformation of the South-African Broadcasting Corporation in a Changing South Africa (2012) with P. Eric Louw and co-edited the Routledge Handbook of African Media and Communication Studies with Winston Mano (2021).

Kgothatso Mampa: Lawyer, Chair of the Legal Advocacy Subcommittee at the SOS Coalition and independent researcher

Kgothatso Mampa is a Johannesburg based technology, media and telecommunications lawyer and admitted attorney of the High Court of South Africa. He completed his articles of clerkship and worked for some time as an associate at ENSafrica, Africa's largest law firm. While in practice, Kgothatso specialized in technology law; broadcasting and telecommunications law; as well as data protection legislation. While completing his LLM (Information and Communications Law) at the University of the Witwatersrand, Kgothatso was bitten by the public broadcasting bug and subsequently joined the SOS Coalition, where he currently sits on the Legal Advocacy Subcommittee as Chair and independent researcher. Under the tutelage of Professor Justine Limpitlaw, Kgothatso has worked on various high profile media regulatory matters for local and international clients; and made various written and oral submissions in respect of media policy and regulatory matters in South Africa, Namibia and Zambia. Kgothatso also provides research and other related services to Media Monitoring Africa on an *ad hoc* basis.

Michael Markovitz: Head, GIBS Media Leadership Think Tank

Michael Markovitz is an adjunct faculty member of the Gordon Institute of Business Science (GIBS) in Johannesburg and heads the GIBS Media Leadership Think Tank - an independent research and advocacy platform providing solutions for African media in support of democracy. He is regarded as one of South Africa's leading experts on media and tech policy. In 2022, Michael was recognized by Rhodes University's School of Journalism and Media Studies as one of their top 50 alumni in the school's first 50 years, honouring his three-decade contribution to independent broadcasting. In July 2023 he convened and hosted a global conference at GIBS which led to the adoption of *Big Tech and Journalism: Principles for Fair Compensation*, now endorsed by 101 individuals and organisations from 28 countries. Michael has served in various roles in the public and private sectors, including as special adviser to the chairperson of the Independent Communications Authority of South Africa (ICASA) and as a senior executive at Primedia for eight years where he headed up the media group's digital businesses. In October 2022 Michael completed a five-year term on the board of the public broadcaster, the South African Broadcasting Corporation.

INTRODUCTION ¹

In South Africa, the struggle to create an independent and sustainable public service media (PSM) provider has been undermined by systemic corporate governance failures and financial mismanagement at the South African Broadcasting Corporation (SABC) over the last two decades. These grave failures, often involving unlawful conduct and requiring serious remedial action, have tended to obscure the pressing and underlying need to finalise a PSM funding model that will properly deal with long term and sustainable funding of public service content. In addition, there are fundamental market structure problems that must be addressed by policymakers and regulators to ensure that public service content and media are preserved and protected in the public interest.

The SABC is not alone in its struggle for sustainability. It is common knowledge that public service broadcasting globally is facing an ongoing existential threat as an institution. The classic funding model, exemplified in the British Broadcasting Corporation (BBC) and adapted to local conditions and histories in many different parts of the world, including South Africa, is facing both old and new challenges in a digitised environment. These issues include, inter alia,

- Evolving economic conditions which threaten the financial sustainability of PSM;
- Digital transformation, technological disruption and the increasingly dominant role played by global streaming companies;
- Political and governance issues (including continued interference from political and other interests);
- Market dynamics (PSM now operates in a more competitive media ecology); and
- The normative role of PSM in society (especially its evolving character in changing socio-political contexts).

The SABC's ongoing (often self-imposed) financial crises have negatively impacted public services. This, coupled with a complete failure by the government to finalise a drawn-out audiovisual policy process, has left the SABC in a policy vacuum, especially insofar as this relates to sustainable funding for public service media. Therefore, the absence of policy on a contextually suitable funding mechanism for the SABC is detrimental to the institution's long-term sustainability and the public interest content it produces.

This discussion document explores concepts from public good approaches to media policy development (i.e. public interest and universal access) into dialogue with contemporary conversations about PSM sustainability and accountability. It provides results of a scoping review conducted on PSM sustainability literature to unpack the current understanding of the challenges and solutions encountered by PSMs globally.

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1. SCOPE OF THIS DISCUSSION DOCUMENT

This is the first part of a multi-phased research endeavour centred on understanding the optimal sustainability mechanisms necessary for the SABC to fulfil its public mandate in the digital multichannel and multi-platform environment. The focus was primarily on secondary data, i.e. using existing data generated by others, including for example government publications, websites, books, journal articles, SABC Annual Reports, internal records, etc.

The purpose of this discussion document is therefore to develop a knowledge base and signpost the way for further work on sustainability strategies and mechanisms for the SABC within South Africa's evolving and disrupted media ecology. A discussion document such as this can assist in setting the agenda for understanding the complexities and dynamics of PSM in country-specific contexts. It may also serve as a vehicle to start a broader conversation about core policy, legislative, regulatory and operational principles for the SABC and pave the way for further research.

It is important to state from the outset that this discussion document is not an evaluation of SOS's advocacy for PSM equity, nor is it meant to provide a comprehensive overview of the South African context and its particularities. It is an initial step in a multifaceted process aimed at stimulating conversations on PSM within the industry and influence further research which may be conducted by other stakeholders interested in pursuing the research recommendations further. Where appropriate, the document could be used to support advocacy efforts, but recommendations contained herein should be seen as areas for further research in a country-specific context.

Policymakers, scholars, concerned citizens and other interested parties may refer to it as they consider the underlying normative values that underpin South Africa's media system and help define its central role within this fledgling democracy. As such, the goal of this document is to present research that stimulates engagement and dialogue on future research in this area.

This document is guided by the following research questions:
1. Public service media trends - viola milton
- What are the current global trends regarding public service media's provision of public interest content and its universal access?
- How would these trends apply to the South African context?
2. Regulation - Kgothatso Mampa
- What are the latest global regulatory trends regarding how public service media deals with public interest content, particularly in the digital environment?
- What regulatory framework would be suitable for South Africa?
3. Funding - Michael Markovitz
- Globally, what funding mechanisms are being employed to ensure the sustainability of public service media?
- What funding mechanisms should be considered in the South African environment?

While this discussion document might highlight trends and best practices around the world, further research is needed before making any firm conclusions on what might and might not work in a South African context.

2. SPECIFIC FOCUS AREAS

This scoping exercise into PSM sustainability strategies took place against the backdrop of the introduction of the so-called 2023 SABC Bill in parliament, by the Minister of Communications and Digital Technologies. The discussion document is loosely structured around three interrelated focus areas which include PSM global trends, regulatory frameworks and funding mechanisms. Each of the three chapters written should be read as standalone chapters. The benefit of engaging three separate authors in this discussion document is that it allows readers a diverse and comprehensive exploration of PSM sustainability challenges and solutions from an interdisciplinary standpoint. Each chapter zeroed in on a specific aspect of the broader theme. While there are cross cutting themes and consolidated recommendations for consideration, there are some overlapping areas which reflect contemporary ideas and perspectives on the issues at hand as considered from diverse viewpoints. This approach will hopefully allow readers to gain a comprehensive understanding of the topic from different angles.

Chapter One, by viola c. milton, explores contemporary trends regarding PSM's provision of public interest content and its universal access, starting with an overview of PSB and its associated concepts, "the public", "public interest" and "universal access". While PSB/M has an enduring legacy, a deeper dive into the concepts expose the theoretical promiscuity of each. A brief overview of how the different understandings impact upon our understandings of what PSB is for and who it is for follows this somewhat technical and theoretical underpinning. Ultimately, the chapter is interested in participation (the end-goal of public interest and universal access provisions globally).

To operationalise participation in PSB, the chapter steadily works towards an understanding of PSB as part of a networked media ecology in an increasingly digitised environment. Here, an overview of how PSM globally respond to the challenges of digitisation, threats from political actors seeking to erode the legitimacy of PSM and increased competition from commercial competitors is offered. Digital disruption of the broadcasting landscape challenges the ongoing legitimacy of legacy media, but it also provides possibilities and opportunities for more voices, compliance with inclusivity and diversity goals and the realisation of participation goals.

The chapter cautions that this can only be accomplished if the digital turn is focused on bridging interrelated technological, content access and content production divides within the South African public sphere. Overcoming challenges to PSM will need explicit and forceful public support, a commitment to legacy as well as emergent values, and a flexibility that will allow PSM organisations to adapt to evolving societal and communication needs. To this end, a model for operationalising PSB/M within the South African context is presented. The chapter concludes that a generalised defence of public service broadcasting must be replaced by localised and specific analysis of where public broadcasting fits in various media ecologies. Policy and funding solutions should be developed with this in mind. The chapter therefore suggests general points to consider (re PSM definitions/ideal types and concepts) as well as more specific recommendations for consideration for the follow-up phases of this ambitious project.

Chapter Two, by Kgothatso Mampa, briefly explores global PSM regulatory responses to the "digital revolution" induced changes to audio and audio-visual content production, distribution and consumption. The chapter starts by underscoring the critical point that PSM regulation and governance is inextricably linked to the more general debate on PSM legitimacy, remit

and funding. While support for the idea of PSM seems to be weakening among policymakers, the nature and existence of PSM depends on the conditions of a particular society; and since societies change over time, the remit and organisation of PSM must be renegotiated time and again. What makes PSM regulation and governance incredibly contentious is the fact that PSM governance is located at the core of fundamental public media principles, namely editorial independence and autonomy.

Nevertheless, the chapter then moves to ambitiously give an overview of the established structures of PSM regulation and control by grouping the different approaches to media regulation into four somewhat distinct categories. This categorisation is ambitious because it is purely based on formal structures and because, while common regulatory traits exist, national traditions and differences in political culture have a significant impact on the ultimate models of media regulation. To highlight the significance of political interference, the chapter addresses the indisputable fact of South Africa's Sixth Administration since the advent of democracy in 1994 having failed to approve new policies, White Papers or legislation to overhaul South Africa's outdated PSM regulatory framework.

The desktop study of the PSM regulatory responses of the UK, Australia, Canada and Japan reveals the lack of complete overhauls or revolutions in PSM governance in the respective countries. Overall, the PSM regulatory response to modern audio and audio-visual content production, distribution and consumption is a mixture of old and new fit for purpose legislation, regulatory oversight and ongoing adaptation to technological advancements and changing audience behaviours. The chapter concludes by laying a foundation for further research with recommendations for South Africa's regulatory response, chief among them the modernisation of the SABC's legislative framework.

Chapter Three, by Michael Markovitz, focuses on funding PSM, the relevant financial models and mechanisms and makes recommendations for consideration. The chapter introduces why research on funding models and funding mechanisms for PSM is so important and then reviews and analyses the funding mechanisms used across the globe in pursuit of PSM sustainability. The most common funding model internationally is the mixed revenue funding model which often includes a variable mix of advertising and sponsorships; direct state funding, licence fees, an alternative tax, direct public media tax, the household levy, carriage fees, fees for subscription services, indigenous content funds and measures to support journalism as a public good.

Based on this research, the chapter sets out a recommended mixed funding mechanism for the SABC, to be considered for further discussion and research. The chapter proposes a radical overhaul of the existing statutory system whilst retaining the legal right for the SABC to collect a public media levy. The current, broken television licence fee system is based on the concepts of the usage and purchase of a television set. It is recommended that the founding principle should be access to PSMs, as guided by the seminal judgement of the Federal German Court in 2018. The chapter also recommends further research into new collection measures involving collection by pay tv, streaming companies and potentially telecommunications operators (dependent on further research).

In addition to a newly defined levy and collection measures, the chapter proposes increased direct state funding to adequately fund the public mandate through parliamentary appropriations, but with enhanced measures to protect the SABC Board's independence and the predictability of funding. The chapter also explores commercial revenue and executive leadership; an indigenous content fund; carriage fees, must carry regulation fees and makes

several recommendations in that regard. Lastly, the chapter explores two potential additional funding sources for SABC News as public service news media, including fair compensation from Big Tech and, if established, a national journalism fund for South Africa. While these two sources are both dependent on the outcome of regulatory and legislative processes, it is important to track these for further research.

Collectively, each of these chapters chart ways to survive the dramatic changes and transformative novelties of the present moment and their nefarious influences on PSM. Individually, they each contribute to broadening the understanding of the key challenges from a normative, regulatory, and economic perspective. Collectively, they map a way forward for researching South Africa's struggling PSM organisation, the SABC.

CHAPTER 1

GLOBAL TRENDS IN PSM SUSTAINABILITY: UNIVERSAL ACCESS AND PUBLIC INTEREST CONTENT

By viola c milton[2]

Public service broadcasting (PSB) was empirically conceived during the twentieth century as a paternal nation building "service" or as a system with a cultural mission (Lowe & Jauert, 2005) to defend it against commercial pressures. This "paternalistic" leaning is best encapsulated by John Reith, the first Director-General of the British Broadcasting Corporation (BBC) who argued that the public broadcaster's responsibility was to carry "… into the greatest possible number of homes everything that is best in every department of human knowledge" (Reith, 1924: 34).

1   WHAT IS PUBLIC SERVICE BROADCASTING?

In general terms, PSB is broadcasting made for the public, financed and controlled by the public. It is neither commercial nor state-owned. It is free from political interference and pressure from commercial forces. Through PSB, citizens are informed, educated, and also entertained. When guaranteed with pluralism, programming diversity, editorial independence, appropriate funding, accountability and transparency, PSB can serve as a cornerstone of democracy (UNESCO, 2008).

The foundational principle for PSB has therefore always been to inform, educate and entertain. This principle was concretised more formally in 1986 through the provision of a broadcasting framework which rested on eight pillars, i.e. "universality of availability, universality of appeal, provisions for minorities, service to the public sphere, educational programming, distance from all vested interests, structure that encourages competition for good programming, not competition for numbers; and broadcasting rules that liberate rather than restrict the program maker" (Tracey, 2013). The BBC model, of the early twentieth century, became the blueprint for PSBs globally, including in South Africa.

1.1 PSB ideal types: do they exist?

Public broadcasters vary widely in terms of the services they provide, the scale and type of funding they receive, and their degree of presence in or impact on the societies they serve (Yoshiko, 2007). Media systems are shaped by the broader contexts of political history, structure and culture. The bottom-line in analysing media systems, is about the role of the media: what role does the media play in society and, more importantly, what role should the media play in society? As more and more research is being conducted in the tradition of comparative media systems research, we perhaps need to interrogate in more depth what the different concepts we engage mean, or might mean, in different contexts.

The dominating epistemology of PSB is thus deeply rooted in the northern European context and traditions of social democracy (Lowe, 2016: xii). Yet, PSB is embedded in cultural contexts and conditions which determine appropriate policies, structures, and practices for its governance and operations. It is therefore highly unrealistic to suppose that the ways and means by which classical PSB has been structured, financed, organised, managed, and operationalised are viable elsewhere (ibid):

> one needs to be self-critically careful about assumptions regarding the 'right way' to do public service broadcasting. In the West, received heritages, comparatively big and influential legacy institutions, and socio-political cultures that facilitate PSB in affluent countries with long-established democratic structures are not conducive for achieving what is needed in other countries with far less resources, more uncertain identities, fragile democratic institutions, uneven support for PSB, and popular suspicions that it's really only state broadcasting with better cosmetics (ibid).

In fact, as he points out, PSB has been variously handled in the West, as well to a degree that suggests there is no 'Western' model outside of abstract theory:

> In the United States, for example, funding is largely provided by individual donors and corporate underwriting, and the licence fee system for funding is in decline even in northwest Europe. Commercial advertising has been a characteristic revenue stream for PSB in southern and central Europe where a core challenge is successfully transitioning from institutions premised on a heritage of state broadcasting to public broadcasting for civil societies. That challenge is equally characteristic of struggles to establish PSB in much of Africa, Asia and Latin America (ibid).

1.2 PSB in South Africa: what is at stake?

Following the abolition of apartheid, the South African Broadcasting Corporation (SABC) was converted from a statutory body into a public company incorporated in terms of the Companies Act, 61 of 1973, and having a share capital in terms of section 8A (1) (2) of the Broadcasting Act 4 of 1999. In terms of section 8A (3), the state is the sole shareholder of the SABC. Section 9 of the Broadcasting Act provides that the SABC consists of two separate operating divisions: a public service division and a commercial division (Limpitlaw, 2012: 240). As a result, contemporary SABC's public service model is engaged in a struggle between purely commercial criteria and the desire to reach under-represented groups (milton, 2018). At the same time, the broadcaster must stay competitive in an increasingly digitised and globalised market sphere. In terms of content, it must ensure local relevance, while remaining glocally competitive.

The paradoxical challenge for the SABC is therefore to secure funding for its public service arm that would be realistic and substantial enough to allow the public broadcaster to fulfil its public mandate in a competitive market (ibid). Not only that, but it also needs to be seen as credible in South Africa's volatile post-apartheid public sphere. In South Africa a number of organisations, including SOS have argued for the removal of the idea of two separate divisions (public and commercial) and a sole focus on the public service role.

In South Africa, as is the case for other broadcasters moulded after the BBC, the PSB remit rests on a set of principles meant to guide broadcasting institutions which operate as public service providers. These guiding principles are clear in their instruction about the positioning of PSB in democratic societies, including the need to provide a space for free expression and open debate, the need to provide objective and impartial information and news, the need to address a variety of social and cultural interests and tastes (plurality and diversity), the need to provide services in as many of a country's (official) languages as possible, the need to give a voice to minorities in a society, the need to provide educational programming, the need to contribute towards nation-building and a national identity, the need to set high production and programming standards, and the need to be accessible to as many citizens as possible (universal service) (Fourie, 2013).

In essence, the above principles speak to the idea of PSB as a public good, with the concomitant concepts of public interest and universality ostensibly undergirding its operations.

Unfortunately, the SABC has been plagued by scandals and poor financial decisions resulting in a deepening crisis at the broadcaster in terms of its precarious financial state and the quality of its content (milton, 2018). The Report of Commission of Inquiry into Interference in the Decision-making in the Newsroom of the SABC, highlighted a governance crisis at the broadcaster stemming from political interference, factionalism and the high cost of human resources (Thloloe & Tawana, 2019). Teer-Tomaselli et al (2021) details the impact of this state of affairs, including the damage caused to staff morale and the SABCs ability to commission quality content.

The broadcaster's ability to function in the public interest is further problematised by, inter alia, an outdated Broadcasting Act, which does not account for these changes, a botched analogue switch-off (ASO) and a failure by parliament to carry out the recommendations of the Ad Hoc Committee on the SABC Board Inquiry into the fitness of the SABC Board (Parliament of the RSA, 2017).

The SABC's internal woes are exacerbated by a changing external environment which impacts upon public service media (PSM) globally. Public service broadcasters globally are facing a sustainability crisis. In the face of digital disruption, expanded competition and changing consumer needs, some would argue that the notion of public service broadcasting may seem quaint. They might argue that increased access to a plethora of digital and mobile platforms through which the public can receive information and access their right to voice and listening requires a rethink of much of what PSB institutions do and renders the standard defences of its normative role in society questionable (cf Abbot, 2016).

Here, sustainability refers to the ability to keep something going either continuously or for a period. It is clear from research of broadcasting history, that the sustainability crisis impacts on rich and poor, developed and under-developed countries equally. Yet, it is the poor in countries who become disenfranchised when free-to-air broadcasting fails, as they are the biggest losers of access to the right to communicate. It is important to check whether the policies, principles and decisions made with legacy media in mind are still relevant to the socio-political contexts of an

evolving global media environment which includes, amongst others, both a digital turn in technology and a decolonial turn in social orientation – and how to ensure that fundamental principles geared towards public good survive political upheaval and technological disruption.

2 THE SHIFT TO ONLINE AND ITS CHALLENGES FOR PSB

To meet the challenges of new technology, audience needs, competition and regulatory change, public service broadcasters worldwide must constantly reinvent themselves. This reinvention can sometimes carry a heavy price, often keyed to emulating commercial practices either through necessity, including political and/or financial pressures, or by choice. Yet, public service broadcasters have taken a 'pragmatic' approach, recognising that adherence to a 'purist', traditional ethos means marginalisation and the loss of public support in ratings and legitimacy for public funding (Bardoel and Lowe, 2007).

Digitisation inevitably implies fragmentation, hence the need for strategies that allow PSM organisations to reach audiences in new ways. So then, PSMs globally have expanded towards the inclusion of transmedia products (Franquet and Montoya, 2014) and using social media to bridge the disconnect with their audiences (Van Dijk and Powell, 2015). Digitisation also opens the possibility to use new platforms for content and brand development and exposure, hence more recent research points to PSMs expanding their traditional activities to experiment with content and product personalisation (Tunez-Lopez et. al., 2020) as well as innovative and immersive narratives (Gutierrez-Caneda et al., 2020). This holds exciting possibilities for PSB in the public interest and for the diversity aspect of universality.

However, structural transformation of media markets keyed to digitisation and online media growth have also led to decreasing advertising revenues - making life difficult for institutions such as the SABC with over-reliance on advertising revenue streams (Puppis & Schweizer, 2018). Changing business models and constrained economic growth mean that advertising is under pressure, but also implies an intensified push to create quality and trusted content for which users are willing to pay. Similar duality is observable with respect to serving the public interest (Syvertsen et al., 2019).

On the one hand, disruption places the existing media in a vulnerable position in which economic survival must constantly be at the forefront of PSM consciousness. On the other hand, profit-maximising motives will at times create overwhelming pressure towards strategies and practices that cut across the public interest (Puppis & Schweizer, 2018). In addition, a changing political environment is seeing various political actors advocate for a narrower PSM remit and lower financial resources, which include inter alia:

- In Canada, Ireland and the Netherlands, proposals being brought forward that PSM should only cover genres that are affected by commercial market failure.
- In the UK, the Tory government taking several decisions that tighten the BBC's latitude for action, including for example that the broadcaster must fund its World Service from its own budget.
- Newspaper publishers (especially in Finland and Switzerland) harshly criticising PSM online activities as well as their comparatively stable financial situation because of public funding. Private media are also affected by the general economic situation and structural changes, of course, and often complain about 'market distortion' caused by PSM online.
- In Norway and Sweden, existing public value tests are under scrutiny.
- In many countries, technological change has fuelled political debate about funding models. · As will be discussed in chapters 2 and 3, governance and organisational reform are also on the agenda for PSM organisations globally (ibid).

As a result of the above issues, public broadcasters globally are redefining their relationships with the societies they operate in and which they are mandated to serve. The changing media ecology holds very specific implications for how we legislate and fund public broadcasters in a mixed media environment. For broadcasters, it also means new thinking around the linear model of broadcasting and its dated approach to scheduling.

For the SABC, digitisation, including new distribution platforms, could potentially enhance the PSB organisation's abilities to fulfil their public mandate. However, it will also disrupt business as usual and therefore needs specialised thinking. The broadcaster must also take cognisance of where viewers and listeners are situated in relation to media and how they prefer to engage with media. This includes a high level of interactivity between communicators and users (audiences), the convergence of public and private media, a blurring of media genres, niche markets and changed audiences with new viewing habits (from linear to non-linear viewing), uses and needs (Fourie, 2013).

Changes in the political, technological, social, and the business environment have compromised sustainability, independence and thus trust in PSM globally. In this new environment, not even that primary avenue of funding - i.e. advertising revenue - is secure, as audiences are increasingly opting for new media and digital content.

For policy, it means that the licensing framework for multi-channel broadcasting needs to consider the increasing number of platforms available in South Africa and the implications thereof for public service and public interest content delivery. In addition, new technology and associated algorithms and their impact on choice and participation mean that new regulation will have to carefully balance what is meant by public interest and how algorithms (not designed with public interest concerns in mind and definitely not developed with global south needs in mind) are managed within changing environments.

2.1 Linear and non- linear concerns for PSM as a public good: push and pull

Choice, as recent research has shown, is now in the hands of tech giants whose main concern is maximising profits. Hence, while Gilbert (2019, 687) argues that online TV is "representative of 'pull' entertainment", where public interest content is concerned, there is a need to understand what is being pulled, by whom and for what purpose.

There is an argument to be made that public interest content - including news and journalism – is disadvantaged by the incentives and economies-of-scale model that digital platforms are pursuing (Milosevic, 2020). While the BBC, ABC and Finnish YLE are often upheld as credible and enviable models of sustainable PSB, the contemporary geopolitical environment is placing ever more pressure on even these contexts (Lowe, et al., 2017). Non-linear broadcasting poses challenges for legacy broadcasters. For struggling PSM institutions such as the SABC, the switch to digital and its demand for more programming, more infrastructure and more accountability monitoring, places extra stress on an already constrained environment.

Of particular concern from a rights point of view, data privacy issues remain a predominant challenge for on-demand streaming, while the possibility of monetisation provides opportunities and challenges for traditional broadcasters. Amongst others, digitisation "…demand-oriented approaches to service and content provision rather than the supply-orientation characteristic of the past. It also implies the pivotal importance of securing relations wherein audiences are partners rather than targets" (Bardoel and Lowe, 2007: 9).

For audiences, on-demand streaming could lead to a further divide in terms of access and possibilities for meaningful participation in public life. Time-shift technology which allows for on-demand viewing, and the use of mobile devices lead to a disconnect between traditional understandings of content and screen, while encouraging viewing personalisation (Simons, 2015). Such personalisation can work against public interest conditions of legacy media if PSM organisations do not take relation-building with audiences and other stakeholders seriously.

Digitisation therefore demands that we re-calibrate our thinking about legacy media (so-called push media focused on linear broadcasting). Traditional content delivery via terrestrial, satellite or cable, whereby content streams according to a predetermined schedule, and all viewers watch it at the same time is a key facet of linear broadcasting. Linear broadcasting can therefore refer to any content delivered in a structured, scheduled way, regardless of the means of delivery. Linear content delivery has a well-developed infrastructure and unlike nonlinear broadcasting, there is no probability of facing any data privacy issues for broadcasters.

Non-linear broadcasting (audio and video streaming), also referred to as pull media, allows for schedule-free and advertising-free engagement with content as and when one wants. OTT technology allows for a great degree of user individualisation and customisation. Users can tune into anything that is streamed over the internet from their smartphones, tablets, computers, and laptops. It taps into the audience's need for control over the content they consume. Hence the popularity of online video-streaming platforms (such as SABC+, DStv Stream and Showmax in South Africa) and episode libraries that allow viewers to (binge-) watch their favourite content (Lotz, 2018; Lüders & Sundet ,2022), in a schedule more suited to their lived realities.

From the above, two issues stand out: (1) organisational reforms are having an impact on charters and newsrooms, posing specific internal challenges related to cost and content which have implications for public interest ideals and (2) external challenges related to funding and legislation mean that PSMs are also facing increased push-back from commercial broadcasters and publishers who note that these legacy broadcasters are overstepping their missions, mandates, and remit.

Donders and Raats (2017) provide a thorough discussion of the fall-out and complaints brought by commercial players to safeguard their content space and business models. For the purpose of this discussion document, it is worth noting that the outcome of these discussions in the European context was an acknowledgement that PSMs can introduce online activities, but that they must do so within their missions.

For policy makers the core challenge strongly implies fairly balancing the frequently contrary interests of commerce and culture, which is a defining tension for PSM organisations (Bardoel and Lowe, 2007: 9). The implications of this paradoxical challenge on public interest content and universal access need careful consideration.

3 PUBLIC INTEREST AND UNIVERSAL ACCESS: A SOCIAL SUSTAINABILITY CRISIS?

Social sustainability of public service media engages four critical components, i.e. social cohesion, inclusion, resilience, and "process legitimacy" – a relatively new concept about how policies and programmes are designed and implemented, ensuring that they are accepted as fair and credible by all stakeholders (Barron et. al., 2023).

Social sustainability is about the availability and access to PSM as a fundamental dimension of social participation and sustainable social change. It is therefore about public interest and universal access. It is also, crucially, about relationship-building.

Below, we discuss these interrelated concepts (public interest and universal access) from a social sustainability angle and with consideration of the digital turn.

3.1 Defining public interest

The public interest is a normative concept used in political discourse to broadly refer to policies or decisions that are assumed to benefit everyone (and that theoretically everybody could agree on) (Bitonti, 2020). That said, interpretations of the concept are not without controversy and so-called "theoretical chaos...with relevant consequences for visions of knowledge, morality, lobbying, and democracy" (ibid).

The public interest is therefore not necessarily a universally understood shorthand for describing or understanding the normative role of the media in society. While this theory has largely assumed the status of 'common-sense' in public discourse, it is based on the politically questionable assumption of a neutral state, existing to create rules to serve the public (Duncan, 2017).

The theoretical promiscuity of the concept is discernible if one places the definition thereof in the SABC Bill (2023: 8)[3] against public good theorisations which hold that regulation is needed to protect relatively powerless members of the public from commercial interests. We can see from the SABC Bill (2023), that the lack of universal understanding of the concept means that public interest could also be seen as a palliative, or as a means of giving communications regulators a veneer of public acceptability and accountability (Duncan, 2017).

It would however be unwise to jettison the term entirely (Duncan, 2017). Communications regulation is an important site of struggle over how communications goods are distributed in society, with competing interests of different stakeholders complicating common understandings. This notwithstanding, the public interest is an important concept to defend, as in the neoliberal phase of capitalism, even these palliative risks being marginalised in favour of market-driven communications (Duncan, 2017). Misalignments in our understanding of public interest therefore risks the gains made in terms of a rights-based approach to policymaking being eroded. Crucially, the "public interest" forces our attention towards "the public" of public service media.

For journalism and media studies scholars and media-oriented civil society in South Africa, public interest is, in general terms, geared towards ensuring provisions for an informed public in communications policy and legislation. The public interest thus forces us to think about who and what PSM is for and the ways in which changing media landscapes might impact upon who we imagine as the end-user and what we assume that use is for.

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3. ...that interest which governments, parliaments and administrators in democratically governed nations at least must accept and reflect in laws, policies, decisions and actions in ensuring peace, order, stability, security of person, property, environment and human rights for the overall welfare of the society and nation who, through constitution and election, allow the individual citizen to renew and reflect their agreement and consent to be governed and administered; (SABC Bill, 2023: 8)

3.2 Thinking about the audience of public interest media content [4]

The traditional role of "the public" in communication policy is characterised by a curious mix of absence and omnipresence (Lievens et al, 2008). I have argued elsewhere that this situation prevails in the South African communication environment, where the "public" of PSM is often left out of important accountability and decision-making structures (milton, 2021a).

However, "the public" presents its own theoretical chaos. Thinking about the audience as "publics" or "the public" presumes a society of equals where various parties can reason with each other and achieve a consensus or settlement without resort to force. A public sphere is premised on the existence of a common ground not only physically, but also socially and politically (Butsch, 2008). Yet, it is not clear that South Africa encompasses such a society.

South Africa's complex cultural and social context provides a unique background for research into participatory policymaking in the public interest (Janse van Rensburg, 2017). Even though the country has one of the biggest economies in Africa, youth unemployment was as high as 51.5 % in 2022, whereas 32.1 % of the overall population is currently unemployed (Cowling, 2023; Stats SA, 2024). In fact, Cowling (2023) notes that a prominent aspect of South Africa's poverty is related to extreme income inequality. The country has the highest income Gini index globally at 63% as of 2018. One of the crucial obstacles to combating poverty and inequality in the country is linked to job availability.

To place this in perspective: 18.2 million South Africans are living under the poverty line. Research conducted by the Southern Africa Labour and Development Research Unit (SALDRU) place this into starker perspective noting that

> 50% of South Africans are chronically poor. Only 20% of South Africans belong to the stable middle class, whilst 4% belong to the elite. The rest belong to the transient poor (11%) and the vulnerable middle class (15%). The chronically poor and vulnerable poor are predominantly African and to a lesser extent, coloured. The top end of the distribution is disproportionately white (SALDRU, 2023).

For South Africans, while stark, these numbers are perhaps not surprising as it speaks to the country's past of racial inequality which is still very much part of the national public discourse, adding another dimension to the urgent need to address the right to communicate in this unequal society (Janse van Rensburg, 2016). As we know, poverty is both a cause and consequence of human rights violations which could include a lack of access to meaningful participation in public life and political processes. On the other hand, a lack of access to communication and information is closely linked to social and economic poverty.

A rights-based approach to media policy acknowledges the need for democratic media systems, media literate audiences and a focus on the communication and information needs of historically marginalised communities. Such an approach marches in tandem with public good approaches to media policy which hold that public good communication services should be available to everyone in society without exclusion. For media to operate as a public good it needs to have longevity and viability. This therefore also holds specific implications for what we understand when we talk about "public interest" goals in PSM remit and legislation.

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4. When an information technology problem is defined as an economic, industrial or trade issue rather than as media policy, protections for speech and other constitutional principles important to the media may not apply. An overemphasis on what is new about digital technologies exacerbates the danger that fundamental principles developed over centuries to protect civil liberties and promote effective democratic processes will be lost in the electronic environment. Turning away from technologies and towards that which is being mediated — the public — brings media policy back into view. Doing so is the first necessary step in identifying just what it is that can be learned, and what must be retained, from legacy law [Braman 2004: 154].

Specifically, it asks us to interrogate who is the public of PSB/M and public interest content. At issue here is our participation in public life. This holds implications for whether we see the public as citizens or as audiences only. The distinctions are important as understanding the "what for" of PSB/M links to how we imagine who it is for. This in turn has implications for legitimising PSM funding.

In addition to understanding who our media is for, we also need to understand what the public does with media. We know from both academic and market research into audiences that the way audiences negotiate information about public issues is also influenced by a range of factors, including the community's socio-economic priorities, cultural practices and ideological beliefs (cf. Janse van Rensburg, 2016).

This therefore begs the question: how do these factors influence the typical ways in which media consumers or audiences, particularly those that are most vulnerable, make sense of public interest information? What influences their perceptions and the way they prioritise addressing the impacts of received information?

While media effects constitute a complex subject and fall outside the scope of this discussion document, it can be noted here that the effects of communications are not only determined by the content of the message, but also by the historical context in which they appear, as well as and especially in the prevailing socio-political environment of the time[5] (ibid). Hence, there is need for nuances to the normative roles (here public interest) we ascribe to media in contemporary contexts.

The Next Gen News (2023) report into the news audience of the future, is illuminating in this regard. The report notes that "there is an existing and growing gap between the news experience the next generation wants and what they're currently being offered" (Next Gen News, 2023: 5). The report argues that … [while] it is more commercially viable for traditional news brands to focus on older consumers with larger disposable incomes who are more easily monetised via subscriptions or advertising … they too often fail to satisfy the needs of the next generation of news consumers who will play an important role in their long-term sustainability (ibid).

Of note here is that they advise that young people typically exhibit behaviours (early adoption) that older age groups later adopt. Some of the behaviour young news audiences exhibit includes for example platform shifting and surfing behaviour, filtering of information through people they know or feel like they know (i.e. content creators), sensemaking via digital discourse wherein they rely on the opinions of others in digital contexts to understand and frame the news and honing their searching abilities to avoid information overload (ibid, 7).

Interestingly, the ideal actions newsmakers are advised to take to meet the needs of this emerging generation of news users is to "build affinity with audiences – news producers have an opportunity to build authentic, direct relationships with their audiences by partnering with creators, empowering editorial talent to share their stories and elevating younger journalists" (ibid, 8). This is one amongst six strategies Next Gen News (2023) propose for improvement of an

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5. A clear example of this is illustrated by the dissonance between public interest approaches focused on ideal of the "informed citizen" … or the belief in a rational voter whose participation in public life is guided by informed, educated choices and rational decision making. Napoli (in Perlman 2021) for example discusses the impact of disinformation (as antithesis to public interest) in relation to the 2016 elections in the USA, pointing to voters who chose a candidate who would govern against their economic interests as potential evidence that disinformation had played a role in one of the most vital rituals of a democracy. "However, … while disinformation certainly circulated during the 2016 election, it was not fake news that propelled voters toward Donald Trump, but rather his appeals to White racial anxiety. Trump voters were not duped by disinformation but had been groomed by conservative media for decades to see politics not as the terrain of rational citizen decision making, but as blood sport that pitted cultural elites against "real" Americans whose status had been imperilled by liberal efforts to accommodate the diversity of U.S. society. For Kreiss [2018], blaming fake news for the Trump election propels the myth of the rational voter while occluding how racism, sexism, and homophobia are animating drivers for many voters" (cf. Perlman 2021: 2594).

accessible, public interest focused change that can attract emerging news audiences.

Researchers, policymakers and civil society need to invest more in trying to understand the public of PSM. At issue here is the ability of media users to participate in public life. Hence, "the public" is seen as a useful construct for legitimating media and communications policy intervention towards the common good. The distinction between audiences, consumers and publics are important as understanding the "what for" of PSB/M links to how we imagine "who" it is for.

The crux of the distinction between an audience and a public boils down to this: in the case of publics, the collective being is thought of as an "us". In the case of audiences, this community is essentially imagined in the third person – it is constructed by third parties for the benefit of other third parties (Dayan, 2001). Hence including provisions for publics in media regulation is not the same thing as including provisions for audiences, even though audiences and publics are often composed of the same viewers/listeners (ibid). Certainly, it would imply that a more concerted effort is needed to understand and engage with the public of PSM.

From the foregoing discussion, two issues are crucial as it pertains to public interest. First, given the philosophical and normative promiscuousness of the concept "public interest" there is a need for a meaningful discourse about the values undergirding public interest in a South African context. Second, as will become clear in Chapter 2 of this discussion document, the independence of regulatory agencies would be crucial for the protection of the public interest principles and values that stakeholders agree upon. In chapter 3, we add to this discussion by also analysing how vulnerability to the market can impact upon public interest provisions. It is important to closely examine what we understand by "public interest" within the context of PSM in South Africa's unequal society.

3.3   Defining universal access

Universality has been a foundational principle for legitimating public broadcasting as a public good since its inception. Looking at universality from a social sustainability approach to PSM, directs us to the importance of concepts such as social cohesion, inclusion, and resilience if PSM is to maintain an equitable and mutually beneficial relationship with its public(s). These concepts ask us to place the PSM public at the front of policymaking to ensure that PSM is understood as belonging to the public and therefore speaks to everyone as a citizen rather than a consumer. Hence, what is needed is for PSM organisations to meaningfully reflect on and engage with their audiences to remain relevant to the people served. It is about PSM having an inclusive approach in terms of who gets to tell the nation's stories, who gets to respond to the stories and whose stories are told. It is also about who gets to see and listen to the stories being told.

The quest for universality involves two key dimensions: geographical universality (i.e. availability) and universality of appeal. The first holds that broadcast programmes should be available to the whole population (universality of availability) and the second that broadcast programmes should cater for all interests and tastes (universality of appeal) (Van den Bulck & Moe, 2018). Specifically, universality of appeal speaks to the notion that public service broadcasters must provide a range of programmes that inform, inspire, entertain and appeal to the diverse interests of the young and the old, the higher and less educated, across the community (ibid).

3.3.1   Source diversity, content diversity and exposure diversity

Napoli (2001) notes that universal access is about diversity: source diversity, content diversity and exposure diversity to be precise.

Source diversity speaks to diversity of ownership of media outlets, ownership of content/programming, and diversity of the workforce within individual media outlets (Napoli, 2001). Content diversity includes format-programming diversity, demographic diversity which is reflected in programming and representing a diversity of ideas in programming. Finally, Napoli (2001) refers to exposure diversity as the diversity of content received by audiences.

Attending to these three core aspects of adapting to an evolving media landscape is no easy task for PSM globally, especially global south contexts who encounter many challenges, including cost and reach (i.e. affordability constraints and geographical remoteness) as well as differing levels of digital literacy.

It has been noted for example that, where digital broadcast migration, or the digital switchover, was more successful (in Europe for example) digitisation has created a fuller broadcasting environment with new media taking over the binding role of the traditional mass media (Bardoel and d'Haenens, 2008). Amongst others, it ostensibly made the achievement of access goals (one of PSB's main principles) easier (ibid).

Rodny-Gumede (2020: 618) however, cautions that there are limits to the role digitisation can play in South Africa, thanks to the country's postcolonial and African location, which inhibits social media's levelling effect on modern politics and public interest, given the prohibitive cost of data "… in all but the most urban areas of South Africa. Smartphones and the related internet costs are out of reach for many rural and impoverished South Africans and, until recently, bandwidth and data here were the most expensive in the world" (ibid). As already pointed out above, as of 2023, 50% of South Africans are chronically poor.

Skinner (2021: 206) similarly strikes a cautionary note about an unbridled celebration of diversity principles as such celebration might miss the ways in which global, regional, and national concentrations of ownership of the media impact on content. She also notes that this negative impact on [public interest] goals is a significant problem in South Africa, across the broadcasting landscape, i.e.

> …In terms of content diversity [political economists] point to the strong growth in the commercialisation of content, over time, including the dissolving of the Chinese walls between editorial and advertising, and with this the growth in native advertising and product placements. They point to the explosion in light entertainment and with this the marginalisation of more democracy enriching content including news, current affairs, foreign and local news, especially for poorer, lower living standards measure audiences…Finally, critical political economists highlight issues of access and the growing cost to the ordinary media user of accessing content. Critical political economists point to the costs of data, the cost of upgrades to devices and the growth of paywalls and subscriptions to access "quality" content … (ibid).

How then do we ensure an equitable access environment? In essence, universal access provisions in the context of PSM refer to deliberate efforts and policies aimed at ensuring that everyone, regardless of their location, socio-economic status or abilities, has equal and unrestricted access to PSM content and services. Hence, irrespective of chaotic attempts at definitions, Berger (2010: 30) provides clarity about the concept as it relates to public interest:

"universal access" – meaning that benefits of policy should be available to every person living in a society, even in the most rural districts. The notion here, when applied to digital migration, is one of rights and benefits – of all citizens enjoying equal rights, and the entire society benefiting because no one is left behind or on the sidelines in terms of access to digital broadcast signals. [6]

Having outlined some of the theoretical and philosophical concerns with the concepts "public interest" and "universal access", we turn our attention now to how a selection of global broadcasters dealt with these concepts in practice. We are mindful of the need to juxtapose the hegemonic constructions of meanings surrounding these foundational concepts and principles to the realities of the material and symbolic experiences of those for whom the concepts are meant to create meaningful access and participation in public life.

I will first delve into the comparative work conducted by Schweizer & Puppis (2018) which seeks to give clarity on how PSM organisations in 17 Western countries are dealing with/or have dealt with the transformed digitised environment and the PSM remit. We will then supplement this with a focus on specific broadcasters and their specialised approaches to the provision of public interest and universal access.

The supplementary discussion draws on the alignment between the public interest mandate and universal access provisions and will focus on more particularistic strategies employed in three differing contexts. As such, short summaries of the BBC's Digital Future Report and the 2021 report from India's Prasar Bharati is provided. The latter serves as counterbalance for the decidedly Western focus of Schweitzer and Puppis' (2018) research. Finally, I briefly reference two studies on universal access and public interest from African perspectives. In each case, I used publicly available reports from the associated country's PSM and/or regulatory institution. In the case of South Africa, reference is made to a report by civil society.

4. PUBLIC INTEREST AND UNIVERSAL ACCESS STRATEGIES

In the discussions that follows, the prevailing normative understandings of public interest and universal access are guided by McQuail (2003/2010) and Berger's (2010) theorisations thereof and hence should be read with that in mind. While a participatory discursive approach to the meanings of the concepts in a South African context might come to the same conclusions as the ones below, one should be careful to keep an open mind and be flexible to adapt what we learn from the below trends, should the South African context so dictate.

Universal access provisions globally strive to provide for inclusivity and diversity, equitable availability and technological adaptation. Schweizer and Puppis' (2018) research into PSM organisations in 17 Western countries provides a compelling look into global strategies employed in the provision of public interest content and universal access in digitised environments [7]. In essence, resolutions encompassed that, while the remits for PSM across all seventeen countries vary in length and while they are invariably aligned with the national context, content and exposure diversity requirements remained static.

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6. A related consideration is "universal service", and this refers to which actual broadcast services are delivered to everybody – something that is particularly seen as the duty of a state-owned broadcaster as part of its "public service" mandate. In some countries, special agencies have been nominated to play a role in ensuring that universal access is delivered (whether analogue or digital) (Berger 2010, 30). While important, a discussion of universal service falls outside the scope of this discussion document.

7. The countries included were Austria, Australia, Canada, the Flemish and French part of Belgium, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, New Zealand, Norway, Sweden, Switzerland, UK, and US. Normally the PSM organisation(s) that is/are denoted as PSM in the regulatory framework of the country is/are included in the analysis.

4.1 Content and exposure diversity

Universal access provisions generally emphasise inclusivity by catering to diverse audiences. As such, PSM content should reflect the cultural, linguistic, and demographic diversity of[7] the population it serves. Efforts should be made to provide content in multiple languages, address minority interests, and represent various perspectives. These elements align with the foundational principles for PSM and the PSM organisations in Schweizer & Puppis' (2018) study, which enabled this alignment through stipulations about genres, content quotas and relationship-building.

First, the remit across all 17 countries spoke to how genres need to align with the principle to inform, educate and entertain. In addition, their remits set out the goals and functions for PSM in terms of inclusion, participation and national identity. Finally, it outlines the characteristics of journalistic practice for PSM in terms of innovation, balance, and impartiality (ibid).

All 17 countries also include quotas for specific content and/or languages.

Another crucial inclusion across all 17 countries is a commitment to relationship-building. This involves efforts to strengthen PSMs ties with the public and associated stakeholders which would be relevant for South Africa also. Here Schweizer & Puppis (2018) specifically mention the inclusion of work made by independent producers as a way the surveyed remits seek to strengthen PSM's ties, with, in this case, the broad cultural industry.

Across all 17 countries, public interest provisions are also catered for in terms of linear and non-linear broadcasting, but how this is legitimated differs vastly across the countries.

While all 17 countries that opine that PSM organisations need to 'follow the technological developments generally, or that they should 'apply the remit in a "modern" way', or that they need to 'reach their audience on all distribution channels', how they legislate around it in terms of balancing commercial and public interests differs (ibid, 115).

Across all 17 countries, PSM remits also routinely differentiate between live and on-demand streaming of broadcast content on the one hand, and additional services on the other, imposing regulatory restrictions on what is acceptable and allowed for each country. Schweizer and Puppis identified these regulatory limits as summarised below:

- Ex ante tests: many European countries have introduced ex ante tests to assess the public value and market impact of potential new services. These tests vary in their execution and decision-making processes. They often require a public consultation and involve outside stakeholders. These tests can act as a regulatory limit by imposing restrictions on the introduction of new services or by requiring additional scrutiny before approval.
- Stricter rules for non-linear services: German-speaking countries, such as Germany and Austria, have set stricter rules for non-linear services provided by PSM. These rules may include limitations on the types of content that can be offered, time limits for on-demand streaming, and restrictions on advertising. These stricter rules can limit the flexibility and innovation of PSM in the digital era.
- Intellectual property rights: IP rights play a key role in establishing boundaries for PSM. Restrictions on streaming certain content, such as sport broadcasting, movies and series, due to intellectual property and related rights.

- This includes geographical and platform restrictions imposed by rights holders and can limit the availability of content on PSM platforms. These restrictions can hinder the development of PSM's online services and limit their ability to compete with other digital platforms.
- Advertising restrictions: in some countries, PSM online platforms are restricted from advertising, despite being allowed on their broadcasting channels. This can limit the revenue potential of PSM's online services and create a financial barrier to further development. Additionally, public funding for PSM is generally above 60% of total revenues, which means that PSM organisations heavily rely on public funding. This reliance on public funding can also act as a regulatory limit, as any changes in government policies or budget cuts can impact the financial sustainability and development of PSM.

It is important to note that these regulatory limits are specific to the countries included in the study and may vary in other countries. Additionally, the document does not provide specific details on the extent of these regulatory limits or their impact on the development of PSM. What is clear however is that, internationally, various strategies aimed at ensuring that everyone, regardless of their location, socio-economic status, or abilities, has equal and unrestricted access to PSM content and services, have been established by PSM institutions to ensure public interest and universal access (i.e. participation) in PSM. Below, we dive a little deeper into three disparate contexts.

BBC (UK) [8]

The BBC is the leading investor in British broadcast content and a cornerstone of the UK's creative industries. The comprehensive report by the BBC outlines the BBC's distribution strategies in a digitised media landscape:

- The BBC's distribution strategy aims to ensure that its content and services are easily accessible to all audiences, maximising convenience and value for money for licence fee payers.
- The BBC focuses on universal coverage and free access to its broadcast services, ensuring that almost every household in the UK can receive its TV and radio transmissions.
- The BBC syndicates its on-demand content through managed third-party platforms, such as smart TVs and mobile operating systems, to reach a wider audience and provide convenient access to its complete content and service offer.
- The BBC strives to deliver the best possible experience of its content by investing in features and functionality that enhance audience experiences, working with platforms to integrate its content with their innovations, and driving platform innovations that benefit users. For example, the BBC has worked with Roku and Now TV to implement an HbbTV triggering solution for Red Button services (in doing so helping the industry transition from the legacy MHEG standard) and has worked with TV platforms to deploy a system of deep linking from their mobile apps into the BBC iPlayer app (BBC, 2018).
- The BBC aims to maintain a direct relationship with audiences, collecting and analysing data to understand audience preferences and deliver personalised experiences, while also ensuring that its content is clearly branded and attributed for better user identification and informed content consumption choices.

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8. See the BBC's Distribution Strategy (BBC 2018) for a more in-depth discussion of these strategies.
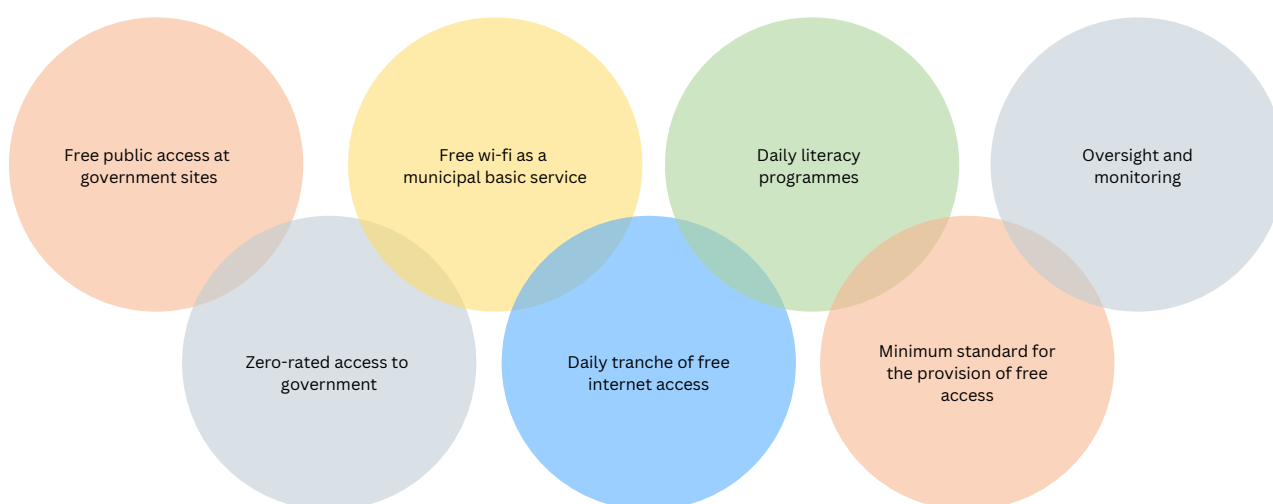
Prasar Bharti (India)[9]

The Indian broadcaster is cognisant of the need to adapt and strategize around universal access in a changing media landscape. Their 2021 report reflects on the reforms and strategies implemented by Prasar Bharati, including the shift towards digital platforms, the revitalisation of linear radio through digital readiness, the launch of Prasar Bharati News Service, the utilisation of human creativity for greater impact, language amplification for universal reach, convergence with 5G broadcasting, monetisation of assets, and IT initiatives undertaken. Their efforts include an embrace of the following:

- Digital platforms are becoming increasingly popular: Prasar Bharati noticed a significant increase in watch time, views, YouTube channels and subscribers, making it an additional source of revenue for Prasar Bharati.
- The Newsonair Mobile App: this app has boosted listenership for linear radio channels, with 500,000 active devices and 2 million downloads. It also provides access to 225+ live streams of radio across India and offers on-demand podcasts, extending the shelf life of radio programmes.
- Prasar Bharati has launched PBNS (Prasar Bharati News Service) as a digital news service to counter fake news in real time.
- Prasar Bharati is harnessing human creativity by visually enhancing radio commentary for digital platforms, providing real-time score updates through the Newsonair app's text-to-speech feature, and enriching high impact radio content with visuals for enhanced reach.
- Prasar Bharati is focused on language amplification for universal reach, regularly producing content in 18 foreign languages and 50 Indian languages and dialects.[10]

East Africa[11] & South Africa[12]

The focus in both reports is on universal access and free access to universal services. The report from South Africa engages a rights-based approach and proposes a 7-point plan for universal and free access that could have potential implications for the SABC also, i.e.

Free public access at government sites

Free wi-fi as a municipal basic service

Daily literacy programmes

Oversight and monitoring

Zero-rated access to government

Daily tranche of free internet access

Minimum standard for the provision of free access

9. Prasar Baharati Universa
10. Prasar Bharti is included here in recognition of Rahman's (2016, 4) argument about the shape and form of PSM in the global south, i.e. "Here we employ the term public media initiatives as an inclusive phrase that connotes the public service values present in all publicly funded media enterprises, including state-administered and public service broadcasting, community broadcasting, and a varieties of emerging civic media practices. We do not intend to flatten all PSM ventures into a homogenous category, but on the contrary employ the term public media initiatives as a contextual, relative, and plural ontology, in which the degree of public service and nature of ownership may vary among enterprises and across regions."
11. EACO Universal Access & Services Toolkit & Digital Inclusion Strategy (EACO 2021)
12. Universal Access to The Internet and Free Public Access in South Africa // A Seven-Point Implementation Plan (MMA, SANEF, IABSA, APC & ALT 2019)

The report from East Africa is essentially a toolkit for universal access and services. It outlines a digital inclusion strategy for East Africa which aims to ensure ICT services for all and bridging the digital divide in the region. As such, unpacking the utility of a universal access fund is a core focus of the toolkit. The fund will focus especially on connecting rural areas and promoting digital inclusion with specific focus areas as per country needs. As such, mention is made about the necessity to focus on rural connectivity in Burundi, and bridging access gaps in Kenya. Specific strategies for achieving universal access across the region include infrastructure expansion, broadband connectivity, affordable devices, demand stimulation, local content development and innovation. Specifically, the report looks at what a networked regional approach can provide in terms of delivering on these strategies.

To ensure longevity and maintain trust and audience attention, it is crucial that PSM organisations invest in infrastructure and partnerships to reach audiences across different devices. Equally important is to align policy and legal frameworks to allow PSM an equal footing in the evolving media ecology. The ultra-competitive framework of the digital economy and the associated costs involved with ensuring audience-facing infrastructure could be stifling for PSMs such as South Africa's SABC.

From the above it is clear that regulations emphasising diversity of content and plurality of owners in the media sector and quality of media content is applied for the purpose of serving the public interest and protecting the PSB remit. While in some cases, this is still subject to technology-focused policy making, efforts to recentre the public of PSM is evident in the relation-building strategies of PSM organisations and through the public value test. Diversity - in all its guises - is not enough. What is needed is that this media is in fact consumed, engaged, and interacted with – and by all citizens (Skinner, 2021).

In summary, PSM organisations can be seen to employ the following strategies to speak to the above needs and adapt to the digital era:

- Embracing online platforms and streaming services to make their content accessible to audiences on digital devices;
- Distributing content across multiple platforms, including television, radio, websites, mobile apps and social media;
- Customising and personalising content recommendations for individual users using data analytics and user profiling;
- Collaborating with other media organisations, technology companies and content creators to expand their digital offerings;
- Actively engaging with audiences on social media platforms to share content, interact with viewers and gather feedback;
- Investing in digital literacy initiatives to educate and empower their audiences to navigate the digital landscape effectively;
- Embracing innovation and experimenting with new technologies and formats, such as virtual reality and augmented reality; and
- Leveraging data analytics to make informed decisions about content creation, distribution and audience engagement.

In the African context, specific barriers to universal access are observed in the two reports, including reaching geographically remote audiences, underwhelming media and digital literacy skills and affordability.

Solutions in these contexts involve providing affordable data plans, or discounts on services for some vulnerable communities, a universal access fund, promoting digital literacy programmes, and ensuring that PSM content is accessible even in underserved areas.

The multi-platforms created by and through digitisation might make it easier to address minority audiences, a diversity of interests and may even provide more opportunities to produce quality programming (Van den Bulck and Moe, 2018). Yet, it can only do so if the circumstance for digitisation is based on an equal playing field. What is clear from the case study approaches this section drew on, is the need for an understanding of PSM organisations as part of a convivial media ecosystem.

A media ecosystem is about more than just technology – it is about relationship-building. Where public interest and universal access is concerned, digitisation should help build connections between people, communities, industry, municipalities and governments. Hence, we should embrace audience-centred approaches to policy making.

An audience-centred approach is about what policy can do for people and how people are empowered to exercise their right to communicate. This aligns with the underlying ethos of the right to communicate, i.e. that all people should be viewed as equal citizens and society must ensure that there is an enabling environment where everyone has equal opportunities for participation in the mediated public sphere (Murphy et al., 2018: 18). In countries like South Africa, India and other global south contexts, digitisation is also seen as a pathway towards addressing existing economic and social inequalities.

The mission of universal access in the surveyed PSM institutions emphasises social responsibility, inclusivity and equitable access to quality content. It also focuses on technological adaptation and strategic partnerships. Today's increasingly complex societies are characterised by diverse media systems that feature both private and public players that may be competing in certain contexts and co-operating elsewhere, with the balance continually reestablished as conditions change.

While pragmatic about the need for change inspired by digitisation, most have accepted that PSM organisations were created for important socio-cultural reasons, not only to manage a shortage of frequencies or spectrum scarcity. Consequently, arguments associated with PSM as a publicly financed producer of quality programming, independent of both commercial interests and government, still confer legitimacy.

5 IMPLICATIONS FOR UNIVERSAL ACCESS AND PUBLIC INTEREST BROADCASTING IN SOUTH AFRICA

In theory, contemporary South Africa, like its global counterparts, has a dynamic media landscape. To note,

> According to Statistics South Africa's (Stats SA) Census of 2022, just under four-fifths (79%) of households owned TVs compared to the 52,6% in 2001 … There are … at least 12 community TV stations operational in different parts of South Africa, including Soweto TV; GauTV; 1KZN; Cape Town TV; Tshwane TV; Mpuma Kapa TV and Onse TV… [in addition to the free-to-air PSB, the SABC,] e.tv is South Africa's first private and largest English-medium free-to-air channel. The channel also has a pan-African presence through e.tv Africa, which is distributed on the DStv Africa bouquet and by local affiliates in African countries … eNCA's digital division provides an audience of 1.5 million monthly users with an immersive experience … According to Stats SA's Census 2022,

generally, there has been an upward trend in access to internet services over the period 2011–2022. This is attributed to rapid advancement in communication services, such as cellphone ownership. Overall, households with no access to internet decreased threefold (from 64,8% in 2011 to 21,1% in 2022). A substantial percentage of households reported accessing internet mainly through a cellphone or other mobile device (60,5%) compared to 16,3% recorded in 2011 (GCIS2022/2023).

In addition to the above, there are three licenced commercial subscription television operators (StarSat, eSat and MultiChoice) in South Africa.

Where radio is concerned,

> In 2021, about 80% of South Africans had tuned into a radio station within the last week, with most people still listening on traditional radio sets. There are 40 commercial and public broadcast stations and 284 community stations in South Africa (Bosch 2022). The SABC's national radio network of 19 radio stations reach over 28 million South Africans … (GCIS, 2022/2023).

The country also has a vibrant print and online media market, the details of which fall outside the purview of this discussion document.

South Africa's dynamic media landscape does not necessarily translate to a more equal media environment. Below, I present four tables from the Marketing Research Foundation's MAPS survey for 2020-2023. These graphs represent contemporary user engagement patterns for television, radio and online digital content.

5.1 User engagement with broadcast and digital content

Figure 1: Marketing Research Foundation's MAPS survey for 2020-2023 (MRC, 2024: 19)

Figure 2: Marketing Research Foundation's MAPS survey for 2020-2023 (MRC, 2024: 20)
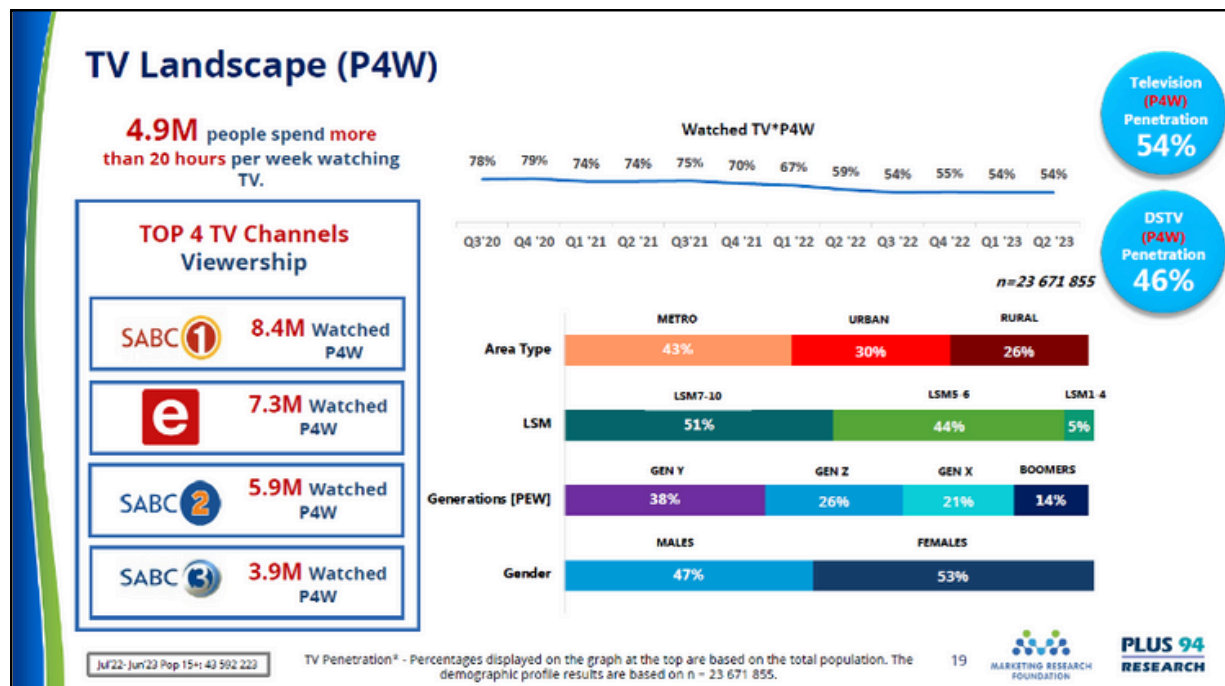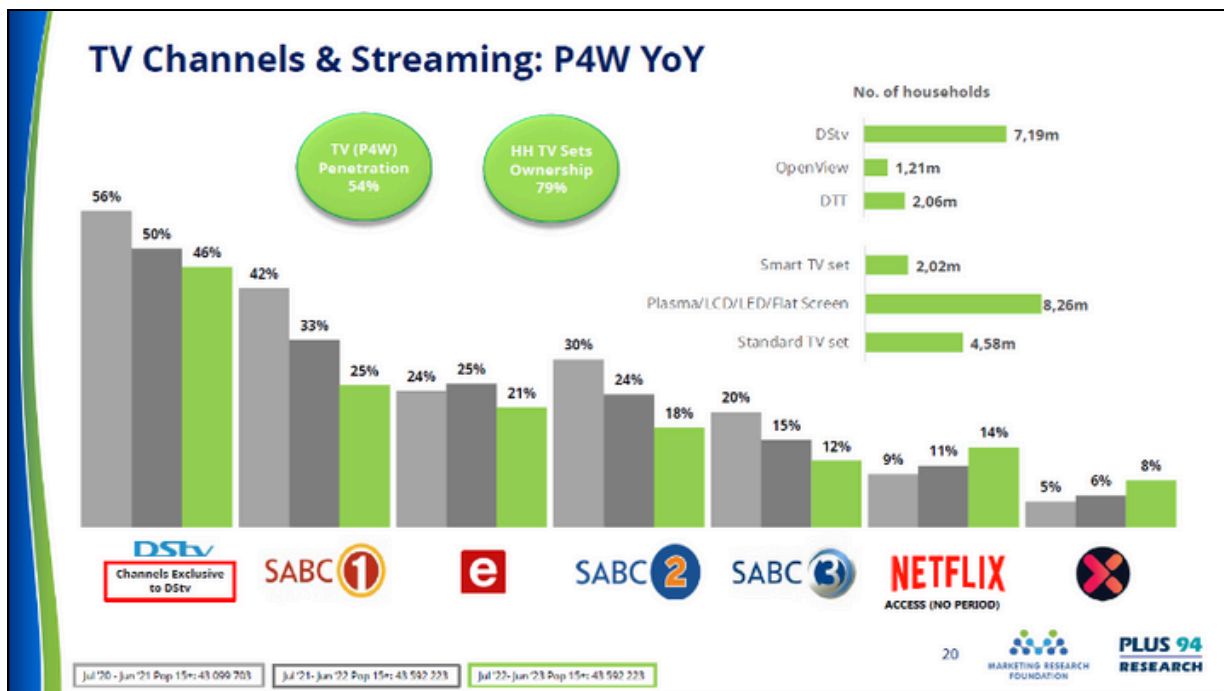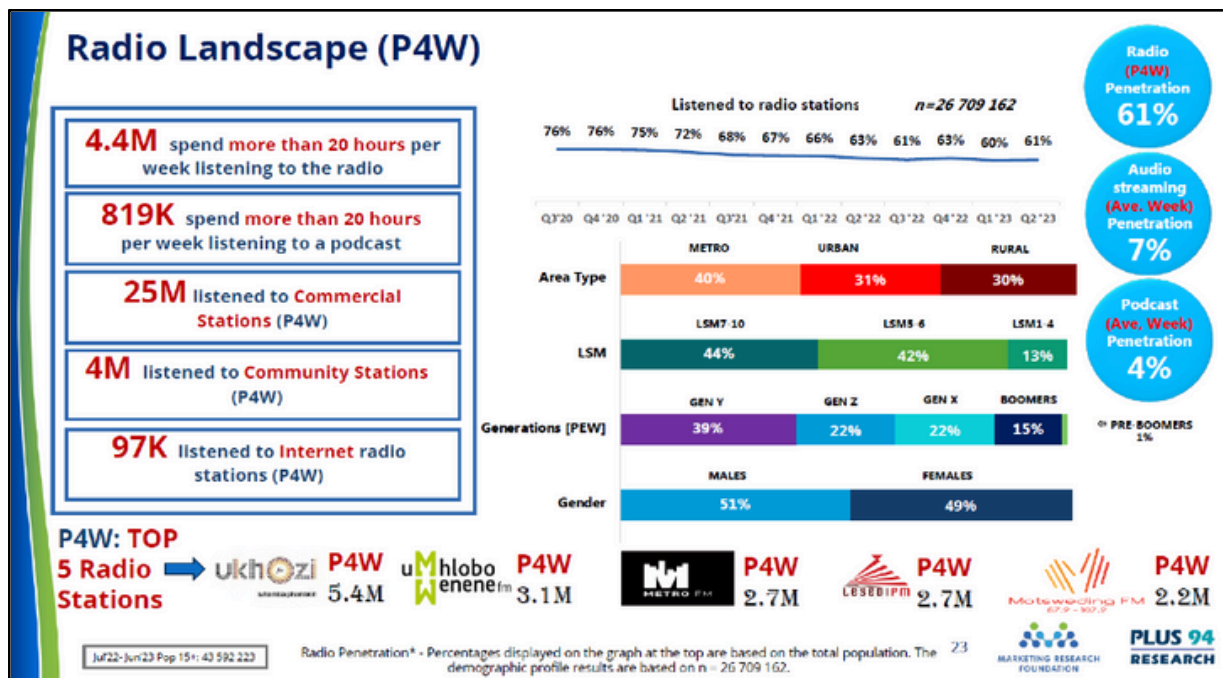

Figure 3: Marketing Research Foundation's MAPS survey for 2020-2023 (MRC, 2024: 30)
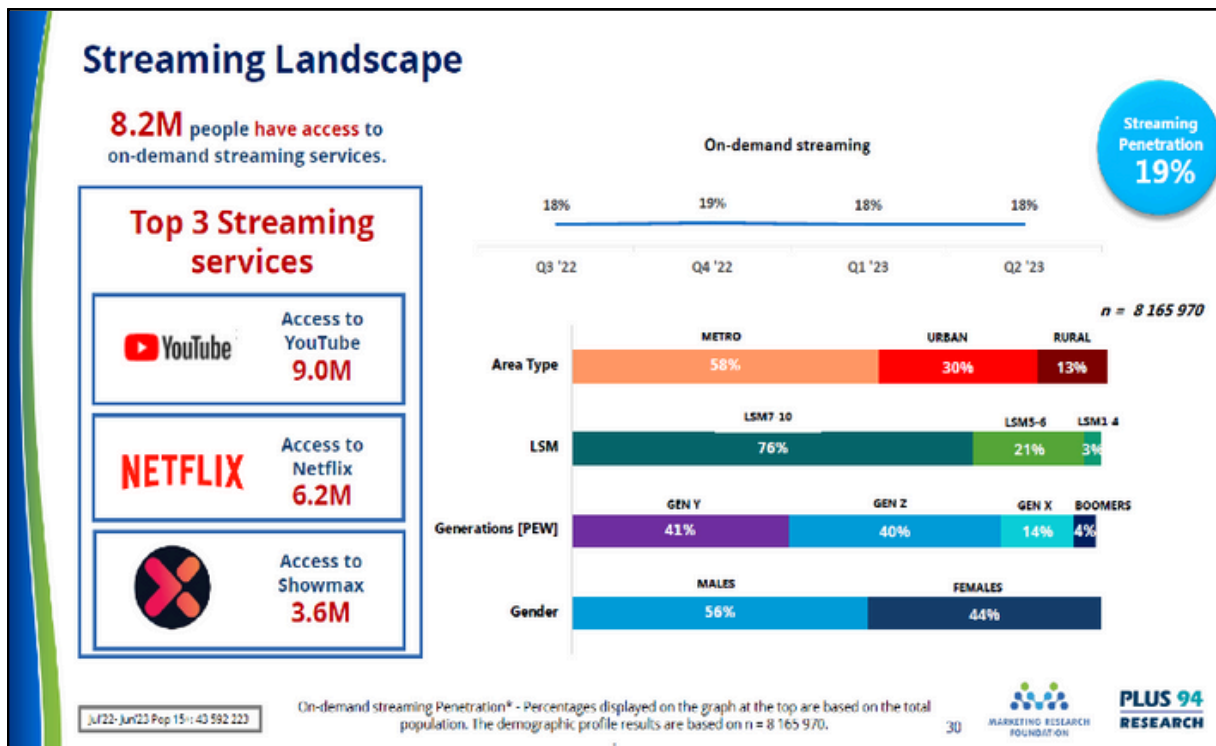
Figure 4: Marketing Research Foundation's MAPS survey for 2020-2023 (MRC, 2024: 30)

A close scrutiny of the media consumption patterns represented in the above graphs reveals some latent issues with regard to media access, growth and ownership structures in South Africa.

5.2 Who watches what in South Africa?

In the above figures, LSM refers to the Living Standards Measure (previously the most widely used audience/population segmentation tool used in South Africa). The LSM tool is a means of segmenting the South African market that cuts across race, gender, age and other variables used to categorise people, with a focus on grouping them in terms of their living standards. In terms of this tool, LSM1 represents the poorest and LSM10 represents the most privileged in South African society (milton, 2021: 128-129).

Where the "Generations" measurement is concerned, the market is segmented in terms of a group of people born around the same time and raised around the same place. "Boomer" refers to the generation born between 1946-1964, GEN X 1965-1980, Millennials 1981-1996, GEN Z 1997-2012 (cf. Dimock, 2019). The so-called "new generation (GEN ALPHA, 2013-2025) is not included in the above figures. So then, while these figures are not helpful in telling us why people are behaving in a particular way (that is what qualitative/ethnographic audience research is for), it is helpful to ascertain who is doing what where.

Collectively, the above data suggests that, although slower, the media penetration and audience behaviour trends in the South African media market reflect the global shift towards digitisation. What this means for traditional media platforms such as television and radio, is a need to rethink their audience strategies or risk facing ever more serious challenges as South Africa's elite audiences and youth audiences especially, increasingly turn to digital alternatives. At the same time, through proper funding and modernised legal frameworks, policymakers should ensure an equitable environment for PSM to remain a relevant and sought-after commodity in South Africa's evolving media landscape.

Here it should be noted that most African contexts where broadcast digital migration has yet to be completed, still operate within primarily PSB (and analogue) environments focused on radio and television. If this scenario is not urgently revised, we risk ghettoising of the PSM space in ways that will again segment audiences along class lines, with those at the lower end of the spectrum relegated to content and information poverty.

Looking at the Marketing Research Foundation's 2023 MAPS survey's datasets for the TV, radio, print and internet mediascapes in South Africa, a clear picture emerges on how the country's youth population is embracing digital media and thereby also driving the demand for digital content and services. Importantly for the current context, it is worth noting that while South Africa is lagging behind more technologically advanced countries like the USA, Australia and the UK with regards to personalised, subscription-based media spaces (such as Netflix, Disney+, etc), the demand for a more digitised and personalised audience/consumer experience is growing. That said, traditional media is still (for now at least) king in South Africa.

Television still dominates the South African media space, with digital news and radio following close behind. Where television is concerned, the SABC is still the most watched television broadcaster in South Africa, with SABC1 leading the pack. e.tv is the second most watched, with SABC2 and SABC3 following closely in terms of viewership figures. Yet, one should not be persuaded to think that these viewership figures represent the end of a conversation about issues of access and digitisation. They in fact hide the fact that digitisation is not equal for all, and that free-to-air television is therefore still the most accessed medium in South Africa's massively unequal society. In this case, one would need to ascertain if necessity and choice overlaps.

In other words, while "digital diversification of the media landscape is happening…some South Africans are simply left behind as others steam ahead with the Fourth Industrial Revolution" (Jones and Hadland, 2024: 6). In addition, the steep cost-of-living increases globally means that media users are re-evaluating their discretionary spending on media and entertainment products. In South Africa, rolling load-shedding which can happen at any time further complicates access to broadcasting and online services.

In light of the above, a collaborative actor/stakeholder approach to public interest content and universal access is necessary which could investigate solutions such as the provision of affordable data plans, zero-rated content services, promoting digital literacy programmes, and ensuring that PSM content is accessible even in underserved areas.

Additionally, if South Africans are to meaningfully participate in and benefit from the digital turn, the sheer ability to connect will not be enough. In PSM terms, access alone is not enough. If PSM is to fulfil the potential towards intensified audience participation, South African audiences, users and communities should gain an understanding of the unique capabilities and affordances of technology and broadband. To reframe an argument presented elsewhere (cf milton, 2021), it would be irresponsible to think of the media ecosystem only in terms of abstract cultural and economic flows. It is also important to look at what is or should be the media's normative role in South African society and what should be its relationship with media users. Additionally, to examine which media should fulfil which normative functions, i.e. looking at whether public service is the sole responsibility of the SABC as a public service broadcaster.

6 PROCESS LEGITIMACY: A MEDIA ECOSYSTEM APPROACH

A key characteristic of a media ecosystem approach to policymaking, is that public and private media are seen as mutually interdependent. Public broadcasters are valued not only for their public remit but also as an instrument to sustain business models in the private sector through commissioning programmes and sharing content, facilities and platforms (Donders and Raats, 2017).

An African media ecosystem is only as relevant as the users it attracts and cultivates. Relevance is further determined by the allowances a media ecosystem makes for users to utilise it in ways that speaks to their lived realities. In social sustainability terms, this has implications for "process legitimacy".

Process legitimacy allows an opportunity to operationalise public participation in PSM processes. While each of the other components embrace access and participation alongside diversity, representation, voice and the need to be responsive to the societies they operate in, process legitimacy speaks to the heart of PSM's role in a convivial media ecology.

Process legitimacy is about accountability: i.e. how policies and programmes are designed and implemented and ensuring that they are accepted as fair and credible by all stakeholders (cf. Barron et al., 2023). Credibility, it could be said, is currency. In many of the new PSM environments discussed above, process legitimacy is ensured via the recommendation of an ex-ante test that would counterbalance the public value and market impact of any proposed new service prior to its approval. Aside from procedural aspects, these tests vary according to the actors executing the test and taking decisions. In most cases, public value tests require a public consultation (Schweizer and Puppis, 2018).

In the previous section, we already showed that some European countries embraced the procedure in the governance of their digital expansion. At issue in these cases, as is the case in South Africa, is building in an assurance that the switch from a PSB to a PSM organisation will not distort competition and will be in the public interest. While there is scope to suggest that digitisation weakens the justification that public interest content and universal access is the sole responsibility of public broadcasters, this argument can only stand if new partnerships are forged with technology companies, including thinking through ways to counterbalance the impact and power of tech giants on content (including content creation, ownership, distribution and monetisation). In today's digitised environment, the gatekeeping power of digital platforms can prove disastrous for broadcasters who misread audience behaviour and preferences. In contexts like South Africa, it will be the poor and already disenfranchised who will pay the ultimate price if the digital turn is not managed with clear purpose and integrity. As alluded to earlier, 40% of the SABC's audience were already subjected to the visceral impact of such disenfranchising.

6.1 Social sustainability through process legitimacy

Where process legitimacy is concerned, credibility is currency. Process legitimacy therefore has implications for the interdependencies between PSM, public and private sector as well as the so-called third sector, civil society (milton, 2018).

In contemporary South Africa, PSM activism cannot be separated from broader citizen discontent and social unrest fuelled by continued social injustices, including widening power gaps as well as wealth disparities between urban and rural populations. Responding to fluid political social spaces, non-class-based forms of collective action are emerging which are linked to the legal, associational and public institutions (Mano and milton, 2021).

To this end, PSMs must balance their need for legitimacy with respect to three different sets of actors (Moe, 2008: 60)

- The public: they use and pay for these services and must see the institution and its output as distinctive, independent, and reliable - and therefore worthy of public funding.
- Commercial competitors and partners: the industry must perceive the public institutions' activities as stable, predictable, and reasonably regulated.
- Political legitimacy: dependent on the extent to which the broadcasters' plans resonate in and for political policy.

7 CONCLUSION

The argument this discussion document wishes to advance therefore centres on maximising the value of PSMs across different sectors, geographies, stakeholder groups (donors, government, academic, practitioners, private sector, networks, etc.) and generations (adults and youth). In building this approach effective and impactful participation will require maximum involvement from civil society and other stakeholders, not just in politics but across all spheres. This includes PSM policy negotiation on the one hand, but also PSM knowledge and skills building towards quality programming and delivery on the other hand. Such an inclusive and horizontal approach to participation can be both educative and emancipatory.

It is educative in the sense that a diverse set of actors - each with their own networks, interests and approaches - aggregate in a policy subsystem of cooperation and coalition-building. It is emancipatory, because the corpus of knowledge, skills, experience and expertise about media-policy formulation and implementation are made available to existing and new actors.

Traditionally, social, and political participation can be seen as part of a relationship of accountability between public service providers and their users (Jones and Gaventa, 2002). There is a need to take this a step further and suggest that participation is not only about monitoring accountability and being a PSM watchdog, but also, especially, about capacity building for PSM management, remit and operations. The key to PSM reform is not just scale of actors, but well-directed interconnected efforts supported by resources.

Networked initiatives not only strengthen the PSM reform mechanism, but also build greater PSM accountability. Media watchdogs should consider expanding their scope to include developmental monitoring and regional networking where the SABC is concerned. Such a nuanced approach can help unlock power structures which influence PSM reform in the public interest and in a manner that aligns with changing societal needs (Mano & milton, 2021).

It would for example be very important for the SABC to prioritise modernisation of streaming platforms and news site capabilities if it is to draw in younger, more digitally savvy audiences which research shows are turning away from legacy media in favour of platforms and non-linear broadcasters. In addition, while the PSB framework in the current Broadcasting Act speaks to relationships between the broadcaster and the independent production sector, it is silent on the role independent publishers can play. This is an under-researched area which could potentially serve a wider range of audiences in language(s) they understand and about topics with which they connect.

In South Africa there are at present no firmly established market mechanisms that transform the social value of professional, accountable PSM into an equivalent monetary return for PSM

organisations and or industries. Without new public funding mechanisms, regulation of digital markets and international support systems for non-profit media, independent PSM is therefore in danger of becoming an expensive luxury rather than a universal public good (Milesovec et al., 2020). Michael Markovitz explores this in more detail in his chapter dealing with the financial sustainability of PSM. In the next chapter, Kgothatso Mampa discusses PSM regulation and governance in relation to PSM legitimacy, remit and funding.

	RECOMMENDATIONS: SOCIAL SUSTAINABILITY
1	**Relationship-building**: strategic partnerships with local content providers and independent producers can broaden access and participation beyond elite concerns.
2	**Affordability**: providing affordable data plans, including zero-rated content services, which would mean engaging stakeholders beyond the PSM institutions.
3	**Technological adaptation**: development of a distribution strategy that focus on a considered plan for broadband infrastructure development and management.
4	**Partnerships:** invest in partnerships with different stakeholders to reach audiences across different devices and to ensure that PSM content is accessible even in underserved areas.
5	**Relationship-building:** investigating the possibility of (a) mandatory public participation mechanism(s) in the form of advisory/consultative bodies. Such a body can work in tandem with the SOS's vision of a public editor for PSM, while ensuring that such an editor does not themself become captured in a politically volatile PSM environment.
6	**Potential role for civil society**: focus on media and digital literacy through which civic-minded and educated citizens can become co-creators of public interest and public value and are empowered as partners working in co-operative relationships with PSMs.
7	**Capacity building:** empower PSM staff through up-skilling and ensuring knowledge about internal and external policies and procedures that should be adhered to.

CHAPTER 2

GLOBAL PUBLIC SERVICE MEDIA REGULATORY TRENDS IN THE DIGITAL ENVIRONMENT

By Kgothatso Mampa [13]

1 INTRODUCTION: PUBLIC SERVICE MEDIA REGULATION

The global rise of the internet and accompanying "digital revolution" is disrupting audio and audio-visual content production, distribution and consumption. While the pioneers of digital technologies revel in the speed and ecstasy of hyper competition and revenue generation, public service media (PSM) organisations are facing an existential crisis, worldwide.[14] The legitimacy, remit and funding of PSM is under scrutiny as sovereign states across the globe debate the future of PSM in the digital era (Puppis and Ali, 2023:10).

As the internet continues to shift the power and responsibility to inform, educate and entertain from trained and regulated practitioners to online influencers and engagement-optimising algorithms, support for the idea of public service broadcasting, specifically, and PSM, generally, is weakening among policymakers. In many jurisdictions, policymakers have registered their growing concern that changes in the digital economy and the growing dominance of big technology companies like Meta and Google, in particular, is accelerating the sustainability crisis of the news media – a critical pillar of PSM (Centre for Media Pluralism and Media Freedom, 2019). Puppis and Ali appropriately observe that the nature and existence of PSM depends on the particular conditions of society; and since society changes over time, the remit and organisation of PSM must be renegotiated time and again (Puppis and Ali, 2023: 10).

The orthodoxy in PSM research and advocacy is the notion that PSM is a crucial component of a healthy, diverse and pluralistic media ecosystem. However, as audiences drift away from traditional private and public media and find refuge in online audio and audio-visual platforms, it is becoming obvious that platitudes and merely articulating the importance of PSM is not enough. Hence, the

burning questions that sovereign states are currently grappling with are: (i) What is the value of PSM in modern society? (ii) How does PSM actually serve the modern public interest? (iii) What is news? (iv) Do the many valuable contributions of PSM justify the cost?

It follows then, that PSM regulation and governance is inextricably linked to the more general debate on PSM legitimacy, remit and funding. The debate is fundamentally about public policy and administration (Jakubowicz, 2010: 193). However, what makes PSM regulation and governance even more contentious is the fact that PSM governance is located at the core of fundamental public media principles, namely editorial independence and autonomy (Nissen, 2006). This immediately raises questions about the ownership of PSM. In South Africa, the Broadcasting Act 4 of 1999 (South Africa, 1999) unequivocally provides that the South African broadcasting services are 'owned and controlled by South Africans'. The problem with this kind of language and framing is that it signals elements of ideology and normative values rather than those of a formal ownership contract.

The bottom line and broader context of PSM governance and regulation is that these issues have historically been complex and controversial and remain so today (UNESCO, 2005). There are many moving parts and any attempt to package global regulatory trends into a neat and straight forward document is no small feat. First, there are various regulatory models in various societies across the globe. While common traits exist, national traditions and differences in political culture have a significant impact on the formal models chosen in the various countries. Second, there is often a problematic difference between formal structures of governance established by law and what really happens on the ground. For instance, illegitimate political interference in the appointment of staff or in editorial decisions in a newsroom is difficult to record.

Accordingly, this chapter seeks to briefly explore global PSM regulatory responses to the "digital revolution" induced changes to audio and audio-visual content production, distribution and consumption. The aim of this undertaking is to give a descriptive overview of the regulatory responses, while attempting to capture salient points of the ongoing big debate. Ultimately, this chapter concludes by recommending a suitable PSM regulatory response for South Africa. This is a desktop study of the PSM regulatory responses of the United Kingdom (UK), Australia, Canada and Japan. These countries were selected because their PSM regulatory and governance regimes have historically been similar to the South African approach. It is not the aim of this study to critically compare and analyse global PSM regulatory regimes in the digital era. That undertaking requires considerable resources and time, commodities we did not have at our disposal at the time of writing this discussion paper.

2   THE IMPORTANCE OF MEDIA REGULATION

Before delving into structures of PSM regulation and control, regulatory failures and country specific developments, it is useful to briefly outline the importance of media regulation, as a whole. As stated above, PSM regulation and governance is inextricably linked to PSM legitimacy, remit and funding. Regulation cannot occur in a policy vacuum. Thus, an appreciation of the role of media regulation in the ecosystem goes a long way in assisting with the answering of questions about PSM legitimacy and funding.

In simple terms, media regulation exists to protect constitutional rights like freedom of expression, which in South Africa includes freedom of the press and other media (Constitution of the Republic of South Africa, 1996). South African courts have more than intimated that the media is the bearer of the right to freedom of expression, specifically in SOS v SABC (High Court, 2017).

PSM's ability to reach millions of people (particularly in South Africa where most people rely on PSM as their sole source for their news and information) renders it a powerful tool for democracy.

The media also performs a watchdog function in society as it holds private and public actors accountable by exposing various issues to the general public. Effectively, media drives the national conversation. By regulating the media landscape (ownership, infrastructure, broadcasting, publishing, etc.), media regulation protects public interests such as media pluralism and diversity. Independent and pluralistic broadcasters are critical pillars of a vibrant democracy and further implicate political rights like the right to vote and the right to free and fair elections.

The orthodoxy in media regulation is to regulate different media differently. For instance, print media content is regulated differently compared to broadcast media. The different nature of media platforms demands different approaches to regulation. Push media (i.e., media that comes to eyes or ears by virtue of the user tuning into a radio frequency or television channel) requires heavier approaches to regulation. Pull media (i.e., media that requires people to search for and download content) does not require a heavier touch because one would have to make an effort to come into contact with the content. Thus, media regulation is not arbitrary. PSM legitimacy and funding model declarations are often recorded in the media regulatory framework of a sovereign state, hence the interdependence and need for a cohesive and agile PSM regulatory framework.

Having underscored the importance of media regulation, the next section gives an overview of structures of PSM regulation and control which is useful to engage with before delving into country specific developments.

3   OVERVIEW OF STRUCTURES OF PSM REGULATION AND CONTROL

Despite the existence of various structures of PSM regulation and control across the globe, this section attempts to give an overview of the established structures of PSM regulation and control by grouping the different approaches into four somewhat distinct categories. This categorisation is purely based on formal structures and not what really happens on the ground. Even so, there are no bright lines with this categorisation as many countries who occupy space in one category can easily have traits typically found in other categories.

3.1   Structure where government and majority parties in parliament play an active role

In this structure, parliament and government have limited direct influence on the day-to-day business of PSM organisations. This is done through legislation which sets forth basic obligations, the overall remit, governance framework and funding mechanism. In Europe, particularly under European Union regulation, the obligations and remit of PSM are compulsory line items. The point of departure is usually a "Broadcasting Act", and the funding mechanism is revised at intervals of several years to maintain a certain degree of stability. Under this structure, parliament (usually on the basis of diverse representation) participates in the appointment of the board of directors of a PSM corporation. An annual report on the activities is also submitted to parliament either by an independent regulatory body or the PSM corporation itself or both.

3.2   Structure based on diverse representation

In terms of this structure, government has no formal role and influence is distributed among several political parties, including the opposition and a number of non-political corporations and institutions in society. In recent years, this perspective of societal accountability has become an increasingly prominent part of public service governance in Europe. From being an internal

management tool, the goal setting and reporting system has been turned into a compulsory control system stipulating detailed performance indicators and often requiring rather complicated reporting procedures. The European Union competition regulation has accelerated this development. The rationale underpinning this structure is that when dealing with questions of state bailouts of PSM for instance and other issues of market distortion, it is imperative to know what kind of activities have been carried out using public funds.

3.3 Structure based on insulating PSM from the political system (co-regulation)

Effectively, this structure introduces an independent and impartial intermediary in the form of a council or regulatory body that is characteristically non-partisan. Figuratively speaking, the regulator sits in-between those that govern and those who are governed. This structure attempts to address one of the fundamental problems of PSM governance: creating the necessary distance between government and PSM corporations. In South Africa, this form of co-regulation only exists in relation to broadcasting and not print. Ongoing discussions are pushing for this to also be the case online as, so the argument goes, full on regulation of the online space is tantamount to censorship, which has serious constitutional implications. The idea behind this structure of media regulation is to keep the political elite at arm's length and specifically give PSM corporations an opportunity to thrive. Parliament also plays a role under this structure by overseeing appointments to the council or regulator.

From an autonomy point of view, appointment by parliament as opposed to government is preferable because the element of diverse representation distributes power among political parties, whereas appointment by government reflects majority rule. On paper one could place the board of a PSM corporation under this structure. The board represents its owners, being society, as represented by parliament. Thus, the board has an externally linked role in steering and controlling. On the other hand, the board, in line with the board of any other corporation (in the continental European tradition), is expected to work solely in the interests of the PSM corporation, guiding and supporting the management internally and defending the interests of the institution against attacks from the outside. Depending on circumstances, the political climate, competition and so forth, the equilibrium between these two usually swings in either direction. Nevertheless, it is important to bear in mind that a genuinely independent body (well-funded and not beholden to government or big business) should oversee content regulation (except during elections). This is global best practice as no government can convincingly oversee content.

3.4 Self-regulation

Alternatively, or perhaps in a supplementary way of regulation and control, many countries also have self-regulation. Generally speaking, self-regulation means there is no legislative force behind the initiative and this places self-regulation on the opposite side of statutory regulation. South Africa has a great pedigree of healthy media self-regulatory bodies like the Advertising Regulatory Board, the Press Council of South Africa and the Broadcasting Complaints Commission of South Africa (BCCSA). In other African countries, media self-regulation is seemingly volatile as some countries purport to have total self-regulation while others call for its elimination. For instance, in Zimbabwe, the Voluntary Media Council of Zimbabwe (VMCZ) is campaigning for total self-regulation of the media, as part of the Media Practitioners Bill, which, inter alia, proposes the transfer of media regulation powers from the state to self-regulatory bodies. Meanwhile in Nigeria, the International Association for Media and Communication Research (IAMCR) has condemned Nigeria's proposed legislation for statutory control of the media, with the government designing a so-called 'press code'. South Africa's approach to press regulation, in particular, has evolved from self-regulation to independent co-regulation between

the media and the public. Whatever the case may be for amplifying or diminishing systems of self-regulation, this structure has proven to be agile and effective in South Africa and many other countries across the globe.

4   POLICY AND REGULATORY FAILURES

Notwithstanding theoretical outlines of basic models or structures of PSM regulation and control, what happens in the real world of conflicting institutional and political interests is frankly more instrumental to overall outcomes. The real threat to any PSM policy or regulatory development is political interference, something that co-regulation seeks to avoid. It is very difficult for PSM to survive and flourish in an evolving media landscape when political interests seek to maintain the status quo or drive PSM organisations. The situation pertaining to South Africa's public broadcaster, the South Africa Broadcasting Corporation (SABC), is a case in point.

The point of departure in the SABC crisis is the general consensus that the Broadcasting Act (1999), which established the SABC as the official public broadcaster following years of the SABC being a state broadcaster, is outdated and in dire need of a complete overhaul. Re-imagining South Africa's fatally outdated broadcasting laws is not just about keeping up with global PSM regulatory trends. It is primarily a critical project that impacts the survival of the SABC itself – a national broadcaster that millions of South Africans rely on for news and information. The SABC is the main source of news and information across its various broadcast and online platforms in all official languages. Hence, the widespread consensus that the Broadcasting Act is outdated and that the SABC needs a legal framework that is fit for purpose in the era of convergence.

The ministry and department overseeing this portfolio, the Department of Communications and Digital Technologies (the Department) itself recognised fundamental problems with the Broadcasting Act in its Draft White Paper on Audio and Audio-Visual Content Services (the Draft White Paper), currently in its second iteration. The Draft White Paper process has been going on for years, with intermittent long periods of silence and no action in between. After a promising re-start of the process in 2020, there has been a clear failure to overhaul the PSM regulatory framework in South Africa and this can be attributed to political interference. In an inexplicable turn of events, notwithstanding the incomplete Draft White Paper process, in September 2023 the cabinet approved a problematic SABC Bill and tabled same before parliament.[15]

The SABC Bill is problematic because in certain instances, it is effectively a restatement of the existing Broadcasting Act. Having originally committed to exciting, new and laudable policy goals like repurposing the SABC to be able to fulfil its mandate and funding for information and content programming that is necessary in the public interest, none of the impressive policy statements of the Department is found in the SABC Bill. Instead, the SABC Bill is riddled with the kind of wording that the Department has already abandoned in writing and as a matter of policy. Effectively, the Department missed an opportunity to modernise an archaic legislative and regulatory framework to pull the troubled SABC into the era of convergence and modern content consumption patterns.

SOS and other organisations like Media Monitoring Africa (MMA) and the South African National Editors' Forum (SANEF) have repeatedly staged interventions to fix the broken policy and regulatory framework in South Africa, particularly as it pertains to the SABC. Some of these interventions include (i) written submissions on the Draft White Paper, (ii) drafting an alternative SABC Bill that addresses critical issues like the funding of the SABC's public mandate, (iii) written

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15. A bill is a draft law that is debated and usually amended by parliament during the law-making process. In South Africa, if parliament passes a bill following completion of the various applicable procedures (including public participation) required for different types of bills, the bill is then sent to the president for assent and becomes official law that is binding.

submissions on the proposed Constitutional Amendment Bill to effectively entrench public broadcasting into the Constitution and create necessary guardrails for the SABC; and most recently (iv) written and oral submissions to the Competition Commission's Media and Digital Platforms Market Inquiry (MDPMI) to centre the SABC in the search for a workable solution between multinational technology companies and news media in South Africa in so far as compensation for content generated by traditional media houses and consumed on the various online platforms is concerned. Records of SOS, MMA and SANEF interventions in the media policy and regulation space are available on the websites of these civil society organisations, alternatively upon request from the respective organisations.

As the entire public service broadcasting model in South Africa appears to be in a great state of flux, it is now indisputable that the sixth administration since the advent of democracy in 1994 has failed to approve new policies, White Papers or legislation to overhaul South Africa's outdated PSM regulatory framework. At the time of writing, it is not clear if the audio and audio-visual policy process will continue or if the process has been abandoned altogether. Thus, political hinderance or interference remains an existing and relevant threat to PSM policy or regulatory development.

In the global north, many European PSM corporations also live with the reality of frequent political interference in editorial processes, with all kinds of political pressure being applied and with a high turnover of top management. While this is a difficult matter to deal with since interference is so controversial and difficult to monitor and document, it is important to bear this in mind when analysing PSM regulatory trends across the globe. The context is just as critical and often directly impacts overall outcomes.

5 COUNTRY SPECIFIC REGULATORY DEVELOPMENTS

Having briefly outlined structures of PSM regulation and control and the crippling PSM policy failures of countries like South Africa, this chapter now moves to discuss specific PSM regulatory responses to digital disruption in the UK, Australia, Canada and Japan. These countries were selected because their PSM regulatory and governance regimes have historically been similar to the South African approach. Overall, the study did not find complete overhauls or revolutions in PSM governance in the respective countries, only tweaks to the existing legal framework (i.e., the enactment of legislation) to ensure that their PSM is fit for purpose in the era of convergence. Moreover, the debates are still raging on and the PSM organisations globally seem to be in a constant state of flux.

5.1 The United Kingdom (UK)

5.1.1 Communications Act

The point of departure is the Communications Act, which established the framework for regulating broadcasting in the UK. Specifically, the Act regulates broadcasting and the provision of television and radio services and also makes provision for mergers involving newspaper and other media enterprises (UK, 2003). The Office of Communications (Ofcom) is a creature of this statue and is the official regulatory authority responsible for overseeing public service broadcasters and ensuring they fulfil their obligations.

5.1.2 Ofcom's Broadcasting Code

The Ofcom Broadcasting Code sets down rules for television and radio broadcasters, while allowing them an appropriate degree of creative freedom (Ofcom, 2005). Code rules are designed

to help ensure that audiences - particularly the under 18s - are adequately protected from harmful or offensive material and that people are protected from unfair treatment in TV or radio programmes. This code includes regulations related to impartiality, accuracy and fairness, which are particularly relevant for public service broadcasters.

5.1.3 Public service broadcasting obligations

The British Broadcasting Corporation (BBC) and other public service broadcasters in the UK are subject to specific obligations outlined by Ofcom. These obligations include providing a diverse range of programming, catering to various audiences, and delivering content that serves the public interest. The BBC, as a public service broadcaster, operates under a so-called BBC Royal Charter (United Kingdom, 2017), which sets out its mission and obligations. Other public service broadcasters operate under licences granted by Ofcom, which outline their commitments to serving the public interest.

5.1.4 Online platforms and services

With the rise of digital media consumption, Ofcom's remit has expanded to cover online platforms and services offered by public service broadcasters. This includes regulating on-demand content provided by broadcasters and ensuring it meets certain standards. Ofcom regularly consults with stakeholders and conducts reviews to ensure that public service media in the UK remains effective in the digital era. This includes assessing the impact of technological changes on media consumption habits and adjusting regulations accordingly (Ofcom, 2021).

5.1.5 Online Safety Act

The UK government has just introduced legislation that address online harms, including misinformation, hate speech, terrorist content and other harmful material (UK, 2023). The Online Safety Act establishes a new regulatory framework overseen by Ofcom. The Act holds online platforms accountable for content shared on the platforms and ensure a safer online environment for users, particularly children and vulnerable individuals.

5.1.6 News Media Bargaining Code

In the UK, the Department for Digital, Culture, Media and Sport (DCMS) commissioned the Cairncross Review (UK, 2020) to look at the sustainability of journalism in the context of drastic changes to the digital economy. The Review recommended that a code of conduct be signed between technology companies and publishers which would include agreements on payments, notification of changes to algorithms, and restrictions on the amount of content to be included in indexes. In January 2022, it was revealed that draft legislation is being prepared in the UK that closely resembles the Australian Code, with a regime that would require negotiation over payment deals which, if unsuccessful, would lead to independent arbitration, overseen by the newly established Digital Markets Unit (Business Standard, 2022). The UK's Competition and Markets Authority (CMA) has also called on the British government to create a new regulatory regime to address the market dominance of technology platforms over the local news industry, after finding that local news publishers are reliant on Google and Facebook for almost 40% of all visits to their sites (CMA, 2020).

5.1.7 Advertising Standards Authority (ASA)

The ASA remains the UK's independent regulator of advertising across all media, including online platforms. It enforces the Advertising Codes, which set standards for the content, targeting and presentation of advertisements to ensure they are legal, decent, honest and truthful. The ASA investigates complaints about advertising, including those related to misleading or harmful content, and takes enforcement action where necessary.

5.1.8 Data protection legislation

The UK has implemented data protection laws prior to the UK exiting the European Union (aka Brexit), most notably the Data Protection Act, 2018 to regulate the processing of personal data and protect individuals' privacy rights. These laws apply to online businesses and digital platforms, imposing obligations on data controllers and processors to handle personal data lawfully, transparently and securely.

5.1.9 Media literacy and education

The UK government and various organisations promote media literacy and digital literacy initiatives to equip individuals with the skills and knowledge to critically evaluate and navigate online content. These efforts aim to empower users to make informed choices, identify misinformation and engage responsibly with digital media. Such measures, together with media regulation, provide a framework for consumer protection and advancing the public interest.

5.2 Australia

5.2.1 Australian Communications and Media Authority (ACMA)

ACMA is the regulatory body responsible for overseeing broadcasting, telecommunications, radio communications and online content in Australia. The ACMA develops and enforces codes of practice for broadcasters, including public service broadcasters. These codes set standards for content, including requirements related to accuracy, fairness, and impartiality. Broadcasters are required to comply with these codes as a condition of their broadcasting licences. The ACMA also regulates online content, including content provided by public service broadcasters on their digital platforms. It sets standards for online content through codes of practice and investigates complaints about online content that may breach regulatory requirements. The ACMA regularly consults with stakeholders and conducts reviews of its regulatory frameworks to ensure they remain effective in the digital era. This includes considering changes in technology, media consumption habits and community expectations.

5.2.1 Broadcasting Services Act

Much like the UK's Communications Act, Australia's Broadcasting Services Act creates the framework for regulating broadcasting in Australia (Australia, 1992). The Act outlines the obligations of broadcasters, including public service broadcasters like the Australian Broadcasting Corporation (ABC), regarding content standards, diversity and serving the public interest.

5.2.3 The Special Broadcasting Service (SBS)

Over and above the ABC, Australia also has the SBS – a multicultural public broadcaster. It

operates under the Special Broadcasting Service Act (Australia, 1991), which outlines its obligations to provide multilingual and multicultural programming that reflects the diversity of Australian society. Both the ABC and SBS operate under charters that outline their obligations to serve the public interest. These charters emphasize principles such as independence, diversity and editorial standards. The charters are periodically reviewed and updated to ensure they remain relevant in the digital era.

5.2.4 Online Safety Act

This legislation, which came into effect in early 2022, aims to enhance online safety for Australians, particularly children. It establishes a new regulatory framework overseen by the eSafety Commissioner to address harmful online content, cyberbullying and image-based abuse (Australia, 2021). The Act empowers the Commissioner to issue takedown notices for harmful content and impose fines on social media platforms and other online services that fail to comply.

5.2.5 News Media Bargaining Code

In 2021, the Australian parliament passed into law a mandatory bargaining code between news media and tech platforms. Overseen by the Australian Competition and Consumer Commission (ACCC), the News Media Bargaining Code establishes a "negotiate and arbitrate" model which requires designated technology platform companies to enter into agreements with news publishers for remuneration of news content displayed on those platforms. In the event that the parties cannot come to an agreement, the Code mandates mediation and then arbitration (Australia 2021). The Code also entitles registered news publishers to be notified at least 14 days before any changes are made to a technology platform's algorithms, if a change would have a significant effect on referral traffic from the platform. The Code does not apply automatically to any company in particular, but establishes a process for Australia's Treasurer to designate specific companies which are subject to the Code. The Code also provides for a form of exemption for technology platforms: in determining whether a company should be designated as subject to the Code, the government should take into consideration whether the company "has made a significant contribution to the sustainability of the Australian news industry through agreements relating to news content of Australian news businesses (including agreements to remunerate those businesses for their news content)."

5.2.6 Disinformation and misinformation initiatives

Australia has implemented various measures to combat disinformation and misinformation online. This includes initiatives to promote media literacy and critical thinking skills among the public, as well as efforts to work with social media companies to identify and counter false information.

5.2.7 Data privacy regulations

Australia has implemented data privacy laws, such as the Privacy Act (Australia, 1988) and the Notifiable Data Breaches scheme, to protect individuals' personal information online. These regulations apply to businesses and organisations that collect, use and store personal data, including digital platforms and online service providers.

5.3 Canada

5.3.1 Canadian Radio-television and Telecommunications Commission (CRTC)

The CRTC is the regulatory authority responsible for overseeing broadcasting and telecommunications in Canada. It sets and enforces regulations to ensure that broadcasters, including public service broadcasters, fulfil their obligations.

5.3.2 Broadcasting Act (Canada 1991)

The Broadcasting Act of Canada establishes the regulatory framework for broadcasting in the country. It outlines the objectives of broadcasting, including providing a range of programming that reflects Canadian society, promoting Canadian content and serving the needs and interests of Canadians. The Canadian Broadcasting Corporation (CBC)/Radio-Canada is Canada's national public broadcaster. It operates under the Broadcasting Act and is mandated to provide programming that informs, enlightens and entertains Canadians, while also reflecting the country's linguistic duality and cultural diversity.

5.3.3 Programming standards and codes of conduct

The CRTC establishes programming standards and codes of conduct for broadcasters, including public service broadcasters. These standards cover issues such as accuracy, balance, fairness and the portrayal of diverse communities.

5.3.4 Canadian content regulations

The CRTC imposes Canadian content regulations on broadcasters to promote and support Canadian culture and identity. Public service broadcasters are required to air a certain percentage of Canadian content, including programming produced by Canadian creators.

5.3.5 Digital platforms and online content

The CRTC also regulates digital platforms and online content provided by broadcasters, including public service broadcasters. It ensures that content distributed through digital platforms meets regulatory standards, including requirements related to Canadian content and programming diversity.

5.3.6 Digital Charter

The Canadian government introduced the Digital Charter in 2019 as a framework for guiding digital policy and addressing various challenges in the digital era, including online harms, privacy protection and democratic integrity (Canada, 2019). While not a legally binding document itself, the Digital Charter provides principles and objectives to inform legislative and regulatory measures related to digital issues.

5.3.7 Online harms legislation

Canada has been considering the introduction of legislation to address online harms, including misinformation, hate speech and harmful content. At the time of writing, specific legislation had not been finalised, but the Canadian government has been consulting stakeholders and exploring options for regulatory measures to enhance online safety and combat harmful content (Canada, 2024).

5.3.8 Industry codes of conduct

Various industry associations and organisations in Canada have developed codes of conduct and self-regulatory mechanisms to address issues such as advertising standards, online content moderation and consumer protection. These voluntary initiatives complement government regulation and aim to promote responsible practices among digital service providers.

5.3.9 News Media Bargaining Code

The Canadian government has indicated that it is considering adapting the Australian approach to produce its own legislation, with the Heritage Minister whose office oversees media and communications, pledging to bring a similar bill, and the Prime Minister promising coordinated efforts with the Australian Prime Minister to ensure that technology platforms pay for the content on their platforms (Van Boom, 2021). Canada's Competition Bureau also recently obtained a court order to pursue an investigation into whether Google's advertising business is harming competition in Canada (Competition Bureau Canada, 2021).

5.3.10 Privacy legislation

Canada has robust privacy legislation, including the Personal Information Protection and Electronic Documents Act (PIPEDA) (Canada, 2000), which governs the collection, use, and disclosure of personal information by private sector organisations. PIPEDA applies to online businesses and digital platforms operating in Canada, requiring them to obtain consent for the collection and handling of personal data.

5.4 Japan

Much like the UK, Australia and Canada, Japan also regulates PSM dealing with public interest content in the digital era through the various mechanisms set out below:

5.4.1 Broadcasting Act (Japan, 2010)

Japan's Broadcasting Act governs the broadcasting industry, including both traditional broadcast media and online streaming services. The Act outlines rules and standards for content aired on television and radio, ensuring accuracy, fairness and adherence to public interest principles. Japan's public broadcaster, the NHK, operates under the NHK Act. It provides programming that serves the public interest, including news, educational content and cultural programmes.

5.4.2 Broadcasting Ethics and Program Improvement Organisation (BPO)

The BPO is a self-regulatory organisation established by Japan's broadcasting industry to monitor and promote ethical standards in broadcasting. It investigates complaints from viewers and listeners regarding content aired on television and radio, addressing issues such as accuracy, fairness and decency. While its jurisdiction is primarily over traditional broadcasting, the BPO also addresses complaints related to online streaming services affiliated with broadcasters.

5.4.3 Digital broadcasting

With the transition to digital broadcasting, NHK and other broadcasters in Japan have expanded their digital platforms to deliver content through various channels, including terrestrial, satellite and online platforms. Regulations ensure that content delivered through digital platforms also serves the public interest and adheres to broadcasting standards.

5.4.4 Broadcasting councils

Japan has Broadcasting Councils at both the national and local levels, which provide oversight and guidance to broadcasters. These councils monitor broadcasting content and ensure that it serves the public interest and reflects the cultural diversity of Japan.

5.4.5 Media literacy initiatives

The Japanese government and broadcasting organisations promote media literacy initiatives to help the public critically evaluate media content, including public service media, in the digital era. These initiatives aim to empower citizens to navigate the complex media landscape and make informed decisions about the content they consume.

5.4.6 Internet content regulation

Japan has laws and regulations that apply to online content, although the regulatory framework is not as comprehensive as those for traditional media. The Act on Regulation of Transmission of Specified Electronic Mail addresses spam email, while the Act on the Limitation of Liability for Damages of Specified Telecommunications Service Providers aims to regulate harmful content on online platforms. Additionally, Japan has laws related to child pornography and obscenity that apply to online content.

5.4.7 Personal information protection laws

Japan has legislation governing the protection of personal information, including the Act on the Protection of Personal Information (APPI) (Japan, 2003). This law regulates the collection, use and handling of personal data by businesses and organisations, including online service providers. The APPI aims to safeguard individuals' privacy rights and ensure the secure handling of personal information in the digital era.

6 SUITABLE FRAMEWORK FOR SOUTH AFRICA

Having studied the UK, Australia, Canada and Japan's PSM regulatory responses to the "digital revolution" induced changes to audio and audio-visual content production, distribution and consumption, this chapter now moves to propose a suitable regulatory framework for South Africa. This is in no way a comprehensive proposal that is cast in stone. The aim of this section is to lay a foundation for further research.

Generally speaking, regulatory arrangements should be agile, in line with G5 regulation (ITU, 2021), effective[16] and sustainable, considering available resources and the main priorities. Independent oversight is needed for all forms of regulation and the process for developing regulation should be open, transparent and evidence based.

6.1 Maintain co-regulation structure

There is no need to abandon the existing co-regulation structure as this structure effectively insulates PSM from the political system. The existence of an independent and impartial regulatory body creates the necessary distance between government and PSM corporations. While this form of co-regulation only exists in relation to broadcasting and telecommunications in South Africa, it could be extended to online broadcasting as well through legislative amendments, taking into account constitutional imperatives like freedom of expression and access to information.

Parliament should still play a role by overseeing appointments to the regulator, as diverse representation distributes power among political parties, whereas appointment by government reflects majority rule. A genuinely independent body (well-funded and not beholden to government or big business) should oversee content regulation (except during elections). This is global best practice as no government can convincingly oversee content. This structure effectively provides a legal framework that enables freedom of expression, access to information and the protection of other human rights. The regulatory powers are shared between industry and other stakeholders and the government or the official independent regulatory authorities or bodies.

6.2 Maintain supplementary self-regulation

South Africa should maintain media self-regulation in a supplementary way of regulation and control. While there is no legislative force behind self-regulation, this has proven to be effective in South Africa. Even in the context of convergence or modern audio and audio-visual consumption patterns, abandoning self-regulation would be tantamount to throwing the baby out with the bath water. Self-regulation systems have the added benefit of convergence with other forms of regulation. An ideal self-regulation system would include independent periodic mandatory audits that assess media compliance with self-regulatory codes, policies or norms. The audits should not be directly funded by the industry, although levies can help cover the costs of such exercises. The terms and the results of the audit should be available for public comment.

6.3 Fix the SABC's legislative framework

The existing legislative framework governing the SABC needs to be overhauled. After 25 years, the Broadcasting Act has reached its expiration date and the broadcasting services chapter in the Electronic Communications Act is antiquated. The SABC is critical to the national conversation and directly impacts constitutional rights like freedom of expression and the right to vote, not least because the SABC has been around for a very long time, but because of its reach and public interest mandate. SABC News is the second largest online news platform in South Africa (Reuters Institute, 2021). Many South Africans (most of whom are economically marginalised) rely on community media and the public broadcaster to access news and critical information. Only about 66% of South Africans access the internet, while 95% regularly access information on television (The Broadcasting Research Council of South Africa, 2020). Thus, the unfunded public mandate crisis needs to be fixed from a legislative point of view. This will also address the content diversity problem in this sector (Reid, 2016).[17]

6.4 Statutory regulation in general

Statutory regulation of online media in general should speak to issues that might impact freedom of expression and should be considered only when there is independence in decision-making of the regulatory authorities involved in its implementation. Such regulation should focus on systems and processes for content moderation and curation, rather than determining the legality of individual pieces of content and must have a basis in law (i.e., be sufficiently defined), pursue a legitimate aim and be necessary and proportionate.

6.5 UNESCO Guidelines (UNESCO 2023)

In formulating a suitable PSM regulatory framework for South Africa, it may be useful to consider

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the recently published UNESCO Guidelines for the Governance of Digital Platforms (the Guidelines). The Guidelines were produced through a multi-stakeholder consultation that gathered more than 10 000 comments from 134 countries. Essentially, the Guidelines call for a multistakeholder approach to the governance of digital platforms. Depending on the context, the accountability and compliance mechanisms for the governance of digital platforms, the Guidelines support (i) self-regulatory structures and mechanisms, (ii) co-regulatory structures and mechanisms, and (iii) statutory regulatory frameworks as appropriate forms of media regulation.

Recognising the complexity of this environment, the Guidelines are designed to apply to a wide range of forms of governance. It is important to note that statutory regulatory frameworks may be needed in some domains to address areas unsuitable for self and co-regulatory mechanisms. Such frameworks must always ensure the independence of the official regulatory authorities and, in line with the aim of the Guidelines, should always safeguard human rights. Regardless of the PSM regulatory response, the Guidelines propose various principles of governance systems, four of which are relevant for purposes of this chapter:

6.5.1 Transparency

A common overarching principle should be transparency. PSM, particularly their digital platforms, should be transparent about their governance frameworks, the terms, systems and processes they use to moderate and curate content. They should be able to explain how their systems and processes fulfil their terms of service and effective implementation thereof, and if these are consistent with human rights international standards.

6.5.2 Accountability

Checks and balances between different interests should be formally institutionalised. Governance systems should always have a multistakeholder approach across all forms of regulation and combinations thereof. This means providing for broad and inclusive participation among all stakeholders that can best represent divergent interests and values, including diverse gender and intersectional perspectives. Multistakeholder participation should be meaningful in terms of representation and in creating, applying, monitoring and reviewing the governance processes (rules, principles and policies). Public awareness campaigns, targeted outreach, respect for cultural diversity and the use of inclusive language and formats in governance processes can facilitate effective participation.

6.5.3 Openness and accessibility

Governance processes should be open and accessible to all stakeholders, particularly the groups impacted by a proposed structure or type of regulation. Public consultations, open hearings and online platforms should be utilised to provide opportunities for public input and feedback. The concerns of groups in situations of vulnerability and marginalisation, as well as women and girls, should be adequately represented in the decision-making process.

6.5.4 Diversity

Inclusion of diverse expertise should be a common feature of all regulatory arrangements. The governance system requires that stakeholders have the necessary capacity through training and regulatory instruments to understand human rights frameworks and to consider technological developments. They should have the capacities and technical knowledge to make informed decisions. Every governance system should be encouraged to report to the public and assess the risks and opportunities associated with new and emerging technologies.

7 CONCLUSION

The scoping review of the PSM regulatory responses of the UK, Australia, Canada and Japan did not find complete overhauls or revolutions in PSM governance in the respective countries. Overall, the PSM regulatory response to modern audio and audio-visual content production, distribution and consumption is a mixture of old and new fit for purpose legislation, regulatory oversight and ongoing adaptation to technological advancements and changing audience behaviours. While many responses can be adopted by South Africa, fixing the SABC's legislative framework is the big-ticket item that will shift the needle.

The SABC is critical to the national conversation and is inextricably linked to the notion of a democracy in South Africa. It is the primary source for news and information for millions of mostly indigent South Africans and has the second largest online news platform, for those who have access to the internet. The single most significant regulatory development in South Africa would be overhauling the 25-year-old South African Broadcasting Act - firstly, by finalising the Draft White Paper process and secondly, by ensuring that the proposed SABC Bill captures new and laudable policy goals like repurposing the SABC to be able to fulfil its mandate, and funding information and content programming that is necessary in the public interest. This neatly dovetails into the PSM funding model debate, which will be discussed in the next chapter.

	RECOMMENDATIONS: INSTITUTIONAL SUSTAINABILITY
8	**Independent oversight**: needed for all forms of regulation and the process for developing regulation should be open, transparent and evidence based.
9	**Maintain co-regulation structure**: there is no need to abandon the existing co-regulation structure as this structure effectively insulates PSM from the political system. While this form of co-regulation only exists in relation to broadcasting in South Africa, it could be extended to online broadcasting as well through legislative amendments, taking into account constitutional imperatives like freedom of expression and access to information.
10	**Maintain supplementary self-regulation**: South Africa should maintain media self-regulation . While there is no legislative force behind self-regulation, this has proven to be effective in South Africa.
11	**Fix the SABC's legislative framework**: the existing legislative framework governing the SABC needs to be overhauled. The Broadcasting Act has reached its expiration date and the broadcasting services chapter in the Electronic Communications Act is antiquated. Addressing the unfunded public mandate crisis will also address the content diversity problem in this sector.

	RECOMMENDATIONS: INSTITUTIONAL SUSTAINABILITY
12	**Statutory regulation in general**: regulation of online media should deal with issues that might impact freedom of expression and should be considered only when there is independence in decision-making of the regulatory authorities involved in its implementation.
13	**UNESCO Guidelines for the Governance of Digital Platforms (UNESCO, 2023)**: in formulating a suitable PSM regulatory framework for South Africa, it may be useful to consider the Guidelines , specifically (i) self-regulatory structures and mechanisms (ii) co-regulatory structures and mechanisms; and (iii) statutory regulatory frameworks as appropriate forms of media regulation**.**

CHAPTER 3

FUNDING PUBLIC SERVICE MEDIA: FINANCIAL MODELS AND FUNDING MECHANISMS FOR SOUTH AFRICA

By Michael Markovitz [18]

1 INTRODUCTION: FUNDING MODELS AND FUNDING MECHANISMS FOR PUBLIC SERVICE MEDIA (PSM) [19]

At the time of finalising this chapter in September 2024, there were two significant issues that could cause the South African Broadcasting Corporation (SABC) further financial volatility in the near future, namely the pending analogue switch-off (ASO) of SABC's analogue television distribution on 31 December 2024 and the unresolved issue of Sentech's alleged anti-competitive tariffs for signal distribution and the related R1 billion debt SABC owes Sentech.

The impact of ASO has been severe on the SABC's already declining television audiences. As shown in figure 7 below, the SABC's overall television audience had already declined from 66% in 2008 to 22% in 2023 – and that is before switching off the four biggest provinces, Gauteng, Western Cape, KwaZulu Natal and the Eastern Cape at the end of the year. According to the SABC's Annual Report for 2022/23, the ASO accounts for audience loss of about 30 - 40%, [20] following switching off the analogue signal in five provinces, namely North West, Mpumalanga, Northern Cape, Free State and Limpopo. One can therefore expect the ASO to have a further deleterious impact on SABC audiences and consequently its advertising revenue. In late August 2024, this was acknowledged by the chairperson of Parliamentary Portfolio Committee on Communications and Digital Technologies, Ms Khusela Sangoni, who said "decisions have been taken by government, for example (on) the ASO, which have reduced SABC's audiences by 40% and had a knock-on effect on revenue". Ms Sangoni said "the SABC was facing an existential crisis" for several reasons but mainly because it had a large, unfunded public mandate. [21]

18. This chapter was written by Michael Markovitz and the subject matter forms part of his preparation for doctoral research. The author retains copyright in this chapter. When referencing or quoting from this chapter, please use the following: Markovitz, M., 2024., "Funding Public Service Media: Financial Models and Funding Mechanisms for South Africa" in milton, v.c., Mampa, K., and Markovitz, M., Global Trends in Public Service Media (PSM): A Discussion Document Commissioned by SOS Support Public Broadcasting Coalition (SOS) to Guide Discussion on the Future of PSM [https://soscoalition.org.za]
19. The description of certain players as "pay TV operators" and "streaming companies" in this chapter and its recommendations are broad enough to be adapted when finalising the draft White Paper on Audio and Audiovisual Content Services.
20. https://static.pmg.org.za/SABC_Annual_Report_2022_-_2023.pdf
21. See interview by Sakina Kamwendo of Ms Khusela Sangoni, MP, on SABC News, 28 August 2024. https://www.youtube.com/watch?v=8Ksm5zCfCtc

Regulatory intervention and policy finalisation are required to properly resolve the SABC's ongoing tariff dispute with Sentech and the SABC's ever increasing debt to Sentech. In late August 2024, the Minister of Communications and Digital Technologies, Mr Solly Malatsi announced that he intended to appoint an independent mediator to resolve the dispute once the terms of reference had been agreed by the SABC and Sentech.[22] Signal distribution is the SABC's third biggest cost after staff compensation and content investment and the SABC remains Sentech's largest client. Despite a delay of over a decade, the Independent Communications Authority of South Africa (ICASA) is still undertaking an inquiry on the signal distribution market, after abandoning the last one even though findings were made in 2013. Regulatory and policy delays have impacted the SABC negatively. Resolving the Sentech tariff issue, and Sentech's role itself, is a key externality that impacts directly on the SABC's sustainability.

It remains to be seen how these two material issues – the Sentech tariff dispute and the impact of ASO on the SABC - will be resolved.

This chapter defines commercial revenue as revenue from advertising, sponsorships, carriage fees, content exploitation and subscription fees (if any). Public funding means any funding directly from the state, licence fees, public media levies, household levies, alternate direct taxes and funding for public interest programming via an indigenous content fund.

Having reviewed the SOS Vision Document for SABC and Public Service Media (PSM) in South Africa, it is clear that SOS supports the following key funding and market regulation principles:

- A mixed funding model for the SABC, including advertising, sponsorships, licence fees (which ought to be restructured and renamed), access to a local content fund[23] and parliamentary appropriations.
- A local content fund must be established and financed from a range of sources to ensure the production of quality local public service content across a range of platforms: commercial, public and community.
- The SABC must be required by parliament to make transparent its accounting, including reporting on the percentage of spending on administration, as well as on public interest content in terms of genre, language and regional coverage.
- The SABC must spend the majority of its funds on local public interest content (as opposed to the present practice where the major portion of the SABC budget is spent on management and overheads)" (SOS, 2023a)

While one is not bound by these options when recommending funding mechanisms, the SOS Vision has been used as a crucial guide. However, because of SOS's advocacy role and even when it comes to scholars of PSM, it is important to always evaluate and validate our normative biases:

> … scholars of PSM need to be mindful of unacknowledged and uncritical normative assumptions of the importance of PSM. Many in the realm of PSM research implicitly believe that PSM is a crucial component of a healthy, diverse, and pluralistic media ecosystem, but such normative impulses should be checked and acknowledged. As critical theory teaches us, it is alright to take a political stand, but such normative commitments should be transparent…More importantly, they should be complemented by systematic, transparent, and planned research design and methodologies that generate trusted findings, whether qualitative, quantitative, or mixed (Puppis and Ali, 2023:11).

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22. The Minister has understandably decided that the situation is too serious to wait for the ICASA regulatory process to be completed. https://techcentral.co.za/sabc-sentech-dispute-heads-to-mediation/251112/

23. SOS referred to a need for a "Local Content Fund" to assist the SABC with funding public interest programming. We have used the terms "Indigenous Content Fund", not as a proposal on what the fund should be called but rather as a clearer explanation of what kind of content will be funded. Should this paper be read more widely after the second phase has been completed, it is possible that "local" may mean different things to different people.

The research has focused on funding mechanisms for PSM in the following countries: the United Kingdom (UK), Australia, Brazil, Denmark, Spain, Germany, India and obviously South Africa.

In developing this chapter, several globally respected sources were relied upon. In particular, the work of the Public Media Alliance (PMA) as well as Neff and Pickard (2021) have been very useful to help guide our understanding of the different funding models and mechanisms for PSM across the world and how these fit into established typologies.

Launched in 1945 and now a non-profit organisation funded by "over fifty public media organisations", the PMA "is the largest global association of PSM organisations" with a "specific remit to support and advocate for the role and importance of these organisations – otherwise known as PSBs – in society and democracy" (PMA, 2024).

PMA has played an important role in promoting the interests of PSM around the world and has produced several research reports on funding public media over the last few decades. The organisation produced a comprehensive report in 2019 (Warner, 2019), including comparative tables and figures for PSM funding sources across the world and still remains an authoritative guide nearly five years later. This report explained that:

> Current funding models are based on two key elements that, despite numerous subdivisions within them, can be categorised as either 'public' or 'commercial'. While most organisations operate a mixed income model, with variations in the balance between public and commercial funding, there are a number that operate with a single source of income. (Warner, 2019: 7).

There have long been calls for the SABC to have its "funding model changed", with some suggesting that it needs "a new funding model".

By 2023, the PMA revised its view slightly on how many PSMs operate with a single source of income:

> Critically, it must be noted that very few – if any – public media organisations access funding through one stream alone. Many draw on multiple streams. This mixed model is arguably the most secure and sustainable: it ensures organisations are not dependent upon a single funding mechanism but have a diverse portfolio of revenues. It protects organisations against political instability, or fluctuations in the market (PMA, 2023).

The PMA's findings and other literature on PSM funding (Neff and Pickard, 2021) have shown that a mixed funding model is now international best practice.

Mixed funding models are sometimes defined by the predominant funding mechanisms that underpin them. On the one end of the spectrum, there are PSMs that are funded mostly by direct state funding, such as the Australian Broadcasting Corporation (ABC) and on the other end of the spectrum there are those PSMs that are mostly supported by commercial revenue, such as the SABC.

In 2022/2023, the ABC received 91% of its funding from direct state funding, with 9% being from other, mostly commercial sources (ABC, 2022). In almost a mirror opposite situation in 2022/2023 the SABC received 80% of its funding from commercial revenue, 16% from a statutory licence fee and just three percent from direct state funding (SABC Annual Report 2022/2023).

For the SABC to improve on collections from the public, the system has to be fundamentally overhauled, as set out below. But these new improved mechanisms have to be built on a solid commitment to good governance and actual contribution to society. Like other PSMs, the SABC has to note that:

> Following attempts to demonstrate the 'public value' of PSM, the discussion is now turning towards the concept of PSMs contribution to society (Puppis and Ali, 2023: 7).

In other words, PSMs cannot take public support for granted and assume that any form of public funding will just be accepted. Where PSMs have suffered severe reputational damage due to political and editorial interference in the past, like the SABC for instance, there has to be a concerted effort to restore public trust and actually demonstrate their contribution to society.

But demonstrating their contribution to society cannot just be about communication and stakeholder management:

> … the contribution to society concept needs to be more than just an instrument of legitimacy management employed by organisations under increasing public pressure. While communicating the many valuable contributions of PSM is important, the task at hand is not solving a communication problem. The concept is useless if it is limited to the question of how to better sell the contribution of PSM to citizens instead of guaranteeing that PSM serves the public interest and contributes worth paying for and talking about. (Puppis and Ali 2023b: 11).

The notion of actual public service has to undergird any recommendations on public financing options for the SABC.

2 FUNDING MECHANISMS USED ACROSS THE GLOBE TO ENSURE THE SUSTAINABILITY OF PUBLIC SERVICE MEDIA

In addition to the types of funding sources and mechanisms listed by the PMA, another four potential mechanisms have been set out for further research, namely: carriage fees, an indigenous content fund, platform compensation for news media and national journalism fund.

Most of the listed funding mechanisms and varied revenue sources are used across the globe by PSM in mixed funding models that have their own national characteristics and contextual factors. None of the PSMs researched for this project have 100% commercial revenue or 100% direct state funding.

As explained below, these additional revenue sources will become increasingly important as PSMs battle a wave of right-wing populism, hugely resourced global streaming companies, a sharp rise in mis/disinformation and the platformisation of news by Big Tech companies. Lastly, some of these mechanisms overlap with each other from a terminological point of view with four categories finding their intersection as a single levy within this chapter's policy recommendations. In particular, there is a significant conceptual overlap in the research-based recommendation between licence fees, an alternative tax, a direct public media tax and a household levy.

2.1 Advertising and sponsorships

Most PSMs earn commercial revenue from different sources (as defined). In many cases this has become a critical part of the revenue mix which contributes towards public interest programming. However, PSMs have to strive for the right balance between commercial revenue and public funding, even if this balance is not completely within their power to achieve.

... advertising comes with challenges for public broadcasters. Importantly, there is a balancing act that must be maintained between upholding public interest values alongside commercial ventures...While advertising may support a public broadcaster's public service remit, it should not fully sustain it (PMA, 2024).

The SABC is a prime example of a PSM that has become too dependent on commercial revenue, for three main reasons: a broken television licence fee system, only 3% direct state funding and the stark policy and regulatory failure by government to timeously overhaul the SABC's outdated framework. As this figure demonstrates, in 2017 the SABC was the fourth most commercially dependent PSM in the world.
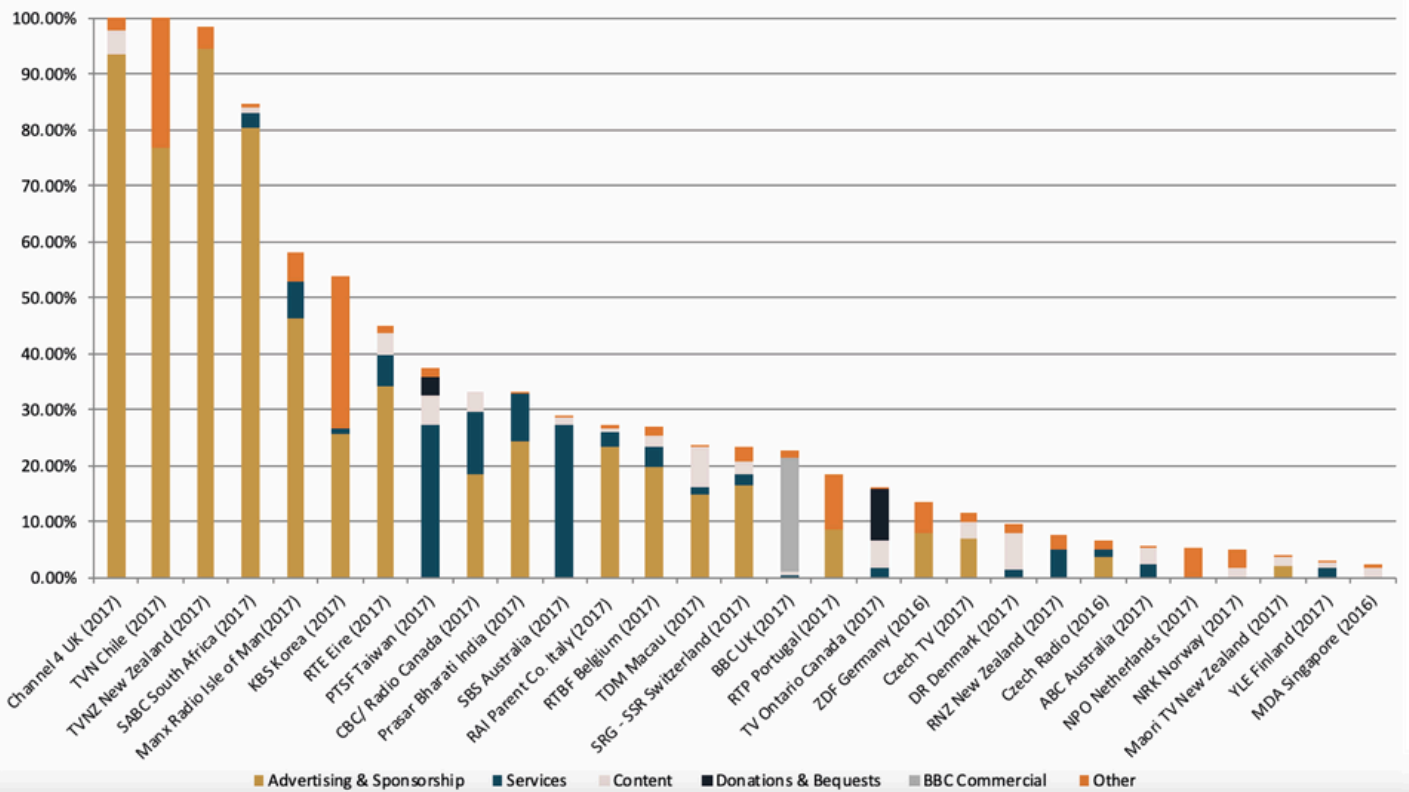
Figure 5: Commercial Funding (Warner, 2019: 33). This figure shows variations in commercial income for PSM based on the last published financial reports. It demonstrates the degree of reliance upon advertising and sponsorship as the primary source of commercial income.

It is interesting to note that despite PMA's work being based on the SABC's 2017 numbers, the ratios between the different funding sources have remained largely the same today. This is evidenced by the information in figure 6 and Table 1.

Advertising & sponsorship 80.46%

Government grants 3.35%

Licence fees 12.10%

Other 0.40%

Exploitation of content 1.29%

Provision of services 2.39%

SABC income 2017

Figure 6: SABC's Total Mixed Income 2017 (SABC Annual Report, 2017)

In comparison, the relevant information from the SABC's Annual Report 2022/23 has been extracted as follows:

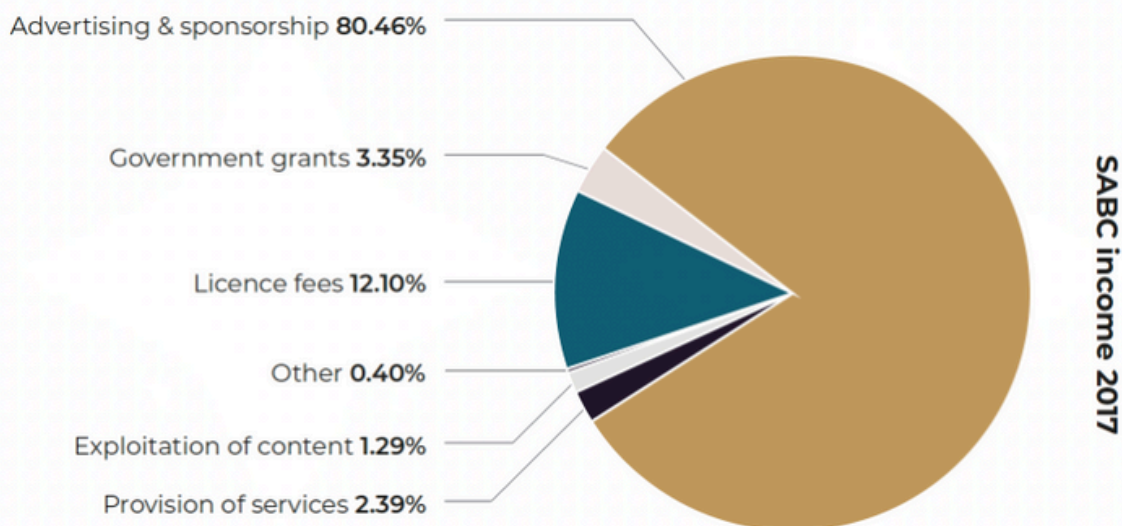|	2023	%	2022	%
	R'000		R'000	
Advertising	2,631,865	56	3,078,475	61
Sponsorship	717,507	15	664,432	13
Mobile Revenue	48,799	1	37,014	1
Carriage Fees	224,281	5	208,025	4
Programme & exploitation rights	67,350	1	48,206	1
Business Enterprise & Facilities Revenue	48,624	1	27,816	1
Rental and other Income	32,946	1	25,040	0
Sub-total: Commercial Revenue	3,771,372	81	4,089,008	81
Licence Fees	741,218	16	815,055	16
Governments Grants	153,898	3	163,823	3
Sub-total: Public funding	895,116	19	978,878	19
Total Revenue	4,666,488	100	5,067,886	100

Table 1: SABC Total Mixed Income 2023 (SABC Annual Report, 2023/2024) [24]

Despite the intervening six years since Warner's report for PMA in 2017, with hugely disruptive market changes and a global pandemic, the SABC's mix of commercial revenue and public funding have not changed materially at all. But more of a concern is that overall revenue has been declining for the last eight years.

2.2 Direct state funding

Unless there are strong governance measures in place, too much dependence on direct state funding can expose a PSM to political leverage that in turn could lead to political interference.

Two PSMs – the Australian Broadcasting Corporation (ABC) and the Indian public broadcaster - are both heavily dependent on direct state funding, however the ABC's governance structure has been allowed to operate much more independently than the Indian public broadcaster. In 2023 the ABC's board made a submission on the independence of the organisation in response to a government discussion paper on "Review of Options to Support the Independence of the National Broadcasters". In this submission, the ABC wrote:

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24. This table has been extracted from the SABC Annual Report 2023-2024 and reorganised into the different Commercial Revenue and Public Funding sources, with sub-totals for each. The figures have been rounded up.

Section 6(2) of the ABC Act requires the ABC to take account of the responsibility of the Corporation as the provider of an independent national broadcasting service and Section 79A establishes that the ABC must be expressly free to determine to what extent and in what manner political or controversial matters will be broadcast (ABC, 2023).

The ABC wrote further that:

The ABC's ability to make significant democratic, cultural, educational and economic contributions to the Australian society is dependent upon its editorial, operational and financial independence. For this reason, the ABC Act establishes the ABC as a statutory authority with a funding and governance model designed to safeguard its independence.

The ABC made several recommendations to the Australian government to strengthen ABC's independence including:

- To safeguard the ABC's independence, there is considerable value in ensuring that its funding levels cannot be suddenly or arbitrarily reduced (ABC, 2023: 5);
- To provide certainty, the ABC proposes that the duration of its funding be set by legislation (ABC, 2023: 5);
- The introduction of a process under which its funding level beyond the end of the current funding period is determined and communicated before the end of the period (ABC, 2023: 6);
- Ensuring stable funding levels for the ABC over the duration of a funding period should not preclude the possibility of a government providing additional funds to allow the Corporation to establish new services not considered within the quinquennial funding discussions in order to respond to changing public needs, media market dynamics, media consumption patterns and technology developments (ABC, 2023: 6-7);
- This review provides an opportunity to broaden the criteria to better equip the Board with the breadth of skills and experiences needed to lead and manage the ABC during a period of transition within the media industry (ABC, 2023: 8); and
- The Corporation proposes that the ABC Act be modified to require the Minister to initiate the appointment process six months prior to the expiration of the term of each non-executive director whose term the Minister does not intend to extend (ABC, 2023: 9).[25]

The differences between the ABC and the Indian public broadcaster are in stark contrast with each other in that there is very little legal protection against political interference for India's public broadcasting network, the Prasar Bharat Corporation, which:

…lacks editorial freedom promised to it via the Prasar Bharati (Broadcasting Corporation of India) Act of 1990. This has led to the Corporation repeatedly being used for self-aggrandising publicity by successive governments, besides giving preferential airtime to ruling governments and blacking out any criticism towards them (Parthasarathi and Agarwal, 2021: 40).

In 2016-2017 the main revenue sources for Prasar Bharati were government grants and subsidies (66%) and commercial revenue (25%). The Indian government also plays a unique role in advertising across public and private media via "the Directorate of Audiovisual Publicity (DAVP) and Information Public Relations Department at central and state level, respectively" (Parthasarathi and Agarwal, 2021: 6).

This gives the Indian government huge leverage over private media as well as the Prasar Bharati Corporation.

Similarly to the reasons for the SABC's declining audience share, experts suggest that

> the lack of investment in content is the reason for the loss in the (Indian) public broadcaster's audience share. Prasar Bharati invests less than 15% of its expenditure every year on content, compared with the 60-70% for global public service broadcasters, or the 40-50% for private broadcasters in India (Parthasarathi and Agarwal, 2021:39).

2.3 Licence fee

The licence fee - as a funding mechanism - is intertwined with the history of PSM and often started out as a television licence fee. The British Broadcasting Corporation (BBC) - as literally the mother of all public service broadcasters - started collecting a licence fee in 1924 and this fee has evolved over the last 100 years. In the last few years, the BBC licence fee has come under pressure from the Conservative Party government, with some politicians wanting to abolish the licence fee. This move has been referred to as an "act of cultural vandalism" (Toynbee, 2020). It is reflective of increased right wing populist opposition to public media across Europe, Latin America and elsewhere (Holz-Bacha, 2021). However, recent indications are that the BBC's licence fee is unlikely to be scrapped in the near future. While the majority of people in the UK would like the licence fee scrapped according to some polls, it is hardly persuasive to say citizens would want any form of levy or tax to be scrapped. Who wouldn't want to pay less tax and levies? However, this is in contradistinction to the findings of other research which shows that BBC News is not only the most trusted news brand in the UK, but the most widely used (Reuters, 2013).

Despite challenges with the collection of licence fees and the political headwinds this mechanism faces, the licence fee has remained resilient in some markets.

> Across Europe, for instance, the licence fee model is overwhelmingly the main source of PSM funding, the European Broadcasting Union (EBU) said in an October 2021 report. The licence fee accounts for 60% of PSM funding across EBU's area of 56 countries, with 25 EBU countries (44%) still having a licence fee in 2021. According to the broadcasting union, more than 200 million households directly fund PSM. The EBU emphasised that adequate fees are linked to strongly performing PSM. As the main contributor to public service media funding in Europe, the licence fee remains a guarantee for their independence and stability, the EBU said (Daniels, 2021).

But the licence fee remains under pressure, notwithstanding the views of the EBU. Some countries have sought to delink the licence fee from any usage of technology and devices, either via tax mechanisms or household levies. This development will be dealt with in more detail under the funding mechanisms below.

Before we proceed to set out the research it is important to understand the problem with the current SABC television licence fee as set out in section 27 of the Broadcasting Act 4 of 1999 (South Africa, 1999).

As the current law stands, the rationale for the television licence fee is based on the purchase of a television set and the usage of that set. According to the Act, a television licence fee means a fee prescribed in terms of this Act and *payable for the use of a television set* (South Africa, 1999). (My emphasis).

Even though it is impossible to prove usage, this clear problem has not motivated policy makers to review the system. Consequently, the television licence fee definition was last amended in 2002. The difficulty in proving usage of the television set has meant that ownership and/or possession of a television set has been seen as a proxy for its use. The 'usage problem' has long been a source of tension with the South African public. The behaviour of some debt collectors acting on the SABC's behalf have further exacerbated the situation. It is a broken system from conception to enforcement.

The lack of enforcement for not paying the television licence fee has been fuelled by a weak and archaic conceptual, legal framework upon which the television licence fee edifice still stands.

In fact, the definition of "a public broadcasting service" in the Broadcasting Act is currently inseparable from the notion of a television licence and means:

(a) any broadcasting service provided by the South African Broadcasting Corporation;
(b) a broadcasting service provided by any other statutory body; or
(c) *a broadcasting service provided by a person who receives his or her revenue, either wholly or partly, from licence fees levied in respect of the licensing of persons in relation to sound radio sets and in relation to television sets, or from the State,*

> and must include a commercially operated broadcasting service provided by persons referred to in paragraph (a), (b) or (c) of this definition (South Africa, 1999). (My emphasis)

The current law makes it an offence to use a television set without a licence. Therefore, the usage of a television set is core to the definition and overall conceptual framework that underpins the levying and collection of the television licence fee, despite being practically impossible to prove usage either way.

Leaving aside the impossibility of proving usage or non-usage, the law was clearly drafted when the only way to consume television and audiovisual content was via a television set. It therefore long predated the digital transformation of the media industry and proliferation of free and paid streaming services accessible on phones, computers, smart TVs and other devices. The television licence fee is not only anachronistic in itself but undermines the entire broadcasting regulatory framework.

In a presentation to the South African Parliament on 28 March 2024, the SABC Board and management said television licence collections had dwindled even further, contributing to the organisation being on the verge of insolvency. It is expected that television licence revenue will only form 13% of total revenue, down from the 16% share reported in 2023 (see Table 1).

The SABC's Chief Financial Officer, Ms Yolande van Biljon, painted the stark picture and demonstrated that in the last 19 years the SABC had only been profitable twice. More alarmingly, the SABC's share of total television audience has been decimated over this period, from 66% in 2008 to 22% in 2022. The SABC is unable to fund the public mandate on the basis of the current funding mechanisms. Ms Van Biljon revealed that the SABC has had to cut back on content spend to pay staff salaries. This is of course a slippery slope as without new content, audience erosion will continue and commercial revenue will drop even further. Taken together with further declining licence fee revenue, the SABC is once again staring at a fiscal cliff, as figure 7 clearly shows:
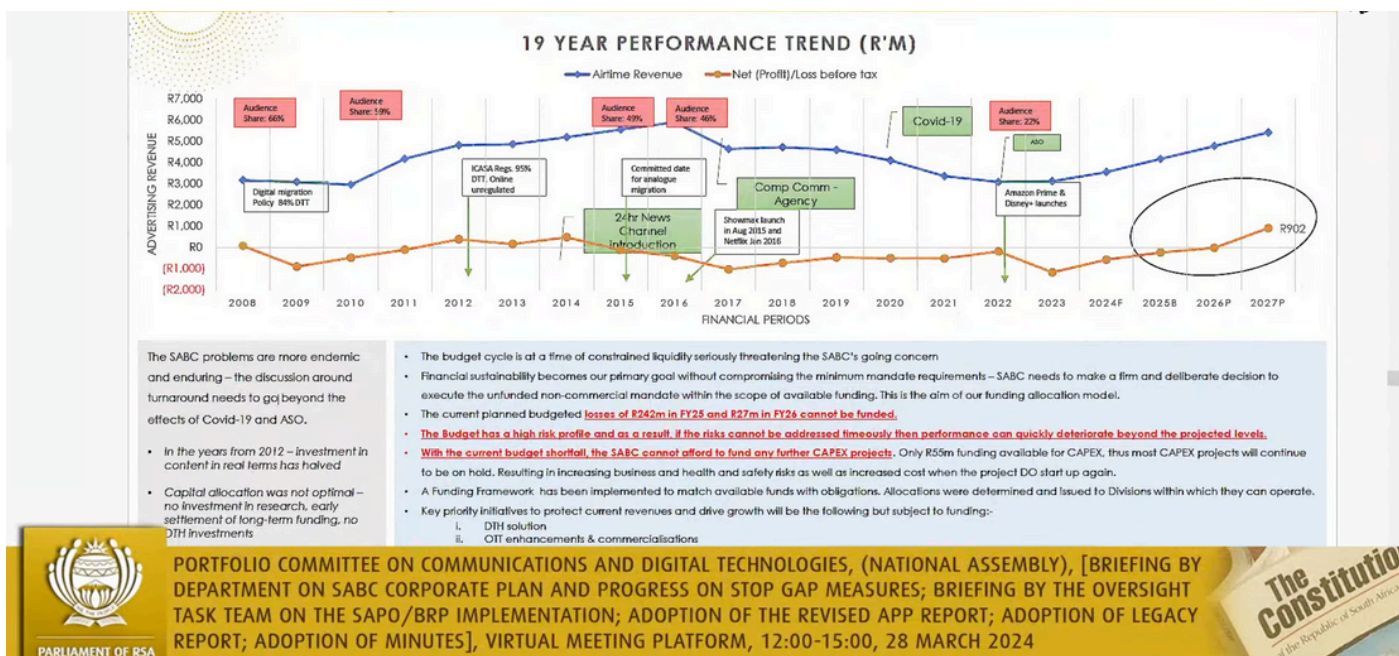
Figure 7: SABC's financial performance over the last 19 years. SABC presentation to the Portfolio Committee on Communications and Digital Technologies, 28 March 2024 (screen shot taken from presentation on YouTube).

The South African government and policy makers have clearly failed the SABC in not urgently addressing the broken television licence fee system many years ago. Nonetheless, recommendations have been made based on the notion that persuading the government to correct course is still the only way to proceed to save an institution that should be a cornerstone of democracy. It is unlikely that the SABC will be allowed to collapse in the near term, in particular with the Corporation's huge strategic, cultural and national value. However, the survival of the institution still cannot be taken for granted.

2.4 Alternative tax

The PMA have differentiated between an alternative tax and a direct public media tax (see below). The alternative tax is defined as:

> … a unique funding mechanism, as it raises the funds for public media by taxing industries rather than the public. The government is still involved, mandating the tax. But unlike other tax-based systems which impact the public – either through a levy on households or incomes – this money bypasses the public and instead comes directly from a particular industry. In an indirect way, however, it does cost the public, as the expense of the tax is likely to be passed onto consumers (PMA, 2024).

The principle of the alternative tax is reflected in the SABC's proposals that pay TV and streaming companies should be required to collect a public media levy to support the public broadcaster and indigenous content. This type of tax was applied in Spain in 2009 as "a tax levied against private channels (3% of gross income), payment companies (1.5% of gross income), and telecommunications companies (0.9% of gross income)…The government also imposed a tax on streaming services effective from 2023" (PMA, 2024). A key differentiator is that the SABC's proposals are not a tax revenue but a requirement to collect a public media levy.

2.5 Direct public media tax

The most recent PSM to adopt a tax and drop the licence fee is Denmark, as of 2022 (PMA, 2023).

From 1 January 2022, the licence fee system ended and the PSM in Denmark began to be financed via tax. That change takes place on the basis of a media settlement which was adopted on 16 March 2018, where it was decided to gradually phase out the licence payment towards 2022 (DR, 2021).

But Denmark is not alone in this shift from a licence fee to a tax model:

> In fact, all Nordic countries have chosen to replace the licence fee with a tax model over the past decade. But implementation varies. In Sweden, for instance, the fee is collected via the "tax slip" which charges 1% of the taxable earned income of anyone over the age of 18, up to SEK 1,300 per person annually. In contrast, in Norway – the most recent Nordic country to transition away from a licence fee – the tax is payable by anyone aged 17 and above, is income-related, and is financed by a reduction of the basic deduction (Daniels, 2021).

The move away from a technology-linked licence fee system to a taxation-based framework for funding public media seems to be growing, particularly in Western Europe and the Nordic countries.

Critics of the tax-based approach argue that the licence fee or household levy is the last remaining direct link PSMs have with their audiences and provides a more independent source of financing. The challenges with this approach have been set out in the recommendations below.

2.6 Household levy

The most prominent country with a device independent, technology neutral household levy is Germany, which instituted the levy in 2013.

In 2018, after applicants had challenged the constitutionality of the levy and in particular levying 'a second dwelling', the German Federal Constitutional Court ruled that while a levy on a second dwelling was unconstitutional, the household levy itself was not. This case provides strong legal and constitutional justification for the household levy after the Court held that "usage" of public broadcasting services or ownership of a reception device was no longer an important factor.

Key extracts from the English-translation of this decision are provided below with a view to applying the court's reasoning in recommendations for South Africa. While it is trite that German court decisions are not binding in South Africa, this ruling is likely to be persuasive should there be any similar constitutional challenge to a new funding mechanism in South Africa as the South African Constitutional Court often draws from comparative jurisprudence, particularly from countries with a strong tradition of constitutional democracy and human rights protection, such as Germany.

The following seven extracts from the Federal Constitutional Court judgement are significant for the purpose of this chapter and any further research. According to the Germany Federal Constitutional Court BVerfG (2018a: 8-24), the judgement held that:

- Fees are distinguished from charges by the fact that they are levied on the mere potential use of a public institution or service.

- Fees are designed to make those persons contribute to the costs of a public institution who – at least potentially – draw an advantage from using it (BVerfG, 2018a: 8).
- Even though public broadcasting services can be received by almost everyone and the levy must therefore be paid by a large number of persons, it does not lose its status as a special levy and a fee, and thus does not become a tax. For the fee is imposed in respect of every individual's possibility of receiving public broadcasting services; by making use of this possibility and specifically receiving public broadcasting services, the use of this possibility can be attributed individually (BVerfG, 2018a: 9).
- Journalistic and economic competition does not automatically lead to broadcasting programming that depicts the full diversity of information, experience, values and behavioural patterns present in society. Furthermore, due to the considerable force of concentration in private broadcasting and the related risk of one-sided influence on the formation of public opinion, it is necessary [for the legislature] to take precautions to protect journalistic diversity (BVerfG, 2018a: 13).
- It is realistic to assume that all persons liable for the fee have the possibility of using public broadcasting services, since the nationwide services provided by public broadcasters can be accessed at any time by means of a suitable receiving device. Whether this possibility is in fact used by a large number of persons is not relevant (BVerfG, 2018a: 14).
- It is not relevant whether receiving devices are in fact installed in each dwelling for which public broadcasting fees are due or whether the persons liable for the fee actually wish to use the broadcasting services…The Länder legislatures may provide for the levying of the fee regardless of the existence of a receiving device…because the possibility of receiving broadcasting services, in principle, exists anywhere in Germany. It is not relevant for the link between the benefit and the imposition of the fee that a receiving device be required (BVerfG, 2018a: 16).
- Despite considerable efforts, the public broadcasters had only limited possibilities of verification [whether users in fact possessed receiving devices], in particular in respect of mobile devices…In view of the increasingly diverse possibilities today for receiving broadcasting, effective verification would hardly be possible anymore. (BVerfG, 2018a: 16-17).
- The liability to pay public broadcasting fees is compatible with the Constitution…There is no interference with this right (of freedom of information) because the liability for the public broadcasting fee does not constitute a forced confrontation with the information disseminated via public broadcasting. No one is directly or indirectly forced to watch or listen to the programming of public broadcasting corporations (regarding the public broadcasting charge) (BVerfG, 2018a: 24).

It is my view that this German Federal Constitutional Court decision, despite the different national and legal context, is highly relevant to our South African research and will be explored further.

2.7 Carriage fees

Carriage fees (or retransmission fees as referred to in the US) are a key part of free-to-air broadcasting revenue around the world. While this is an established source of revenue for broadcasters in the global north, the SABC has struggled to achieve more than the fees Multichoice pays it for SABC News. The failure of the 2022 Must Carry regulations and SABC's struggle to get agreement with Multichoice is dealt with below.

2.8 Subscription fees

Most PSMs do not earn subscription fees as this would conflict with the ethos of public media to be open and universally accessible. In fact, the PMA has confirmed that:

To date, there are no public media organisations that have adopted a specific subscription model – such as those used by Spotify or Netflix – or a paywall – such as that used by the Financial Times. But debates about the future funding of public media are increasingly considering it as an alternative option (PMA, 2024).

It is reasonable to submit that as long as all content and services provided by PSM are made available free of charge, PSMs are entitled to levy fees for value added services, and this would not offend against the principle of universal access. However, there is a view that payment of the public levy is enough on its own to justify access to value added services.

2.9 Indigenous content fund

Content investment is one of the SABC's biggest cost lines and any fund that could mitigate some of these costs would assist the public broadcaster in the quest to be financially sustainable.

While indigenous content funds are not new and predate the emergence of global streaming companies by some decades, there has been a concerted effort by regulators to deal with these companies from a 'cultural policy' point of view, with content and production quotas for home-grown audiovisual content imposed across Europe and elsewhere. After the passing of legacy local content regulations in Australia, Canada and France from the 70s onwards, the EU was the first to develop strong policy and regulations that also considered audiovisual content services such as streaming platforms:

> In 2018, the European Union passed the Audiovisual Media Services (AVMS) Directive which included stipulations that the streaming platforms must offer a 30% quota of European content to European consumers. It also built a framework that allowed individual countries to mandate the streamers to allocate revenues back into domestic production. Right now, France is one of the countries with strongest local content rules. Streaming platforms must reinvest 20 to 25% of the domestic revenues back into French production. In France and elsewhere in Europe, since the regulations have been in place, Netflix has reached or exceeded the 30% local content requirements (Masse, 2023).

But how does this regulatory approach benefit PSMs? Are there any examples of levied funds from streaming companies finding its way to PSMs?

Several countries have started to introduce levies on streaming companies to invest into indigenous content or contribute to a fund for local film and television content production. Spain was one of the first to propose a new levy on streaming companies that would also benefit PSMs.

At the time of writing this report it was not clear whether Spain had implemented the proposed levy which was supposed to come into force during 2023 with the new legislation aimed at changing the financing of PSM. Since 2009 the Spanish public service media network, RTVE, has been partly subsidised by the private sector:

> … free-to-air commercial operators (mainly, Atresmedia and Mediaset) hand over 3% of their gross revenue, with a total cap now set at 15% of RTVE's forecast revenue. Now video-on-demand over-the-top OTT services like Netflix, HBO, or Amazon Prime, and video exchange services such as YouTube, Instagram, and Twitch, will also contribute, with 1.5% of their gross revenue in Spain, as traditional pay TV services have done since 2009, with an overall cap of 20% of RTVE's predicted income. Under the previous law, telecommunications operators also used to fund RTVE with a 0.9% tax on their gross

revenues, which resulted in €125–140m annually since 2009. Now their only contribution to RTVE will be based on their subscription TV and streaming video business (Reuters, 2023: 98).

This Spanish system will be researched in-depth in further research. The proposed new Spanish funding system overlaps to some extent with the SABC's proposals that the SABC should be partly financed by a public media levy to be collected by pay TV operators, streaming companies and the SABC itself. It should be noted that the Spanish system imposes a tax on revenues whereas the SABC's proposals envisaging pay TV operators and streaming companies as collection agents for the public media levy.

2.10 Compensation for journalism as a public good

There are a number of global and SA initiatives focused on the crisis facing the sustainability of the media and journalism in general. At the core of these initiatives is the notion that journalism itself should be regarded as a public good. Since PSMs are a core part of the media industry, it is likely that any regulatory remedies or industry interventions should also benefit PSMs. Two such initiatives are dealt with briefly below:

2.10.1 Competition Commission's Media and Digital Platforms Market Inquiry (MDPMI)

This inquiry has received global attention from civil society organisations, scholars, journalists and media organisations. Since 20 April 2023, written and oral submissions have been made by South African and international participants. Of particular relevance for this research is that an alliance of civil society organisations led by the South African National Editor's Forum (SANEF) had proposed last year that the SABC be included in the terms of reference of the inquiry. Since the inquiry was primarily investigating global platforms' dominance of online digital advertising and the adverse competition impact this has on news media and the survival of journalism, it therefore followed that the impact on SABC News should also be considered. Given the SABC's dependence on advertising, the Commission agreed that the SABC should be included in the terms of reference and scope of the inquiry. The MDPMI is ongoing with the Commission scheduled to publish a provisional report in October 2024.

2.10.2 National journalism fund

One of the mechanisms proposed to support public interest journalism and unlock large scale funding is a national journalism fund. The framework and principles for a national journalism fund was set out in a compelling policy paper written for the Global Forum for Media Development in 2023:

> A national fund for journalism (NFJ) is a dedicated structure that is designed with a strategic sectoral purpose to provide long-term funding and financing to an independent journalism ecosystem in a particular country, region or place (as a Local or City Fund for Journalism, for example). It can take different forms, but in essence is designed to redress shortcomings, barriers or imbalances in a particular media market, or to incentivise, catalyse or accelerate new entrants or transformative processes in that market...(The NFJ) can complement and reinforce other policy measures aimed at improving and strengthening the independent media ecosystem...(and should be) independent of the funders - including governments, bilaterals, multi-laterals, foundations, tech platforms and others - that provide them with financial resources (Padania and Silvani, 2023: 4-5).

While it is speculation at this stage, it is possible that such a fund could be one of the outcomes of the Competition Commission inquiry. It is also possible that an NFJ could be set up on a voluntary basis by the industry and public interest organisations as an independent fund for journalism without regulatory intervention.

The scope of this discussion document means that one cannot go into much more detail here. It suffices to note at this stage that funds from any potential national journalism fund should also be accessible for journalists at PSM.

3 RECOMMENDED FUNDING MECHANISMS FOR THE SABC

3.1 Household levy: access to public service media to replace 'usage and purchase of a device'

The rationale for a TV licence fee has never been clearly articulated in law as being based on the need to fund public interest programming as a public good and in the interest of democracy. Rather, as demonstrated in paragraph 2.3, the entire TV licence edifice is based on the purchase and usage of a television set.

South Africa should decisively move away from any system which requires the collection of a levy based on the purchase of technology and usage of that technology to receive public media services. In so doing, South Africa should follow the legal and constitutional foundations of the German household levy model as articulated by the Federal Constitutional Court in 2018 and set out in detail above.

To reiterate the core principles here, the reasoning below from the German Federal Constitutional Court must be considered in the development of a White Paper and/or legislation on the SABC:

> It is realistic to assume that all persons liable for the fee have the possibility of using public broadcasting services, since the nationwide services provided by public broadcasters can be accessed at any time by means of a suitable receiving device. Whether this possibility is in fact used by a large number of persons is not relevant (BVerfG [Federal Constitutional Court, Germany], 2018a:14).

There are two distinct differences between our recommendations and the German model.

1. It is not proposed to set up a separate institutional collection agency to collect the household levy, as is the case in Germany. Rather, that designated pay TV operators, streaming companies and the SABC itself be mandated in law to collect the public media levy.
2. All South African households that are indigent households as defined should be exempted from the levy.

However, there is a very important caveat to the recommendation on the public levy being collected by designated pay TV and streaming companies – the Independent Communications Authority of South Africa (ICASA) does not currently have jurisdiction over the streaming companies from a regulatory point of view. This is entirely due to the SA government's "stop-start" audio and audiovisual policy process, which has seen two draft White Papers over the last three years and no significant progress beyond that. It therefore needs to be re-stated that the new collection mechanism is only possible if legacy broadcasting law in the Electronic Communications Act is fundamentally changed before or at the same time as the SABC Bill is enacted.

3.2 Public media levy: a radical overhaul based on an existing statutory right

It has long been known that National Treasury in South Africa is extremely reticent to create any form of new tax or levy. It is therefore very important for any new collection measures to be seen as an amendment to an existing levy rather than a completely new form of tax.

Given the severe problems with the current television licence fee legally, conceptually and operationally, the research shows that a new legislated funding mechanism is vital to the SABC's future in that it should actually provide the SABC with a larger, more predictable and sustainable source of funding. The existing TV licence fee as set out in section 27 of the Broadcasting Act should be given a radical overhaul in a new SABC Bill, with the SABC retaining the right to levy a fee for its public service and with collection measures fundamentally improved.

Considering all the different terms for this funding mechanism internationally, "public media levy" still more accurately describes the purpose for which the levy is being collected and it is recommended that public media levy replace any term that refers to a levy of this kind.

All public media fees collected by the SABC itself or on behalf of the SABC should be used solely for public interest, mandated audio and audiovisual content services and programming.

3.3 A new collection measure for a public media levy

These new collection measures should be legislated in order to collect fees more efficiently and predictably for the SABC. The research shows that globally there is a strong move away from technology or device related fees, whether at the household level or at point of sale. Therefore:

- South Africa should no longer include levying devices at point of sale and the public levy should be entirely technology neutral and device independent; and
- Collection of the public media levy should only be done on SABC's behalf by designated pay TV and streaming operators.

Further research is currently being conducted on this mechanism,[26] including the possibility of adding designated telecommunications companies as collecting agents on behalf of the SABC. Adding telecommunication companies as collection agencies should be further investigated.

At a very high level, assuming for the purposes of this research project that:

- current subscriber levels of DStv, Showmax, Netflix and Amazon Prime remain constant;
- the current television licence fee of R265 will remain the same as the annual public media levy; and
- the SABC is able to collect public media levies using its digital channels,

then the potential total public levy fee collected should exceed R2bn, less collection charges. This should be enough to fund the SABC's public mandate activities. The SABC confirmed to parliament on 27 March 2024 that the public mandate had been costed by the SABC at between R2bn – R2.5bn.

Despite Multichoice publicly claiming that this type of policy would be globally unprecedented, Denmark and Spain have shown a willingness to legislate that private sector commercial players, from streaming companies to pay TV operators, be taxed to help fund indigenous audiovisual

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26. This research is being conducted by the writer in preparation for doctoral research.

content and fund the PSM. Not only is there international precedent, but the SABC proposals are far less onerous on pay TV operators and streaming companies in South Africa, requiring only collection of a levy and not a tax on revenues.

3.4 Increased direct state funding

As set out above, in 2019 the SABC was the fourth most commercially dependent public broadcaster in the world and both SOS and the SABC have made proposals on how direct state funding should be increased. But the biggest concern about increased direct state funding is whether it would further impact the SABC's independence.

The SABC's independence is enshrined in its founding statute – the Broadcasting Act. This core legal and constitutional value was further entrenched by Matojane J's judgement in SOS v Minister of Communications(High Court, 2017), which specifically precluded ministerial interference in the SABC's operational affairs and the appointment of senior executives.

However, the SABC continued to be exposed to political interference in 2018 - 2019 when a new board inherited an organisation that had been a victim of state capture, was technically insolvent and reputationally damaged with demoralised staff as a result. The organisation was desperate for a cash injection (otherwise known as a 'bailout') in order to deal with the consequences of a decade of governance failures, financial mismanagement and maladministration. From 2017 onwards several detailed submissions were made to National Treasury and to the Department of Communications and Digital Technologies (DCDT) on the urgency of a bailout, the risk of not being able to pay creditors and salaries and the personal liability of individual directors. However, a bailout was withheld as a means to pressure the board not to proceed with retrenchment of staff.

It was reported at the time that Minister Stella Ndabeni-Abrahams wrote to the SABC Board and said:

> The board made it clear at the meeting that, irrespective of the success of [a] government guarantee or bailout, they will still proceed with retrenchments. As the shareholder representative, we were left with no option but to desist from all engagements with the SABC board (Blignaut and Modjadji, 2018).

This led to the collapse of the board in November 2018, with the resignations of four directors making the board inquorate for five months. The board vacancies were eventually filled in April 2019 and the SABC was finally granted a bailout of R3.2bn, with the 2019 national elections looming. While it is important to note that the retrenchments eventually went ahead and were concluded in 2021, government's use of the bailout funds as political leverage is an important indication of what could happen if direct state funding to the SABC went from 3% to 30% (for example).

It is with this concern in mind that the proposals have been made to avoid a lump sum being appropriated via one government department and for several departments to make funding available for the SABC's public interest programming on the basis of their specific development interests.

In 2021 and then again in 2023, the government released successive versions of an SABC Bill that were both widely criticised as being wholly inadequate and out of step with the uncompleted audiovisual policy process. At the time of writing there were indications that parliament intended

to reopen public hearings and potentially redraft the SABC Bill.[27]

In respect of increased direct state funding, it would be ideal to incorporate several of the proposals made by the ABC on how to enhance its statutorily protected independence when dealing with direct state funding and the appointment of board members.. These proposals have been summarised in 2.2 above (ABC, 2023).

3.5 Commercial revenue: leadership and strategy in a disrupted media space

Given the substantially skewed dependence of the SABC on commercial revenue, it is unrealistic to expect that public financing sources would eclipse commercial revenue in the near term. However, this should be the aim without compromising the overall funding base of the SABC.

It was alarming to hear from the SABC's CFO on 27 March 2024 that the SABC has only been profitable twice in the last 19 years. Of further concern is the repeated setting of unrealistic budgets by management that are never met.   Therefore, the SABC should try and hire experienced media executives who can provide the right leadership and strategic direction in a highly disrupted media space.

3.6 Carriage fees and must carry

The SABC has consistently maintained that carriage fees should become a larger revenue line and funding source. In addition to the fees it receives from Multichoice for carrying the SABC News channel, it has been the position of the SABC (and others) that the pay TV monopoly should pay carriage fees for the SABC's 'Must Carry Channels' namely SABC 1, SABC 2 and SABC 3 and any other future PSM channels launched by the SABC.

Despite the SABC board launching a bid in 2017 to have the ultra vires Must Carry regulations revised and amended by ICASA, an amended but flawed new version of the regulations was only gazetted in 2022. The regulations finally recognised that the carriage of SABC channels had to be "subject to commercial negotiations". However, the negotiation framework was skewed towards Multichoice with SABC not being allowed to withhold its channels as a bargaining chip. The new regulations also made it easy for Multichoice to call a deadlock and it is believed that is where the process is now.

Based on research about carriage and retransmission fees, this funding mechanism should be a much more significant source of revenue for the SABC.

4. ADDITIONAL FUNDING FOR SABC NEWS AS PUBLIC SERVICE NEWS MEDIA

4.1 Platforms and fair compensation

As stated above, the Competition Commission's inquiry is still ongoing. Unfortunately, any funds for SABC News from platforms or competition law remedies cannot be guaranteed. The Commission will be releasing its provisional report in October 2024, and we will have to wait until then to get a much clearer idea of the Commission's stance and potential remedies.

4.2 National journalism fund for South Africa

A national journalism fund for South Africa does not seem to be imminent, although it is understood that smaller funds are in the process of being set up and negotiated with some publishers and Google. It is recommended that any proposed journalism fund should be evaluated on the basis of criteria set out in the GFMD's 2023 report (Padania and Silvani, 2023), and that SABC journalists and editors be eligible for independent funding from such a fund.

	RECOMMENDATIONS: FINANCIAL SUSTAINABILITY
14	**Technology purchase and usage**: South Africa must decisively move away from any system which requires the collection of a levy based on the purchase of technology and usage of that technology to receive public media services.
15	**Public media fees**: all public media fees collected by the SABC itself or on behalf of the SABC must be used solely for public interest, mandated audio and audiovisual content services and programming.
16	**TV licence fee**: the existing TV licence fee as set out in section 27 of the Broadcasting Act must be given a radical overhaul in a new SABC Bill, with the SABC retaining the right to levy a fee for its public service media and with collection measures fundamentally improved.
17	**German Federal Constitutional Court**: incorporate the reasoning from the German Federal Constitutional Court in a new White Paper and/or legislation on the SABC.
18	**Levy collection**: setting up a separate institutional collection agency to collect the levy, as is the case in Germany, is not ideal. South Africa should mandate in law pay TV operators, streaming companies or the SABC itself to collect the public media levy.
19	**Exemption of the indigent**: all South African indigent households should be exempted from paying the levy.
20	**Public media levy**: considering all the different terms for this funding mechanism internationally, a "public media levy" still more accurately describes the purpose for which the levy is being collected and it should replace any term used to describe a levy of the same kind.
21	**Telecommunication companies:** before adding telecommunication companies as collection agencies, further research should be conducted.

22	**Direct state funding:** in respect of increased direct state funding, proposals made by the ABC on how to enhance its statutorily protected independence when dealing with direct state funding and the appointment of board members should be considered.
23	**Experienced media executives:** the SABC should always hire experienced media executives who can provide the right leadership and strategic direction in a highly disrupted media space.
24	**Carriage and retransmission fees**: this funding mechanism should be a much more significant source of revenue for the SABC. Commercial negotiation processes should be expedited, as it is nearly two years since the new Must Carry Regulations were gazetted.
25	**National journalism fund:** any proposed journalism fund should be evaluated on the basis of the criteria set out in the GFMD's 2023 report and SABC journalists and editors should be eligible for independent funding from such a fund.

CONCLUSION AND FURTHER RESEARCH [28]

The transition from Public Service Broadcasting (PSB) to Public Service Media (PSM) requires a reimagining and reinvention of the historical paradigm of PSB to adapt to the changing media landscape and audience expectations. This scoping review ascertained that a successful transition from PSB to PSM will require the following from legacy broadcasters and their regulators:

- Embracing the internet: PSM organisations need to go beyond traditional broadcasting channels and embrace the internet as a platform for content distribution and engagement. This involves developing online services, creating interactive and participatory experiences, and utilising social media platforms to reach and engage with audiences.

- Democratisation and decentralisation: PSM organisations need to become more democratic, interactive and decentralised. This means involving audiences in decision-making processes, facilitating user-generated content, and providing platforms for diverse voices and perspectives.

- Universalism and credibility: PSM organisations should prioritise universalism in their remit, ensuring that their content and services cater to a wide range of audiences and reflect the diversity of society. They should also maintain high credibility as a trusted source of information, providing accurate and reliable content.

- Funding models: The transition to PSM may require exploring new funding models beyond traditional licence fees or government funding. PSM organisations can diversify their funding sources by exploring partnerships, sponsorships, donations, and other revenue streams to ensure financial sustainability.

- Collaboration and partnerships: PSM organisations should collaborate with other cultural organisations, interest groups and movements to become a central node in the network of the new digital cultural commons. This collaboration can help leverage resources, expand reach and foster innovation.

- Technological adaptation: PSM organisations need to adapt to technological advancements and stay abreast of emerging trends. This includes investing in digital infrastructure, developing user-friendly platforms and interfaces and utilising data analytics to understand audience preferences and behaviour.

- Ethical considerations: PSM organisations should address ethical challenges that arise in the networked media environment. This includes ensuring privacy and data protection, maintaining editorial independence and integrity, and navigating the complexities of content moderation and online interactions.

Overall, the transition from PSB to PSM requires a shift in mindset, organisational culture and strategic approach. It involves embracing digital technologies, engaging with audiences in new ways, and redefining the role and responsibilities of PSM in a networked society. Based on the survey findings by Schweizer and Puppis (2018), the advice for broadcasting managers is to

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embrace the internet and digital platforms, understand the regulatory landscape, diversify funding sources, invest in stakeholder management, adapt to technological advancements, go beyond streaming, understand the changing media landscape, collaborate and engage with stakeholders, and address ethical challenges.

The scoping review further elaborated on the key challenges faced by PSM in an evolving and increasingly hostile socio-political climate and against the backdrop of the digital turn. These include:

- Financial challenges: PSM organisations are facing deteriorating financial conditions due to funding cuts and decreasing advertising revenues. The economic and financial crisis of 2008 and the 2020 pandemic have led to budget cuts and layoffs in PSM organisations. Some countries have debated changes in funding models. Here, this discussion document offers particularly insights into avenues for further research.

- Competition from private media: private media organisations complain about market distortion caused by PSM online activities and their comparatively stable financial situation due to public funding.

- Political pressure: PSM organisations are under political pressure from parties advocating for a narrower remit and lower financial resources. Some countries have proposed limiting PSM coverage to genres affected by commercial market failure. Here, this discussion document proposes specific legal and policy remedies that could be looked at from a South African vantage point.

- Technological change: technological change has fuelled political debate about funding models for PSM. Some countries have introduced tests to assess the public value and market impact of potential new services. As with the previous point, this document offers insights into the value of a public-facing policy process for increased participation in PSM which, we argue, could be a pathway to ensuring process legitimacy. It is only through a focus on the public of PSM, that continued funding can be legitimated.

- Governance reform: governance reform is on the agenda for some PSM organisations. Italy planned a comprehensive reform of RAI and its functioning, France depoliticized the appointment of the Director for PSM organisations, and the UK expected a reform of the BBC Trust as part of charter renewal. As mentioned in this discussion document, South Africa is itself engaged in a protracted policy negotiation process as it relates to the so-called SABC Bill. SOS and others have pointed out the number of issues with this Bill and its processes, including potential unconstitutionality. This report offers diverse viewpoints on the issue of PSM sustainability which could, with further research in the South African context, provide for a coherent understanding of what is at stake.

- Adapting to the network era: PSM organisations need to adapt to the network era by embracing the internet and digital distribution. They offer online and non-linear services as part of their remits, and their websites and online services are increasingly popular. However, there are regulatory limits and tests that can become barriers to further development. PSM organisations need to carefully curate ties with stakeholders and invest in stakeholder management, especially with the public. This discussion document laid out in detail the necessity of placing the public of PSM first and what that might entail philosophically, normatively and practically. This area of research needs to be explored in detail.

This discussion document outlines important issues and recommendations but addresses only three of the many research areas highlighted in the original research brief. In follow-up research, industry organisations and field experts could further explore:

- Opportunities for the distribution of public interest content made possible by the roll-out of free and low-cost Wi-Fi and broadband online access services and portals by government, commercial operators and non-profits in underserved and rural areas as well as existing markets.

- Feasibility of zero-rating of public interest content: practical, commercial and regulatory considerations, including proposed eligibility criteria.

- Should tech platforms have obligations (e.g. must carry, prioritising, etc) regarding public interest content, for instance as an antidote for disinformation on their platforms? How should this content be funded?

- How should the roll-out of internet access and online access to public interest media be coordinated across government and private sector initiatives?

- Should a public interest and/or local content fund be established in support of both public service and public interest content production by independent media?

- Should the SABC be entitled to charge for online content services? If so, for what kind of services?

- How should self-regulation for public interest content look like and how should it be funded?

- Should public interest media content produced and carried on commercial and community media be funded from the same sources as that for the SABC/public service media?

- What benefits should organisations obtain if they demonstrate that they are providing public interest content?

- What kind of support should media organisations receive if they voluntarily agree to provide public interest content?

- What are the market structures (local and global) that hinder the sustainable funding of public interest media?

- How could government advertising be used to support the production and distribution of public interest media?

- Should tax relief for producers of public interest content be considered? And for donors who support the production and distribution of public interest media? And for subscribers to public interest media? If so, on what basis and in which forms should tax relief be granted?

- How should policy deal with funding connectivity and access to electronic communications networks and services which include access to public interest content?

South Africa needs public service media that is more sustainable, credible and accountable to the public it professes to serve. While this discussion document is only making recommendations, it does identify several areas for follow- up research and discussions to be undertaken by any interested industry body to advance a sustainable future for PSM. The recommendations herein developed take into consideration the need for PSMs to diversify their revenues while understanding and responding to citizen needs and behaviours and leveraging the power of the digital turn for content generation and delivery, optimising resources and increasing enterprise agility.

In conclusion, this work was commissioned by SOS as a basis to stimulate more and in-depth follow-up research conducted by stakeholders and experts in the information and communications sector, with the objective of developing pathways to digital futures for PSM that will ultimately provide universal access to public service content for South African citizens.

THE FULL SET OF RECOMMENDATIONS

	SOCIAL SUSTAINABILITY
1	**Relationship-building**: strategic partnerships with local content providers and independent producers can broaden access and participation beyond elite concerns.
2	**Affordability**: providing affordable data plans, including zero-rated content services, which would mean engaging stakeholders beyond the PSM institutions.
3	**Technological adaptation**: development of a distribution strategy that focus on a considered plan for broadband infrastructure development and management.
4	**Partnerships:** invest in partnerships with different stakeholders to reach audiences across different devices and to ensure that PSM content is accessible even in underserved areas.
5	**Relationship-building**: investigating the possibility of (a) mandatory public participation mechanism(s) in the form of advisory/consultative bodies. Such a body can work in tandem with the SOS's vision of a public editor for PSM, while ensuring that such an editor does not themself become captured in a politically volatile PSM environment.
6	**Potential role for civil society**: focus on media and digital literacy through which civic-minded and educated citizens can become co-creators of public interest and public value and are empowered as partners working in co-operative relationships with PSMs.
7	**Capacity building:** empower PSM staff through up-skilling and ensuring knowledge about internal and external policies and procedures that should be adhered to.
	INSTITUTIONAL SUSTAINABILITY
8	**Independent oversight**: needed for all forms of regulation and the process for developing regulation should be open, transparent and evidence based.

9	**Maintain co-regulation structure**: there is no need to abandon the existing co-regulation structure as this structure effectively insulates PSM from the political system. While this form of co-regulation only exists in relation to broadcasting in South Africa, it could be extended to online broadcasting as well through legislative amendments, taking into account constitutional imperatives like freedom of expression and access to information.
10	**Maintain supplementary self-regulation:** South Africa should maintain media self-regulation . While there is no legislative force behind self-regulation, this has proven to be effective in South Africa.
11	**Fix the SABC's legislative framework**: the existing legislative framework governing the SABC needs to be overhauled. The Broadcasting Act has reached its expiration date and the broadcasting services chapter in the Electronic Communications Act is antiquated. Addressing the unfunded public mandate crisis will also address the content diversity problem in this sector.
12	**Statutory regulation in general**: regulation of online media should deal with issues that might impact freedom of expression and should be considered only when there is independence in decision-making of the regulatory authorities involved in its implementation.
13	**UNESCO Guidelines for the Governance of Digital Platforms (UNESCO, 2023)**: in formulating a suitable PSM regulatory framework for South Africa, it may be useful to consider the Guidelines, specifically (i) self-regulatory structures and mechanisms (ii) co-regulatory structures and mechanisms; and (iii) statutory regulatory frameworks as appropriate forms of media regulation**.**
	FINANCIAL SUSTAINABILITY
14	**Technology purchase and usage**: South Africa must decisively move away from any system which requires the collection of a levy based on the purchase of technology and usage of that technology to receive public media services.
15	**Public media fees:** all public media fees collected by the SABC itself or on behalf of the SABC must be used solely for public interest, mandated audio and audiovisual content services and programming.
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17	**German Federal Constitutional Court:** incorporate the reasoning from the German Federal Constitutional Court in a new White Paper and/or legislation on the SABC.
18	**Levy collection:** setting up a separate institutional collection agency to collect the levy, as is the case in Germany, is not ideal. South Africa should mandate in law pay TV operators, streaming companies or the SABC itself to collect the public media levy.
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22	**Direct state funding:** in respect of increased direct state funding, proposals made by the Australian Broadcasting Corporation on how to enhance its statutorily protected independence when dealing with direct state funding and the appointment of board members should be considered.
23	**Experienced media executives:** the SABC should always hire experienced media executives who can provide the right leadership and strategic direction in a highly disrupted media space.
24	**Carriage and retransmission fees:** this funding mechanism should be a much more significant source of revenue for the SABC. Commercial negotiation processes should be expedited, as it is nearly two years since the new Must Carry Regulations were gazetted.
25	**Journalism fund:** any proposed journalism fund should be evaluated on the basis of the criteria set out in the GFMD's 2023 report and SABC journalists and editors should be eligible for independent funding from such a fund.

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