The Media Policy and Democracy Project
exploring how the media can work better for society

Response to the National Integrated ICT Policy Green Paper

Prepared by the Media Policy and Democracy Project
Author: Prof Jane Duncan

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Contact person: Prof. Jane Duncan
Highway Africa Chair of Media and Information Society
School of Journalism and Media Studies
Rhodes University
Grahamstown
6140
South Africa
Tel: +27 (0) 46 603 7185
Fax: +27 (0) 46 603 7189
Cell : 082 786 3600
E-mail: jane.duncan@ru.ac.za
Web: www.highwayafrica.com

CONTENTS

SECTION 1: About the Media Policy and Democracy Project (MPDP)

The Media Policy and Democracy Project (MPDP) is a joint collaborative research project between the Department of Communication Science at the University of South Africa (UNISA), and the School of Journalism and Media Studies at Rhodes University which was launched in 2012, and aims to promote participatory media and communications policymaking in the public interest in South Africa. The MPDP involves three main focus areas: 1) media diversity and transformation, 2) media accountability and media freedom, and 3) communications policy and the public interest.

For more information see www.mediaanddemocracy.com

SECTION 2: Information society / knowledge society

2.1 Information society/ knowledge society underpinnings of ICT policy review

According to the Green Paper's foreword by Minister Yunus Carrim, the review raises questions about how South Africa can become a more effective knowledge economy and information society. The rest of the Green Paper makes it clear that the information society/ knowledge economy/ knowledge society provide conceptual frames for the Green Paper and indeed for the whole policy review.

These concepts are not without their problems, yet the Green Paper uses them unproblematically. The information society is a society where information is the force that drives the economic, political and social milieus of nations. According to the South African National Commission on Information Society and Development, an information society is one that has built the necessary capacity to use Information and Communications Technologies (ICT's) maximally to accelerate social and economic development, set goals for such developments and formulate policies and legislative measures to achieve these goals.[1] ICT's haveapparently led to the information society, which is also characterised by a preponderance of information work and information flows. ICT's have also played a central role in reshaping society, leading to old concepts of society disappearing; so for instance, where nation states existed, bounded by physical boundaries, these are being replaced gradually by virtual societies that are often trans-national in nature.

One of the key theorists of the information society, Manuel Castells, has drawn a distinction between an information society and an informational society. According to Castells, information has been central to many societies in the past, whereas an informational society refers to a new form of social organisation where information-generation, processing and transmission becomes the fundamental source of productivity and power.[2] Castells has rejected both terms, and prefers to refer to a network society, as a society that has a networking logic as its basic structure. There is also another, related concept of the 'knowledge economy', where exploitation of knowledge is a fundamental driver of economic activity, and where knowledge is transformed into a commodity to achieve this end. Government policy is expected to support these shifts, to ensure that countries remain relevant in the globalising world.

There are five indicators of whether a society could be considered an information society: technological, occupational, spacial, cultural and economic. These are elaborated on below:

- Technological – is the diffusion of ICT's changing the way people work and play?
- Occupational – are dominant occupations changing from industrial to knowledge-based? Are the number of people employed in ICT-related occupations increasing?
- Spacial – are geographic boundaries being eroded?
- Cultural – are the patterns of everyday life being changed by ICT's and extraordinary amount of information?
- Economic – is the economy becoming more reliant on the exploitation of knowledge and information, rather than primary and secondary sectors like agriculture or manufacturing? This is often measured through the contribution of knowledge/ information sectors to a country's Gross Domestic Product (GDP).[3]

There have been many criticisms of the concept of the information society. Information society policies are often driven by the need countries feel not to be left out of global developments. This can lead to them adopting a 'one-size-fits-all' approach towards development where generic policies are adopted that do not address local circumstances. The information society approach is also informed by modernisation theory, where it is assumed that all countries need to follow the same development trajectory to evolve, and that the evolution from agricultural to industrial and then post-industrial, informational societies is a natural progression that all societies must follow. But modernisation theory is deeply flawed; it ignores that the development of some countries is premised on the underdevelopment of others. The use of ICT's is value-laden, cultural and contextual.[4]

Information society policies also tend to adopt technological determinist approaches, which assume that societies can be changed merely by greater adoption of new technology. In reality, though, the wholesale imposition of information society policies, can lead to other industries that are as important, if not more important to the development of a country, being downplayed and starved of resources. Furthermore, the labour absorption capacity of services, including the ICT sector, is often a fraction of other sectors such as agriculture and the industrial sectors. Therefore, promoting an ICT-driven economic strategy may well lead to warped development, greater unemployment and greater divisions opening up between the 'information-haves' and the 'information have-nots'.

At a broader level, information society-driven approaches to national development have served the neo-liberal agenda well, as they have been used to convince governments into believing that they must refashion their communications environments to open up national economies to foreign investment.From the mid-1990's onwards, information society-speak permeated the corridors of development institutions like the World Bank, which touted the diffusion of ICT's as a panacea for the developing world's problems. Countries reliant on agriculture and mining, which were especially susceptible to marginalisation during globalisation, were told that they could use ICT's to 'leapfrog' over the industrial phase of development, straight into the information society and knowledge economy.

This development approach led to a series of multilateral initiatives, and many ICT for development projects (ICT4D) were bankrolled during this period.Many of these projects failed, mainly because they were supply-driven, not demand-led. Expensive multipurpose

ICT centres in rural areas fell into disuse as residents were unable to adapt them to everyday use. Policymakers assumed – incorrectly - that mere diffusion of ICT's was enough to ensure development, failing to focus on the human capabilities needed to integrate ICT usage into everyday life. A lack of much more basic services such as electricity and transportation further hampered ICT take-up.

These failed ICT4D projects exposed the dicey nature of many assumptions underpinning information society-policy, which proposed techno-fixes to development problems. Society's key problems cannot really be solved by an 'add ICT's and stir' approach. These problems continue to bedevil many societies because the social relations of poverty and inequality remain untransformed. In fact, shifting from an agricultural or industrial to an ICT-driven economy often deepens existing structural weaknesses in developing countries, exacerbating unemployment. Development priorities can become even more distorted than they were, leading to perverse growth.Northern-based electronic companies benefit inordinately from the supposedly inexorable march towards the information society as they tie developing countries into technological dependency. Countries are lulled into believing that if they don't invest in the latest technologies, then they will condemn themselves to underdevelopment: a belief that can lead to costly, inappropriate investments.

Technologically determinist approaches are disempowering, as they discourage the evolution of societies where technology finds its proper place in the cycle of human development. If one accepts that the shift to an information society, with all its dangers for developing countries, is not inevitable but guided by political choices, then one must also accept that different political choices can be made.

Partly in response to these critiques, the United Nations Educational, Scientific and Cultural Organisation (Unesco) adopted an alternative concept, the 'knowledge society', and it is this concept that the Zimbabwean ICT Policy 2012 uses. This concept is meant to be more human-centred, where ICT's are regarded as tools to advance knowledge, rather than simply being seen as panaceas for development problems; as a result, it focuses on the social, cultural and ethical dimensions of societal development.[5] Rather than simply emphasising technology roll-out and investment in informational industries, which information society-driven policies tend to do, the knowledge society concept emphasises more investment in quality education, increased places for community access, the broadening of contentavailable for universal access to knowledge, linguistic diversity, and an emphasis on innovation and life-long learning.[6]

However, in reality the knowledge society concept tends to reproduce many of the weaknesses of the information society concept. It tends to blame individuals for structural inequalities: in other words, these individuals are unemployed because they have not re-skilled sufficiently, and not because unemployment is a structural problem because there are too few jobs for the number of job seekers. This approach leads to an avoidance of questions of power, and how structural economic and political inequalities continue to keep some countries in a perpetual state of underdevelopment. It also tends to avoid the structural imbalances in the communications system that have led to some countries dominating the global communications order and others not.[7]

2.2 Alternative approaches to the information society

With these critiques in mind, it is now possible to consider an alternative framework for an ICT policy: one that does not base itself so uncritically in information society/ knowledge society discourse. Robin Mansell[8] has suggested that an alternative conception of the role of information and knowledge in society, that should underpin an ICT policy, should focus on three areas:

- Human rights – this area recognises communications as a human right and promotes human well-being in societies. In this area, attention will be given to how information and communication-related rights are being respected, as well as responsibilities of ICT users. Furthermore, ICT's are becoming increasingly integral to life and that access to ICT's in turn is becoming a human rights issue, in much the same way that access to schools and libraries has become a human rights issue.
- Access – this relates not only to access to ICT's, but the capabilities and literacies required to use them. ICT's cannot simply be provided without ensuring that the technologies are relevant to people's lives, and that people know how to use them and adapt them to their own needs.
- Participation and representation – this focuses on the extent to which ICT's enable participation in public life and adequate representation of all interest groups in society, and whether the languages and cultural idioms used in ICT's enable such participation.

To the extent that they aren't already, these concepts should be included in the White Paper as guiding principles

In addition to these areas, ICT's should not be promoted as a 'magic bullet' for development problems, if it is inappropriate to do so. If other sectors of the economy need developing through, for instance industrial strategies, then enabling policies should ensure that ICT's don't overpromise on what they can achieve. With respect to access, the concept has moved beyond promoting public access (universal access) and private access (universal service) to telephones to include a range of services such as the internet. Furthermore, this concept should also include access to infrastructure, service and content. However, access alone is not the only factor to consider; how people use ICT's is also crucial, which brings in the crucial aspect of capabilities. Unless people have the capabilities to use ICT's, then they may be rolled out and under-utilised, or even remain unutilised, or utilised only by those with existing ICT capabilities, who are likely to be disproportionately male, young and urban. Thus an ICT policy must involve education and training on how to apply the information accessed, as well as access to credit and electricity. The following factors have been identified as impacting on ICT use: gender, income, levels of education and skills, age and the available infrastructure in an area. Policies must address socio-economic barriers to access. 'Only when people are truly free, capable and choose to apply ICT's in their lives will the use of ICT's be realised'[9]

Furthermore, many ICT policies have remained, in reality, extended telecommunications policies. Few have promoted the convergence of broadcasting, telecommunications and other information services. This means that they have been unable to drive convergence in

the interests of ICT users, and has led to institutions that regulate or develop the ICT sector still functioning as distinct actors. This has led to inefficient regulation, the duplication of networks and services and the fragmentation of the sector.[10] A new ICT policy for South Africa should not reproduce these problems, and should therefore be a truly converged policy.

However, at the same time, it should also be noted that there can be no ICT policy 'blueprints' imposed on a country for the development of its ICT sector: such an approach to policymaking is inappropriate. Much depends on the state of the local ICT industry and its level of development, as well as local needs and capacities. ICT policies that have been developed by external agencies and imported wholesale into countries rarely work, while those that have evolved more organically and locally have been more enduring.

2.3 Civil society declaration to the World Summit on the Information Society (WSIS)

Some very useful principles can also be gleaned from the Civil Society declaration to the World Summit on the Information Society.

In 2003 and 2005, the International Telecommunications Union held two WSIS summits, aiming to promote an information society for all. Civil society played an important role in these processes, critiquing the mainstream processes and organising parallel and at times alternative activities. A grouping of civil society organisations came up with a declaration to the WSIS, which included a civil society vision for the summit and the information society.

In this declaration, the authors argued for an approach that contained four core principles:

- **Social justice and people-centred sustainable development.**
The provision of ICT's within a social justice framework, which rejects the solely-profit motivated and market-propelled promotion of ICT's for development. Technological decisions should be taken with the goal of meeting the life-critical needs of people, not with the goal of enriching companies or enabling undemocratic control by governments. ICT's should also be used to further poverty eradication, global citizenship, gender justice, social inclusion of youth and promote access to information and the means of communication, access to health information and basic literacy, and the development of sustainable and community-based ICT solutions.

- **Centrality of human rights**
Information and communication societies should be based on human rights and human dignity. The following rights are particularly important in this regard: freedom of expression, the right to privacy, the right to participate in public affairs, workers' rights, the rights of indigenous people, womens' rights, the rights of the child, and the rights of persons with disabilities. National regulation should also be in full compliance with international law.

- **Culture, knowledge and public domain**
Information and communication societies must be built on the preservation of cultural and linguistic diversity, the freedom of the media and the defence and the extension of the public domain of global knowledge, and should also build capacities to express oneself using

ICT's. The increasing privatisation of knowledge production is restricting the availability of research and indigenous knowledge is being exploited without consulting the communities concerned. Limited intellectual monopolies should be granted only if they benefit broader society, and encourage creativity and innovation. Free software should be promoted; that is, software that is free for use for any purpose, study, modification and redistribution, and which should be promoted for its unique social, educational scientific, political and educational benefits and opportunities. Research should be based on co-operation, openness and transparency.

- **Enabling environment**

Equal, fair and open access to knowledge and information resources must be established as fundamental principles. National and international regulations for information and communication societies should be in full compliance with international human rights standards, and should emphasise openness, transparency, accountability, and the rule of law.

These principles should be considered for inclusion in the White Paper.

Recommendations

Policy should incorporate the principles set out by Robin Mansell, namely human rights, access and participation/ representation, as well as those set out in the civil society declaration to WSIS. In line with the above, the following vision, mission and objectives for the ICT sector are proposed:

Vision

A society where everyone in South Africa can practice the right to communicate through ICT's, and where its citizens can use this right to develop to their fullest human potential.

Mission

To develop enabling policies, strategies and plans to ensure that everyone in South Africa can practice the right to communicate through ICT's, to ensure the resourcing of these policies, strategies and plans, and to review them to ensure that they remain fit for purpose.

Objectives
- To spearhead the development of the ICT industry and indigenous technologies and capabilities;
- To build the capacity of South Africans to enjoy sovereignty and self-reliance in the globalised society and economy;
- To support South African culture and identity through the use of ICT's;
- To nurture South African talent;
- To ensure the freedom, independence and security of communications over ICT's;
- To promote ubiquitous communications, so that South Africans can access information anytime, anywhere, anyhow, depending on the choice of the user.

- To support dialogic communications, so that South Africans have the ability both to receive and impart information, knowledge and ideas and not just be the recipients of messages from a few information providers;
- To accommodate technological convergence and maximise the potential of ICT's for national development;
- To promote universal service and access to ICT's;
- To develop and maintain indigenous capacity in ICT technologies, software development and ICT content.

SECTION 3: Broadcasting and youth

3.1 Chapter 8: broadcasting

In Chapter 8:broadcasting, the Green Paper asks the following question: How should policy ensure that there is a diversity of services and content and that audiences have access to a diversity of international, national, provincial and local news, information and other programming of relevance to them given that new services will not be limited to specific licence areas. The Paper also asks questions about what objectives the SABC should prioritise and other issues related to the mandate, structure and funding of the broadcaster.

This submission addresses these issues.

3.2 Some general comments on media and broadcasting transformation.

The Green Paper is meant to contain a diagnostic element, identifying strengths and weaknesses in the ICT landscape, and assessing how these strengths and weaknesses have arisen. However, the Paper is weak on diagnosis, which is problematic, as without a clear sense of what has worked and what hasn't, it will be difficult to make appropriate policy recommendations. This is particularly important with regard to media and broadcasting transformation.

In the early 2000's, at the height of academic debates in South Africa about the extent of media transformation, Mashilo Boloka and Ron Krabill argued that successful transformation would be achieved when the media 'reflects, in its ownership, staffing *and* product, the society within which it operates, not only in terms of race, but also socio-economic status, gender, religion, sexual orientation, region, language, etc. This is only possible if access is opened – again in ownership, staffing, and product – not only to the emerging black elite, but also to grassroots communities of all colours'.[11] To what extent has this vision been realised?

There is no doubt that South Africa's broadcasting environment has transformed significantly since the advent of democracy in 1994. The state broadcaster, the South African Broadcasting Corporation (SABC), has been transformed into a public broadcaster, new greenfields licences have been issued and a whole new layer of media, namely community media, have been established. A media system that was fragmented along apartheid lines has become more unified, leading to the development of a public sphere where the really

important national conversations can be held. This is an extraordinary achievement in seventeen years, and the Department of Communications and the regulator, the Independent Communications Authority of South Africa (Icasa) and its predecessor, the Independent Broadcasting Authority (IBA), can take much of the credit for making this happen.

But questions need to be asked about the extent of pluralism and diversity in the South African media generally and broadcasting specifically.South Africa's media transformation, premised as it is largely on the commercial media model with limited public service top-up in the form of subsidies through the Media Development and Diversity Agency (MDDA) and limited government support for the SABC, has shaped and been shaped by the growing division of South Africa into a two-tier society of 'haves', and 'have-nots'.The distribution of media goods has mapped over onto social and economic divisions, in the process developing the character of a funnel, with more media being clustered further up the funnel, while media access tapers off drastically towards the lower end of the funnel. This means that the distributional rewards of media transformation have been highly unequal. Notwithstanding significant transformation gains, South Africa alsostill has a fragmented media system, with few common viewing and listening spaces where the really important national debates can be held.The uneven nature of media transformation places significant constraints on the media to develop a common space for deliberative debate.

The transformation of broadcasting has been much more marked than in the print media, as the former is state-regulated. According to OMD South Africa, since the advent of democracy, the number of television stations has increased from 7 to 100 between 1991 and 2010, and the number of radio stations from 34 to 138. However, reflecting global trends, the number of daily newspapers has declined from 22 to 21 and the number of major weeklies has increased from 25 to 26.[12] Structural regulation that legislates for three tiers of broadcasting and that limits excessive media concentration has been relatively successful in that it has introduced a measure of sectoral pluralism to broadcasting that would otherwise not have existed.

However, owing to the relatively cheap nature of the medium, diversification efforts in radio have been more successful than in television. In 2001, Robert Horwitz cautioned about the dangers of what he termed a 'commercialising juggernaut' eclipsing the public service nature of the South African media system, which he maintained was necessary to redress the legacies of the country's apartheid past.[13]According to Duncan and Glenn:

> '…[Horwitz's prediction] was not entirely incorrect, as within television, commercial broadcasting has dominated the three tiers of broadcasting. Community and public service television have become subsidiary elements, with the extent of their survival dependent on their ability to adapt to commercial imperatives. South Africa's television system has become characterised by uneven development, with those who participate in the economic mainstream having access to a plurality of television services and to viewing options that expand all the time as the multi-channel environment matures. For them, media reform has been a consumer success, but at the expense of a fragmented share of common viewing experiences. But South

Africans who were never in, or who have fallen out of, the economic mainstream, still remain grossly underserved by television'.[14]

As mentioned above, some public funding has made available for community and small commercial media through the MDDA, after a review conducted by the Government Communication and Information Service (GCIS). Yet the funding that was eventually made available to the MDDA was one sixth of the original budget the government had estimated was needed to make a significant difference to the media landscape. Most media continue to rely on commercial sources of funding, which meant that the media's transformation was heavily tied to the transformation of the economy. While broadcasting has transformed much more than the print media, owing to the fact that it is state-regulated, the initial promise of the SABC's transformation has yet to be realised, with a reversion to elements of state broadcasting becoming apparent.

The SABC was meant to constitute a public sphere for all South Africans: hence it was given a statutory mandate to promote nation building. However, the SABC's ability to achieve this objective has been frustrated. Middle class audiences who can afford subscription television have largely fled the SABC, as convergence is creating even more media options for them. DTSV has expanded its audience penetration ahead of the digital terrestrial television (DTT) transition. It has reduced the price of its basic offerings, mopping up sections of the working class that can afford subscriptions. It is likely that once the DTT transition is complete, only the poorest South Africans will be serviced by free-to-air television, and more specifically by the SABC.

DTT is meant to open up the television environment, offering greater diversity of content, and the Green Paper punts its potential heavily. However, owing to loss of advertising income due to a combination of media fragmentation and loss of public trust, there is a real risk that the SABC is likely to provide multichannel offerings that rely heavily on stale content and repeats. If this happens, then DTT will become, effectively, 'poor man's television'.

At a deeper level, in spite of the fact that online media are becoming increasingly important for more South Africans, media options are not expanding as rapidly for the poor, if they are expanding at all. Media owners are cherry picking the most profitable markets, which risks creating a two tier system of 'information-haves' and 'information-have not's', and balkanising public debate.

3.3 Youth usage and youth representation in the media

With regards to the above point, the Media Policy and Democracy Project (MPDP) wants to draw the Department's attention to a recent study that was undertaken by several universities, and led by Rhodes University, entitled'A baseline study of youth identity, the media and the public sphere in South Africa'. The study was funded by the South African Netherlands Research Partnership on Alternatives in Development (Sanpad). South African society is bottom heavy; it is a very youthful country, so the media need to ensure that young people's needs, interests and aspirations are given an airing in the media, including in broadcasting.

The full report is attached, but a summary of the research is provided below:

The aim of the study was threefold: It investigated the ways in which various forms of media, including new media, shape youth identity in South Africa. Secondly, it probed the possible ways in which media contribute to the civic identity of South African youth. Thirdly the study explored whether the media reflect youth voices. Information from this study showed if and how the media contribute to the construction of the social identities of the South African youth and if these identities help the youth to contribute to the strengthening of South Africa's democracy. This information was also meant to contribute towards formulating media policy that is responsive to the needs and interests of the South African youth.

The analysis was based on three data sets: quantitative survey data came from survey questionnaires completed by 956 respondents, mostly between 15 and 30 years of age in four provinces, a media content analysis by Media Tenor and 14 focus groups with a total of 107 participants across the demographic range. The findings were collated in relation to information from the surveys, the focus group discussions, the content analysis and in comparison with the research conducted by the Dutch partners.

With regards to the question of whether the media reflect youth voices, the research found that while young people used traditional and some new media for gathering news and information, with high usage of radio and television, and especially television news, there was a strong sense from the results that the youth do not feel that the media are relevant to them. This may indicate that while young South Africans regularly use certain media, they find the information they receive on those platforms as less than relevant to their lives. It could be in the interest of the media and especially the news media, to investigate issues of media relevancy and what it means for young people in more detail. This investigation could include targeting more content specifically towards young South Africans. Significantly, broadcasting content was found to be only slightly more relevant than print media and online content, although soap operas scored highly as a favoured genre.

The results of the study also illustrated that young people across South Africa needed support in developing a civic identity. The older generation emerged as a key support system for young people in this study. This could be used to great advantage by educators, NGOs, the National Youth Development Agency, government departments, private companies and other facilitators in thinking creatively about ways to engage young people (across all key categories) in civic and political life. It was also evident that young people used a range of media to build their civic identities, that they used the media to access news, and that there are high levels of trust in the media in general. This was especially so for television content as its immediacy made it more believable for young people. The MDDA, which engages with community media across the country, should be required to engage more with young people about conceptions of relevance, trust and content targeting youth in general. The MDDA could also encourage recipients of its funding to target young people.

Willingness to vote, political activity and general interest in politics was particularly low amongst South African youth across the categories. The data further showed that young people are mistrustful of politics and political processes. The findings also generally showed that youth are uninterested in politics as a topic for media consumption. Two issues emerged in relation to these findings that needed further investigation. The first, is the disparity between respondents reporting low levels of interest in voting, but reporting relatively high levels of having actually voted in the last national and local government elections. The second issue to explore is a possible relationship between actual voting,willingness to vote and the low levels of trust in public and political institutions reported in the survey and in focus groups.

Youngpeople with access to the internet (whether through their mobile phones or laptop/PC) are using this resource to find information that is relevant to them. This is an avenue for further engagement with the youth if levels of access, literacy, affordability and usage are increased. This is particularly true for Black African youth, unemployed youth and youth with little or no schooling. Access to internet resources will allow young people to control the content they receive, find information and news that is relevant to their context and perhaps even generate contentof their own that can be shared by other youth. The use of search engines, and other online media do play a role in news awareness amongst some South African youth. It is also evident that because of the perceived lack of relevance in traditional media, those who can are using online sources to gather information and news that is relevant to them.

Media policies, including broadcasting policy, were inappropriately silent on youth issues. The National Youth Policy document addresses some of the issues related to technology where it proposes access to ICTs as one of the ways in which opportunities for young people can be enhanced. The policy document mentions ICT peer education as among the youth's responsibilities and proposes that young people should "engage in peer to peer education to promote youth development in areas such as literacy, use of information and communication technology, healthy lifestyles to prevent no communicable [sic] diseases like HIV and AIDS and others, violence prevention and peace building". This would be an important step towards responding to the needs of the South African youth as expressed in the survey and focus group discussions.

Recommendations

A disappointing gap in the Green Paper is the failure to include questions that invite an overall assessment of the state of transformation of the broadcasting landscape.

A key challenge is the fact that national policy recognises the existence of three distinct tiers of broadcasting, yet in reality, and more so in relation to television than radio, one tier has dominated (the commercial tier), with the other two tiers (community and public service) becoming subsidiary elements of that tier.

Even more significantly, the broadcasting landscape still reflects the 'two world' of the media-rich and media-poor that was referred to in the 1998 White Paper on Broadcasting, and that little progress has been made in the last ten years especially in addressing this gap.

If it remains unaddressed then there is a very real danger that the shift to a digital environment will widen this divide rather than narrowing it.

The Policy Review needs to take the needs of youth audiences particularly seriously, as they are the media users of tomorrow. Programming that speaks to youth issues and concerns should be promoted, and if necessary, subsidised through the Media Development and Diversity Agency and through funding provided to the SABC.

SECTION 4: Public broadcasting and the South African Broadcasting Corporation (SABC)

Chapter 8 includes a series of issues relating to the SABC: its governance, funding and future in the era of convergence of broadcasting and telecommunications. This submission deals with two specific issues: governance and political control of the SABC, and the future mandate of the SABC in the light of convergence.

In terms of the SABC's Articles of Association, which are agreed between the Department of Communications and the SABC, the three top management positions, the Group Chief Executive Officer (GCEO), Chief Operating Officer (COO) and Chief Financial Officer (CFO), are appointed by the Minister of Communications. This arrangement is almost certainly unlawful as it violates the requirement in the Broadcasting Act for the Board to control the SABC's affairs.This means that the Minister of Communications controls indirectly the editorial content of the SABC: an arrangement that is most likely unconstitutional as well, as it violates the SABC's right to freedom of expression. It doesn't matter if the Minister behaves properly and doesn't misuse this power through, for instance, removing a CEO or COO for making editorial decisions that embarrass the government. The fact that this power even exists is automatically ultra vires.

Therefore the Articles of Association need to be amended to make it clear that the Board appoints to the GCEO, COO and CFO, and not the Minister.

With regards to the mandate of the SABC, up to this point, public broadcasting has generally been practiced as a uni-directional, linear method of communicating from 'them' to 'us'. Potentially, digital media can change this communications model and turn public service communication into a genuinely interactive space. Web 2.0 tools and mobile media tools can and are being used to encourage audience participation, and incorporate user generated content into programming. So, at the very least, public broadcasters are challenged to increase their interactive media activity, which may need even need to become part of their licence conditions. This means that the SABC should be required to have a duty to interact in incorporated into its public service mandate.

But more fundamentally, policy-makers are challenged to re-think many of their old assumptions about what constitutes public service broadcasting, and whether this conception shouldn't shift to one that emphasises public service communication.

There are several positions that can be taken on the future of public broadcasting in the converged media environment. These are summarised as follows:

- Dismantle public broadcasting, as the proliferation of channels and content has made it obsolete, and let the market distribute media goods according to audience demand.
- Confine public service broadcasting (PBS) content to a narrow range of services traditionally associated with PSB. Variations on this approach include confining public broadcasting to linear point to multipoint broadcasting, and leave new media to the private media. PBS services can be reduced to addressing content and audiences where there is 'market failure'.
- Expand public service broadcasting to include any and all services that will deliver on the remit in socially relevant ways. This approach would consider the market failure argument to be insufficient, because it is not inspirational. In other words, it does not provide an alternative vision for the kind of society we want to live in, and the kind of media we want to see, and does not seek to transform the media to achieve that vision.

In response to the 'get rid of public broadcasting' argument, in many African countries, that approach simply is not an option, given the huge communications asymmetries between rich and poor. This approach will reinforce communications apartheid, and should be dismissed. So what remains to be debated is option two and three, and there are a number of scenarios in this regard:

- **Status quo scenario:** One possible scenario is for the public broadcaster to continue along its current path of linear broadcasting, with interactive aspects built into its services, including news and current affairs. But the underlying concept of public broadcasting remains essentially unchanged. This scenario may mean that it misses out on potential opportunities for creative synergies in the creation and distribution of news and current affairs content.
- **Public interest content provider:** Another scenario includes the public broadcaster being reconceptualised as a provider of public interest content services. So, the broadcaster would be responsible for content creation across a multiplicity of platforms, which means that the broadcaster would need to re-establish its in-house production capacity, as well as employing content providers for other platforms, or retrain existing staff to report for multiple platforms.
- **Public service publisher:** Alternatively, the broadcaster would be a facilitator of content produced by a range of service providers, as well as user generated content. To this end, the broadcaster would need to enter into a range of production and distribution agreements with content creators and distributors, which will require strong contract management skills and the will to take editorial risks. In this new model, the SABC would, for instance, act as a facilitator and navigator of on-line content.
- **Public interest communications agency:** This scenario is not in contradiction to those above, but a possible extension of those, and would involve the broadcaster opening up significant opportunities for user-generated content including citizen journalism and peer-to-peer communication and discussion around the content it carries. In this way, the corporation evolves to take on some functions akin to community media. What is significant from a public interest perspective is the extent to which it sets appropriate and distinctive policy parameters for all this, and the extent to which it enables participation by marginalised communities.[15]

It is this kind of re-conceptualisation of the previously distinct media and telecommunications sectors that needs to happen if the exciting possibilities of convergence are going to be realised. It is important that the silos of broadcasting and telecommunications are broken down, which means that the inherent strengths of converged media are promoted, such as the ability to enable communication-enabled citizenship through two-way communications.[16] This means that these countries are likely to lose out on the benefits of convergence as policy does not support them.

Recommendations

The SABC's articles of Association must be amended to ensure that the power to appoint the CEO, CFO and COO rests with the SABC's Board and not with the Minister of Communications.

The Policy Review should explore the possibility of a Public Service Publisher (PSP) being established, with the responsibility of commissioning, promoting, aggregating and distributing local content, as well as with ensuring the survival of local content in the digital media environment. The SABC could be assigned this responsibility. Alternatively, a separate PSP could be established. Content would be made available on a non-exclusive basis so that works could be shared across multiple platforms, incentivising the take-up of local content. The Policy should also consider an appropriate funding model for the PSP.

The Policy Review must include a review of the protection and viability of public broadcasting services in a digital multichannel environment. This review must consider all possible models for the existing public service broadcaster, the SABC, and ensure that the SABC is not marginalised in the digital environment, and must include policy proposals to reconceptualise public service broadcasting as public service communications. Future plans must place public service communications at the centre of the digital environment, not condemn it to the margins.

SECTION 5: South African local content regulations

Since the advent of democracy, the South African local content industry has experienced major growth, and South Africans have developed a strong appetite for local content. The success of many locally produced educational, drama programmes and soaps such as 'Generations', 'Muvhango', 'Sevende Laan' and 'Yizo Yizo', as well as the growth of the local music industry, have demonstrated that these quotas have been successful in stimulating demand for local content, and furthermore that South Africans are passionate about watching and listening to their own stories. However, as argued in the African National Congress's (ANC) discussion document on communications, compared to other countries such as Canada, Australia and Nigeria, South Africa has one of the lowest local content quotas in the world.[17]

Convergence presents a particular challenge for traditional local content regulations, as typically these regulations extend to legacy broadcaster and not to new media platforms, giving new media organisations a competitive advantage. Yet at the same time, given the

global nature of the internet, it is also exceptionally difficult to impose local content quotas on new media platforms. A further problem is that the multichannel environment is fragmenting adspend and television audiences, leading to the erosion of traditional revenue models that funded local content production. This means that if local content obligations are to continue, then different revenue models need to be found.[18]

Various options present themselves for local content regulation:
- Multi-platform option, where any new media platform would be required to carry South African content.
- Multi-platform option, where any television or radio-like service would be required to carry South African content.
- South African audience option, where all services that specifically address South African audiences would face South African content requirements.
- Business model option, where specific delivery models are targeted. This approach would target especially services where editorial or curatorial control is undertaken by the service provider, rather than the consumer assembling the content on-demand.
- Threshold option, where television or radio-like services above a certain audience or revenue threshold attract local content obligations.
- Subsidy only option, where local content quotas are removed entirely and replaced with a subsidy scheme to incentivise the production of local content.[19]

There are clearly strong arguments to maintain local content quotas. There are also strong arguments for this responsibility to be borne by the whole broadcasting system, not just the public broadcaster, as this would place unfair obligations on the SABC and ghettoise local content in one part of the broadcasting system. The concern for regulatory parity should not lead to local content quotas being removed simply because it is difficult to apply them to emergent services, as these services may take many years to reach maturity, and may not even take root at all. As the Australian Media, Entertainment and Arts Alliance have observed in response to the Australian Government's Convergence Review:

> Despite the talk of rapid technological change it is still early days on the road to convergence and viable business models for online television-like services are yet to emerge and audience expectation and demand for services has yet to fully form. It would be premature for the Committee to commit to any fundamental overhaul of the support system in place for Australian content when nobody really knows what the forms, structures and models will look like ten years into the future. It is one thing to regulate or introduce support measures where a platform has developed and been introduced (such as multichannels or subscription television), it is altogether another thing to remove or change current regulations and support measures on existing platforms when the new platforms or delivery methods have yet to be formed.[20]

Furthermore, the fact that local content has taken root so strongly is not sufficient grounds to remove the quotas on the basis that 'their job is done'. According to the ARC Centre for Excellence for Creative Industries and Innovation, based at the University of Queensland, when commercial free to air broadcasters have not been required to broadcast Australian

content, they do not do so. In New Zealand, where a free trade agreement has precluded the imposition of any local content quotas at all, and where local content production is incentivised through subsidies provided by New Zealand on Air, local programming declined as competition increased.[21]

For South Africa, the overall principle should be, though, that if services are targeting South African audiences as part of their business models, then they have an obligation to contribute to South African content. A possible option is for South African websites, or their hosts, to be required to meet local content quotas either by providing a certain amount of local content, or to display local content prominently on their sites (the first option). However, the logic of quotas does not translate very easily into the online environment. The rationale behind limiting the number of legacy broadcasters was to protect incumbent broadcasters from competition to an extent, so that they could reach the necessary economies of scale to afford local content. However, it is impossible to protect online publishers from competition in the same way. So they will be burdened with local content obligations of legacy broadcasters without enjoying any of the benefits of these broadcasters. Another possibility is to impose expenditure requirements on Internet Service Providers (ISP's), where ISP's are required to contribute a certain percentage of their annual revenue to a local content production fund.[22]

Broadcast-like content over the internet, like Internet Protocol Television (IPTV) should also be subject local content obligations to level the playing field between legacy and new media. However, considering the fact that many of these services, as well as many web-based services are new, they should only be made to bear obligations once they have reached a certain audience or subscriber or revenue threshold.

A further option, mentioned above, is to task the SABC with playing the role of a Public Service Publisher (PSP) with the responsibility of commissioning, promoting, aggregating and distributing local content, as well as with ensuring the survival of local content in the digital media environment. Alternatively, a separate PSP could be established, funding mainly from public funds. Content would be made available on a non-exclusive basis so that works could be shared across multiple platforms, incentivising the take-up of local content.

But funding these quotas remains a challenge. The establishment of a local content innovation fund, which all media producers could have access to, as proposed in the Public Service Broadcasting Bill of 2010, should be pursued.

Recommendations

Local content quotas should remain for existing broadcasters, but need to be reviewed as they are low. If services are targeting South African audiences as part of their business models, then they have an obligation to contribute to South African content, including music-specific television channels.

In cases where it is difficult for practical reasons to subject such new media platforms and services to quotas, expenditure requirements could be considered, where services such as

ISP's are required to contribute a certain percentage of their annual revenue to a local content production fund.

SECTION 6: Broadcasting diversity and concentration of ownership

The Green paper is largely silent on concentration of media ownership as a threat to media diversity. Media concentration is an important public interest issue, as dominance by a few groups can potentially lead to excessive control over opinion-formation. However, the media industry in many parts of the world have repeatedly argued for media ownership rules to be liberalised and for market forces to determine levels of plurality and diversity. Cross-media ownership rules have attracted particular criticism, as they have been seen as obstacles to cross-platform mergers that allow companies to take advantage of opportunities presented by convergence.

An assumption that is often made in policy reviews is that digitisation is automatically leading to greater diversity. According to website statistics released in September 2011 by Digital Media and Marketing Association's traffic measurement partner, Effective Measure, the top South African websites in terms of total traffic are as follows: News24, Howzit MSN (published by Kagiso MSN), Independent Online, Supersport, Sports24, MyBroadband, Times Live, Junkmail, Webmail, Vodacom. The picture is similar for South African traffic, as well as for mobile sites. This list however only includes South African websites which form part of the country's industry body, the Digital Media and Marketing Association (DMMA). The DMMA/Effective Measure list also does not list popular international websites like Google, Facebook orYouTube.[23]

This means that the most accessed South African sites are published largely by the already-dominant providers of news and entertainment, which calls into question whether the introduction of online and mobile sites has in fact increased diversity to the point where ownership rules have become anachronistic. According to Tim Dwyer and Fiona Martin, the major media groups in Australia made arguments in favour of deregulation on the face of convergence. The two most dominant media groups, Fairfax Media and News Corporation, expanded their news channels, but also intensified news sharing, leading to the following practices becoming commonplace:
- re-use of the same story across co-owned publications on the same platform,
- re-versioning, including updates and localization, for co-owned publications
- re-purposing for different platforms, eg. from radio to web, mobiles, personal digital assistants and e-readers.
- licensing and syndication, including to aggregator services like Yahoo News.
- archiving in digital repositories.[24]

These practices call into question the extent to which the internet is actually enabling more unique voices than in the past when legacy media dominated. Rather than encouraging innovation, relaxation of cross-media ownership rules combined with convergence can lead to media organisations promoting an 'echo chamber' which reinforces the same ideas, sources and opinions across multiple platforms.[25] According to Dwyer and Martin, '...whereas government licencing acted to regulate ownership diversity in the case of limited spectrum, under the conditions of information abundance, attention and bandwidth

constraints linking, aggregation and search work together to reinforce the dominance of 'popular publishers'.[26] These experiences strongly suggest the continued need for ownership limitations that limit the influence a single individual or company can have across multiple platforms. Furthermore, when cross-media ownership rules were relaxed in Australia to facilitate investment by allowing broadcasting licencees to pursue more cross platform synergies, the ownership of commercial broadcasting became more concentrated, with fewer companies holding mass media assets.[27]

Convergence does not automatically imply that cross-media ownership rules are anachronistic. According to the Australian Government's Convergence Review Discussion Document, there are broadly four options available to regulate media ownership in a convergent environment:
  1. No change to the current rules
  2. Broaden the scope of cross-media rules
  3. Retain the cross-media rules, and introduce a public interest test
  4. Abolish the cross-media rules, and introduce a public interest test.[28]

South Africa's existing ownership rules are, in fact, out of date as they remain confined to legacy media. Furthermore, ownership provisions in the Electronic Communications Act (ECA), that were taken from the IBA Act, set a finite numerical limit on the number of commercial licences, which fails to take into account growth in the number of commercial licences.

Also, the cross media ownership control clause forbids licencees from controlling a newspaper with an average weekly circulation of at least 25 percent of circulation. Given the fact that there is a large difference between readership and circulation in that one newspaper may be read by several people, this limitation actually allows for substantial control to still be exercised over a newspaper. The Authority's ruling that the ownership and control provisions in the ECA do not apply to subscription broadcasters was a regressive step for plurality and needs to be revisited. The fact that the IBA's Triple Enquiry report recommended that subscription broadcasting should be subjected to lighter touch regulation has in this case allowed space for the growth of a major media player (Naspers) in both legacy and new media spaces, to the detriment of plurality and diversity.

There are various criteria available to measure the extent of concentration, and decide on undesirable levels of concentration: these include the audience share model, the market share model, the licence holder share model, the capital share model and the revenue share model.[29] The Authority's existing criteria, based on the licence holder share model, with an audience share component for cross-media ownership, does not lend itself to an assessment of whether a single company is exercising a predominant influence on public opinion across a range of platforms. As a result, the Authority needs to apply its mind to alternative criteria for deciding on undesirable levels of concentration. Such criteria would need to cover existing platforms as well as new platform with significant public influence, which could be determined on the basis of a specified threshold of traffic to popular sites.[30]

A key problem the Authority faces in tracking the extent of concentration and diversity is that it has no objective means of assessing the extent of diversity, which cannot simply be

'read off' the number of existing media outlets. While a plurality of outlets is undoubtedly a necessary condition for diversity, it is by no means a sufficient condition. This means that the Authority needs a more refined measurement tool, which can assist in licencing decisions as well as in more general monitoring.

To this end, the Authority should consider developing a diversity of voices test, which would be used to monitor the extent to which existing patterns of ownership and control actually enable diversity of voices. There are various tools that are available to measure levels of diversity and concentration, such as the Herfindahl-Hirschmann Index. The Diversity Index, developed by the US Federal Communications Commission, involves determining the weight (market share) of various media and weighing the outlets within the same medium. Each owner's share of the total availability of one class of media is then multiplied by the share of the total media market. The shares of the properties that are commonly owned (such as television stations or newspapers) are then added. The square root of this calculation is the Diversity Index. However, this measurement tool has proved to be flawed, leading a search for a new tool. Broadly speaking, these tools are problematic in that they count the number of participants in a market, and not the diversity and dissemination of news; so they tend to privilege economic factors and not cultural factors.

There are other more empirical measurement tools, such a series of indicators that have been developed for the European Commission to assess risks to media plurality in member states. The research team that developed these indicators identified five risk domains where pluralism was threatened, namely:
- Cultural pluralism in the media.
- Political pluralism in the media.
- Geographic/ local pluralism in the media
- Pluralism of ownership and control
- Pluralism of media types and genres

Indicators have been developed for all these domains to evaluate the extent of the risks. If such a test were developed, it would also need to assess cumulative audiences across all mass media platforms, and hence be platform neutral.[31]

Recommendations

Policy should assert the importance of retaining and even broadening the scope of the current cross-media ownership rules.Existing criteria, based on the licence holder share model, with an audience share component for cross-media ownership, does not lend itself to an assessment of whether a single company is exercising a predominant influence on public opinion across a range of platforms. As a result, the Policy Review needs to consider alternative criteria for deciding on undesirable levels of concentration. Such criteria would need to cover existing platforms as well as new platform with significant public influence, which could be determined on the basis of a specified threshold of traffic to popular sites

Icasa's ruling that the ownership and control provisions in the Electronic Communications Act do not apply to subscription broadcasters was a regressive step for plurality, and should

be reviewed. National policy should make it clear that subscription broadcasters also need to be subject to ownership rules.

The Policy review should consider recommending the development a diversity of voices test, which would be used to monitor the extent to which existing patterns of ownership and control actually enable diversity of voices. The MPDP is in the processes of developing a media diversity measurement tool, and could make its research available on this issue once it is completed.

SECTION 7: The privacy of communications

While the Framing Paper recognised the right to privacy as an important foundational principal for the communications sector, little is said in the Green Paper about how this principle is meant to be operationalised in practice.

In 2005, the state's mass surveillance capacity was misused to spy on perceived opponents of the-then contender for the Presidency, Jacob Zuma. *Sunday Times* journalists Mzilikazi wa Afrika had his communications intercepted to track his journalistic activities, and in his case it emerged that the police had duped the designated judge into issuing an interception direction. Several politicians and activists have alleged that their communications are being surveilled, although it is difficult to say whether this is the case. The *Mail and Guardian* has quoted sources inside the police and State Security Agency alleging that security personnel often don't even bother obtaining directions to intercept communications. All of this makes the case for reforms to ensure that the state's surveillance capacity is not abused again.

South Africa has a law that governs the surveillance of domestic communications on both criminal justice and national security matters, the Regulation of Interception of Communications and Provision of Communications Related Information Act (RICA). In spite of the fact that its drafters attempted to strike the correct balance between the interests of justice and national security on the one hand, and civil liberties on the other, it ignores many of the most basic protections set out in the 'Necessary and Proportionate' principles, which are a set of principles developed by civil society on the application of human rights principles to communications surveillance. The principles were published in July 2013, and are available here: https://en.necessaryandproportionate.org/text

For instance, no-one is even informed that their communications have been surveilled, even after the investigation is complete. No information is available on the number of interceptions that actually result in arrests and convictions. The grounds for the issuing of interception directions are too vague, as they do not require probable cause or a similar level of finding. The granting of directions is an inherently one-sided process, as no ombud is present to represent users' interests; as a result, the process lacks an adversarial component.The level of secrecy in relation to communications surveillance is unacceptably high.

Influenced by the US's Communications Assistance for Law Enforcement Act, the South African Act forbids the provision of communications networks that are not capable of being surveilled, which threatens the right to privacy. By architecting security backdoors into

communications systems, governments are creating vulnerabilities that can be exploited by intelligence agencies and criminals alike. South Africans are also required to register their Subscriber Information Management (SIM) cards, in spite of the fact that this process threatens privacy and has proved to be relatively ineffective in the fight against crime.

An added problem is that foreign signals intelligence is completely unregulated by law, which is probably unconstitutional. The country's bulk monitoring capacity resides in the interception centre that undertakes foreign signals intelligence gathering; in other words, the state surveillance agency that has the greatest potential for mass surveillance is the one that is least regulated by law. In 2005 this bulk monitoring capacity was used to spy on the political critics of Jacob Zuma, who at that stage was contesting for the presidency against the incumbent, Thabo Mbeki. Furthermore, the Department of Trade and Industry has been funding the development of mass surveillance technology locally and some of this technology has been used by repressive regimes in North Africa. A recent report released by the Joint Standing Committee on Intelligence has raised fears about widespread illegal surveillance of communications. The report was damning about levels of disorganisation in the security services, and also raised concern that the provision for emergency interception of communication measures in Rica could have been abused. This report reinforces the need for serious attention to be paid to this area, and for well-considered reforms to be proposed where necessary.

Recommendations

All communications-related laws, including RICA, and that have the potential to violate the right to privacy unduly, should be brought into line with the 'Necessary and Proportionate Principles'. The Green Paper pays lip service to privacy as a basic human right, and the right should be integrated into the White Paper, which should include a review of all communications laws that impact negatively on the right to privacy.

SECTION 8: Cyber-security

Chapter Six of the Green Paper deals with issues relating to digital information age, including cyber-security. The policy notes that many countries are introducing cyber-security frameworks and strategies to deal with the multiple threats to online users, and South Africa is no exception. It makes mention of the fact that initially the responsibility for development of a strategy rested with the Department of Communications, but shifted to the Department of State Security. The overall implementation process is being led by the State Security Agency. The questions at the end of the Chapter relate to cyber-crime, but do not address the rather different concept of cyber-security, which implies that cyber-threats are conceptualised as threats to national security. There are problems with simply accepting this conceptualisation, and these are not acknowledged in the Green Paper.

The Minister of State Security, Siyabonga Cwele has commented in the past on the vulnerability of the country to cyber-terrorism and cyber-warfare. However, the main cyber-security threats in South Africa are not national security-related at all; they are criminal, and more specifically fraud-related, and the Green Paper acknowledges this. Phishing is the most common form of attack, with the distribution of malware, such as worms, being the

second biggest problem. While there is no denying that cybercrime is a terribly serious issue, there are unexamined implications for users' internet rights of simply accepting that what is a criminal matter is so grave a threat that it should be escalated to a national security threat, and that therefore the Ministry of State Security should become the lead agency on cyber-security matters.

The best defences against cyber-crime are technical and social in nature. The fight against phishing requires the widespread use of anti-spam software and user education, to encourage users to change their behaviour and refrain from providing their sensitive information to criminals. Such threats can be dealt effectively through an information policy that protects information systems from unauthorized access, use, disclosure, disruption, or destruction, rather than through a national security policy. Yet it appears as though the problem has already been escalated to a national security threat, as the government's Cyber-security Policy Framework has been transferred from the Ministry of Communications to State Security. The Framework is due for release in August, yet no public comment has been sought on it, which should already sound warning bells.

Many public statements, both here and elsewhere (especially the United States) on the issues of cyber-security are marked by over-statements, which create public panic and pave the way for policy over-reactions that securitise and militarise cyberspace prematurely. These over-reactions often lead to emergency measures that erode civil liberties - especially privacy, expressive and associational rights - and these erosions soon become normalized as permanent ways of life. In the words of Brunel University's Mark Neocleous, 'Whatever example we use, the pattern is the same: an "emergency" occurs in which "security" is threatened; existing emergency powers are exercised and new ones put into place; these are then gradually "stretched" beyond their original scope; this stretching is gradually justified and legitimised, until the police and security forces are exercising the powers way beyond their original context, to the extent that they become part of the everyday functioning of the rule of law: the emergency becomes permanent, the exceptional becomes the rule, and the sun fails to set on the sunset clauses'.[32]

A nexus has developed in other countries between the security industry and governments, where the former hypes cyber-security threats to ensure larger government budgets and hence more consultancy-spend, while the latter hypes them to increase internet controls. In spite of Cwele's warnings about the country's vulnerability to cyber-terrorism, this is an over-rated threat. It is difficult to mount a cyber-attack that threatens critical national infrastructure, and their outcomes remain unclear; as a result, terrorists have stuck largely to physical attacks of the analogue variety. In fact, according to cyber-warfare academic Thomas Rid, no recorded cyber-attack has led to loss of life, injury or damage to a building.[33]

In attempting to justify increasing their powers over the internet, governments often refer to the cyber-attacks on Estonia in 2007 and Georgia in 2008, when the countries' major institutions were subjected to distributed denial of service attacks. While they accused the Russian government of being behind the attacks, investigations traced the perpetrators to Russian 'hacktivists' and criminal botnets. A scientist at the NATO Co-operative Cyber Defence Centre of Excellence has stated that the immediate impacts of the attacks were minimal to non-existent, and that no critical services were permanently affected.[34] Yet

cyber-security policies continue to be developed based on dread risks or worst case scenarios that will probably never occur as feared, leading to mis-allocations of public resources.[35]The one cyber-attack that came closest to cyber-warfare, although it didn't fulfill all the criteria, was launched by the one government that has been shouting the loudest about the threat of cyber-warfare, namely the US. Shortly after assuming office, Obama ordered a cyber-attack to disable Iran's nuclear systems, using the Stuxnet worm developed by the US and Israel. But such attacks are highly resource-intensive, making them relatively unpopular warfare choices.

South Africans need to be particularly vigilant when examining whether cyber-crime should be securitized. National security offenses are generally punished much more harshly than ordinary crimes, and the state security organs are particularly secretive, making them even more susceptible to abuse. Furthermore, South Africa has a broad definition of national security, drawn from human security conceptions of national security. Evidence has emerged that this definition has allowed the intelligence agencies to become, effectively, state watchdogs of society, leading to inappropriate interventions in aspects of the country's politics. So, fears that new powers over the internet may be abused are not entirely unjustified.

Cyber-security is a relatively new issue for policymakers, but already it has proved to be notoriously susceptible to premature securitization. Over-statements on cyber-security must be challenged, and there needs to be a proper debate backed up by empirical evidence of the source and nature of the threats.

Recommendations

Unless a compelling case, backed up by a properly researched evidence base, is made for why cyber-security needs to become the responsibility of the Department of State Security (and its hasn't yet), the responsibility for this issue should be transferred back to the Department of Communications, which should deal with the matter principally through an information security framework and strategy.

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