

**Media accountability mechanisms in South Africa – a critical study of the regulatory bodies for print,
broadcast and online media, and a model for regulation**

by

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DECLARATION:

I declare that *Media accountability mechanisms in South Africa – a critical study of the regulatory bodies for print, broadcast and online media, and a model for regulation* is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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I further declare that I have not previously submitted this work, or part of it, for examination at Unisa for another qualification or at any other higher education institution.

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KEYWORDS

Accountability, Broadcasting, Broadcasting Complaints Commission of South Africa, BCCSA, Media, Media Accountability, Media Accountability Mechanisms, Media Accountability Systems, Media Accountability Instruments, Media Regulation, Online Media, Online Media Accountability, Online Media Regulation, Press Council, Press Council of South Africa, Press Code, Print, Regulation, Regulatory Bodies, South Africa.

ABSTRACT

Media accountability mechanisms in South Africa – a critical study of the regulatory bodies for print, broadcast and online media, and a model for regulation, investigates the effectiveness of the media-initiated regulatory institutions in South Africa. Questioning “to what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?”, evaluating the media councils' functioning and fitness-for-purpose in the South African context, the comparative case study evaluates the Broadcasting Complaints Commission of South Africa and the Press Council of South Africa.

The study explores the councils' operations, records, organisational procedures, and mandates, drawing on textual and document analysis methods, and interviews with chairpersons, directors, and ombudspersons. Adopting an audience-centred approach, the study centres the public complainants' experiences of the institution through an in-depth analysis of the complaint's resolution process. The analysis is informed by observations of a selection of cases and supported by qualitative interviews with the core participants in the complaint's resolution process; namely, the public complainant, the media respondent, and the regulatory adjudicator.

The study finds that, while the media councils operate and rule on complaints successfully, they may not be entirely fit-for-purpose within the current South African context. The thesis proposes a set of structural and procedural considerations, offering a model of regulation which centres public participation, responds to digitalisation, and supports the collaboration of councils through cross-platform engagement. The model also signals the value of developing media accountability systems and media accountability instruments in support of media councils and their mandate to raise media standards. Theorising the relationship between the citizenry, the media and their accountability processes, the study examines media regulation as a public service and explores the notion of regulatory bodies as a public good. The study further affirms the need for public participation and accessibility, noting these indicators of the institution's fitness to serve its South African audience.

OPSOMMING (AFRIKAANS TRANSLATED ABSTRACT)

Media-aanspreeklikheidsmeganismes in Suid-Afrika – 'n kritiese studie van die regulerende liggame vir gedrukte, uitsaai- en aanlynmedia, en 'n model vir regulering

Media-aanspreeklikheidsmeganismes in Suid-Afrika – 'n kritiese studie van die regulerende liggame vir gedrukte, uitsaai- en aanlynmedia, en 'n model vir regulering, ondersoek die doeltreffendheid van die media-geïnisieerde regulatoriese instellings in Suid-Afrika. Die vergelykende gevallestudie bevraagteken mediarade se funksionering en geskiktheid vir doel in die Suid-Afrikaanse konteks, en evalueer die Uitsaai- en Reguleringskommissie van Suid-Afrika en die Persraad van Suid-Afrika.

Met behulp van tekstuele en dokumentontledingsmetodes en onderhoude met voorsitters, direkteure en ombudspersone, verken die studie die rade se werksaamhede, rekords, organisatoriese prosedures en mandate. Deur 'n gehoorgesentreerde benadering aan te neem, sentreer die studie die publieke klaers se ervarings van die instelling deur 'n in-diepte ontleding van die klagtes se oplossingsproses te onderneem. Die ontleding word ingelig deur waarnemings van 'n seleksie van sake wat ondersteun word deur kwalitatiewe onderhoude met die kerndeelnemers in die klage se oplossingsproses, naamlik die openbare klaer, die media-responent en die regulatoriese beoordelaar.

Die studie bevind dat, alhoewel die mediarade suksesvol funksioneer, hulle dalk nie heeltemal geskik is vir die doel vir die huidige Suid-Afrikaanse konteks nie. Die tesis stel 'n paar strukturele en prosedurele oorwegings voor, wat 'n model van regulering bied wat openbare deelname sentreer, op digitalisering reageer, en die samewerking van rade deur kruisplatform-betrokkenheid ondersteun. Die model dui ook die waarde van die ontwikkeling van media-aanspreeklikheidstelsels en media-aanspreeklikheidsinstrumente ter ondersteuning van mediarade en hul mandaat om mediastandaarde te verhoog, aan. Die studie teoretiseer die verhouding tussen die burgers, die media en hul aanspreeklikheidsprosesse, asook mediaregulering as 'n openbare diens en ondersoek die idee van regulerende liggame as openbare goed. Verder bevestig die studie die behoefte aan publieke deelname en toeganklikheid, en neem kennis van hierdie aanwysers van die instelling se geskiktheid om sy Suid-Afrikaanse gehoor te dien.

ISISHWANKATHELO (ISIXHOSA TRANSLATED ABSTRACT)

IYunivesithi yoMzantsi Afrika

ISebe leNzululwazi yoNxibelelwano

**Iindlela zokuphendula kwamajelo eendaba eMzantsi Afrika – uphando oluhlalutya
amaqumrhu alawula ezoshicilelo, ezosasazo namajelo eendaba angeintanethi, kunye
nomfuziselo wommiselo**

nguTaryn Isaacs De Vega

*Olu phando lweendlela zokuphendula kwamajelo eendaba eMzantsi Afrika – luphando oluhlalutya
amaqumrhu alawula ezoshicilelo, ezosasazo namajelo eendaba angeintanethi, kunye nomfuziselo
wommiselo, oluphanda ukusebenza kwamaziko olawulo asungulwe ngamajelo eendaba eMzantsi
Afrika. Esi sifundo ngomzekelo sothelekiso siphonononga iKomishoni yeZikhalazo zoSasazo
yoMzantsi Afrika kunye neBhunga leeNdaba loMzantsi Afrika, ngokubuza ukusebenza
kwamabhunga amajelo eendaba kunye nokufaneleka kwenjongo yawo kwimeko yoMzantsi Afrika.*

Olu phando luhlola imisebenzi, iinkcukacha ezigciniweyo, iinkqubo zequmrhu, kunye
nokugunyaziswa kwala mabhunga, ngokutsala kwiindlela zokuhlalutya okubhaliweyo namaxwebhu
kunye nodliwanondlebe noosihlalo, abalawuli kunye noosozikhalazo okanye oonozikhalazo. Olu
phando lugxininisa amava ezikhalazo zoluntu kula maziko ngohlalutyo olunzulu lwenkqubo
yokusombulula izikhalazo, ngokusebenzisa indlela ejoliswe kwabo ekugxilwe kubo. Uhlalutyo
luhambelana nemigqaliselo yokukhetha izehlo ezithile, luxhaswa ludliwanondlebe
lophandontyilazwi kunye nabathathinxaxheba abangundoqo kwinkqubo yokusonjululwa
kwezikhalazo, oko kukuthi uluntu olufaka izikhalazo, umntu ophendulela amajelo eendaba kunye
nomgwebi wezolawulo.

Olu phando lufumanisa ukuba ngelixa amabhunga amajelo eendaba esebenza ngempumelelo,
asenokungafaneleki ngokupheleleyo kwimeko yangoku yoMzantsi Afrika. Le thisisi iphakamisa

iindidi ezahlukileyo zeengqwalasela zolwakhiwo nenkqubo, inikeza umfuziselo wommiselo ojolise ekuthatheni inxaxheba koluntu, ukuphendula kwidijithali, kunye nokuxhasa intsebenziswano kumabhunga ngokuzibandakanya namaqonga amaninzi. Lo mfuziselo ukwabonisa ixabiso lokuphuhlisa iinkqubo kunye nezixhobo zokuphendula kwamajelo eendaba ekuxhaseni amabhunga amajelo eendaba kunye nogunyaziso lwawo lokunyusa imigangatho kula majelo eendaba. Ngokuyamisa ithiyori kubudlelwane phakathi kwabemi, amajelo eendaba kunye neenkqubo zawo zokuphendula, olu phando luchaza ummiselo wamajelo eendaba njengenkonzo yoluntu kwaye luphonononga ingcinga ethi amaqumrhu alawulayo abonwa njengazenzo zawo zilungele uluntu. Olu phando luqinisekisa ngakumbi imfuneko yokuthatha inxaxheba nokufikelela koluntu kula maqumrhu, luphawula ezi zalathisi zokufaneleka kwala maziko ekuncedeni abo ajolise kubo boMzantsi Afrika.

IQOQA (ISIZULU TRANSLATED ABSTRACT)

INyuvesi YaseNingizimu Afrika

UMnyango Wezesayensi Yezokuxhumana

izindlela zokuziphendulela kwabezindaba eNingizimu Afrika – ucwaningo olubalulekile lwemigwamanda elawulayo yokugaywa kwamaphephandaba, ukusakaza, imithombo yokwazisa nge-intanethi, kanye nemodeli yokulawula.

NguTaryn Isaacs De Vega

Izindlela zokuziphendulela kwabezindaba eNingizimu Afrika – ucwaningo olubalulekile lwemigwamanda elawulayo yokugaywa kwamaphephandaba, ukusakaza, imithombo yokwazisa nge-intanethi, kanye nemodeli yokulawula, luphenya ukusebenza ngempumelelo kwezikhungo zokulawula ezisungulwe abezindaba eNingizimu Afrika. Ukubuza ngokusebenza nokulungela ukufeza izinjongo kwemikhandlu yabezindaba kumongo waseNingizimu Afrika, ucwaningo oluqhathanisayo luhlola umgudu wokufaka izikhalo owaziwa ngeBroadcasting Complaints Commission of South Africa kanye nomkhandlu wezokugaywa kwamaphepha waseNingizimu Afrika owaziwa ngePress Council of South Africa.

Ucwaningo luhlola imisebenzi yemikhandlu, okukhona okuqoshiwe, izinqubo zenhlangano, kanye nemiyalo, luthatha ezindleleni zokuhlaziya imibhalo nemiqulu kanye nezingxoxo nosihlalo, abaqondisi kanye nabangeneleli. Ukulandela indlela egxile kuzethameli, ucwaningo lubheka lokho labo abafake izikhalazo ababhekane nakho ezikhungweni ngokuhlaziya ngokujulile inqubo yokuxazululwa kwesikhalazo. Ukuhlaziywa kuncike ekubhekweni kwezigigaba ezikhethiwe, okusekelwe yizingxoxo eziqukethe amaqiniso kanye nababambiqhaza abasemqoka enqubweni yokuxazululwa kwesikhalazo, okungummangali womphakathi, ophendulayo kwabezindaba kanye nomahluleli olawulayo.

Ucwaningo luthola ukuthi nakuba imikhandlu yabezindaba isebenza ngempumelelo, kungenzeka ukuthi ayikulungele ngokuphelele ukufeza izinjongo ngokomongo wamanje waseNingizimu Afrika. Umbhalo wocwaningo uphakamisa iqoqo lokungacatshangwa ngakho maqondana nesakhiwo

nenqubo, unikeza imodeli yomthethonqubo egxile ekubambeni iqhaza komphakathi, ohambisanayo nokwenziwa kwezinto zisebenze ngekhompuyutha, futhi usekela ukubambisana kwemikhandlu ngokuxhumana ezinkundleni ezahluahlukene. Le modeli iphinde ibonise ukubaluleka kokusungulwa kwezinhlelo zokuziphendulela kwabezindaba kanye namathuluzi okuziphendulela ekusekeleni imikhandlu yabezindaba kanye nasemsebenzini wayo wokuphakamisa amaqophelo abezindaba. Ukucabanga ngobudlelwano phakathi kwezakhamuzi, abezindaba nezinqubo zabo zokuziphendulela, ucwaningo luveza imibono yezinjulalwazi yokulawulwa kwabezindaba njengomsebenzi ohlinzekelwa umphakathi nohlola udaba lwemigwamanda elawulayo njengempahla yomphakathi. Ucwaningo luphinde luqinisekise isidingo sokubamba iqhaza komphakathi kanye nokufinyeleleka, luphawula lezi zinkombazilinganiso zokulungela kwezikhungo ukuhlinzeka izethameli zaseNingizimu Afrika.

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LIST OF ABBREVIATIONS

| | |
|-------|--|
| AI | Artificial Intelligence |
| AIP | Association of Independent Publishers |
| ABC | Audit Bureau of Circulations of South Africa |
| ARB | Advertising Regulatory Board |
| BCCSA | Broadcasting Complaints Commission of South Africa |
| FCJ | Forum of Community Journalists |
| IABSA | Interactive Advertising Bureau South Africa |
| IBA | Independent Broadcasting Authority |
| ICASA | Independent Communications Authority of South Africa |
| MAI | Media Accountability Instruments |
| MAM | Media Accountability Mechanism |
| MAS | Media Accountability Systems |
| MPDP | Media Policy and Democracy Project |
| NAB | National Association of Broadcasters |
| NMT | Namibia Media Trust |
| PC | Press Council |
| PCSA | Press Council of South Africa |
| SA | South Africa |
| SABC | South African Broadcasting Corporation |
| SANEF | South African National Editors' Forum |

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CHAPTER 1: INTRODUCTION

Media accountability is central to the continued freedom of the press in South Africa (Hadland 2007; Kruger 2009; Berger 2010; Reid 2021; Wasserman 2022). Media accountability, and its institutions, enable a 'free press' through non-statutory regulatory processes, consequently fending off state intervention and supporting democracy (ibid). This thesis explores the argument that the press is free in a democratic society, and to maintain this media freedom, the media must be held accountable through media accountability systems (Bertrand 2000), which are fit-for-purpose in their relevant contexts (Berger 2010). The thesis analyses South African media councils as one of the country's media accountability systems, finding that these councils are functional and satisfactorily operate as complaints resolution institutions. The study identifies gaps in both councils operations and proposes that for the councils to operate more effectively, they should consider concrete possibilities for improving efficiency and responsiveness.

The study outlines a few areas in which the councils could be more effective, with public access and digitalisation being the two areas of significant concern. Firstly, the study notes a need to ensure public access, support public participation in accountability processes, inform the public more intentionally, and engage with the public about the organisation and its future. The study purports that media serve a democratic function, which can be furthered through the public's support and participation in its policy processes (Reid 2017; 2021). This includes media councils which serve as mechanisms to hold the press responsible and answerable (Wasserman 2022) in the public interest. The study recommends that these councils further evaluate their potential to operate as a media accountability mechanism in the public interest.

Secondly, the study notes the need to adapt to the digitalisation of the media, globally, and in South Africa, in particular. The study echoes the findings on digital transformation in Africa (Mutsvairo, Ragnedda & Skare Orgeret 2021) and recommends that media councils in South Africa adopt a unique response to media digitalisation. This could be achieved by considering a Glocal practice (Wasserman & Rao 2008) that is fit-for-purpose (Berger 2011) using an audience-centred approach (Reid 2019) to support audience participation, in response to South Africa's unique and nuanced adaptation to digitalisation of the media.

The study explores a body of literature finding that whilst multiple studies have investigated media accountability and regulation in South Africa with a focus on the relationship between the media and

the state, very few have investigated the relationship between media accountability and the public. The study, thus, aligns with the debates that media councils, as accountability mechanisms, should be linked to discussions on public interest (Tettey 2002; 2006; Silva & Paulino 2007). By considering the media accountability institutions and processes as feedback mechanisms for readers, viewers, and listeners to respond to and complain about poor media production and reportage standards, this thesis argues for the inclusion of the public within media accountability mechanisms. The study theorises media councils as a public good (self-funded through the media) and promotes the inclusion of the public through audience-centred policy and organisational processes (Reid & McKinley 2020), to further the public sphere and the debates around media accountability in the digital age.

1.1 Background to the study

The question of "who watches the watchdog? [has led to] exploring mechanisms for media accountability" in Africa (Tettey 2002: 26). Media Councils can be argued to be such a mechanism (Tettey 2006), as councils provide a link between the media and the public, allowing the public to complain about media reportage that is not regarded as public interest or deemed unsuitable or unethical. With this critical function, media councils have become integral to global media freedom and media accountability operations.

Although media councils are a universally accepted method of accountability, there is no universal application method, as each council is specific and unique (Berger 2011). Whilst councils originated with the Swedish Court of Honour in 1916 (Kruger 2009: 17), one model for all contexts does not exist, as the shape and implementation of the council depends on the context and conditions in which it operates (Berger 2011: 37). Thus, studies on media accountability require that research be grounded in context and locality (Nyamnjoh 2010), foregrounding the socio-economic and politico-historical nuances that inform the councils' direction and operational conditions.

In South Africa, the media and its accountability are woven into the political journey of the country and its evolution from apartheid pariah to constitutional democracy (Hadland 2007: 19). A once oral and visual culture (Mkhize 2021), the colonial and apartheid media deeply structured along racial lines, divided its readers along language groupings, race and alliances to the apartheid governance structures (Wasserman & de Beer 2005; Milton & Fourie 2015; Chiumbu & Motsaathebe 2021). Thus, furthering the apartheid ideology on segregation into its media offering. In the decade after democracy, the ethical standards of the media were either aligned to the white oligarchic minority

rule or opposing it in favour of democracy (Wasserman & de Beer 2005: 36), a debate publicly available through the Truth and Reconciliation Commission (TRC) (Hadland 2007: 109).

Three decades after the shift to democracy in South Africa, many changes in media, society and governance have occurred. Debates about the media, its purpose, and its accountability have raged since 2007 when the ruling African National Congress (ANC) called for a public enquiry into media accountability mechanisms in the public interest (Berger 2010; Duncan 2011). Due to the scrutiny of the Press Council of South Africa, the possible introduction of the Media Appeals Tribunal (MAT) and the threat of the Protection of State Information Bill (Reid 2014: 59), the issue of media accountability was revived as a matter of public interest, resulting in the need for accurate research to inform the process.

Large bodies of knowledge were generated through the scholarly efforts of researchers who examined the Press Council of South Africa (PCSA) and, to a lesser extent, the Broadcasting Complaints Commission of South Africa (BCCSA), as these bodies are the core complaints mechanisms in the country. Despite the existence of these bodies over the past few decades, there has been increased criticism of the media, their standards of reportage and their lack of accountability within the public sphere (Satchwell et al. 2021). Regardless of these media councils, commentators find that the media's credibility continues to dwindle under public scrutiny caused by unethical journalism and media production (SoN 2018: 3). More recently, the relationship between the South African media and its audiences has been tested by allegations of fabricated interviews (GroundUp 2020); issues of fake news (Wasserman 2020); concerns of chequebook journalism (Chabalala 2019) brought to light in the Zondo Commission (Smit 2019); cases of misinformation (Rupiah 2018, Wasserman 2022); and defamation (Metelerkamp 2022; Broughton 2022) which have altered the dialogues about journalism nationally. With a relationship already strained by online media reportage and trust in the media dwindling (Ropper 2022), it can be asserted that these widely publicised failures have further decayed public trust and eroded the relationship between the media and its audiences.

As the battle over media accountability ensued, the Broadcasting Complaints Commission of South Africa (BCCSA) and the Press Council of South Africa (PCSA) remained central to the debate. These institutions are fundamental to the country's media accountability as the principal mechanisms for complaints against the broadcast and print/online media. This research, and additional insight into these institutions, their function, process, and level of responsiveness, could potentially contribute to the national debate and the formation of policy on the issue.

1.2 Problem statement

The debates on the relevance of media accountability and the mechanisms which enable them are not unique to South Africa. Journalists are held responsible for their reportage in their varying localities (Berger 2011), resulting in rich and extensive studies of media accountability and regulation locally and abroad. Within South Africa, the form and structure of media accountability mechanisms have been extensively debated since 2007, when the government and the media disagreed strongly on the system of regulation and the policy which was to inform it (Berger 2010; 2011; Thloloe 2012; Duncan 2011; 2014; Reid 2012; Cilliers & Froneman 2014; Reid & Isaacs 2015a). Considering the continued public, media and state interest in media accountability, and the critical role fulfilled by these entities, continued research on media accountability is necessary to document and analyse these mechanisms in service of the public interest.

Studies often examine media accountability by studying media councils, as the institutions are regarded as the custodians of media accountability (Pritchard 1991; Sawant 2003; Kruger 2009; Froneman 2011). These studies examine the effectiveness of media accountability institutions, often termed press councils or media councils, analysing reports on statistics and performance provided by the regulatory institutions being investigated, supported by interviews with regulatory leaders and ombuds from the institutions. Thus, resulting in research reflecting an institutional voice on the effectiveness of the regulatory body and process. Whilst this research is valuable, it has two significant flaws; firstly, it ignores the experiences and viewpoints of the public complainants who are the users of the system; and, secondly, provides a one-sided view of media councils as the sole authority on media accountability.

Considering these two significant pitfalls of media accountability research projects, this study seeks to counter the normative research approach by investigating media councils and the regulatory process from the perspective of the media user/public complainant. Firstly, by viewing the media accountability process as a mechanism (Silva & Paulino 2007; Tettey 2002) of audience feedback reflecting the concerns of the public about the media, their media production and reportage practices. Secondly, by questioning the adaptability of media councils to the digital evolution of the media. Thirdly, by evaluating the media council and the regulatory process as part of a more extensive media accountability system (Bertrand 2000), which decentralises the power and authority on media standards of responsibility to include the potential of the public as the third actor in the model of

accountability (Christians 1989), allowing civil society and media organisations to hold the media accountable for their actions and reportage (Silva & Paulino 2007). Finally, this study calls for the relationship between media councils to be strengthened through cross-platform engagements (Reid & Isaacs 2015b), which would support a more independent appeals process for complaints (see findings in chapters 4-7) and respond better to the emerging challenges resulting from digitalisation and media convergence online (see findings in chapters 4-7).

1.3 Thesis statements

The thesis investigates the theoretical, methodological, and empirical normative assumptions about media councils, generally, and South African media councils, in particular. The resulting thesis statements (TS) relate to the findings on the literature (TS1, TS2), methodology (TS3), and the results of the thesis (TS4, TS5 and TS6).

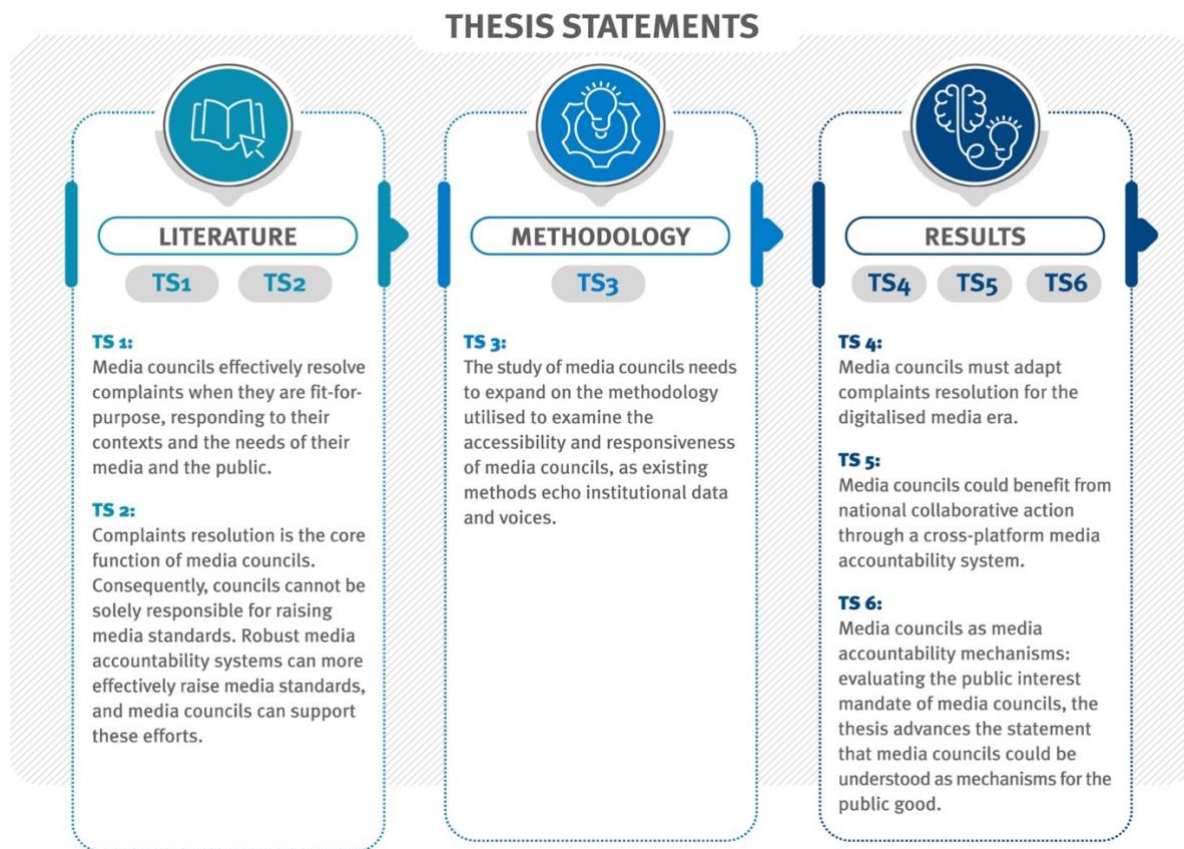


Figure 1: Thesis statements

TS 1: Media councils effectively resolve complaints when they are fit-for-purpose, responding to their contexts and the needs of their media and the public.

Whilst media councils are operational worldwide, they have nuanced interpretations depending on the context in which they operate. Noting the current context and operations of South African councils, the study finds that whilst the councils are successfully resolving complaints, some are not fit-for-purpose in the South African context (Berger 2010). The thesis recommends that certain areas be addressed to improve and respond to its contextually nuanced needs. The thesis affirms the need to evaluate media councils according to three criteria including their processes, the place in which they are situated and the people they serve.

TS 2: Complaints resolution is the core function of media councils. Consequently, councils cannot be solely responsible for raising media standards. Robust media accountability systems can more effectively raise the media standards and media councils can support these efforts.

Media councils were founded to raise media standards. Yet, as the mandate of media councils is to reactively respond to complaints from the public and offer effective complaints resolution, these mechanisms cannot be solely responsible for journalists' ethical conduct and accountability. As this task becomes more challenging, as detailed by the numerous issues evidenced in Chapter 2, the thesis recommends that media councils form part of and are strengthened by other Media Accountability Systems (Bertrand 2000), which also work toward raising media standards. The media, together with media accountability systems and instruments (Bardoel & D'Hanens 2004; Eberwein, Fengler, Lauk & Leppik-Bork 2011) can effectively raise media standards. Media councils should support these efforts and further communicate its possibilities to its members to support the development of accountability systems within newsrooms.

TS 3: The study of media councils needs to expand on the methodology utilised to examine the accessibility and responsiveness of media councils, as existing methods echo institutional data and voices.

The thesis evaluates the press council and media councils as a media accountability mechanism and recommends that studies on mechanisms need to find new methods of exploring councils, resulting in differing success and efficiency indicators. The thesis recommends three approaches to research

design (further elaborated upon in Chapter 3), which recommends: a) using a case study methodology supported by an array of methods to analyse a complaint from its inception to its resolution; b) adopting an audience-centred approach to research and policymaking processes (Reid 2017; Reid & McKinley 2020); and, c) examining the functionality of councils related to their mandates.

TS 4: Media councils need to adapt complaints resolutions for the digitalised media era.

Whilst media councils are effectively resolving complaints, as the media is adapting to the digital era, the councils which regulate them need to be equally responsive. South African audiences currently use print, online and broadcast media (Rumney 2022), with the latter being their primary source of news access (Rumney 2022). Yet, there is deep concern regarding the digital migration of television and broadcast services in the country (SOS Coalition 2020; Gov Gazette 2022), as South African internet access and penetration differ. Thus, South African media councils need to consider a Glocal approach (Wasserman & Rao 2008) to digital adaption to ensure the process is accessible and fit-for-purpose (Berger 2011) for South African audiences.

TS 5: Media councils could benefit from national collaborative action through a cross-platform media accountability system.

To respond to the two key issues affecting the councils' success, namely jurisdictional overlap due to digitalisation/convergence and the need for an independent appeals process, the BCCSA and the PCSA could be strengthened through collaborative efforts (see the model in Chapter 7). Through a cross-platform media accountability mechanism (Reid & Isaacs 2015b), national councils can share resources, expertise, and processes through a collaborative effort. The third major issue related to the role of the public could be strengthened by a shared cross-platform commitment to the public, their interests and greater participation. However, as their current approach to the public differs exponentially, the councils would require different approaches to implementation.

TS 6: Media councils as media accountability mechanisms: evaluating the public interest mandate of media councils, the thesis advances the statement that media councils could be understood as mechanisms for the public good.

The thesis asserts that information can be theorised as a public good (UNESCO 2021) and journalism can be practised as a public good (UNESCO 2022). Its accountability could, thus, be understood as a public good, rendering media councils as institutions for the public good, more than just institutions operating within the public interest. The thesis argues that media councils can operate as a public good by: i) acting in the public interest; ii) providing a mechanism for public feedback; iii) supporting public engagement; and, iv) enhancing the public sphere. All this can be achieved through co-regulation, independent regulation, or uncaptured/mindful self-regulation. The notion of the public good differs from more traditional analysis of the term, as these are usually associated with public funds, taxpayers funding and government intervention. As the thesis continues to echo traditional research findings that non-statutory regulatory bodies are the most effective means of regulation, it recommends that the funding model for the public good cannot be tied to the state through process or funding. To preserve the independence of the regulatory institutions in question, the councils could be self-funded by the media or co-funded by the media and civil society/public funds (as the sustainability crisis remains a reality for the media and its regulation). If funded partially through state administered public tax funds, these should be viewed as independent of the state and treated similarly to Chapter 9 institutions which “strengthen constitutional democracy” (South African Constitution 1996, Chapter 9) and operate independently and impartially to “exercise their powers and perform their functions without fear, favour or prejudice” (South African Constitution 1996, Chapter 9). Similar proposals have been made regarding the state broadcaster to support the independence of state-funded media institutions in the country (SOS Coalition 2019).

1.4 Purpose of the research

The study *Media accountability mechanisms in South Africa – a critical analysis of the regulatory bodies for print, broadcast and online media and a model for regulation* investigates the functioning of South African media councils. The study explores the BCCSA and the PCSA, and the extent to which the media councils are effectively resolving complaint's resolutions alongside the other mandates of the mechanisms, such as holding the media to account (Krüger 2011), maintaining media freedom for media producers (Reid 2017), and protecting the "rights of media users and the audiences" (Reid 2017) in the public interest. The purpose of this study is to:

1. Contribute to the scholarship and theory on media accountability mechanisms in South Africa,

2. Document the two most popular mechanisms, and study these accountability institutions, and their functionality and fitness-for-purpose,
3. Uncover the experiences of their users by embedding an audience-centred approach to research,
4. Model the media council as a media accountability mechanism, operating in the public interest and possibly as a public good,
5. Investigate and support the relationship between the media councils and their external accountability systems.

1.5 Research questions

The study seeks to answer the primary research question:

RQ 1: To what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?

To answer this primary research question, the following secondary research questions were identified:

RQ 2: Are the institutional mechanisms functional?

RQ 3: Do the MAMs respond to the needs of the public?

RQ 4: Are the MAMs satisfactory/competent? And relevant to its contextually stipulated requirements?

RQ 4.1: Should the current MAMs prove to be satisfactory/competent, what recommendations can be made to improve the current systems in place?

RQ 4.2: Should the current MAMs or elements of the MAMs prove not to be ‘fit-for-purpose’, what alternative model can be adopted?

1.6 Significance of the study

In service of the public interest and improving media accountability, this study contributes to the body of knowledge on media accountability mechanisms for broadcast, print and online media. Through the study of the BCCSA and the PCSA, this study explores, documents, analyses, and theorises the mechanisms, their functionality and effectiveness in the South African context. The study offers an understanding of the mechanism and the complaints process, from the point of laying a complaint to its resolution, harnessing the voices of key role players, with a particular focus on the complainants' experience of the process. Adopting an audience-centred approach (Duncan & Reid 2013; Reid 2017; Reid & McKinley 2020) as the point of departure, the study seeks to draw on the user/audiences' lived experiences and perceptions of the mechanism to expand what is known about its functioning.

The study offers novel approaches to the study of media councils, adopting a case study of complaints, evaluating the complaints resolution process from inception to its resolution, observing public hearings, and assessing the cases from the perspective of the complainant. Using semi-structured in-depth interviews, the study uncovers the voices of key participants, namely the complainant, the respondent and the BCCSA commissioner/PCSA councillor.

The use of public voice is novel in media accountability research and provides new perspectives on the system through the experience of its users. Drawing on the “audience-centred approach” for the Global South developed by the Media Policy and Democracy Project (MPDP), this study seeks to: invert the trajectory of policymaking by adopting the media accountability mechanism end-user as the point of departure. The study, thus, investigates the audience's needs to explore how the mechanism could meet those needs through “policy interventions” or regulations required to enable a transformed mechanism (Reid 2017: 3-4). As MAMs involve a process with three key participants, namely the public/audience (complainant), media (respondent) and mediator (tribunal commissioner/council adjudicator), all three stakeholders must be included in the study. Yet, as the public member lays the formal complaint initiating the process, they will be considered the end-user whom the process is meant to support, and thus, the study will consider their experience as central to understanding MAMs from an audience-centred perspective. Using this approach, the study seeks to uncover a silenced set of voices which could enhance the understanding, and subsequent functioning, of media accountability in South Africa. To do so, and contribute substantially to the ongoing national debate, this study seeks to allow the public voice to emerge, alongside the media's and the mediators' voices, to seek clarity on their experiences and resultant perceptions of the MAM.

The study offers novel findings on media councils and their fitness-for-purpose. Led by the question “to what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?”, this study contextualises the study of MAMs within its South African setting, contributing to the knowledge of MAMs by adding value to its theorisation concerning people, process and place.

The study further offers a cross-platform analysis (Reid & Isaacs 2015b), comparing the two primary media councils in the country and finding that they have jurisdictional overlap due to digitalisation and convergence. The study yields novel findings that, whilst the mechanisms in question effectively fulfil their core mandate of complaints resolution, this could be further improved by combining their services to respond to digitalisation and media convergence. The study recommends a model for collaboration to be fit-for-purpose and respond to convergence issues (see Chapter 7).

The findings of this research could be helpful to the PCSA and BCCSA as it could allow the institutions to gain information on the efficiency of resolving rulings and the experience of the media and the complainants who use the system. It could also be helpful to policymakers and researchers in the country who seek to understand the institutions that uphold media accountability.

Furthermore, the study could be replicable in other contexts, in which press freedom and expressive rights, guarantee the existence of self-regulatory and co-regulatory bodies to support public complaints and participation in their processes. The study could be replicable in African contexts, in the global south, in non-Western societies, in the Commonwealth and in the other contexts around the world in jurisdictions where public participation could be fragmented or marginalised by materials conditions and or accessibility.

1.7 Limitations of the study

The study's limitations bound the units of analysis by spatial, temporal, and other concerns. These limitations are vital to narrowing the focus of the study. Limitations of this study include:

1. MAM selection: The scope of this study is limited to BCCSA and the PCSA. The South African media industry is held accountable through many institutions, which cannot be included in this study. These two were chosen in particular because they are both responsible for mediating complaints about news content and are, thus, within the scope of this study. This could be seen as a limitation but also as a strength. The particularistic focus

of the study allowed for a critical and in-depth comparison of non-statutory media councils who oversee complaints about news content, and yielded findings about these particular bodies which could be useful to these councils and media councils operating in similar contexts. The selection of these cases aligns with the qualitative methodology adopted, which seeks to yield an in-depth analysis of the phenomenon.

2. Time frame: The second limitation of the study is that the study was conducted between 2020 and June 2023. The major period of data collection included 2020–2022 as the cases studied, and the interviewees consulted, focused on this period. However, as the councils evolved greatly in terms of their structure, mandate and procedures, some interviews and data collection extended to 2023 to include the codes of conduct and digital strategies that later emerged. The limitation could also be seen as a strength, as media councils are in a content state of flux, and thus having a particular period of study is able to report archive, analyse and interpret these periods of fluctuation.
3. Case selection: The study's third limitation concerns the cases evaluated. The cases considered for the in-depth analysis of the complaint's procedure were limited to the 2020-2022 period and selected cases based on their escalation to the public hearing phase of the study.
4. Consent: The fourth limitation is the interview process and the interviewees' willingness to engage with and be interviewed as part of the project. The complaints selected for deeper analysis were selected according to convenience sample criteria. Thus, cases were only chosen if all the participants were willing to commit to the interview process. In many cases, the complainants approached were unwilling to participate, with the most significant response coming from those who already have an interest in press freedom and accountability. In cases where a complainant was willing to be interviewed, these interviews were included in the audience-centred approach.
5. Digital data collection methods: The fifth limitation is related to the geographical location of the interviewees, as both the BCCSA and the PCSA are national regulatory bodies that operate in all nine provinces of South Africa, data collection methods needed to adapt. As the world experienced the global COVID-19 pandemic, the study utilised digital, textual, and videoconferencing data collection and analysis methods, in response to the national curtailing of travel. Ultimately, due to the dispersed nature of the study participants and the COVID-19 pandemic, participants were interviewed using digital audio-visual videoconferencing technologies. The downside of digital interviews meant that the nuanced non-verbal cues, facial expressions and other means of rapport building may have been

missed, which could have affected the data gathered through digital videoconferencing technology. Overall, the quality of the videoconferencing technology and good internet connectivity, supported the generating of good quality audio-visual interview data which was then transcribed for further analysis and triangulated against the document analysis and observational analysis.

6. **Generalisability:** The final limitation relates to the generalisability of the case study. As the case study has been chosen to study the complexity of these MAMs in their South African context, this method has limited transferability to other contexts and countries. However, it is noted that some transferability is possible. Still, these generalisations cannot be quickly drawn as many recommendations for the MAMs are not generalisable and must be deemed fit-for-purpose before attempting to transplant them (Berger 2011).

1.8 Outline of the thesis

Chapter 1: Introduction provides an introduction and overview of the study of media accountability in South Africa. The chapter identifies the gaps in knowledge on the topic, describes the thesis problem, and proposes the need for a qualitative approach to media accountability. The chapter notes the global popularity of media councils but argues for locally specific interventions that suit the needs of its context. The introduction also shares a set of thesis statements which encapsulate the thesis findings during the literature review, methodology search, empirical research, and modelling phases of the study.

Chapter 2: Reviewing the literature on MAM. Chapter 2 evaluates the relevant literature on accountability, media accountability, media councils and media accountability systems. The literature reviews numerous studies on press councils and their approaches to complaints resolution. The review yields essential findings which shape the methodological direction of the study. The literature evaluates media councils as part and parcel of the media accountability project and examines the approaches to the study of media accountability popularised to date. The study investigates the work of key authors, and critiques and synthesises academic contributions related to the study of media accountability. The literature explores the study of global press councils, affirming that media councils are nuanced in their operations. The research examines African approaches to media councils (Tettey 2002; Kruger 2009) and acknowledges that African contexts differ from their global counterparts. Thus, supporting the call for nuanced adaptations of media councils in their local

contexts to ensure fitness-for-purpose (Berger 2010). The literature reviews the mandate related to raising media standards and evaluates the council as part of a Media Accountability System (Bertrand 2000) comprised of various non-statutory means of holding the media accountable. The literature reviews the councils according to their mandates, evaluating the mandate to: a) resolve complaints; b) hold the media accountable; c) raise media standards; and, d) serve the public interest. The literature reviews the mandate to act within the public interest and enlarges the concept of public interest to include public engagement and public participation in the accountability mechanisms operations.

Chapter 3: Methodology. South Africa's location on the African continent differs significantly from other research centres worldwide. Considering these nuances, researchers have called for approaches that move from traditional, universal, and dominant approaches to context-specific research approaches. This chapter evaluates the methodological approaches of previous studies on media councils, establishes the trends in accountability research in South Africa to date, and proposes a qualitative comparative case study methodology. The chapter proceeds to outline the case study methodology adopted in the study, specifying how the document analysis, in-depth interviews, and observations were conducted and how the forthcoming data were managed and analysed.

The trend in South African media accountability research has explored various theoretical lenses through textual analysis of rulings and related documentation. Those who conducted interviews, often drew on the voices of regulatory councillors and commissioners, with very few considering the voices and experiences of participants in the process, resulting in a silencing of pertinent voices who could add value to understanding the phenomenon of media accountability institutions in South Africa. Considering this fissure in the knowledge about the South African users' experience of media accountability institutions, this study seeks to develop an in-depth case study which yields relevant data about the functioning, context and experience of the MAM in question.

The case study has four significant threads of enquiry, namely to: 1) analyse a complaint from its inception to its resolution; 2) analyse the councils' adaptability to digitalisation; 3) adopt an audience-centred approach to research, foregrounding the audience/users' experiences; and, 4) examining the functionality of councils related to their mandates.

1. Using a case study method, supported by an array of techniques to analyse a complaint from its inception to its resolution, the study explores several cases, examining the laying of a

complaint, the public hearing, to the deliberations and rulings on the complaints process to determine the effectiveness of the process.

2. Evaluating the councils' adaptability to digitalisation, the case study includes an analysis of cases and the responsiveness of their rulings for the traditional mediums and their online counterparts.
3. Adopting an audience-centred approach to research and policy-making processes (Reid 2017; Reid & McKinley 2020), the case study extrapolates the users' insights and perceptions of the institutional mechanism's functioning, effectiveness, and responsiveness. The study questions their functionality and efficiency in achieving their mandate by examining users' experiences and voices, with the term 'user' defined as the public complainant, foregrounding the voices of the public complainants and their experience of the complaint's resolution process. As the procedure involves the public complainant as the initiator of the approach, the study focuses on the complainant's experience of the process, examining their voice and experience. As the process requires the participation of a public user, a media representative, and media council representatives, all three stakeholder groups were consulted on each case evaluated in the study. Notably, as the media council is meant to serve the public and adjudicate on complaints brought by members of the public, the analysis foregrounds the experiences and voice of the public complainant, whom the process is meant to serve.
4. The study examines the functionality of councils related to their mandates, using the core mandate of complaints resolutions as the marker of efficiency, whilst arguing that this efficiency is further embedded in the council's responsiveness to their contextual conditions to be fit-for-purpose in their organisational context (Berger 2010). The study of mechanisms also examines their possibility to achieve the other mandates, such as: working within the public interest; and raising media standards.

Chapter 4: Case Study Analysis of the PCSA is the first of the analysis/discussion chapters. The chapter presents the data analysis on the extensive study of the Press Council, including the analysis of the institutional data, the observations of public hearings, and the in-depth findings on the complaint's resolution processes relating to three complaints brought before the Press Council of South Africa. The chapter finds that the Press Council effectively adjudicates complaints from the public, whilst questioning the Council's approach to niche cases with a high social impact. The study recommends that the Press Council be strengthened to improve its service by genuinely committing

to the implementation of co-regulatory processes; refining the appeals hearing process; and continuing to respond digitalisation and convergence, and their resultant implications.

Chapter 5: Case study analysis of the BCCSA. Chapter 5 is the second analysis/discussion chapter, discussing the Broadcasting Complaints Commission of South Africa. The chapter presents the analysis of the institutional data on the BCCSA and the in-depth case study of one of the BCCSA complaints which proceeded to the public hearing phase. The study finds the BCCSA to be resolving complaints but finds some of its processes problematic to its audience complainants. The study also questions the organisation's shift to self-regulation and recommends that: the BCCSA consider the transparency of its operations; commits to a public-centred approach to its processes; reviews the appeals process and payments associated with appeals; reviews the code of conduct; and reviews its relationship to resolving complaints about the social media production of its signatories.

Chapter 6: Cross-case study analysis of the BCCSA and PCSA. Chapter 6 presents the findings of the comparative case study, comparing the two institutions, and the similarities and differences in their processes and approaches to resolving complaints. The chapter compares the operations of both institutions and finds an obvious jurisdictional overlap caused by digitalisation and convergence within the media industry. The chapter evaluates the Codes of Conduct of both institutions and recommends a shift in the practice and codes to allow for a unified press code, for all South African media, alongside a cross-platform media complaints mechanism for broadcast, print and digital news media. The model is grounded in contextual considerations around South Africa and its people.

Chapter 7: Media accountability mechanisms in South Africa - a model for regulation. Recognising the significant jurisdictional challenges, the calls for independence and the concern for appeals processes, the chapter proposes a cross-platform media accountability mechanism for broadcast, print and online media in South Africa, which evaluates all media complaints and operates alongside a single code of conduct, with extensions for the specific circumstances around user-generated content, free-to-air broadcasts, and satellite broadcasts. The chapter considers which processes would best suit a cross-platform accountability system and how the system would operate, considering the current structures and integrity of the individual councils. Finally, the study discusses the context of the accountability platform within South Africa and uses this to inform the call for supporting media accountability systems that could help raise media standards across the country.

Chapter 8: Conclusion is the final chapter of the study, summarising the key findings, reiterating the recommendations for improvement of each council individually, alongside a proposal for a

collaborative model for regulation in South Africa. The study concludes with possible areas for future research.

CHAPTER 2: REVIEWING THE LITERATURE AND THEORETICAL FRAMEWORK

Media councils are a popular area of media research, with scholars investigating their structure, processes and applications in varying contexts (Bertrand 2000; Sawant 2003; Tettey 2006; Kruger 2009; Berger 2011; Reid 2014; Fengler, Eberwein & Karmasin 2022; EU 2022). The branch of research has explored media councils and their links to media freedom (Rampal 1981; McQuail 2003; Reid 2017), media accountability (Tettey 2006; Kruger 2009; Fielden 2012), media accountability systems and their instruments (Bertrand 2000; Von Krogh 2008; Eberwein et al. 2011; Fengler, Eberwein, Alsius, Baisnée, Bichler, Dobek-Ostrowska, Evers, Glowacki, Groenhart, Harro-Loit, & Heikkilä 2015; Eberwein, Fengler & Karmasin 2019; Fengler et al. 2022), and the role of the audience as citizens in accountability processes (Bardoel & d’Haenens 2004; Hasebrink 2011; Reid & McKinley 2020). Globally, the approach to the study of press councils differs. Yet, its core mandates to hold the media accountable and to resolve complaints from the public are shared by multiple councils in Africa (Kruger 2009; Reid & Isaacs 2015b), India (Sawant 2003; Mathew 2016; Mazumdar 2021), Latin America (Bastian 2019), and in Europe (Hasebrink 2011; Media Act 2013; Reid & Isaacs 2015b; Eberwein, et al. 2019; UNESCO 2020).

In South Africa, complaints resolution has been the focal point of many studies (Kumwenda 2010; Edwards 2012; Cilliers & Froneman 2014; Reid 2014; Reid & Isaacs 2015a; Ciaglia 2017; Satchwell et al. 2021), differing slightly from the global research trajectory which has explored media councils and press councils as media accountability instruments which form part of a more extensive media accountability system (Bertrand 2000; Bardoel & d’Haenens 2004; Eberwein et al. 2011; Cheruiyot 2019a; Wasserman 2022).

Studies on media councils in South Africa have gained momentum since 2010 when threats against press freedom and self-regulation were made by the ruling party of the country (Duncan 2011). Although numerous findings on media councils conclude they are functional and practical means of complaints resolution, the national criticism of the media councils by the ruling party has continued (Duncan 2011; Reid 2014; Reid & Isaacs 2015; Daniels 2019). Considering the ongoing criticism of councils despite their track record of effective complaints resolution, this study seeks to enlarge the study of South African media councils to review their relationship to accountability instruments or mechanisms for accountability in the digital age. The study reviews the body of literature related to

media councils, analysing: *Part 1: The media and its accountability in South Africa.* This begins with section 2.1, calls for media accountability. This section discusses the accountability failures and resultant calls for transformation within the media and its practices. The forthcoming sections present the literature on: 2.2, the media being called to account; and, 2.3, the public who petition and call for this accountability.

Part 2: Theorising Media Accountability: The literature explores the concept of media accountability and how the term differs from more general terms including: 2.4, accountability theory, noting that the work and investigation of the press in the public interest is supported through the freedom of the press, the media and their accountability needs differs from other professions. Consequently, the thesis examines the nuances related to media accountability in section 2.5, how the media profession has interpreted accountability and how accountability has been adapted from multiple professions to the media environment. The study further examines, in section 2.6, media accountability systems and the body of literature which emerged globally.

Part 3: Media councils as media accountability systems/instruments: The study enlarges the review of media and its accountability literature to section 2.7, media councils as a widely accepted media accountability instrument. Considering the different contexts in which media councils operate, section 2.8, echoes previous recommendations for differentiated approaches to media councils in the Global South.

Part 4: Media Councils as mechanisms for accountability: Reviewing the literature on South African Media Councils in section 2.9, the study, in section 2.10 draws attention to, digitalisation and convergence of the media as factors which councils need to adapt to. Recommending the “fit-for-purpose” approach in the Global South, the study calls on councils to adapt to the digital revolution. Furthermore, the study questions whether or not media councils are prepared for the digital age?

Part 1: The media and its accountability in South Africa

Recent studies call for research to stretch beyond the boundaries of western science to broaden our understanding of Africa (Mano & Milton 2021). South Africa's context has been described as nuanced and transformative (Louw & Tomaselli 1994), with the media having to negotiate its democratic (Louw & Tomaselli 1994; Wasserman & De Beer 2005); post-apartheid (Milton, Wasserman & Garman 2013); and postcolonial history (Rodny-Gumede 2015; Mutsvairo 2018), whilst reflecting journalism and its relationship to the past, the present and the future (Duncan & Reid 2013).

South Africa relies on the media for news, information and reportage in the interest of their audiences. Characterised by its multicultural (Rodny-Gumede 2015), unequal (Milton, Wasserman & Garman 2013), and separated (Duncan & Reid 2013) society, the media operating in this context often face challenging conditions due to its nuanced socio-economic and politico-historical landscape (Fourie 1989; Wasserman & De Beer 2009; Duncan & Reid 2013; Ndlovu 2015; Rodny-Gumede 2015; Isaacs De Vega 2021). Similarly, the study of the media is shaped by these contextual conditions, as they cannot be devoid of the context and locality in which they are situated (Nyamnjoh 2010).

The study of media accountability, like other media studies, is informed by context. Accountability institutions are shaped by many factors, not limited to their geographical location, administration, history, democratic traditions, legislation, culture, level of press freedom, media environment, media developments, languages, relationships with key stakeholders such as the media, the state and other groups, and other national peculiarities (Berger 2011: 42–47). These factors inform the shape of the institution, and research about accountability must assess the specificity of the institutional body. Although media councils are popular globally, one model for all contexts does not exist (Berger 2011: 37). Its shape and implementation depend on the context and conditions in which it operates (Berger 2011: 37). Grounded in context, this study of councils in South Africa is foregrounded with the context they operate in, firstly, providing a background to the calls for media accountability in the country, which became the impetus for this and many other studies on media councils in the country. Secondly, the section elaborates on the stakeholders in the accountability process, namely, the media and the public, who form the critical participants in the media accountability system in the country.

2.1 Calls for media accountability in South Africa

The media have played a critical role in holding those in power accountable for their actions and consequences on the public (Tettey 2002: 27). This watchdog role has supported political accountability in Africa and around the world by “1) ensuring that politicians make a commitment to democratic transition and consolidation, ... 2) holding office holders to account, ... 3) ensuring the state is responsive to all areas of their polity” (Tettey 2002: 27). In democratic societies, the media are free to perform the watchdog role and hold power to account through their production. To this end, many commentators question who watches the watchdog and have echoed the need for reliable mechanisms to hold the watchdogs to account (Tettey 2006).

Similar questions have been asked in the South African context (Retief 2002), with numerous instances of the ruling party calling for stringent media accountability and answerability (Daniels 2011). While the first decade of democracy was silent on media accountability debates (Berger 2010), in later years, the popular accountability mechanism, the Press Council, faced extensive state and political pressure (Reid & Isaacs 2015a), was accused of being a “toothless” watchdog (Duncan 2014), and was continually criticised by the ANC for not holding media accountable for “raging attacks on the nature and character of the movement” (Reid & Isaacs 2015a). Threats of statutory interventions followed in the form of a statutory Media Appeals Tribunal (MAT), discussed as part of the 52nd National Conference Resolutions (ANC 2007). The MAT, proposed as a statutory regulatory body to monitor the press, was envisioned to “be accountable to parliament and ... adjudicate on complaints heard by the press ombudsman” (Duncan 2011: 90).

Proponents for MAT proposed that the “Media Appeals Tribunal aimed at strengthening and complementing the self-regulatory system; ensuring its effectiveness and providing an appeal mechanism for citizens; overseeing complaints about violations of the Press Council Code of Conduct; and of citizens who may not be satisfied with a ruling of the press ombudsman and Press Council” (Mtimde 2012, 129).

The MAT proposal raised concern amongst media, academics and civil society, resulting in the Press Council internal review published in 2011, followed by the Press Freedom Commission (PFC) chaired by Chief Justice Pius Langa (Reid 2014). The potential of state interference, alongside the calls for accountability from the public, became the driving force for research and analyses of media accountability in the country.

The challenge is that, although most media outlets have contributed positively to public debate, exposed corruption and acted fairly, this has been overshadowed by instances of media failure. The

media transgressed a myriad of codes related to minuscule issues such as inaccuracies in reporting and more severe cases which have captured the interest and concern of the South African public. During the past few years, multiple such cases have surfaced, negatively affecting the integrity of the news and entertainment media. These instances are numerous, with some of the most publicised relating to fake news in the *Sunday Times* (SoN 2018: 9), alongside the array of allegations levelled against the media during the Judicial Commission of Inquiry into Allegations of State Capture (popularly called the Zondo Commission or State Capture Commission), including claims of being captured (political partisanship), being sensationalist (in line with yellow journalistic practices), and once again being paid for favourable coverage (likened to brown envelop journalism¹) (SANEF 2019). Instances of poor journalism practice continue to the present day, with examples of deliberate misinformation related to senior journalists fabricating stories against the police (SANEF 2021b), and fabricating stories around the birth of fictional decuplets called the Thembisa 10 (SANEF 2021c), poor coverage of vulnerable victims (SANEF 2021a), poorly broadcasted health and COVID-19 information (MMA 2021), and journalists extorting the subjects of potential news stories (Pheto 2022). These highly publicised instances of “accidental or deliberate acts of inaccurate and untruthful reporting have resulted in reputational damage to the media and have posed critical questions regarding its trustworthiness and credibility” (SANEF 2018b). The severity of these issues has led to increased research efforts, such as the South African National Editors Forum (SANEF) ‘Inquiry into Media Credibility and Ethics’, which investigates a lack of editorial integrity within the media through the review of editorial systems and practices, to regain public trust (SANEF 2018b).

These public media failures and ethical transgressions further supported the critiques of the media, placing the media in a bad light to its public. Public trust has dwindled in the past decade and seems to have increased with the public’s trust in the media’s reportage and coverage of the pandemic (Ropper 2022). Public trust is critical, as public trust supports the freedom of the media in a struggling South Africa (Ropper 2022). Although these freedoms are enshrined in the constitution (South African Constitution 1996), press freedom has been under threat in the country for centuries, with the most recent instances almost resulting in draconian laws under the President Zuma administration just a decade ago (Berger 2011; Duncan 2011; Reid 2014; Daniels 2019; Wasserman 2022).

¹ Brown envelope journalism refers to the exchange of money or bribes for favourable news coverage.

The South African media and journalism, in particular, are at an impasse: on the one hand, the media are exposing corruption and unscrupulous behaviour through excellent investigative journalism (Mtrust 2022), and, on the other hand, the media are embroiled in multiple scandals claims publicly levelled by testimonies at the Commission of Inquiry into State Capture (Commission of Inquiry into State Capture 2019). The latter raises concerns regarding the credibility and trustworthiness of the media, calling for media accountability and the watching of the watchdog.

2.2 The South African media

“In the age when humanity is crying for facts, truth-telling, fair reporting and accountability, sometimes ethical journalism seems to be on the ropes” (Satchwell et al. 2021: 2).

The media, particularly the press, fulfils the need for information and contributes to democracy in South Africa (Berger 1998; Fourie 2003; Wasserman & De Beer 2005; Hadland 2007; Duncan & Reid 2013; Milton et al. 2013; Daniels 2019). The press subscribes to the principles of the liberal normative journalism paradigm (Zirugo 2021; Rodny-Gumede 2015), which have been adapted to the South African context (Berger 2008) to prioritise public interest and participatory journalism values (Rodny-Gumede 2014), to serve its multi-cultured and multilingual audiences (Rodny-Gumede 2015). This means that “media is mainly catering to its audiences through broadcast and print media in South Africa – as discussed further below (Reid & Isaacs 2015b), which has, with the era of convergences, expanded to include digital mediums (see section 2.2.3). The analysis notes that the digital revolution, shifting media practices, and the decline of traditional models of journalism have placed journalism under pressure to respond to an array of local and global challenges, which have, in turn, impacted the quality of news production and distribution practices, resulting in an accountability crisis. The crisis has led to calls for accountability and new theorisations of how this should be enacted within the South African environment.

2.2.1 The broadcast media

South African broadcasting services 60,6 million South Africans (StatsSA 2022), many of whom access audio and visual content through television, radio, and streaming services, with the majority of South Africans accessing their news through radio broadcasting (Rumney 2022). News broadcasts are publicly accessible at no cost to the larger viewing and listening audiences, through the South

African Broadcasting Corporation (SABC) and the e.tv free-to-air television channels and commercial, community and public broadcast radio stations (SoN 2019), with commercial radio forging ahead through Primedia and Kagiso (Rumney 2022).

South Africa is committed to its three-tier broadcasting system of public, commercial and community broadcasting, evident in its rich radio offering comprising of 296 radio stations, including its 256 community stations, 22 commercial stations and 18 public radio stations (Chiumbu & Motsaathebe 2021: 4-5). Radio broadcasting services 36 million of the listening public, who access radio services from different devices. The 2019 Broadcasting Research Council (BRM) study sampled 30 000 households in urban, rural, and metro areas in South Africa (BRM 2019). The study concluded that of the South Africans sampled, 71% are tuning in via traditional radio's; 33% accessing via cell phones; 24% listening via a car/taxi/bus radio; 13% broadcast radio via their television sets; and 2% are streaming online (BRM 2019). Similarly, television services the public through community stations, public broadcasting via the SABC, and commercial stations. These include MultiChoice and eMedia Holdings monopolising television broadcasting with 24-hour satellite news, eNCA owned by eMedia Holdings and the Remegro Rupert family business, and Newzroom Africa owned by Thokozani Nkosi and Thabile Ngwato (SoN 2019).

Broadcasting continues to debate how best to serve South African communities through its three-tier media system, with the latest debates in South African broadcasting relating to migration onto Digital Terrestrial Television (DTT), marking the digital transformation of broadcasting from analogue to digital terrestrial television (Skinner 2021). The future of broadcasting will need to grapple with government's implementation of online radio streaming as the primary source of radio access, doing away with traditional radio frequency, as evidenced by the Radio Frequency Spectrum Policy of South Africa (Gov Gazette 2022). Envisioned as the means for spectrum to be safeguarded and "freed spectrum for government use by the *State Digital Infrastructure Company (SDIC)*" (Gov Gazette 2022), the state envisions radio provisions through internet and online technologies to offset the issue of limited radio spectrum and the need to expand connectivity to rural and remote areas of South Africa (Gov Gazette 2022). With radio envisioned as the catalyst for the spread of internet technology, the state will be "facilitating the deployment of next generation networks starting with 5G networks" (Gov Gazette 2022). This shift in the broadcasting arena from spectrum to online technology, is envisioned to begin in 2022 and continue into the foreseeable future in which the technology is mobilised through "Mobile Virtual Network Operators (MVNOs), Internet Service Providers (ISPs), Wireless Access/ Internet Service Providers (WASPs/ WISPs)" (Gov Gazette 2022). The Gazette

doesn't mention what Sentech or the Independent Communications Authority of South Africa (ICASA's) role will be in the provision and regulation of technology.

2.2.2 *The print media*

The print media in South Africa has primarily catered to middle-class and urban markets through newspaper and magazine production (Ndlovu 2015). The once profitable South African newspaper market, which grew since the 2000s with new market entrants, new ownership capability and rising circulations (Hadland 2007), has been adversely affected by a digitising media environment (Dugmore 2021). The newspaper and magazine markets have shifted, similarly to their global media counterparts, with newspaper and magazine circulations dwindling (Schiffrin, Clifford & Adjin-Tettey 2021b). Reviewing *Table 1: Newspaper circulation figures Q1 & Q3*, developed based on the statistics of the Audit Bureau of Circulations of South Africa (ABC), it is evident that during 2022, significant decline in readership could be noted in most areas of newspaper circulation. Comparing the South African circulation figures between Q1 January–March 2022 and Q3 July–September 2022 (ABC 2022), a decline in 113 858,50 circulations could be noted in the nine months. The only area experiencing a notable increase in readership and circulation figures is the hybrid newspaper market, showing an increase of 13, 885, which could be attributed to the free distribution of hybrid printed newspapers during the year, with a total of free distributions totalling 34,948 (Q1) and 42,627 (Q3) (ABC 2022).

Table 1: Newspaper circulation figures Q1 & Q3 (ABC 2022)

| NEWSPAPER CIRCULATIONS In South Africa | | | |
|---|--------------------------------|---------------------------------|---------------------|
| Q1 & Q3 (ABC 2022) | | | |
| Newspaper | Q1 January - March 2022 | Q3 July - September 2022 | Q1 - Q3 diff |
| Daily Newspaper | 445,570 | 418,640 | - 26,930 |
| Hybrid Newspaper | 65,594 | 79,479 | 13,885 |
| Free | 5,552,278 | 5,465,387 | - 86,891 |
| Local | 127,863 | 117,066 | - 10,797 |
| Weekly | 172,348 | 164,590 | - 7,758 |
| Weekend | 550,416 | 517,594 | - 32,822 |
| Local | 5,552,278 | 5,465,387 | - 86,891 |
| Total Circulation Figures | 5,998,794 | 5,884,906 | - 1,138,585 |
| Source | ABC Q 1 2022 Reports | ABC Q2 2022 Reports | |

Similarly, when reviewing *Table 2: Magazine Circulation figures South Africa Q1 & Q3*, the average number of circulations between Q1 and Q3 is 3,234 513,5. Magazine markets have echoed the newspaper trend, as magazine circulation figures declined nationally by 414,745 between January and September 2022. Notably, the large number of freely distributed publications inflates the circulation numbers, as an average of 1,399 054,5 of the ‘paid for’ magazines were freely circulated. Thus, 43% of the ‘paid for’ category of magazines is distributed for free, not generating any profitable sales for magazine producers. The purpose of the free distribution is unclear, but it could interest advertisers who might value reaching a larger consumer base. The only increase in magazine distribution is related to the actual “free magazine category” of publication and in the “digital magazine” category (ABC 2022).

Table 2: Magazine circulation figures South Africa Q1 & Q3 (ABC 2022)

MAGAZINE CIRCULATIONS In South Africa

Q1 & Q3 (2022)

| Category | TOTAL CIRCULATIONS | | | FREE CIRCULATIONS | | |
|----------------------------------|--------------------|------------------|------------------|-------------------|------------------|------------------|
| | Q1 | Q3 | Difference | Q1 | Q3 | Difference |
| Business | 719,086 | 538,094 | - 180,992 | 695,076 | 513,007 | - 182,069 |
| Consumer | 1,163,424 | 1,031,809 | - 131,615 | 149,991 | 227,973 | 77,982 |
| Custom | 1,368,294 | 1,262,183 | - 106,111 | 475,748 | 350,477 | - 125,571 |
| Free | 191,082 | 195,055 | 3,973 | 191,082 | 195,055 | 3,973 |
| Total Circulation Figures | 3,441,886 | 3,027,141 | - 414,745 | 1,511,897 | 1,286,212 | - 225,685 |
| Digital Magazines | 125,912 | 350,188 | 224,276 | | | |

The decline in newspaper and magazine circulation confirms the findings of many authors who investigated the print media market (Schiffrin, Clifford & Tumiatti 2021a; Dugmore 2021), finding a steep decline in print, circulation and advertising figures. Globally, the decline has been linked to the digitalisation of media, worsened by COVID-19. The shift to digital has increased consumer appetite whilst decreasing the potential for media sustainability (Schiffrin et al. 2021a: 3).

2.2.3 Digitalisation and the media

Africa has noted an accelerated digital migration online with each African country experiencing a unique and nuanced digital transformation (Mutsvairo et al. 2021). In South Africa, online offerings have redirected consumer interests from traditional media due to digital, fast-paced, interactive and

converged media offerings online (Dugmore 2021). South African consumers' online media consumption patterns have shifted with their migration onto digital platforms (SoN 2020). Digital migration has led to positive and challenging scenarios in South Africa, as audiences migrate online and expect content at no cost, whilst advertising markets collapse, affecting the possible pool of revenue (Wasserman 2018).

Audiences continue to access news on and offline. Many online media users report accessing news online weekly (Ropper 2022). Yet, despite the shift online, the majority of South Africans still access news through television and radio (Rumney 2022). More than 50% of online media users report accessing news via *SABC* and *eNCA* television weekly, followed by users who access print media weekly. The most popular print publications are the *Daily Sun* tabloid (30% of users) and *The Sunday Times* (24% of users). Finally, 25% of users reported accessing news weekly through local radio stations. The data reveals that, whilst South African online media potential has dramatically increased, users still rely on offline and traditional sources of information.

Many online technologies can be utilized in media production and distribution practices. Whilst South Africa negotiates its digital shift, some newsrooms are careful about emerging, technology-driven journalism practices, as journalists are concerned that artificial intelligence (AI) technologies could compromise the democratic functioning of journalism in contested democracies like South Africa (Munoriyarwa, Chiumbu & Motsaathebe 2023). In newsrooms, media and editorial management have “placed journalists under pressure to produce journalism for multiple platforms with fewer resources at their disposal” (Duncan 2014: 172). The need for competitive edge and to ensure “immediacy increases the pressure to publish news before checking its veracity”, often affecting the context, quality or accuracy of the news distributed (Garcia-Aviles 2014: 266).

The media landscape has shifted drastically in South Africa due to digitalisation, shrinking newsrooms, job losses and the impact of the pandemic. COVID-19 has been a significant catalyst for digital transformation of the media industry, evidenced by the growth of online access to streaming and other services, and declining print and magazine publishing (Rumney 2022). Before COVID-19, the South African media industry was already strained by declining print revenues, dwindling advertising revenues, and understaffed newsrooms, alongside a deprioritising of fact-checking in journalism (SoN 2020). However, with the onset of the COVID-19 pandemic, authors confirm that journalism is under even more pressure. There has been increased pressure to respond to the digitalisation of the press and the shifting in media production, distribution, and consumption practices, which has impacted the overall quality of news.

2.2.4 Journalism under pressure

Globally and in South Africa, “journalism is under pressure” (Boshoff & Garman 2016: 607). Even though the South African media is in a fixed geographical location, it is affected by both local and global media contexts, as “global influence” is intertwined with “local context” (Wasserman & Rao 2008). Many of the issues facing the media globally have affected the media locally, and, thus, it is essential for research about the media to think globally and act locally (Dugmore 2021). Globally, the media has been affected and challenged by numerous shifts, extending to: shifting media consumption with the onset of digital technologies; the shift to social media and online media consumption redirecting consumer interests from traditional media; the shifting of potential advertising revenue from traditional media sources to technological and online audiences; the shift in employment opportunities evident by heightened job losses in the industry; and, finally, the shift away from public interest-driven journalism evident by the capturing of news organisations by political interests (Dugmore 2021).

With the onset of the COVID-19 pandemic, such realities have been further exasperated, with media outlets hard hit. Whilst the appetite for reliable and trustworthy news increased through the pandemic, the resultant economic realities have “crippled newsrooms” and led to numerous retrenchments and the temporary suspension of print publications, causing concern for the sustainability of the media (Schiffrin et al. 2021a). These concerns are echoed globally, with media outlets having to find creative solutions with the support of private and state entities to ensure the ongoing survival of the media (UNESCO 2021).

Similarly, the South African news media industry has faced financial pressure, evident by decreasing advertising revenue, declining sales, digitalisation of news, and numerous other factors, which have contributed to the decline of the print media in the country (Rumney 2020). The declining financial sustainability of the news media in South Africa and across the world has been an area of interest for researchers who sought to understand the future of journalism. Research has earmarked the downward trend in financing and income within the sector, noting the low advertising revenues and decreased circulation figures resulting in job losses, restructuring of media companies and closing of others (SoN 2018). Aggravated by the COVID-19 crisis, the news media has faced extensive job losses, the closure of magazines, wide-scale salary cuts and a further decline in advertising revenue, which affected the livelihoods of employed staff and completely starved freelance photographers and

journalists of potential income opportunities (Daniels 2020a). By 2023 this trend continued with the closure of Media24's *Business Insider* and the *New Frame* (Ropper 2023). Alongside other cost-cutting measures related to salaries, staffing and resources, the financial challenges facing the industry continue (Ropper 2023).

In addition to shared global pressures, South African journalism faces unique contextual pressures emanating from its post-apartheid reality (Kupe 2022). These pressures include having to respond to the digital and economic shifts within society, alongside the responsibility to address the political and historical responsibility to society (Kupe 2022). Pressure to respond to the ongoing “political pressure and criticism” (Reid & Isaacs 2015b: 12) mounted against the accountability system for the print media and press council over the past decade (Berger 2010; Duncan 2013; Reid 2014; Reid & Isaacs 2015a). Pressure to respond to the “tensions [that] have characterised the relationship between the government and the media under democracy” (Tasseron 2021: 6). Ultimately, the South African media and “journalism is under pressure from global forces and a political imperative to address social justice” (Boshoff & Garman 2016: 607), and to produce content which speaks to the fragmented society it serves (Rodny-Gumede 2015) and the “ever-fragmenting public sphere” (Daniels 2020b: 108) it operates in. The journalistic commitment to “maintaining the public sphere of informed citizens is under pressure”, as the conditions in which journalists work, whilst not physically violent, are combative and “not conducive to producing good journalism” (Ndlovu 2015: 127). These combative environments in South Africa affect the wellbeing of journalists and media producers. In other contexts, on the African continent, this combative journalism is accompanied by physical threats on the safety of journalists, evident in spaces such as Angola, Botswana, Eswatini, Mozambique, Malawi or Zambia, where increased pressure of violence, intimidation, and political scuffles (MISA 2021) are normalised. In South Africa, online safety, cyber-attacks, and the safety of female journalists are becoming a growing concern, evident by multiple online and physical attacks on women journalists (MISA 2021). Producing media and journalism under pressure has led to further issues with media production, the short-cutting of important fact-checking principles, and other quality approval processes. The lack of quality controls (Bertrand 2000) often leads to embarrassing challenges for the media, affecting the quality of news produced.

2.2.5 *Impact on the quality of news*

The media has primarily produced credible and informative information for the public, offering journalism as a public good, countering information deficits and challenging the misinformation experienced online (UNESCO 2022). Media production continues despite already extensive challenges related to digitalisation (Singer 2003; 2008), immediacy pressures (Garcia-Aviles 2014), competition (Chuma, Wasserman, Bosch & Pointer 2017: 104), sustainability (Dugmore 2018; Schiffrin et al. 2021b), misinformation and the information disorder (Wasserman 2022). These challenges have placed increased pressure on the media and their “performance” (Porlezza 2012: 3). Whilst media accountability is essential, the root causes of the media’s failure to adhere to journalistic standards are also crucial for understanding the need to hold media accountable for these failures, which are not always malicious or deliberate, but consequences of the challenging working conditions of the press.

Accountability involves holding media outlets answerable for the quality of their performance to relevant stakeholders (Plaisance 2000; McQuail 2005b; Kruger 2009; Eberwein et al. 2011). Media performance and the quality of news can be improved through a multitude of interventions. Quality control measures can be implemented at various stages of the news production process to promote improved quality of news (Bertrand 2000). Having these checks and balances in place support the strengthening of media standards (Kruger 2004), and, when these fail, accountability measures should support answerability allowing the media to account for their actions.

Whilst the theory on accountability is promising, scholars have echoed growing concerns about a lack of accountability in journalism, the misuse of media power, less commitment to society, and more significant commitment to commercial imperatives. This concern is not new, with many scholars lamenting a crisis in accountability practices and institutions over the past 20 years (McQuail 1997). Concerns stem from the inability of media institutions to adapt to the changing conditions, growing media influence, rapid technological change, transnationalisation of the media, and ineffective regulatory frameworks (McQuail 1997: 89). Since McQuail’s writing in 1997, the media environment has shifted with the digitalisation of the news, social media, and the post-truth era of fake news, which has exponentially compounded the distrust between the media and society (Porlezza 2012). Media in crisis leads to an accountability issue and the public’s trust in media institutions (Ropper 2022). Despite the evolution of social media and digital media technologies, the primary area of the crisis remains with the modern mass media and the society it serves (McQuail 2005a: 234).

McQuail reinforces the need for this area of research, as the media is a public institution and cannot escape some form of responsibility to society (2005a: 236). The accountability crisis has been exasperated by globalisation; enlarged ownership concentration; commercialisation; and an increasing abundance of media (McQuail 2005a). This has led to a complexed environment which stems from these trends, resulting in a contestable claim to journalism for the public good. As the obligation to society is changing, these trends have, in many cases, resulted in a growing absence of responsibility, a lack of obligation to a defined society due to a globalised media, an increasing commitment of accountability to shareholders above the public good, and entanglements of access which come with the advent of the internet and digitalised spaces of communications.

2.3 Media accountability and the public

“Only the power of the general public, activated by media professionals, can successfully oppose the illegitimate government or commercial interference” (Bertrand 1990 cited in the PCSA review 2011: 33).

“Journalists are meant to serve the public by being reliable conduits of information” (Daniels 2020a). Thus, in theorising ‘to whom’ does the media account, the media is viewed as serving the public (Wasserman 2005) and is expected to be answerable to the public it serves (Bertrand 2000; McQuail 2005a; Silva & Paulino 2007; Kruger 2009; PCSA 2011; Reid 2014; Reid & McKinley 2020). Theorisations of the public should be considered of the multiple roles of the public in the media accountability process, as: a) the public part of a community; and are the same b) citizens who support democracy and press freedom through participation; the public are the c) audiences who consume and critique the media in question; and the public are the d) complainants who initiate the accountability processes in question.

2.3.1 The public as an imagined community

This idea of community can be linked to the notion of ‘collective accountability’ theory which foregrounds the community, allowing the public to act as a third pillar in the model of media ethics (Christians 1989). Making use of this communitarian approach to accountability demands a broadening of the notion of accountability beyond instruments and measures of accountability, such as press councils, to one which considers the public, the participation of civil society (Silva & Paulino 2007) and the cultural and social consequences of such ideals (Christians 1989). Local studies have

also contemplated Ubuntu as a participatory philosophy (Blankenberg 1999), which could be incorporated as an ethical principle for consideration within the South African meta-ethical canon (Wasserman 2011) and can support communitarian and collective theorisations of the public and audiences the media serve.

2.3.2 *The public versus the citizenry*

The public includes individuals and communities who are also citizens and part of a functioning democracy, albeit a young one (Wasserman 2022). The study aligns with scholarly sentiments on the importance of the public as part of an active citizenry with the right to complain against the media and to call them to account (Kupe 2022). “Citizens have to be the watchdogs of the media, holding them accountable for their actions” (Tettey 2002: 50), as citizens are integral to democracy, and their input can strengthen the free press. Their active participation can defend whilst also “send[ing] a clear message to the media, particularly the emerging ones, that while the public lauds their critical outlook on politics, it does expect them to practice responsible journalism and to maintain professional and ethical standards, and to reflect appropriate societal value” (Tettey 2002: 51).

Ultimately, the inclusion of the citizenry and their responses to the media and their reportage could support a “more inclusive, responsive, and effective” (Tettey 2002: 50) democracy if a “reciprocal relationship between this kind of citizenry and free media” (Tettey 2002: 51) is developed and valued. “The creation of mechanisms to promote public participation is increasing” (Silva & Paulino 2007: 138) as advocates of the free press and public participation recognise the potential of the “social bond between the press and the readers/listeners/viewers” (Silva & Paulino 2007: 149). With media councils offering a conduit role in the realisation of partnership, as “Press Councils are effective instruments for the intermediation of the Public-Press-Public relationship, monitoring and providing reparation in cases of press mistakes” (Silva & Paulino 2007: 146).

As citizens are vital to the media accountability processes enabled by the press councils, the citizen is also integral to the study of accountability processes. Traditionally media accountability has been based on normative considerations and expectations of the media as responsible to the public for their reportage and the consequences thereof (van der Wurff & Schönbach 2014). Commentators imagine a more prominent role for the public within media accountability mechanisms (Tettey 2006; Silva & Paulino 2007), with public participation in mechanisms supporting democratic participation and citizenship (Kupe 2022). This participatory relationship between the media and its audiences offers a

humanism to journalism and other professional spheres, enlarging the ways of representing societal interests (Deuze 2008: 859), further enhanced by the “participatory capital” afforded by the internet (ibid), for answerability by the media to a community with shared interests. Authors have referred to this phenomenon as the “participatory turn” in journalism, which acknowledges the audience public's willingness to participate in debates on journalism (Eide 2014: 684) and accountability.

2.3.3 The public versus the audience

The public comprises citizens who are also audiences of viewers, listeners, readers, and media consumers. Studies on media accountability have continued to acknowledge the importance of the audience, calling to consideration the possibility of “making media regulation more responsive to the needs of the audience” (Hasebrink 2011), especially in scenarios such as South Africa, where audiences are fragmented. In this context, some are accessible and digitally connected, whilst others are less connected (de Lanerolle, Schoon & Walton 2020), possibly poor and marginalised communities with less access to the resources required to participate in institutional complaints mechanisms afforded by media councils (Reid & McKinley 2020).

Noting the importance of audience, this study adapts an approach incorporated by South African studies that have looked at audience-centred approaches (Reid 2017) to media diversity (Duncan & Reid 2013) and to media coverage (Reid & McKinley 2020) which could also be helpful in the conceptualisation of media accountability. The audience-centred approach seeks to theorise the notion of audience involvement as primary to the policymaking process (Reid 2017: 70) and the legitimate need for public participation in a democratic society. Reid substantiates the call for public participation in accountability processes as media quality could be improved by valuing audience interests instead of state and business interests which often direct policy processes (Reid 2017: 80). The “audience-centred approach regards the audience, the media end-user, the ordinary person on the ground as primary and central to the research effort” (Reid & McKinley 2020: 23) and adopting it as a research approach employs a participatory, consultative, ground-up approach to policymaking in which the audience and their voices are considered before that of the media, private business and the state (Reid 2017: 81). Thus, balancing the plurality of voices, whilst foregrounding the experience of the audience, whose complaint is the mandated concern of the mechanisms in question.

Due to the nature of South Africa’s fragmented society and the need to balance citizenship and “the need to treat people equally (via legality of citizenship), the need to treat people differently (the reality

of multicultural nations) and the need to maintain shared values and social cohesion” (Milton, Wasserman, Garman 2013: 405), the research foregrounds an audience-centred approach which values the reader, viewer and listener as citizens with the right to participate in media accountability processes. Additionally, to understand how the mechanisms operate within a more extensive media accountability system, the study investigates the accountability environment and how these systems operate within and contribute towards overall accountability practices. The study foregrounds the audience as vital to the media accountability process, as the audience receives, consumes, and evaluates the media content produced daily, and provides feedback by either continuing to support or discontinuing support of the product by discussing it with various real or imagined people online. This audience supports the accountability process by initiating complaints about the media with the councils in question.

2.3.4 Why do audiences complain?

Whilst this study does not undertake an examination of the reception of media products, it draws on reception studies, noting and assuming that all of the products being brought to regulatory bodies, have in some way received an oppositional reading of the text by the audience/reading public, who in turn becomes the public complainant. Complainants seek to dispute the text and its meaning and to publicly rectify misrepresentation within the text.

Why do publics complain about media texts? Answers could be found in the media and cultural studies domain. The media represents topics, people, events, and situations through the productions of text media texts (Hall 1997: 1). The meaning of the text is derived through the audience’s interaction/reading of the text, as the audience is able to construct their own meanings of the text (Hall 1997: 3). Meaning is derived from the audience’s interpretation of the text and whether they interpret/decode the meaning intended by the media producer/encoder (Hall 1997: 38). Through the use of language, texts create meaning and attribute meaning to what is depicted, but those meanings are not always read by the audiences as desired by the producer, as often the denotative (literal meaning) is obscured or differs from the reading (connotative meaning) (Hall 1973: 13). The denotative and connotative differences which derive from the encoding and decoding process, could explain why audiences who consume the product do not always derive shared meaning from the text. Some audiences read the text as intended by the media producer, seemingly adopting the dominant reading or dominant-hegemonic position operating inside of the dominant code of the text (Hall 1973:

515). However, others have a negotiated meaning of the text in which they read their own meanings, while other audiences completely reject the meaning of the text, as they read the meaning in opposition of what was intended through an oppositional code (Hall 1973: 16).

Theoretically locating the complaint within the notion of media and cultural studies could allow us to better understand the motivations for complaints in broader terms. For instance, we could imagine that a complainant has chosen to lay a complaint for a multitude of reasons, ranging from:

1. Reception of the text, implying an oppositional reading of the meaning of the text from what the media has intended i.e., audiences finding the media product and its message to be unacceptable.
2. Querying representation, implying that the complainant rejected the representation put forward by the media text i.e., complainants showing concern for their dignity or reputation being harmed by the media product.
3. Finding the text did not meet various societal or journalistic standards, i.e., accuracy and truthful coverage. The phenomenon of texts being produced without the considerations of journalistic standards could be situated theoretically in the realm of cultural studies, by imagining that the informal rules and formal regulations imposed upon text production, fall in line with the cultural regulations' that texts are expected to adhere to. Ethical production could be viewed as a cultural regulation or expectation.

These three theoretical underpinnings provide theoretical assumptions for the possible reasons or motivations for public complaints. Whatever the motivating factor that led the audience/consumer to reject the media text and be motivated to complain about the text, it is evident that this complaint must stem from disapproval of the meaning/message shared. Once a member of the public, who consumes the media text, is dissatisfied with the text, they are able to complain to one of the accountability mechanisms, thus, initiating the complaints resolution process. Complaints resolution mechanisms must be accessible to the public and allow members of the public to voice their dissatisfaction with the media messages portrayed. This dissatisfaction must then be located within the framework of the codes of conduct which are the media council's basis for accepting public complaints about media conduct. Often public dissatisfaction, which is not a breach of the ethical codes of conduct, is dismissed and does not proceed to the complaint's resolution process.

2.3.5 The public and their right to complain

The public's access to and their engagement with the media can be argued to be an extension of their freedoms of expression and their media freedoms (Reid & McKinley 2020: 162). The debates on freedom of expression have centred media producers and their rights, "effectively block[ing] conversations about the freedom of expression and representation rights of media users and citizens" (Reid & McKinley 2020: 163). Users have the right to exercise their media and communications freedoms, which extend to media access and the right to respond to media content via multiple means (Reid & McKinley 2020: 163-166). The right to complain also takes various forms in the digital age. One such means for response is criticism via social media (Bertrand 2008; Fengler 2012; Cheruiyot 2019a; Reid & McKinley 2020; Wasserman 2022). Research finds media criticism online to be an informal but valuable source of criticism about the media. In digital spaces, this criticism has been theorised as an important media accountability instrument, as it publicly exposes the media and their reportage, and further initiates public calls for media accountability (Fengler 2012; Cheruiyot 2019a; Wasserman 2022), supporting the public sphere and public debate on media standards.

Formalised accountability systems such as media councils are another means by which the public can respond to the media. Individual complainants who bring their grievances and concerns about media conduct (Reid & McKinley 2020) are also members of the public (Bertrand 2008). Thus, participation in accountability processes held by regulatory bodies could be seen as an extension of this right to access media and respond to it. The right to complain, like the right to media access, could be argued as intrinsic to freedom of expression and media freedom. The public exercising their right to complain via media councils can be argued as an extension of media freedom and expression. These complainants, whilst representing their individual concerns, are also representing the public's concerns. Within the South African context, these have been termed third-party complaints (PCSA Review 2011; PFC 2012), a form of complaint accepted by the BCCSA (Reid & Isaacs 2015b) and later the Press Council (Reid 2014). The allowance of third-party complaints "increases the public's awareness of the system" (Reid 2014: 62), whilst "inviting the reader to take part in journalistic accountability and securing press freedom" (Reid 2014: 58). The audience's participation in the system is critical to the media accountability process, as they initiate complaints with media councils, beginning the complaints resolution process. Media councils are, thus, theorised within this thesis as a vehicle for the public to exercise their communicative rights. Their right to complain is embedded within the mandate of the media council, as their core function is complaints regulation.

The public voice and their criticism is central to calling the media to account. This public voice and their freedom to complain and critique must be coupled with being heard. The concern for the public and the realisation of their media freedom is fundamental to the audience-centred approach (Reid & McKinley 2020: 166). In the “*Tell our story*” project (Reid & McKinley 2020), the audience-centred approach calls for the media to listen to the public and the subjects of their stories, honouring their voices and representing their experiences fairly. This thesis extends the theorisation of the audience-centred approach to listening to the users of the complaints processes and valuing the rights of complainants to be heard and understood, as an extension of their communicative and expressive rights.

2.3.6 The public and their right to be heard

The right to complain is intrinsic to the right to freedom of expression and freedom of the press, alongside other rights. The “rights of the media audience and the public also includes a right of representivity, of voice” (Reid & McKinley 2020: 166), and “the right to be understood and heard” (Reid & McKinley 2020: 167). Thus, these rights extend beyond just the right to complain, but the right to be heard, to be listened to and to be understood.

Media accountability studies have explored the importance of public participation (Bertrand 2000; 2005; 2012; Bardoel & d’Haenens 2004; Silva & Paulino 2007; Reid 2012; 2014; Von Krogh 2012; Reid & Isaacs 2015a; Reid 2017). Yet, less focus has been placed on the rights of public participants to be heard, and the role of media accountability institutions in listening. Reid and McKinley (2020) call for listening to the subjects of media stories, and recount the experiences of complainants who struggled to access the regulatory body responsible for recourse in the specific case. The case shows the relationship between complainants, their right to complain, their need to be heard and the accessibility of institutions meant to listen.

This thesis values the notion of listening, including listening to the subjects of stories (De Haan 2012; Wasserman 2013), and listening to the general public on their experiences of the media (Fengler 2012; Reid 2014; Cheruiyot 2019a; Reid & McKinley 2020; Wasserman 2022). This thesis extends this notion of listening to include the importance of listening to complainants and users of the media council processes in order to support their participation in media accountability processes. These users should be listened to by the media councils and by the media themselves, as their voices provide feedback about media functioning within society today.

This mandate of complaints resolution involves listening to, acting on, mediating, and resolving complaints in the public's interest, but the extent to which bodies listen to responses from the public on their own functioning is not clear. Listening to the complainants who make use of methods for recourse could offer new findings on the accountability system and its operations. Participants in the media accountability processes, could have unique insights on the process and could have recommendations on how to improve the process they participated in. Listening to their voices and ideas on the media they consume, would allow new insights for understanding the processes in place.

To date, some processes related to media councils have allowed the opportunity for voice. The Press Council Review (2011), the Press Freedom Commission (2012) and The Inquiry into Media Ethics and Credibility (Satchwell et al. 2021) relied on public submissions alongside their reviews of the media councils in question. These three reviews evaluated the Press Council of South Africa extensively, with the latter evaluating the BCCSA. These external processes are valuable, as some of the recommendations have been included in the works of the councils in question. Besides these three inquiries, very little opportunities exist for citizens and media users to respond to the media councils responsible for recourse in the country. Noting the success of these three processes in understanding the public's concerns about media regulatory bodies, their calls for adjustments to media accountability processes and their active participation in these three processes, it seems like the continuation of such practices could prove useful to understanding media accountability from the perspective of the public they are meant to serve.

If media councils sought to fully understand their processes and the public experiences of them, listening to the users of the system could be an important source of knowledge about the processes and operations in place. The voices of the public (Couldry 2010) and complainants would need to be complemented by listening, allowing them to be heard and understood (Reid & McKinley 2020). In the "post-apartheid public sphere in South Africa has therefore not yet delivered fully on the promise of the empowerment of its citizens and their expression of voice" (Wasserman & Garman 2012: 53), the voices of the public in the processes meant to serve them could be of great value. The realisation of these promises would need to be considered and made possible in the context of media councils and their interactions with the public, by making opportunities available to listen to the voices of the citizens they serve. Recognising the voice of the audience and their participation in "making media regulation more responsive to the needs of the audience" (Hasebrink 2011; 321) should be accompanied by the recognition of their rights to express themselves, to be heard and understood (Reid & McKinley 2020).

2.3.7 The right to complain and be heard as a public good

The public has a right to complain and the obligation to be heard (Reid & McKinley 2020). Complaints resolution processes support the exercising of this right, whilst offering recourse to the public. Public participation in complaints resolution processes is an exercise of the public's rights, and arguably the custodians of such processes could potentially be viewed as the custodians of these rights. These custodians (in this case media councils), operate in the best interest of the public, and should operate as a public good. Following the theorisation of information as a public good (UNESCO 2021), and journalism as a public good (UNESCO 2022), the thesis maintains that if journalism is theorised as a public good because it supports "sustainable development and democracy" (UNESCO 2022, 23), then so should the institutions which hold them accountable be theorised as a public good. As these institutions regulate and review complaints about journalism and information in the public interest, their existence, sustainability and mandate should be an extension of this theorisation of the public good.

"Public goods are generally defined as services or commodities available to everyone in society without exclusion" (UNESCO 2022: 20), with examples of libraries and healthcare being such a service. These goods are for the benefit of society. Authors have argued for social media councils as a public good (Handfield 2023), as recent conversations on the media and the public good, relate to social media and digitalisation. Studies on the regulation of digital platforms have revisited the importance of news and journalism as a public good and foreshadowed the harmful effects of these digital platforms on citizens and on media institutions, their content and their advertising (Flew & Wilding 2021). The notion of public good and regulating social media in the interest of the public are purported to counter these harms and serve to enhance epistemic networks and societal knowledge creation (Handfield 2023).

As media councils regulate information and journalism and their social media publication, councils could arguably be seen as an extension of this public good. Councils provide a public service and support the realisation of the media and communicative rights of the public. To fully realise this mandate, and to explore the potential of media councils as a public good, councils would need to consider the voices of their users. Audience-centred approaches to support their public-centredness, accessibility and responsiveness could be a means of supporting their mandate as a public good. As an extension of a public good, Councils would need to support and uphold their commitment as custodians of public rights.

Part 2: Theorising media accountability

“Accountability does not mean allowing others to dictate what we do. It simply means:

- *being prepared to take criticism and explain decisions;*
- *acknowledging and rectifying mistakes;*
- *being open about what we do and how we do it; and*
- *developing a set of standards for behaviour and methods of dealing with those who transgress”.* Franz Kruger (2004, 35)

2.4 Accountability

The media is not the first industry to grapple with the notion and practice of accountability. As one of many disciplines called to be responsible for their professional behaviour, a rich pool of literature exists on accountability and its applicability in politics, governance, finance, medicine and education. To draw fully on the conceptual development of media accountability, this section investigates separately the concept of accountability and its integration into the media field today.

Accountability has been a popular area of study in recent years, as various spheres of professionalism are called to answer for their role within society. Popularised in the political sciences and financial accounting disciplines (Lindberg 2013: 203), the study of accountability has spread to various professions, with all professions having some degree of duty and answerability to society at large (Newton, Hodges & Keith 2004: 170). Once associated with accounting and bookkeeping, the concept has become more widespread as authorities increasingly have to account to their citizens (Bovens 2007: 449). To understand the basis of accountability, authors have simplified the term to reflect being called “to account” for one’s behaviour and actions (Finn 1993: 53; Bovens 2007: 449; Plaisance 2000: 261; Newton et al. 2004: 166). Accountability involves delegating authority, evaluating performance and employing sanctions (Lindberg 2013: 203) through a mechanism to hold the agent/actor accountable for their decisions (Bovens 2007: 449; Lindberg 2013: 204).

Accountability requires the agent to be “accountable *towards others*” (Painter-Morland 2007: 93), emphasising the relational aspects of accountability practice. Accountability seeks to narrow the comprehensive understanding of the term by defining it as “a relationship between an actor and a forum” (Bovens 2007: 477). This relationship implies an obligation by the actor to explain and justify their conduct to a forum, which questions and judges the actor, who faces the consequences for the behaviours (Bovens 2007: 550) at all levels of an organisation (Bovens 2007: 455- 461). Studies such as these often draw on the importance of an agent/actor organisation and their accountability to the public through some form of internal media accountability practice or an independent, external accountability institution.

Models of accountability have enlarged the notions of accountability to consider institutions as having multiple layers of varying types of accountabilities (Lindberg 2013: 217), which move or flow in differing directions. Lindberg (2013: 217) supports the claim that a “linear cause-effect relationship” doesn’t exist as “single institutions have multiple layers of various types of accountability” (Lindberg 2013: 218) depending on the legalities, bureaucracy and professionalisation in place. A claim supported by Painter-Morland (2007, 93) who, when analysing a network society, finds accountability to be a dynamic process which is not linear but a multi-directional model of accountability between agents, peers, and individuals in different positions of authority within an organisation.

How, then, would media accountability differ from the accountability expected of other professions? In the forthcoming sections, this study evaluates media accountability and the field of research by, firstly, examining the theoretical notions of media accountability; and, by, secondly, examining the relationship between the media and media accountability systems which allow for answerability by their public audiences of readers, viewers, and listeners for their reportage within society. These accountability practices could happen through various media accountability systems or media accountability institutions and councils, all of which support multiple levels and directional accountability.

2.5 Media accountability

“At a time when the role of news media and journalism is high on the public agenda, and media criticism is in abundance, the question of media accountability seems more relevant than ever” (Eberwein et al. 2017). Media accountability refers to the process in which media organisations (Pritchard 2000: 2) are expected to account to their constituencies for their activity’s, decisions, and behaviour (Finn 1993: 53; Bovens 2007: 449; Plaisance 2000: 261; Newton et al. 2004: 166). It requires reflecting upon and engaging with ethics and the resultant moral dilemmas involved in media production (Glasser & Ettema 2008) at the writing, reportage, and publication stages.

The media provides a societal role or social good and must “be held accountable for what they do or do not do” (McQuail 1996, 69). The media can be held accountable for lack of commitment to high standards of journalism, and, when transgressed, compelled to admitting and correcting mistakes when unethical standards are found in the profession (SPJ 2014). This process involves measuring the performance of those called to account (Plaisance 2000: 261), informed by a set of standards for behaviour (Kruger 2004), which outline the moral obligations of the media (McIntyre 1987: 151).

The news media are expected to behave with credibility and are held accountable for their transgressions (Kruger 2004). “Accountability enhances the credibility and respectability of the media and journalists”, as media accountability allows a process of answerability for “media who are otherwise answerable to no one” (Sawant 2003: 20) and supports transparency and public trust. This study explores the theorisation of media accountability and its relationship to answerability (Tettey 2002), responsibility (Plaisance 2000; Sawant 2003; McQuail 2005a), transparency (van der Wurff & Schönbach 2014; SPJ 2014), with these three elements being essential to accountability theory. Further, the study notes that the media need to be accountable to measurable standards of journalism (SPJ 2014; Kruger 2004). Since these standards change depending on the media technologies and systems in place (Von Krogh 2008), media accountability should be responsive to the shifting media landscape to remain relevant.

2.5.1 Media accountability as answerability: *“Being prepared to take criticism and explain decisions” (Kruger 2004: 35).*

For some authors, “accountability means no more than answerability” but denotes that this answerability comes with hierarchical ties in which influential individuals hold others with less power to account (Newton et al. 2004). Accountability involves being willing to accept criticism and explain decisions made, foregrounding the role of answerability in recognising and rectifying mistakes (Kruger 2004: 35). For other authors, a dual definition of accountability exists as, firstly, to answer and account for one’s actions to the public or via public authority, and, secondly, to be liable to sanction if found in breach of some requirement or expectation attaining to the exercise of power (McQuail 2010, 206). Thus, the accountability of the media is tied to its answerability and the press’s ability to answer for its actions and reporting, and the resultant consequences thereof on society.

In its simplest form, media accountability involves “answerability and enforcement” (Tettey 2006: 232), the former asking, “to whom are the media expected to be accountable?” and answerable (Tettey 2006: 236), and the latter asks which institutions “are then given the responsibility to ensure media answerability and to enforce the regulations” (Tettey 2006: 235). And when asked to whom the media should be accountable, authors find that the media must be accountable to many stakeholders, as it forms relationships with many external partners (McQuail 2010: 209). Accountability can be classified in terms of proximity, vocality and prima facie legacy. The most accountability claims come from clients, sources, audience members, and those affected by publication and regulators,

whilst interest groups such as critics, politicians, commentators, and pressure groups play a lesser role (McQuail 1997: 95).

Research in this field of answerability has explored the responsibility of the media to its audiences, and the checks and balances in place to guarantee that the responsibility is upheld. Thus, acknowledging that professionals are answerable to their clients, employers, governments, society, professional associations, and the law. Scholars question the many masters to which professionals have to answer to maintain their professional trustworthiness and note that it is their responsibility to maintain the trust of the profession. Others assert that professionals have a greater responsibility to be accountable to society due to their utilitarian obligation. However, “professionals have a duty to society at large, to the greater good for the greater number, whether or not their clients and employers agree” (Newton et al. 2004: 170).

Media accountability includes voluntary and involuntary processes in which the media directly or indirectly respond to society regarding the consequences of their reporting (McQuail 2005a: 207), and the success of the process relates to the media’s willingness to be answerable (Glasser 2009: 132). Studies into the accountability of the media have considered not only the concepts related to media accountability but also the processes involved when the media transgresses those expectations, as the media are called to be answerable and accountable for their actions through mechanisms determined by the normative expectations set in the specific societal context. Many concur that press councils allow this process of answerability (Kruger 2004; Tetley 2006; Fengler et al. 2022) to take place in quick and cost-effective ways (Sawant 2003; Krüger 2011) whilst supporting freedom of the press from statutory means (Duncan 2011).

2.5.2 Media accountability as responsibility: *“Acknowledging and rectifying mistakes”* (Kruger 2004: 35).

McQuail (2005) questions what responsibilities, if any, the media have to society. He finds that the media generally have a responsibility related to the power of publicity, proper conduct and performance, and, when these responsibilities are reneged upon, they are called to account (McQuail 2005a: 240-242). The media are called to be responsible and accountable, with responsibility referring to the obligations of the media, whilst accountability refers to the practice and process of holding the media accountable for these obligations (McQuail 1997: 91).

Responsibility requires the acknowledgement of an “obligation for action or behaviour” (Plaisance 2000: 260), whilst accountability measures the manifested claims of responsibility. This measurement extends to the performance of those called to account (Plaisance 2000: 260) and requires that media professional discuss the actions in question and be held morally responsible for those actions (ibid: 261), which should be in line with professional standards. Accountability and responsibility are connected through the assigned and self-imposed obligations involved with media activities, but these may be abdicated to self-serve the need for profit and business services (McQuail 1997: 516). Calls for responsibility, truth, balanced reporting, accuracy and objectivity in the supply of information (Siebert, Peterson & Schramm 1956; Christians, Glasser, McQuail & Nordenstreng 2009: 24; Oosthuizen 2013: 36), are outlined in codes of ethics. The voluntary acceptance of the code implies that journalists will self-regulate their behaviour (Christians et al. 2004: 14). Self-regulation is most valuable when it is in the public interest (Berger 2010; Reid 2014; UNESCO 2019).

2.5.3 Media accountability as transparency: *“Being open about what we do and how we do it”* (Kruger 2004: 35).

Many debates exist about whether transparency is synonymous with accountability, or a condition needed for accountability to be set in place. Regardless of this clarification, many of the debates in the literature on accountability seem to vie for the importance of transparency, accessibility, or openness. The purpose of transparency is to assist the audience in understanding journalism and the journalistic process (van der Wurff & Schönbach 2014: 122) as it explains how news items are constructed (van der Wurff & Schönbach 2014: 446). Transparency refers to how media producers adopt openness to show how news is produced and where additional information can be sought (Porlezza 2012).

For journalists, transparency enables the media to be answerable for questions regarding reportage and behaviour. Transparency can support journalistic integrity by reminding journalists of the norms expected of the profession (van der Wurff & Schönbach 2014: 122) and enables a news organisation to be open and communicate about how and why it makes editorial decisions (Hayes, Singer & Ceppos 2007: 272). In practice, transparency has been achieved through having the media become more accessible to its audience and can support publications trying to regain public trusts. Such examples include the *New York Times* in 2003 and the *Sunday Times* in 2008 (Kruger 2009: 16), both of which made use of transparency to engage publicly on instances of misconduct. With the latter

instance of the *Sunday Times*, their lack of transparency was evident in the unwillingness of the paper to appear before the Press Council or to engage in debate about the case with the media fraternity (Satchwell et al. 2021). This affirms the work of authors who find that transparency implies disclosure about performance but does not require debate about said performance, as a commitment to engage with non-journalists and journalists about the practice and performance of the press is more related to accountability than openness (Glasser & Ettema 2008: 531).

For others, transparency enables the accessibility needed to facilitate accountability; thus, the two concepts cannot be separated (Kruger 2009: 16). Regardless, authors agree that transparency relates to showing the audience how news is produced (van der Wurff & Schönbach 2014: 436) and is earmarked as a journalistic value which should be adhered to (SPJ 2014). For the profession, transparency allows the monitoring of media behaviour, and is vital to inspire public confidence and display independence from the industries they regulate and the government, which determines regulatory frameworks (Duncan 2014: 173). To enhance transparency and openness, monitoring tools and instruments such as ombudspersons and charters are fundamental (Bardoel & d’Haenens 2004: 183). Within the Canadian model, instruments of public consultations in the form of public hearings enable this process to occur (Bardoel & d’Haenens 2004: 186). Other spaces rely on mechanisms such as the ombudsman and codes of ethics (Fengler et al. 2015: 252), showing that literature on media acceptability often uses transparency as connected to or synonymous with accountability.

2.5.4 Media accountability and measurable standards: “Developing a Set of Standards for Behaviour and Methods of Dealing with Those who Transgress” (Kruger 2004: 35).

The media has a responsibility to report according to professional standards. Within South Africa, amongst other responsibilities, the “media’s responsibility is to report news truthfully, accurately and fairly, according to the South African Press Code” (Daniels 2011: 77). “Journalistic codes of ethics are traditionally regarded as declarations that journalists try to follow the best professional practices and ethical standards, meet their social responsibility obligations, and accept public accountability” (Fidalgo, Thomass, Ruggiero, Bomba, Sallusti & von Krogh 2022: 211). Codes guide good journalism practice (Bertrand 2008a: 30) and allow measurement of compliance with professional practice (Suarez-Villegas, Rodríguez-Martínez, Mauri-Ríos & López-Meri 2017: 322). Codes are linked to the media and its practice (McQuail 1994), and are critical to the functioning of press

councils to enforce the code (Thomass Marrazzo, Meier, Ramsay & Blach-Ørsten 2022) and to newspaper guidelines for internal standards and expectations.

Codes signal profession's values (Roberts 2012) and are viewed as the most effective measure for self-regulation (Christians & Nordenstreng 2004). Various debates exist on how the media should be regulated, but it has become widely accepted that the media are self-regulated to uphold the freedom of the press (Fengler et al. 2015). Freedom of speech is the condition for a free press; thus, freedom of speech, information and press are interconnected freedoms that support democracy (Himmelboim & Limor 2008). “The starting point for all codes of ethics for journalism is the concept of press freedom, a guiding principle for all democratic societies” (Fidalgo et al. 2022: 212), valuing press freedom alongside public interest and the democratic rights of the citizens. Codes of conduct are among the most popular indicators of measurable standards for journalists. Further exploration of codes of conduct in Section 2.7.3 describes how codes operate as self-regulatory tools.

2.5.5 Media accountability responding to a changing media landscape

Media Accountability and its institutions must be adaptable and responsive. As the media adapt, so too should the accountability systems which regulate it. With the changing media landscape, the measures put in place to regulate or hold the media accountable have had to adapt to changing conditions, such as the movement of the press into online distribution, the spread of information in the post-truth area, and the resultant responsiveness of councils to the digital evolution.

The advent of new technology and the structural changes in journalism globally has been crucial to studying media accountability (Kniep 2015) as media is produced, distributed, and consumed online. Studies have considered numerous issues concerning accountability in the age of digital news, with many focusing on three areas in the study of media accountability online, namely, the relationship with the journalist, the relationship with the audience, and the regulation of online content. Studies on the journalist's engagement with online accountability question the role of the audience with regard to gatekeeping and crowdsourcing (Acharya 2015). Studies on the journalists' experience with online media vary, with some noting that the relationship between journalists' engagement on social media informs their view of the platforms as helpful or threatening good journalism (Wu 2018). Other studies focus more specifically on the accountability considerations related to digitalisation and online news, such as the study on media accountability online in Israel (Kniep 2015) and studies on cross-media platforms in South Africa (Reid & Isaacs 2015). Most studies recognise that, whilst

journalism has not changed, the means and methods of production, distribution and dissemination have, leading to a new set of pressures on journalists in the digital age. Others have noted that new means of holding the media accountable for their online presence has arisen in response to the digitalisation phenomenon (Cheruiyot 2019a; Wasserman 2022).

The digitalisation of news and the distribution of news online has altered the news market. As a result, the professional and ethical practices associated with news-making have altered along with it (Chari 2017: 25). These changes to the digital environment also altered audience participation and the standards and expectations of audiences interacting with news through online platforms (Palau-Sampio 2019: 230). As the digitalisation of the media has disrupted the information and media age, “the rapid dissemination of information in the digital era may demand the development of new ethical guidelines” (Whitehouse 2010: 311), more suited to the digital conditions through which journalists and citizens produce and consume media information.

As the news became more digitalised, distributed through digital platforms, and consumed by online audiences, councils have had to adapt to the new challenges of the digital era, affecting ethics, traditional conceptions of professionalism and the new roles of audience engagement (UNESCO 2019). Many studies have been concerned with mapping accountability in specific regions, and countries, whilst others reflect the digital era of news production and the adaptations of media accountability processes and theorisation to this new terrain. As digitalisation, convergence, and media shift, so should its codes of ethics and accountability institutions to remain responsive to a shifting media landscape, a topic further explored in Section 2.10, which discussed media councils in the age of digital inequality.

Alongside the digital revolution, the media environment has been dramatically affected by the era of post-truth politics, which asserts that there is a greater need for a functional accountability environment than ever before (Eberwein et al. 2019). In the era of digitalisation, a dramatic increase in ‘fake news’ has been noted, causing information to be utilised to discredit individuals; often shared through trusted networks motivated by emotional reaction, by passing verification (Posetti 2018). The onset of misinformation, disinformation and the exasperation of fake news has largely affected public trust in the media and their institutions (Ireton 2018) with public trust at 57% in South Africa (Ropper 2023). Fake news has expanded the reach of online partisan media, which set the agendas of online conversations through fake news and highlights the struggles of fact-checking in the age of information overload (Vargo, Guo & Amazeen 2018). Within South Africa, fake news, misinformation, and disinformation have been prevalent in the online spaces (Wasserman 2020), and

this continues to be a global phenomenon evident in other contexts globally, which highlights issues of fake news, market imperatives, audience roles and digitalisation trends affecting online accountability practices (Eberwein et al. 2019b).

2.6 Media Accountability Systems (MAS) and Media Accountability Instruments (MAI)

Media Accountability Systems, hereafter MAS, refers to the theory that ethics and media standards can be improved by introducing non-state means of making media responsible towards the public (Bertrand 2007; Duncan 2011). MAS arose from the concern for the media's disrespect of media freedom. The concept, introduced by Jean-Claud Bertrand, suggested that the development of Media Accountability Systems (MAS) could supplement media self-regulation and accountability without reverting to state regulation (Bertrand 1990). In response to an ethical crisis observed in the early 2000s, Bertrand found the existing accountability mechanisms of the journalist's internal virtue/conscience and outer courts of law insufficient to counter the ethical "violations" committed by professional journalists (Bertrand 2000: 107). Bertrand proposed MAS to support the press and their freedom from the state, and model ethical standards and responsibilities, supported by non-governmental quality control measures put in place to enforce them (Bertrand 2000).

Bertrand theorised MAS as quality control measures for the media through "non-State means of making media responsible to the public" (Bertrand 2000: 107) by adding "moral pressure" (ibid), with the support of key groups such as media owners, editors and news directors, newspeople, and media users "too often forgotten in the debate about ethics" (Bertrand 2000: 108-109). McQuail's (1997) theory of media accountability to society is furthered in Bertrand's work which theorises the public as active participants in the accountability process and views this participation as critical to democracy. "Readers/ listeners/ viewers are also voters and consumers. They can wield a huge influence on and for media. They rarely do because the public consists of different groups with different agendas, and it is not easy to mobilise. Also, people feel that journalists and media ignore them – and they distrust news media." (Bertrand 2008a: 30). Thus, the adoption of MAS can rebuild the media-public relationship, work towards restoring trust, and support the democratic participation of the public in media accountability. This concept of MAS further a reframed and recategorised configuration of who could hold the media accountable. Scholars find MAS a practical example of "doing accountability" (Wurff & Schönbach 2014: 123).

MAS could be helpful in various ways, with Bertrand finding three primary purposes and gains from these systems.

M*A*S should be considered to have a triple purpose: they improve the news service, but also they help journalists feel solidarity among themselves and form a true independent profession around a common creed, that is to say, a code of ethics. And lastly, they restore citizens' trust in the media. (Bertrand 2008a: 30).

By improving news standards, supporting journalists and media self-reflectivity, and restoring public trust and participation, MAS could provide a roadmap for accountability implementation in democratic societies. In his review of the MAS, Bertrand noted that both freedom and regulation are indispensable, but these can often be complex when operated through state interventions. Thus, alternative accountability systems are paramount to induce journalists to follow their professional rules (Bertrand 2007: 5). Bertrand further developed the framing/purpose of MAS to assist journalists in listening to the public and to help journalists recover public trust and serve the public better by forming professional solidarity and resisting economic and political interference (ibid:). To become independent and autonomous, Bertrand (1997: 9) finds that journalists must “join forces with the masses”, as media owners and legislators are unlikely to support media freedom and independence.

Bertrand first introduced MAS in 2000 in his book *Media Ethics & Accountability Systems*, which offered forty non-governmental means of holding the media accountable, adding twenty more by 2003 and a further 50 by 2006 (Von Krogh 2008: 25). Bertrand reviewed MAS again in 2007. In the review, Bertrand offered an extended explanation of MAS's purpose and possible value, and reiterated that MAS are efficient because “they operate where other means of influence prove powerless” (Bertrand 2007: 6-7). In later reviews of MAS, Bertrand offers an extended list of MAS, resulting in 101 possible MAS which could be utilised (2005). A condensed list of the MAS (2000-2005) and their means of implementation are available in the addendum at the end of the thesis. MAS are flexible, harmless and complementary to each other and existing national regulatory mechanisms, and can be implemented through one of four means. Firstly, through education and criticism of the media from all members of society; secondly, through education of the public and the profession; thirdly, through monitoring, surveillance and research on the media and its effects, and, finally, through public intervention in which the public interacts with the profession through letters, meetings or other communicative interventions (Bertrand 2008a: 31).

These MAS could be implemented by the public, the media, interest groups and various collaborators, decentralising, and localising media accountability. Media Accountability Systems are founded on the principle that news councils and ombuds cannot be solely responsible for the accountability of the media but should instead form a part of a more extensive “ultimate media accountability system” (Bertrand 2005: 6). MAS should not replace existing councils and should instead accompany existing mechanisms, extending their work/reach, and encouraging media producers to follow existing professional codes (Bertrand 2005). The relationship between MAS and accountability mechanisms should be complementary instead of adversarial and allow engagement between various parties and stakeholders.

Newton et al. further the understanding of MAS by asserting that “accountability systems hold the prospect of sanctions, which encourage responsible conduct” (2004: 180) through interactions with stakeholders and interest groups. The authors point out that these interactions happen at three primary levels. Firstly, through interaction with journalists and the media fraternity, as some systems are targeted at individual media companies/newsrooms, whilst others are meant to reach the entire media field. Secondly, MAS involve interactions with non-journalists and non-media-aligned publics, who are placed outside of the profession and provide a different perspective on media conduct. Thirdly, MAS requires effective cooperative interactions through participation between journalists and non-journalists (Newton et al. 2004: 180). These co-operative mechanisms are highly relevant to keep the media listening to and interacting with the public they serve.

Evaluating the use of MAS in newsrooms, researchers have found that internal ombudspersons, accuracy forms, printed corrections and other systems were already in use in newsrooms before 1975 (Plaisance 2000). In more recent years, researchers have echoed the value of MAS, but find that it needs to be adapted for media accountability in the present day and for the future, noting the shifts in journalism with the digital age, to which MAS should adapt accordingly (Von Krogh 2007). Whilst systems already exist for holding the media accountable on digital platforms, the role of the audience has been a great example of how audiences, and public interaction and criticism online can bring the media to account for their faults (Acharya 2015).

2.6.1 MAS and the media

MAS refers to the “non-governmental means of inducing media and journalists to respect the ethical rules set by profession” (Bertrand 2007: 5), which can support better standards of media practice. The

media can transgress expectations and professional standards at various points in the news and media production process (Bertrand 2000: 23) and, thus, require quality control measures to support high production levels (ibid). In his investigation of quality control within the media sphere, Bertrand considers the media mediocre and needing improvement, which would be crucial to the survival of a thriving democracy (2007: 5). Contemplating these theorisations and the realistic challenges related to the law, morality and ethical conduct, Bertrand proposes a new approach and configuration of media accountability beyond the existing rules which dictate media functioning (2007: 20-22). This extends the conceptualisation of accountability as being implementable at various stages of the news production process, not limited to; the obtaining of information, the selection of facts and sources, the processing and presentation of the materials, or post-publication.

MAS offers measures that can be implemented before, during, and post media and news production, allowing journalists and producers to consider ethics throughout their production process (Bertrand 2000). It can be argued that MAS should be operational in all media environments, newsrooms, and training institutions to keep ethical thinking and accountability for journalism at the core of media and content production. MAS, drawing on peer support and in-house media engagements could support the media to realise their agency and responsibility in ethical reportage. Furthermore, such interventions can encourage peer monitoring inside media production organisations. Examples of MAS utilising peer media and in-house interventions and systems include appointing an in-house media critique to monitor the media house without making the findings public, having an internally written code of ethics for the specific publication, radio station, website or television station (Bertrand 2007: 15-23). Harnessing the collective ideas of journalists in the industry can also support media accountability. Examples of such interventions include hosting ethics conferences for the fraternity, hosting seminars and workshops for media producers on ethical issues, and having an ethics watch publication or blog in which the industry monitors its transgressions (Bertrand 2007: 15-23). Thus, allowing accountability to be implementable and embedded within the work of the media, in newsrooms, during production and post-production.

2.6.2 MAS and the public

Bertrand further notes that MAS could encourage journalists to follow their professional codes, engage with the public, serve the public, and recover public trust by forming solidarity between the professional community and the public (Bertrand 2000). MAS is initiated by the media or the public

to support media accountability, foster greater engagement between the media and the public, and draw on public expertise to enhance media accountability to society. MAS move beyond professional codes of practice by offering opportunities for media and stimulating public engagement and interaction (Bertrand 2005), enabling the public to be heard by the media (Bertrand 2007: 6). Public intervention and engagements with the media could enhance the level of accountability to the public and encourage public participation and trust, as public trust can be significantly enhanced by listening to readers, listeners and viewers (Bertrand 2005).

MAS demystifies the newsroom to its public and promotes transparency around conduct and reportage. Examples include drawing on public participation, encouraging letters to the editor, having the public form part of the media's editorial board, and having readers/viewers/listeners regularly share their experiences on the media produced through surveys (Bertrand 2007: 10-15). In addition to supporting engagement between the media and the public, MAS allows the public to measure the commitment of journalists (Suárez-Villegas et al. 2017) to ethical reportage and, in turn, allows “media organisations to justify their decisions” (Duncan 2011: 100) to their publics and each other.

2.6.3 MAS and its critics

Numerous criticisms of MAS exist, with scholars finding MAS too broad and lacking focus (Groenhart & Bardoel 2012), supporting Bertrand’s take on the audience being apathetic or unorganised, ignorant or intolerant, and “not contributing much in the process of media ethics and press freedom” (Bichler 2012: 6). Consequently, the empowerment and participation of the user in the media accountability process has become a focal area of accountability research in the past decade. Despite these criticisms, many scholars have incorporated Bertrand’s work into their theorisation of media accountability in multiple contexts.

In environments where sections of the media could be considered to be abusing press freedom, concentrating on MAS could offer reasonable, inexpensive and non-statutory means of holding the media accountable for their reportage. Authors have noted that the MAS are sometimes unclear as a list of systems (Von Krogh 2008). However, these could be useful when assessing their potential in three distinct areas. These are, firstly, some internal mechanisms are targeted at individual media companies, whilst others are meant to reach the entire media field. Secondly, that external mechanisms are generally suited to non-journalists who are placed outside of the profession; and, thirdly, that cooperative mechanism requires participation between journalists and non-journalists to

be effective (Newton et al. 2004: 180). Thus, MAS should be applied considerately and be tailored to the specific contexts in which they are adapted. More detail on this theory can be assessed in Section 2.8 on the differentiated approach in the global south.

2.6.4 MAS and its implementation

Since the early theorisation of MAS (Bertrand 2000; 2005; 2008), the global adoption of the term has led to the increased study of and experimentation with MAS. Individual theorists experimented with the theory, resulting in media accountability instruments (MAIs) introduced by (Bardoel & D’Hanens 2004) and popularly adopted as the latest extension of MAS, which numerous authors have theorised in the accountability field. The term instrument was adopted in place of systems, as Bertrand introduced that the MAS was not grounded in “systems theory” and, therefore, inappropriate for further theorisation (Eberwein et al. 2011: 8).

Since then, the study has been adapted to multiple countries and contexts, such as the United States, where “the public is strongly opposed to government regulation” (Bardoel & D’Hanens 2004: 175). Furthermore, the concept has been adapted to multiple environments, including the mapping of media accountability and its implementation in multiple contexts, including Africa (Tetty 2002), South Africa (Reid & Isaacs 2015; Wasserman 2022), Morocco (Zaid et al. 2023), Nigeria (Tsegyu & Asemah 2014; Segun 2015), India (Mathew 2016), Latin America (Bastian 2019), Spain (Suárez-Villegas et al. 2017), Turkey (Zlatev 2011), Canada (Raboy & Taras 2004), Britain (Middleton 2017), Lithuania (Mažylė 2013), Netherlands (Bardoel & d Haenens 2004), France (Van Puyvelde 2014) and Europe as a continent (Eberwein et al. 2011, Media Act 2013; Fengler et al. 2022; European Commission 2013). While other studies have mapped one mechanism in an existing system, offering information on what specific mechanisms offer in larger media environments. Examples of these include the mapping of Press Councils in Southern Africa (Kruger 2009), readers ombudspersons in Norway (Von Krogh 2008) or Press Councils in Brazil (Silva & Paulino 2007). Notably, many of the studies mentioned above have not included Bertrand as the core theoretical framework, but they either allude to his work or could be seen as aligning with accountability systems theory.

Other studies have focused on the role of the public and the media by the audience, such as audience expectations in the Netherlands (Van der Wurff & Schönbach 2014) and journalists’ responses to the pressure of media accountability in Kenya (Obuya & Ong’odo 2019). In the European context (Eberwein et al. 2011; Eberwein 2017) and multiple other countries globally (Fengler et al. 2015;

Eberwein 2019; Fengler et al. 2022), scholars examine the relationship between the media, MAS and their contexts and constituents. In line with this trend, many researchers have committed to mapping media accountability theory and practice in their respective regions by discussing the nuances within the accountability environment and theorising them in relation to existing accepted media practices.

These studies have illuminated a trend in media accountability research of focusing on either mapping the more extensive terrain of a country or focusing specifically on one media instrument, with authors using less institutionalised instruments for media accountability (Bertrand 2000; Lauk & Kus 2012), such as public letters to the editors and media criticism. Yet, others focus on more institutionalised instruments, such as professional instruments that enforce accountability, such as ombuds and newsroom practices, including “press councils enforcing compliance with codes” (Thomas et al. 2022: 235).

Press Councils are “journalism-internal” instruments with high levels of institutionalisation (Thomas et al. 2022: 237). The councils have been argued as “implicit political accountability instruments and not accessible to the public” (De Haan 2012: 66). Researchers have noted that the “monopoly over self-regulatory instruments such as press councils is over” (Cheruiyot 2019b: 292) as legacy news organisations and their instruments can no longer be the gatekeepers of public discussion (Cheruiyot 2019b: 293). The calls have echoed the need for newer models of accountability, which develop “networks of instruments of media accountability and media self-regulation (e.g., press councils, ombudspersons, media journalism, but also media criticism via social media)” (Eberwein 2019b: 4). The press ombudsman continues to act as a public editor and promote journalistic accountability and public trust in digital spaces and online (Enkin 2021).

MAS discusses press freedom, accountability, media standards and the systems to enforce them, and introduces a vast list of possible quality control measures for different geopolitical locations and contexts. The MAS developed by Jean-Claude Bertrand, a French professor working in and theorising media accountability in the United States of America, has since been adapted and theorised the world over, with multiple scholars investigating three of the crucial contributions made by the theory. These are the non-state means of holding the media to account (Duncan 2011), the raising of media standards (Fengler et al. 2015), and the participation of the public in accountability process (Silva & Paulino 2007). The global migration of the theory seemed possible because, firstly, MAS was introduced as a “global concept”; and, secondly, the theory drew from international, European, Russian, Indian, and African case study examples. Whilst, thirdly, exploring the need for nuanced approaches to MAS depending on “the environment of a nation, on its inherited culture, or economic development, or

media system” (Bertrand 2000: 49) noting that the approaches for media and ethics could differ in “Muslim countries” (Bertrand 2000: 20) and in parts of the “Third World” (ibid). He further noted that “media ... [and] cultural life must be decolonised” (Bertrand 2000: 51), drawing on the discussions of codes of conduct in different locations.

2.6.5 MAS research South Africa

Projects which map media accountability globally, such as the Global Handbook of Media Accountability (Fengler et al. 2022), have included discussions on South African accountability approaches in their analysis of Sub-Saharan Africa. In this case, the chapter entitled ‘South Africa: Media Accountability in a Young Democracy’ (Wasserman 2022) is the first comprehensive inclusion of South Africa into the mapping project. The chapter acknowledges that “the media has been an important role player in the democratization process” (Wasserman 2022: 345). The study asserts that “given the fragility of democracy and media freedom in Africa, both self-regulatory accountability institutions, such as media councils and wider accountability practices, such as digital critiques, are important” (Wasserman 2022: 345). It can, in turn, raise media standards. Supporting the principles of MAS “engagement between professional journalists and the public may help the former to respond better to changing expectations of the media’s role in a changing society.” (Wasserman 2022: 351). The study also supports the possibility of public participation in the accountability process. Finally, Wasserman (2022) finds an array of other means to support media councils, including organisational MAIs such as the public editors at News24; media criticism in weekly newspapers such as the *Mail and Guardian* and *Vrye Weekblad*; blogs, social media and widespread criticism from blogs such as the *Media Online* and radio programs such as *Media@SAFM*; monitoring organisations such as Media Monitoring Africa and Africheck; and media critics online ranging from valid criticism from former journalists to vicious attacks by online trolls. The latter of which has caused many media professionals to withdraw from social media platforms (Wasserman 2022).

Wasserman’s study furthers the findings of the seminal study of MAS in South Africa and Kenya titled ‘Criticising Journalism Popular Media Criticism in the Digital Age’ (Cheruiyot 2019a). The study explores media critique, discussing media critics, including review programmes like *The Eusebius McKaiser Show* and blogs such as *Akanyang Africa*, *TV with Thinus* and *ZANEWS Daily* on YouTube (Cheruiyot 2019a: 87). Other blogs include *Harbinger* and *Media in the South*, hosted by

university professors Anton Harber and Herman Wasserman, respectively. Cheruiyot finds that “Universities and scholars are at the forefront of partnerships, projects, forums, conferences and reports that directly engage the media industry and journalists in a vibrant debate about journalistic performance and accountability in South Africa” (2019: 85), with examples of the *State of the Newsroom* project at the University of Witwatersrand (Wits University), the *Rhodes Journalism Review* and Highway Africa Conference at Rhodes University. Scholars at Wits University and Stellenbosch served as ombuds for news agencies. The study finds that the media, the public, civil society and education institutions add tremendous value to the media through their criticism of traditional and digital platforms (Cheruiyot 2019a).

These two seminal studies (Wasserman 2022; Cheruiyot 2019) position South African accountability instruments as part of a more extensive global theory. Before these studies, South African mentions of MAS were limited to studies exploring self-regulatory councils in Southern Africa (Kruger 2009), the exploration of proactive roles of the press councils in South Africa (Duncan 2014: 174) and the exploration of a “cross-platform media accountability system” (Reid & Isaacs 2015b: 7) analysing global regulatory bodies and their capability to administer complaints for multiple mediums (Reid and Isaacs 2015b). This introduction of MAS was further supported by the Press Council itself in its 2011 review that recommended, per Bertrand’s theorisation, that the “Press Council should develop a more proactive role in raising standards of journalism” (Press Council Review 2011: 32), and that its visibility should improve as “the lack of visibility is not unique to South Africa as Bertrand has observed. Obscurity is “the worst cause of failure ... the whole point of [press councils] is to get the public involved in supporting the independence and quality of media.” (Press Council Review 2011: 33). With the continued introduction and examination of Bertrand’s theory in relation to South African councils since 2009, the progression of a more robust study seems appropriate as the need for accountability and the calls for answerability increase.

Part 3: Media councils

2.7 Media councils, their codes and their mandates

In Southern Africa (Kruger 2009) and the world (EU 2022), the term media council is the accepted terminology referring to councils regulating media print, broadcast, or online media. A media council “is a body set up by the media profession to ensure respect for their professional and ethical guidelines” (UNESCO 2019), and “are authorized to monitor the media’s performance, and address complaints filed against them” (Tettey 2006: 238) by the public and other stakeholders (Reid & Isaacs 2015a) about media reportage (European Commission 2013: 7) on the violation of ethical standards outlined in codes of conduct (Fengler et al. 2022: 11). Media and press councils are often used interchangeably, with the latter expressing a greater focus on news media.

“Among the important media accountability mechanisms are press councils” (Pritchard 1991). Scholars in the area of press councils find that they offer a home for the professionalisation of the media fraternity and provide the rules journalists must observe if they “wish to belong” (International Press Institute 1966). Many scholars acknowledge that media councils are essential for maintaining journalism standards and fend off encroachments on press freedom (International Press Institute 1966). Councils promote a ‘free press’ by supporting voluntary regulation of the press (Rampal 1981; Bertrand 2000; Kruger 2009; Reid 2017) in line with the social responsibility theory of the press (Rampal 1981; Bertrand 2000; Christians & Nordenstreng 2004). The press often seeks voluntary regulation instead of statutory control, as “state-controlled mechanisms of accountability are not always conducive to democracy” (Tettey 2006: 230). Councils are often formed to fend off state intervention, as seen in the cases of the Press Council in South Africa (Duncan 2014) and Britain (Pritchard 2000) to “clean up the press before the government comes in and does it for us” (Wicker 1978: 259).

Councils are “multi-functional” and allow “flexible and fast” processing of complaints as an “inexpensive” practice (Bertrand 2000: 29). Councils settle complaints (Kruger 2009) from listeners, readers, sources, and other stakeholders who have indicated concern with a particular media organisation and named a problem with its performance (Pritchard 1991). The Press Ombudsman acts on behalf of the council as a mediator between the complainant and the media producer in question and ensures that the individual’s rights are upheld (Maurus 2008: 68) by adjudicating complaints, sanctioning and reprimanding the media to “satisfy the constituent who called it to account” (Pritchard 1991). Media councils linked to the standards of professional practice, answerability, and

responsibility “tend to rely on moral authority alone. No sanctions beyond a reprimand are generally imposed” (Kruger 2009: 7). Consequently, “the buy-in from media [is] needed for them to be effective” (Newton et al. 2004: 184). Councils are valuable and can be successful, yet their popularity has been hampered by the pressure to finance, maintain and sustain them (Newton et al. 2004).

2.7.1 Media councils as a global phenomenon

Media accountability bodies are popular means of holding the media accountable (Bertrand 2000). This has been the case since the inception of the Swedish Court of Honour in 1916, when such bodies were first introduced to hold newspapers accountable for political partisanship during the First World War (Kruger 2009: 17). Since then, numerous forms of courts, councils and mechanisms have been created, such as the Quebec Press Council and the British Council 1953, modelled on the early courts of honour (Pritchard 2000). Similarly, African media councils have followed a similar model to the early courts of honour (Kruger 2009), with one of the first African councils being the Press Board of reference, established in 1962 in South Africa.

The diffusion of press councils started in Sweden in 1916 and has since been adopted globally (Fengler 2022: 552). Press councils responded to democratisation movements at five significant instances in media development (Fengler 2022: 551), namely, after World War 2; after social movements erupted in the west in the 1960s; in response to the third wave of democracy spanning across the globe around 1989; after 2000, in the post-soviet media moment; and post-2011, after the Arab Spring (Fengler 2022: 551). Media councils exist worldwide, serving local and national communities as the predominant practice, with a select few overseeing media accountability transnationally. Media councils often operate in two fashions, by either regulating media content across traditional platforms of broadcast, print, and online news publications through separate bodies; whilst others simultaneously administer complaints from more than one medium through cross-platform media accountability mechanisms (Reid & Isaacs 2015b: 12).

Table 3: Early data on Media Councils

| Early data on Media Councils (Accountablejournalism.org 2017) | |
|---|---|
| Media Councils | Region |
| Africa | 19 |
| Asia | 19 |
| Australia/Oceania | 44 |
| Europe | 38 |
| Middle East | 10 |
| North America | 1 (includes Canadian Press Councils only) |
| South America | 8 |
| International | 4 |
| Total | 139 national and 4 transnational councils |

The most relevant list of media councils and their operations can be extracted from *Accountablejournalism.org* (2006-2017), indicating the number, location and practices of media councils globally. The data set lists 139 national press councils and 4 transnational collaborations between press councils outside national borders. The study also adds value through an African data set which includes the Press Councils in Algeria, Botswana, Burkina Faso, Cameroon, Congo, Ghana, Guinea, Kenya, Malawi, Mali, Mauritania, Morocco, Mozambique, Namibia, Niger, Rwanda, Senegal, and Seychelles.

Upon examination and cross-referencing the list with other research sources, it is evident that the data set is outdated and excludes key councils such as the media council of Tanzania (Kruger 2009), the Zambia Media Council (Kruger 2009), the Press Council and Broadcasting Complaints Commission of South Africa (Reid & Isaacs 2015b), the voluntary self-regulatory council in Tunisia (Hizaoui 2022), the self-regulatory Media Council of Uganda (Tayeebwa 2022), and the Voluntary Media

Council of Zimbabwe founded in 2007 (Chuma 2022). Thus, the study notes a deficit of information about African media councils and the need for a more extensive examination of their existence, structure, and operations. Such a study could support tracking the operations and current status of media councils as a support resource for researchers and media councils on the continent. Similar studies have been conducted globally, with UNESCO researching and funding projects on the Western Balkan press and media councils (UNESCO 2021). This led to the adoption of a Joint Declaration by all Press Councils of South-East Europe and Turkey to increase cooperation between the regulatory bodies in the region, with the director of the Albanian Media Council noting the importance of these endeavours as “Press and Media Councils increasingly have a role to play in helping ethical media survive and thrive on the Internet platforms, particularly on social media platforms.” (Taylor 2021). Such studies in Africa could support solidarity, sharing of practice and strengthening media accountability and press freedom across the continent.

2.7.2 Media councils and their regulatory function

Media regulation refers to the “specific instruments deployed on media organisations to achieve specified policy goals” (Van den Bulck, Puppis, Donders & Van Audenhove 2019: 7). Regulatory processes seek to “balance the right to freedom of expression of media producers with the rights of media users” (Duncan 2014: 173). Whilst extensive studies on media regulation exist, this study seeks to highlight the forms of regulation to enhance what is understood about councils and their functioning. Four forms of media regulation have been discussed extensively: namely, self-regulation, co-regulation, statutory regulation, and independent regulation.

2.7.2.1 Self-regulation

“Media accountability is best achieved by proactive self-regulation” (Nordenstreng 2000: 80). Self-regulation is voluntary (UNESCO 2019) and refers to the act of the media to monitor itself and support responsible media performance without state intervention (Bertrand 2000; Tettey 2006; Kruger 2009; Reid 2014; Fengler et al. 2022). This form of regulation allows “refrain from legislating the media” (Christians & Nordenstreng 2004: 18), allowing regulation to rest on the profession that is responsible for setting, implementing, monitoring, and sanctioning itself (Fengler et al. 2015). Resultantly, self-regulation has been questioned as, on the one hand, it seeks to enhance journalistic standards in the public interest, whilst, on the other, allows the press to escape state intervention and

external answerability, the latter of which could support greater media accountability (Lauk & Kus 2012: 170).

Media councils are often self-regulatory (Kruger 2009: 7), expected to be independent of the government and allow unbiased rulings in favour of the public (Bertrand 2000). Self-regulatory professional councils have become popular, and, initially, self-regulatory councils included exclusive media involvement. Examples include the councils established by journalists and publishers in Germany in 1956 and South Africa in 1998 (Bertrand 2008b: 147), with examples of councils established/created solely by journalists and operating as ethics committees for the press established in Italy in 1963, Belgium 1988, Slovenia 1995, Czech Republic 1998, Macedonia 2001, and Hungary 1994 (Bertrand 2008b: 147). Whilst these are considered accurate, self-regulatory and managed only by the media, some were unsuccessful as they were viewed as biased towards the media, as was the case in South Africa (PFC 2012).

This form of council relies solely on the media for its establishment, monitoring, and enforcement, and has been less successful than councils which have included the participation of other non-media actors, such as the public. Many researchers have noted that the participation and intervention of the public in self-regulatory councils have led to tremendous success, as the public awareness of media councils, their existence, their complaints processes and their duties has become a marker of the best practices of self-regulatory councils (McQuail 1997; Berger 2010; Reid 2014; UNESCO 2019), as public awareness and public support is a condition for its success (Berger 2010; Reid 2014). This recognition of the public has led to new considerations of media councils and the call for self-regulatory practices free from government intervention whilst engaging public participation (Bertrand 2000).

The councils which have proven a more successful model have mixed representation (Bertrand 2008b), including “non-media members” on the council (Bertrand 2008b: 145). This model has become the most prominent self-regulation model, as Bertrand (2008: 145) found in the instances of national councils established in Sweden in 1916, Finland in 1927, Norway in 1928, the Netherlands in 1948, Great Britain in 1953, Turkey in 1960, and South Korea in 1961. Similar councils were established in 1963 in Israel, Taiwan and Iceland, followed by the Philippines in 1965. By 1972, Switzerland launched its mixed council, followed by New Zealand in 1973 and Australia in 1976. The next wave of councils followed a similar structure of diverse representation, evident in the emergence of councils in Cyprus in 1990, Estonia and Chile in 1991, Fiji in 1993, Poland in 1996, Peru, Tanzania and Thailand in 1997, Russia in 1998, and Malta in 1999. Almost a century later, the

continued inclusion of non-media representation in self-regulatory councils continued with the emergence of such councils in Indonesia and Hong Kong in 2000, Bosnia & Herz and Ukraine in 2001, Belgium and Slovakia in 2002, with five such councils established in Sri Lanka, Eastern Caribbean, Azerbaijan, Tonga and Botswana in 2003. The trend continued with the establishment of these councils in the African countries of Kenya, Swaziland and Zambia in 2004 (the latter two became non-operational soon after), in Georgia and Bulgaria in 2005, and Ireland in 2007 (Bertrand 2008b: 145). The mixed media and non-media regulation model has since been theorised as co-regulation of the media, and an essential factor in the success of media accountability systems and media councils.

2.7.2.2 Co-regulation

Co-regulation, referred to by some authors as regulated self-regulation (Von Krogh 2012; Eberwein et al. 2019), has been defined by multiple authors as the cooperation between multiple non-state parties for regulating the press. Co-regulation could refer to a combination of non-legal and legal instruments (Von Krogh 2012), referring to “cooperation of the state with non-state actors” often useful in regulating media content for and about minors (Schulz & Held: 52). Others refer to a combination of the media sector and the public (Reid 2014; Fengler et al. 2022), with a greater focus on public membership without government intervention (PFC 2012; Reid 2014). The co-regulation model allows for the inclusion of quality controls that do not exist in traditional self-regulatory models (Fengler et al. 2022: 45). Co-regulatory frameworks enable the inclusion of public authorities, civil society and the private sector, balancing the perspectives and interests of the regulatory authority in question (Miranda & Camponez 2019). The Press Council of South Africa (PFC 2012) has openly adopted this model due to the political pressure to shift from a self-regulatory council to one with mixed public and media representation (Reid 2017).

2.7.2.3 Statutory regulation

Statutory regulation refers to state-based influence and regulation (Van den Bulck et al. 2019) often implemented in authoritarian regimes (Kruger 2009). These bodies can be directly answerable to the state or refer to independent regulatory bodies with some “degree of autonomy from the government” (Van den Bulck et al. 2019: 7). Statutory councils were created in Denmark in 1964, India in 1965, Ghana in 1968, Luxembourg in 1979, Nigeria in 1992, and Lithuania in 1996 (Bertrand 2008b: 146). Later scholars theorised these as statutory mimicry councils, “Statutory media councils that are labelled as councils but are de facto regulatory agencies with authority to control access to the profession”, such as those operational in Egypt, Morocco, Uganda and Jordan (Fengler 2022: 552).

Less obvious statutory implications have also been evident for self-regulatory councils with linkages to some statutory authority. Whilst statutory support has been argued as an essential factor for the media's compliance, this is not always effective. In some cases, there have been mixed claims about the effectiveness of self-regulatory councils backed by some statutory legislation/regulation/authority, such as in the case of India, where authors once claimed that the self-regulatory council could be successful in providing unbiased judgements and maintaining a level of independence, such as the press council of India (Sawant 2003). As, “unless all media outlets—whether print or electronic—are compelled to accept the jurisdiction of the mechanism, it will prove ineffective in achieving its object.” (Sawant 2003: 22). The council formed under the Press Council Act seems to have lost that credibility as in later years, the same Press Council has been labelled a “paper tiger with rubber teeth” (Sharma 2021: 9) as it has struggled to enforce the code of conduct amongst the media and has very little media support for the council to extend its reach and power (Sharma 2021). Proving that for self-regulatory councils to be practical, they require the support, credibility and compliance of the media they oversee more than they require statutory support. In other cases, self-regulatory councils with statutory support have been modelled, such as in the case of the Press Council Indonesia, where when complaints about the media are laid with the police, the case is delegated to the press council first for “ethical punishment” (Firdausi 2021). If the case has been dealt with, the media continues to violate it; the case is then allocated to the police for review (Firdausi 2021).

While state regulation has been adopted in multiple African countries, scholars find that statutory regulation is not always the most suitable form of media regulation in Africa (Tettey 2006). Many African governments have implemented stricter media regulations, for example, in Kenya, Nigeria, Rwanda and Uganda (Kruger 2009), with examples such as the Supreme Media Regulatory Council as Egypt’s National Press Authority (Badr & Leih 2022). In many cases, statutory regulation has been viewed as means of curtailing the freedom of the press to “control the media” (Kruger 2009: 13), as in the case with the Media and Information Commission (MIC) in Zimbabwe, which has been opposed by the self-regulated Voluntary Media Council of Zimbabwe (VMCZ) (Kruger 2009: 13). Recent instances of statutory councils failing in the African contexts include the High Council of the Press (HCP) in Rwanda, the independent body monitoring the press “attached to the presidency of the Republic” (Frere 2009: 343). Rwandan media and its owners have lamented the failures of the council as “‘dysfunctional’, accusing it of ‘folding its arms’ in the face of aggression” (Frere 2009: 343), supporting Tettey’s (2006) earlier notion that statutory regulation is not always effective in African contexts.

2.7.2.4 *Independent regulation*

Independent regulation is free of government and media intervention, in which “representatives of the public provide a significant presence” (Fielden 2012: 13). This form of regulation is independent of the media and the state and can be unsuitable if the body does not sufficiently understand the media industry, its needs and aims (PFC 2012). The BCCSA operated as an independent tribunal from 1993 to 2021 (BCCSA 2021: Constitution), providing an alternative to the statutory authority of the CCC (Complaints and Compliance Committee) of the Independent Communications Authority of South Africa (ICASA). The BCCSA preamble highlights its independence stating that the founding principles of the BCCSA take its mandate from “Section 34 of the Constitution of South Africa: Everyone has the right to have any dispute that the application of law can resolve decided in a fair public hearing before a court or where appropriate, another independent and impartial tribunal or forum.” (BCCSA 2021: Constitution Preamble). The BCCSA has since adopted a self-regulatory stance “The BCCSA is a self-regulatory body for broadcasters as provided for in the ECA in terms of Section 54(3)” (BCCSA 2022b: Section 1.2).

2.7.3 *Media councils and their codes*

Codes of conduct are “policy papers with corresponding professional target values, which are intended to serve as institutions of ... quality control” (Saner & Wyss 2019: 156). Multiple professions have used codes to guide their actions, with the media profession being one of many to adopt them. “At the professional level, there can be many instruments that promote media accountability [such as] codes of ethics; press councils enforcing compliance with codes” (Thomas et al. 2022: 235). The code of conduct outlines values and morals which lead journalists in their professional work. “Codes guide before ethical action occurs” (Whitehouse 2010: 314) and signal to the media, the public and ethics philosophers the expectations and expected behaviours of the press (Whitehouse 2010). Codes of conduct are written for and by professionals and “serve to isolate professions by insulating their members from outside pressure” (Glasser & Ettema 2008: 528). Codes are tangible representations of conversations between journalists, colleagues, and leaders of the profession, who collectively agree on benchmarking specific ethical responsibilities of the press. The values and responsibilities enshrined become the accepted normative practice in organisations.

Ethical codes allow the media to present their values and beliefs to their staff, audiences and the public (Himmelboim & Limor 2008). These measures are “instrumental to the reinforcement of quality

journalism and serving as a bridge between the media and their audience” (Turtia & Hulin 2011: 145). Codes are examples of media instruments which can share the expectations and rules for journalistic operations, further supporting the building of trust between journalists and their public (Fengler 2012: 177).

Media standards are often enshrined in the codes of conduct designed for “an idealistic purpose of serving the public interest” (Christians & Nordenstreng 2004: 19). “Codes and accountability mechanisms benefit media users, and therefore strengthen public trust in journalism” (Turtia & Hulin 2011), with the code administrators needing to balance the responsibility of the media alongside the public interest. The Global South codes “could go some way in providing journalists with a set of principles and guidelines for reporting on poor and disadvantaged communities” (Reid & Malila 2021: 90) and could be further supported by institutional constitutions and processes to support the inclusion and participation of poor and marginalised communities in the complaints process (Reid & McKinley 2020).

A review of the codes of ethics of regulators such as the Press Council of South Africa and the Broadcasting Complaints Commission of South Africa... ought to be conducted so that provisions relating to the representation of poor, grassroots and economically disadvantaged communities can be included and strengthened. Such a review ought to be an open, public and participatory process which provides for and values the inputs of ordinary media users and citizens, concerning their insights on the mediated representation of their communities. (Reid & Malila 2021).

This call for public participation in South Africa supports the need for nuanced considerations of who the South African publics are, how they interact with and consume the media, how they share media critique, and how they would access and participate in media accountability processes. Whilst it seems that normative and universal practices could be a guideline for codes of conduct, these should not be assumed as best practice for all contexts (Berger 2010). Each media code of conduct should be globally competitive, but, more importantly, would be beneficial if it could be nationally relevant and locally responsive. Contexts should dictate the responsiveness of media codes of conduct to the realities and localities of the professionals using them.

2.7.3.1 Criticism of codes

Multiple criticisms of codes exist, levelled by the press to media critics alike. At times, the press is seen to have an aversion to the imposition of codes and regulations (Bardoel & d’Haenens 2004), with research finding that press councils and press codes are seen as having less impact than laws regulating the media and company guidelines, as these normative instruments often have harsher

penalties for transgressions (Fengler et al. 2015: 256). Furthermore, media freedom scholars have criticised press codes as prescriptive lists and measures which could lead to professional self-censorship, more than self-criticism, thus, hindering journalists' capability and posing risks to democracy (Christians & Nordenstreng 2004). In some cases, codes of conduct routinise journalism practice, articulating professional values which serve the elites that generate them. This phenomenon could lead journalists to become extensions of the elite, legitimising intellectual corruption alongside self-censorship concerns (Christians & Nordenstreng 2004).

Speaking vehemently against codes, Nordenstreng and Christians (2004) also find that the need for codified values could depend on the countries in which they are adopted. Finding that codes could be unnecessary for the Northern Hemisphere due to their potential undemocratic consequences and could be more suitable for developing countries. Despite the clumsy articulation of developing/third-world values, the authors raise an issue of importance in the recent accountability studies. These studies point to the differential contexts defining the differences in media environments as dependent on the societal context.

2.7.3.2 Codes and their contexts

One of the first media codes of conduct was a self-imposed list of duties by journalists in Galicia, Poland, in 1896 (Bertrand 1997: 19). A code for media ethics followed this in Sweden in 1900, later accompanied by its court of honour in 1916, which became the first model for global press councils (Von Krogh 2012: 23). After this, a third self-imposed code for publishers and editors was introduced in Kansas in 1910, with similar models since being implemented by multiple news organisations and national press ombuds globally. Codes differ significantly, yet “in most codes, the same fundamental rules are to be found” (Bertrand 1997: 19). Many codes include shared values and commonalities that unite the profession, such as truth and integrity believed to be universal values (Nordenstreng 1984; Strentz 2002; Christians & Nordenstreng 2004), or “emanate from universal ethical standards” (Nordenstreng 1984: 260). Recent studies have concurred that whilst “codes vary with regards to both length and level of detail” (Fidalgo et al. 2022: 217), they have a similar purpose (Fidalgo et al. 2022).

Media codes emerged in waves, with the first appearing at the beginning of the 20th century, the second wave of codes emerging after the second world war, the third wave of codes emerging after the 1970s aligning with press institutes and a fourth wave appearing after the coverage of the Gulf wars in 1991 (Bertrand 1997: 19). This study argues that the fifth wave of codes is evident in response to the digitalisation of the press. As explained by multiple authors since 2008, codes need to adapt to and respond to the digital era (Hulin & Stone 2013; Fengler 2012; Díaz-Campo & Segado-Boj 2015)

2.7.3.3 *Digitalisation and codes*

Codes often support the media to create a shared understanding of their work and commitments, alongside the shared values required to combat the challenges brought by producing media for online environments. In the era of new media, codes are viewed as part of “soft law”, which supports journalists working on the internet, as it is not compulsory by law but still supports self-regulation and self-directed work online (Moller & Richter 2013: 35). Whilst the codes reflect the values of the media, codes in the digital area could provide a landmark to the media and its users on good media reportage.

Alongside the shift into the digital evolution in the media, codes of conduct have had to adapt to the changing media landscape and its values, with many scholars questioning whether journalism professional ethics codes have successfully adapted to the digital and online environment (Hulin & Stone 2013; Fengler 2012; Díaz-Campo & Segado-Boj 2015; Tuneva 2020; Fidalgo et al. 2021). Some authors have provided a list of practical considerations for online codes (Hulin & Stone 2013; Tuneva 2020), whilst others have provided a more philosophical set of considerations (Fengler 2012; Fidalgo et al. 2022), while others investigated the extent to which media councils have begun adapting their codes for the digital evolution (Díaz-Campo & Segado-Boj 2015).

Findings show that by 2015, only 9 of the 99 most popular codes of conduct around the world made any reference to the internet and ICTs (Díaz-Campo & Segado-Boj 2015), an approach shifting drastically as councils have been called to adapt to and respond to the digital age (UNESCO 2020). Yet, councils are adapting, as African countries “Namibia and South Africa have provided encouraging examples of industry self-regulation where the print media bodies have expanded their Codes of Conduct to include online material” (NMT 2021: 100). Despite these additions to the code, recent studies have found that many codes have maintained traditional principles, with some updating the code to recommend that user and publicly generated materials remain separate from editorial material (Fidalgo et al. 2022: 218-219). The study also notes that the medium of production should not affect ethics and its practice. Thus, regardless of the medium or social media, the same ethical production applies, which could be supplemented with guidelines for social media, online usage and even tweeting and/or reposting information (Fidalgo et al. 2022: 218-219).

Some authors have provided a list of practical considerations for online codes, such as Tuneva (2020: 4), evaluating the Bosnia and Herzegovina code of conduct relating to COVID-19, which suggests that journalists:

Take care of accurate, timely, verified information; Use only reliable and relevant sources; Do not stigmatize the infected; Pay attention to personal data protection; Repeatedly remind the public of what can save their lives; Follow the recommendations of the World Health Organisation and relevant medical experts; Do not give space to 'fake' experts'. (Tuneva 2020: 4).

Fidalgo et al. (2022: 223-224) suggest new approaches for meeting ethical challenges online, recommending that codes in the digital age should:

1. Deal specifically with issues in the digital environment, specifying approaches to digital journalism, robot journalism and automated news journalism.
2. Address the digital sensitivity of traditional principles and how they apply online, considering if they need revisions or amendments, as is the case with privacy and its complication in the digital environment.
3. Observe whether online standards could compromise verification before publication, such as the #metoomovement, and, in the case of South Africa, this could be affected by the protection of victims and the Child Protection Act around minors, amongst others.
4. Respond to and acknowledge the new information flows and dissemination of news, sharing insights about the selection and publishing of news supporting media literacy.
5. Noting the nature of shifting users and consumers into media producers in the digital age, Fidalgo et al. (2022) find that it could be necessary to consider “ethical communication for many than about media ethics for a few (Fourie, 2017)” (Fidalgo et al. 2022: 225).

Ultimately, codes which form part of media accountability activity should seek to build public trust by supporting participatory models of journalism between the media and the public (Fengler 2015: 187-188). In the digital age, media accountability should support media professionals and media users (media amateurs), and encourage them to prioritise further and strive for accountability measures (Fengler 2015: 187-188), as “in the digital age, media accountability can probably only be pursued by a decentralized network involving media professionals and media users, and – but only under the condition that press freedom is not harmed in any way – also the state” (Fengler 2015: 188).

Furthering this call for decentralised networks of accountability systems and instruments, this study supports the notion that codes often exist within a “press council – that supervises the practical implementation of the code and deals with complaints from the public regarding breaches of the same” (Fidalgo et al. 2022: 216). The study, thus, focuses on press council codes in its analysis,

excluding this study of news organisations' internal codes of conduct, in favour of the codes created and adapted by press councils for their voluntary journalistic membership. As codes are an example of MAS, referring to any non-state means of holding the media answerable to themselves (Bertrand 2000), codes of conduct support the development and strengthening of MAS. Thus, whilst all journalistic codes are not part of the analysis, they are considered essential elements of Media Accountability Systems (evaluated in section 2.3), of journalists groups and media companies, as codes of conduct are viewed as solid self-regulatory practices (Christians & Nordenstreng 2004), along with the press councils which enforce them (Berger 2010), and the media companies which design codified guidelines supporting media accountability outside of institutional settings (Fengler 2012).

2.7.4 Media councils and their mandates

What is a mandate? Mandates have been discussed concerning media councils and indicate their commitment, authority, and obligations. Many studies have evaluated the mandates of media councils and often measure the success of a council to its ability to achieve its mandate within society. Media councils have numerous functions and mandates, with the core function being complaints resolution (Bertrand 2000; Sawant 2003). The study acknowledges the core mandate to adjudicate on “print, broadcasting and/or advertising. [but questions] Do they engage in other activities besides the adjudication of complaints?” (Kruger 2009: 9). A feasible examination, as scholars have found that “bodies have applied their mandates in a variety of ways, arguably, to ensure that the media are held accountable for their actions” (Tettey 2006: 238).

Mandates have been a source of exploration on the functioning of media councils, evident in the cases of Bertrand’s call for an extension of the mandates of media councils in Europe (Bertrand 1990), the Leveson Inquiry into the mandates of the British Council after the UK phone hacking scandals (Leveson & Leveson 2012) and the study of African media councils and their mandates (Kruger 2009). Within South Africa, the mandate has become a central study area concerning media councils. The study of the mandate became more prominent over the past decade, with such studies routinely applied to the Press Council of South Africa (Press Council Review 2011; Reid 2012; PFC 2012; Reid & Isaacs 2015) to measure the success and reach of the council in the country.

The literature presents the concept of “meeting their mandates” (OSF-SA 2007) as a performance indicator of media councils in South Africa today. The concept of mandates as a measurement of

performance was adapted from the Open Society Foundation for South Africa study (OSF-SA 2007) on statutory media councils in South Africa, in which the project analysed the “degree to which statutory media bodies in South Africa were fulfilling their mandates” (OSF-SA 2007: v). The study rested on these state institutions being public service institutions and questioned if they were indeed “fulfilling their ‘public mandates’” (OSF-SA 2007: 3). Thus, this study expands upon the OSF-SA (2007) study to question whether the current voluntary media councils are fulfilling their mandates.

Acknowledging that media councils are mandated for a particular purpose, this study proposes media council mandates as a new set of indicators for measuring the efficiency of media councils and proposes the analysis of the mandates of media accountability institutions. The chapter recommends expanding research beyond the core mandate of complaints resolution, extending the investigation into the councils’ effectiveness in all mandates, including promoting press freedom, raising media standards, operating in the public interest, and responding to the digital age. The study theorises that expanding the council’s focus to include these mandates supports the council’s functioning as media accountability mechanisms in the public interest (elaborated on in the model found in Section 2.11 detailing media councils operating as media accountability mechanisms).

The study recognises that exploring the expanded mandates could limit the capability of an already resource-constrained media council and, thus, proposes that whilst the mandates are a priority for the media councils, they are also supplementary to the main complaint’s resolution function of the council. Consequently, the study proposes the conceptualisation of media accountability mechanisms as part of a more extensive media accountability system, proposing the inclusion of media accountability systems into the framework of media accountability in South Africa to support the realisation of the mandates in question.

2.7.4.1 Complaints resolution

Media councils’ primary mandate is to resolve complaints by adjudicating complaints from the public about media conduct (Bertrand 2000; Sawant 2003). Regardless of the contexts, councils share a mandate to provide a platform whereby the public can criticise the media, their functioning and reportage, and seek reparation (Kruger 2009). The recompense varies between recognition and apology for an accidental misdemeanour to monetary fines for unscrupulous behaviour.

2.7.4.2 Supporting media freedom

“Some councils focus largely on dealing with complaints, while others are very active in pursuit of broader aims, lobbying for media freedom and other activities that aim to improve media

professionalism” (Kruger 2009: 31). Thus, the potential exists for media councils to further their mandates and support the calls for professional journalism in the public interest without undue government or commercial influence (Nordenstreng 2010: 105). Councils, by their nature, fend off state intervention (Berger 2011), support the democratic function of the press (Wasserman 2022) in favour of the public (Reid 2021), and could be argued to support media freedom from state intervention (Bertrand 2000; Berger 2011).

2.7.4.3 Raising media standards

Councils also assist the media in acting responsibly (Sawant 2003; Kruger 2004) and maintaining professional standards by enforcing codes of conduct (Bertrand 2000; Sawant 2003; Kruger 2004). Studies find media councils' relationship to the media should go beyond responsibility, answerability and ensuring high standards to include auxiliary services like research trends in news media (Bertrand 2008b), sharing news of interest and essential to the public (Sawant 2003; Bertrand 2008b), and interjecting with issues of ownership, media concentration and others which may affect the independence of the press (Sawant 2003).

By supporting existing media accountability systems, councils could raise the media's standards by making the means and opportunities for quality control visible internally. Journalists are held accountable through mechanisms such as codes of conduct, editors, and ombuds when these “mechanisms become institutionalised across a great many media houses and self-regulatory systems become ways of ensuring compliance with particular standards of journalism” (Berger 2010: 290). When journalists do not comply, they are called to “justify their practices” (Berger 2010: 290) and are held accountable accordingly.

2.7.4.4 Serving the public interest

Councils ensure the “maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship” (Sawant 2003), with the public interest and the role of the citizenry becoming an important area of interest in recent years (Bardoel & d’Haenens 2004; Reid & McKinley 2020). Press councils act as “citizen-orientated mechanisms for monitoring the press” (Kenney & Ozkan 2011: 41) and encourage accountability of the media fraternity while acting as mechanisms for public feedback, engagement, and participation.

Media councils could consider their relationship with the public as a public service, as councils resolve public complaints (Reid & Isaacs 2015a) and seek recourse on the public's behalf (Reid 2017). To further this public service, councils could aim to become more accessible to their audiences (Reid

& McKinley 2020). Scholars agree that councils should serve poor and disenfranchised audiences, a shift from the current affluent and influential complainants currently using the complaints resolution system (Hermanson 1993: 946). A similar finding was confirmed by Reid and Isaacs' (2015a) study examining 350 complaints laid with the Press Council of South Africa between 2009 and 2013. They found that the majority of complainants using the council were members of the public, comprising complaints from business and other organisations (49,1%), government departmental complaints (26.57%), political parties (8.2%), public figures (7.43%), with these organisations making up 91,3% of the complainant profile (Reid & Isaacs 2015a). Leaving only third-party complaints (7.71%) and general complainants (0.99%) to possibly reflect the general public (Reid & Isaacs 2015a: 15), some of whom could represent poor or marginalised communities.

Complaints reaching the general and the marginalised public could support calls for public accountability, meaning “that media are held accountable by the public or show their accountability proactively to them” (de Haan 2012: 100). This approach could allow instruments to be responsive (de Haan 2012: 77) and allow the “public to participate” (de Haan 2012: 215) in media accountability processes. Yet, scholars warn that social participation could strain media councils and organisations, as “the burden increases as the participation of the user rises” (de Haan 2012: 215, citing Hermida & Thurman 2008). Thus, councils need to balance their existing roles with the need to increase public engagement and participation through innovation.

2.7.4.5 Responding to digitalisation

As the media have adapted to digitalisation, councils must remain responsive and adaptable too (UNESCO 2019). The recent literature review on media councils shows a shift in the news landscape, with many researchers looking to councils and their codes for answers on adapting professional ethics and expectations to the shifting landscape. The review of recent literature suggests that councils play an essential role in the agenda-setting of news values, professional ethics and professional expectations in the digital age. Thus, the study questions if responsiveness to the digital age should be encouraged into the mandates of councils to support them being adaptable, future-orientated and responsive to the shifting media landscape.

2.7.5 New models for press and media council functioning

The primary measurement for the success of press councils cannot be solely complaints resolution. They should extend beyond that to improving the media, with authors noting that “a fundamental

question needs to be asked at this point: is a press council nothing but a complaints processing bureau or should it be more?" (Bertrand 2008b: 116). Numerous studies have made recommendations for press and media councils, many of which could be integrated into the call for more responsive and relevant media council practices. Critiquing media councils, Bertrand (2008b) suggests that they are not living up to their potential and laments that they have not realised the proper function of media councils. In his final research article before his death, he made a few recommendations, calling for a true media council which is active and improves media performance. With further recommendation on the shifting structure of councils to adapt their structure and operations for a more effective and responsive model of functioning, including that media and press councils should (Bertrand 2008b: 117):

1. Include mixed public and media representatives (Reid 2014), called co-regulation in some spaces;
2. Respond to all mediums and the media (Reid & Isaacs 2015b);
3. Engage with the public and publicise its existence (Berger 2010; UNESCO 2019);
4. Initiate complaints on cases as part of the monitoring function (Kruger 2009);
5. Ensure sufficient funding from multiple stakeholders to ensure independence from media companies, non-media organisations, private and public groups, and government agencies, allowing financing to support activities beyond only complaints resolution, including media monitoring, research, "and issuing public warnings on dangerous trends" (Bertrand 2008b: 117);
6. Support the development of MAS to further the work and mandates of the council (Fengler et al. 2022);
7. Develop collaborative practices and work together to campaign on issues of importance to the fraternity (Fielden 2012; UNESCO 2019). Asserting that councils could collaborate beyond national boundaries and "cooperate more internationally to help each other", as successful press councils cannot work alone if it is to "become a true instrument of media progress" (Bertrand 2008b, 117).

Bertrand asserts that a council should operate beyond a complaints resolution operation (Bertrand 2008b: 116), and enlarge its mandate and relevance. Notably, recommendations are that media

councils reconsider their purpose and operations to support a more effective council, with its purpose and core function being to (Bertrand 2008: 16):

8. Monitor the press;
9. Support the development of complementary media accountability systems;
10. Respond to the government and lobby for laws that ensure a favourable media environment;
11. Encourage research on the news functioning;
12. Understand and respond to citizen needs.

This study proposes that this purpose and structure, recommended by Bertrand, could be strengthened for the South African context if it were to consider the need for media councils to:

13. Adapt to contextual situations in a manner which is fit-for-purpose (Berger 2010; Reid 2014; Reid & Isaacs 2015b);
14. Stimulate and support media critique and criticism (Fengler 2012; Cheruiyot 2019a; Wasserman 2022);
15. Respond to the digital evolution (PFC 2012; Reid 2014; Reid & Isaacs 2015b; Cheruiyot 2019a; UNESCO 2019).

For councils to operate successfully, they need to consider a model which develops a more significant role and responsibility for councils in their context allows for the extended reach over mediums under its monitoring and supports greater collaboration locally and internationally. As noted in Chapters 4 and 5, both the PCSA and the BCCSA have made substantial efforts to publicise their work, but these efforts are ongoing and can be further enhanced. These recommendations, alongside Bertrand's model, are proposed as the media accountability mechanisms, a model for regulating print, broadcast and online media in South Africa.

2.8 Differentiated approaches to media councils in the Global South

South Africa has been described as located in the Global South and, thus, different from the context of the North, namely Europe and America (Louw & Tomaselli 1994; Berger 1998; 2011; Duncan &

Reid 2013). The Global South does not refer to a specific country, continent or “geopolitical location, rather it is a metaphor that indicates regions of the world on the receiving end of globalisation and suffering the consequences” (Mignolo 2011: 184). With many countries sharing similar characterisations, the Global South reflects a shared set of conditions, struggles and consequences, referring to “epistemic places where global futures are being forged by delinking from the colonial matrix of power” (Mignolo 2011: 184).

Considering the nuances of countries in the Global South and the specifics of their publics, economic circumstances, accessibility and other conditions, the study recommends considering nuanced approaches to journalism and journalism accountability tailored to the Global South, Africa and South Africa, in particular, moving away from ideas of universal practices for all contexts. This could prove challenging as journalists' professional values are often painted as “universal” (Atton & Mabweazara 2011: 668), such as those related to truth-telling, responsibility and transparency. Yet, very few researchers have investigated what should be universal professional values and what context-specific practices emerge out of particular social regulatory processes (Atton & Mabweazara 2011: 668).

Studies contemplating media accountability theory must consider that what is espoused as universal often has contextual implications. International studies of councils have reiterated that “systems of regulation cannot be uprooted from their political, historical, and cultural contexts, which may include, for example, different degrees of competition between the press, wider frameworks of journalistic accountability, and issues of media ownership and plurality” (Fielden 2012: 13). Noting the contextual specificities of the press, media councils and their publics, this study calls for differentiated approaches to councils to ensure that they are fit-for-purpose for their relevant contexts (Berger 2011).

One such study which adds significant value to the understanding of context and media accountability is the work by Berger (2011), who questions the appropriateness of comparative best practices in designing media councils. The uniqueness of a given situation (in this case, the print regulation in South Africa) means that nothing is worth replicating from other contexts (Berger 2011: 37). Berger (2011: 40) “put forward a quantitative argument - that borrowing makes sense when everyone else is doing it” but explicates further that “the most common practice is not necessarily always the best practice”. Considering the vast differences between societies in which journalistic practice is centred, the assertion that best or universal practice is not always suitable has merit.

According to Berger (2011: 41), best practice requires more than “identification” and “transplantation”; it requires careful consideration of the various elements within the council and their relevance within the context of the country contemplating its adoption. Berger defines the three critical stages before adopting an element of practice. These include: firstly, conducting a “contextual analysis of purpose and fit-for-purpose” (ibid: 42); secondly, questioning the “suitability of borrowable phenomenon to development of general statements and principles” (ibid: 43); and, thirdly, factoring in the elements “fit-for-purpose in destination context” (ibid: 47). Berger proposes that using these three stages of analysis could determine whether or not an element of universal or best practice can apply to South Africa, or any country attempting to transplant practices from elsewhere.

In his analysis of fit(ness)-for-purpose within a particular context, Berger attributes that before borrowing an element, one must identify the “extent of shared purpose with the actors in the experience under consideration” (2011: 42), as normative practices, although popular, might not be relevant to all contexts. Berger furthers the notion of contextuality, stating that, for an element to be considered best practice, it should be effective in its context and correspond to the borrower’s context. Finally, Berger suggests that finding borrowable practices from diverse experiences must consider the adopter’s destination and context to avoid borrowing principles that are “foreign and therefore inappropriate” (2011: 46). Thus, elements must be relevant to the country’s context, media landscape, level of press freedom, legislation, language, and culture. Berger explains that all three tests must be passed for purpose/fitness, context, and destination to legitimise adoption.

Considering Berger’s discussion on fit-for-purpose, it could be possible that the elements in Bertrand’s true council are not suitable to the South African context and, thus, must be considered before adopting them without engagement on the three conditions for borrowing. Furthermore, Berger’s theory implies that the current practices of the mechanisms utilised in the South African context could be inappropriate as they could be adopted due to the ‘best practice’ consideration without addressing the borrowing issues. Thus, the following section outlines the proposal for South African mechanisms and systems to support the third chapter, which seeks to research, using textual analysis, observations, and interviews, whether or not the existing media environment is efficient, accessible and fit-for-purpose. As the BCCSA and the PCSA, the most popular mechanisms for broadcast and print/online media, are the focus of this study, this research project sought to investigate the mechanisms, their operations, and their fitness-for-purpose.

Part 4: Media councils as complaints mechanisms

2.9 South African media councils

Media councils are part and parcel of the discussions on media accountability institutions in South Africa, established to fend off government intervention in response to the apartheid governments threat of statutory regulation, with contested claims that the first media council existed either in the 1950s (Berger 2010) or the 1960s (Thloloe 2012). The “Media Council”, as it was then termed, was a non-statutory body created by the newspaper press union, representing mainstream South African newspapers (Berger 2010: 294). The Media Council managed to keep government censorship and interference at bay through self-censorship, but, by the 1980s, the council “had little credibility as it was seen to be doing the government’s dirty work” (Hachten & Giffard 1984, in Kruger 2009). Notably, with this turbulent history, the term media council and its historical relationship with self-regulation fend off the encroachments of the apartheid state. The system of press self-regulation has been hugely controversial in South Africa (Duncan 2011). Many years later, whilst the terminology is not as frequently used, studies of media councils continue, as evidenced by the research into the PCSA and the BCCSA. Both provide a valuable national service and, thus, continue to be a site of inquiry around media accountability, along with multiple other regulatory councils serving the country's public.

Whilst the media landscape shifted dramatically, so did its regulatory institutions. Democracy brought a shift in legislation which once curtailed press freedom, evident by the South African Constitution, which protected freedom of expression and freedom of the press and other media (South African Constitution 1996), alongside the expunging of severely restrictive apartheid laws. With the introduction of the democratic dispensation, significant shifts occurred within the regulatory environment, including the statutes governing broadcasting and print, and the introduction of new regulatory institutions. The statutory changes shifted the broadcasting legislation, including the Broadcasting Act No. 4 of 1999 regulating public broadcasting, the Independent Communications Authority of South Africa Act No. 13 of 2000 which led to the establishment of ICASA, the Electronic Communications Act (ECA) No. 36 of 2005 which supports the functions of ICASA and broadcasting more generally, the Media Development and Diversity Agency (MDDA) Act No. 14 of 2002 which led to the establishment of the Media Development and Diversity Agency (Limpitlaw 2012). Similarly, changes were introduced in the print industry, as the print media saw a significant reduction

in statutory intervention and states of emergency controlling the freedom of the press (Bird & Garda 1996). This alongside the introduction of the Imprint Act No. 43 of 1993 which enforced the new requirements around the names and locations of newspaper owners, and the Legal Deposit Act No. 54 of 1997, which sought to preserve the documentary heritage and build an archive of South Africa's newspaper, magazine and periodical deposits (Limpitlaw 2012).

With the shift into democratic legislation came the introduction of multiple regulatory institutions meant to support democracy whilst regulating the media within the public interest. The South African media regulatory environment is made up of critical institutions which facilitate media accountability and content regulation (Reid & Isaacs 2015a: 72-73) The forthcoming sections examine the BCCSA, which mediates complaints against the broadcast media; the PCSA, which mediates complaints about the print media and online media; the Advertising Regulatory Board (ARB), which mediates complaints about advertisements; and ICASA, which issues licences to broadcasters. Some of these institutions are self-regulatory whilst others are statutory. Regardless, all require a degree of public participation ranging from laying complaints with the body, to participating in and being engaged with the functioning of the media councils themselves. Two additional organisations which play a significant role in the media development and content classification landscape include the Film and Publications Board of South Africa (FPB), which issues audience advisories on films and games, and the Media Development and Diversity Agency. These are meant to support the diversification of the community media, and are included in the study due to their relationship with the media and their influence over its content and development.

2.9.1.1 Broadcasting Complaints Commission of South Africa,

The Broadcasting Complaints Commission of South Africa (BCCSA), established by the National Association of Broadcasters in 1993, is one of a democratic media council signalling the change in broadcasting freedoms in the country. The BCCSA continues to rule on public complaints against broadcasters who form part of the National Authority of Broadcasters (NAB) (Ciaglia 2017: 822), including a large number of public, private and commercial broadcasters in the country (BCCSA 2022). The BCCSA uses two Codes of Conduct for Broadcasters – one for free-to-air broadcasters and one for subscription broadcasters (Limpitlaw 2012). The BCCSA is one of two regulatory authorities for broadcast media, with ICASA's Complaints and Compliance Committee (CCC) serving broadcasters who do not subscribe to the NAB. For further analysis of the BCCSA and its regulatory practices, see Chapter 5.

2.9.1.2 *The Press Council of South Africa.*

The Press Council of South Africa reconstituted in 2007, was initially instituted as the Press Board of Reference by the Newspaper Press Union in 1962, to fend off “threats to impose statutory regulation” by the National Party government (Press Council Review 2011: 26). Fending off the apartheid government became the catalyst for the voluntary press council, later renamed the Media Council, and eventually the Press Council in 2002 (Berger 2010: 294). The council “is responsible for accepting, administering and adjudicating on complaints received against the content of the print news media concerning journalistic ethics and the press code of conduct” (Reid 2017: 75). The code has since been expanded to include online media, and its membership is voluntary (PCSA 2022a). The South African Press Code is put out by the PCSA and enforced by the Press Ombudsman and the South African Press Appeals Panel (Limpitlaw 2012). For further information on the PCSA, see Chapter 4.

Whilst all the organisations are essential and add value to the South African regulatory structure, they are unsuitable for inclusion in this study. Three of the councils have statutory implications and are, thus, excluded. These are the MDDA, which acts as a development organisation and less of a media council; the FPB, which oversees film; and ICASA, with its broad mandate. Whilst ICASA’s CCC would be a critical body to study, as it is statutory, it is excluded from this study. The fourth exclusion is related to the ARB. Whilst the advertising body is voluntary, it regulates advertising and not media content, thus, is excluded from the ambit of this study. Since only the BCCSA and the PCSA are voluntary media bodies regulating media content in the public interest, these two bodies were chosen as the focus of the study. As these media organisations play an important role in the accountability landscape, they are evaluated in the literature of the thesis, to support the overall discussion of media accountability bodies in the country.

2.9.1.3 *Advertising Regulatory Board*

Advertising promotes the use and consumption of services, goods or causes appearing in any paid-for content (ARB 2021). The Advertising Regulatory Board regulates advertising content and enforces *The Code of Advertising Practice* governing advertising in South Africa (Limpitlaw 2012), in line with the Consumer Protection Act No. 68 of 2008, guiding advertising and promotions. It takes complaints from the public at no cost, whilst competitors pay to lodge complaints with the board. The regulatory body has led to landmark judgments regarding advertising in South Africa and takes special care to protect children in South African advertising (ARB 2021).

2.9.1.4 Independent Communications Authority of South Africa

The Independent Communications Authority of South Africa (ICASA) is the official state regulatory body for postal, communications and broadcasting services (ICASA 2022). Broadcasters who do not belong to the NAB fall under the Independent Communications Authority of South Africa's (ICASA) Complaints and Compliance Committee (CCC) (Duncan 2016; ICASA 2022). Established in alignment with the IBA Act No. 153 of 1993, the Independent Broadcast Authority (IBA), was renamed ICASA (Milton & Fourie 2015: 19) in July 2000 when the IBA merged with the South African Telecommunications Regulatory Authority (SATRA) (Fourie 2001: 18-19). ICASA is mandated to monitor and regulate broadcast licenses and frequencies in the country (Fourie 2001: 18-19) and regulates the postal services and telecommunications industry (ICASA 2022). "ICASA is funded from the fiscus through a budget vote of the Department of Communications" (Duncan 2016: 9), making it a statutory regulatory body with state authority.

2.9.1.5 Film and Publications Board

The Film and Publications Board (FPB) is the classifications authority in the country. It operates on the mandate embedded in the Film and Publications Act No. 65 of 1996 (FPA 2019), which dictates the laws around the publication of hate speech, violence and pornography. The Act, introduced in 1996, classified media around age categories and other post-publication restrictions to limit propaganda for war, violence, and religious and sexual hatred (Berger 1999). By 1999 the Act was adapted to cover pre-publication (Berger 2007). The national Act applies to all South African media, except those belonging to the Newspaper Press Union (Berger 1999), an exemption still afforded to press council members today (Executive Director L. Mobarra 2021, personal communication, 01 February). The exemption seems plausible because the Press Code of Conduct includes sections of the bill which highlight the spirit and core purpose of the Act:

Child Pornography as cited in the Press Code, draws on the Film and Publications Act referring to: "Any visual image or any description of a person, real or simulated, however, created, who is or who is depicted or described as being, under the age of 18 years, explicitly depicting such a person who is or who is being depicted as engaged or participating in sexual conduct; engaged in an explicit display of genitals; participating in or assisting another person to participate in sexual conduct which, judged within context, has as its predominant objective purpose, the stimulation of sexual arousal in its target audience or showing or describing the body or parts of the body of the person in a

manner or circumstance which, in context, amounts to sexual exploitation” (PCSA 2022a).

The amended Film and Publications Act introduced guidelines in July 2022 that deal with the “Classification of films, games and certain publications” (FPB 2022a) with the core purpose of protecting children from “exposure to disturbing and harmful materials”, violence and sexual violence. The Act criminalises the “possession, production and distribution of child pornography” (FPB 2022a) and punishes children’s exposure to pornography. The FPB in South Africa is one of the 50 countries in the world that belongs to the INHOPE project, a global project which runs an internet complaints hotline funded by the European Union, dedicated to the “fight against Child Sexual Abuse Material (CSAM) online” (INHOPE 2022). Through the FPB, South Africa has been a member of the INHOPE “The International Association of Internet Hotlines” project since May 2009 (INHOPE 2009). This global complaints mechanism, within the FBP board’s current complaints mechanism, allows for international collaboration in partnership with INHOPE, the European Union, and its partners, including law enforcement agencies such as Interpol, non-profit organisations such as The International Centre for Missing and Exploited Children and big tech such as Google, Microsoft, Meta, TikTok and others (INHOPE 2022).

The Film and Publications Board supports public complaints and provides a mechanism to complain about prohibited content depicting violence and sexual violence in films, photographs or online (FPB ACT 2022a), including “streaming of content through the internet, social media or other electronic mediums” (FPB 2022a). The board sees its responsibility as classification and not censorship, and its “classification, therefore, is motivated by public interest and constitutionally-protected rights and freedoms and not politics” (FPB 2022d). The Film and Publications Board comprises three entities: the Council, an Appeals Tribunal and an Enforcement Committee (FPA 2019). The board reports to the minister and deputy minister of Communications and Digital Communications in South Africa, led by a chairperson and deputy chairperson, the council, who oversees its governance (FPB 2022d).

The board focuses on classification, compliance and enforcement (FPB 2022b). Having statutory powers, the FPB can adjudicate and enforce harsh sanctions where appropriate, including fines of up to “R2 000 000 or imprisonment for a period not exceeding 10 years” for crimes related to child pornography and sexual exploitation (FPA 2019). If not paid, these can be applied through the “court [s] for the enforcement of such a fine as a civil debt to the FPB” (FPB 2022c), suspension of registration, or escalation of severe cases to the National Public Prosecutor (FPB 2022c).

The National Authority of Broadcasters, whose members make up the signatories of the BCCSA codes, are disputing the “constitutional validity of sections 18(1) and 18(6) of the Act and the validity of regulations promulgated” by the FPB before the courts (NAB v FPB 2023). NAB expressed concern that “the Act places the onus on broadcasters to justify the content they seek to distribute before they can do so. Such a requirement of prior justification is, in and of itself, a substantial restriction on freedom of expression” (NAB v FPB 2023). The concerns that such classifications for linear television (traditional) and online simulcast broadcasting (television broadcasts available via online technology) will create costly and administrative delays which are unnecessary for the broadcasters who are already subject to ICASA and BCCSA regulations. The matter remains before the courts during the completion of this study in 2023 (NAB v FPB 2023).

2.9.1.6 Media Development and Diversity Agency

The Media Development and Diversity Agency, introduced in 2002, was “one of several mechanisms instituted by the South African government to promote media development and diversity” (Bosch 2020: 155) and provide financial assistance to community media (Satchwell et al. 2021). “Sadly, the MDDA has not performed optimally and has fallen short of its mandate” (Bosch 2020, 114), as the MDDA assisted in establishing community newspapers but failed to support the sustainability of these projects (Harber 2014). Numerous criticisms of its approaches to financial support, development of the print sector, popularising of digital publications over printed publications and further criticism of “allegations of corruption, favouritism, political bias or connections” (Satchwell et al. 2021: 122). The initiative of developing community media through the MDDA failed to “empower marginalized communities to join the national debate and participate in the democratic process” (Harber 2014: 220).

2.10 Media councils in the age of digital inequality

Media councils have changed their shape and operations over the past decade, as they have been affected by and have had to respond to the digital era. Some councils have incorporated the digital into their framework by mandating for resolving complaints on digital publications and editing their codes of conducted or digitalising operations in some way. Whilst these changes have been echoed globally, South Africa has had mixed approaches to adapting to digitalisation. The adoption of online media by the Press Council in 2016 occurred when the “Interactive Advertising Bureau of South Africa (IABSA) became a constituent member” (Satchwell et al. 2021: 280), with greater adoption

of digital processes more recently, in response to the COVID-19 pandemic. To fully engage with the concept of the digitalisation of media councils, the theme explores research on the digitalisation of media councils whilst exploring the reality of this digitalisation in spaces like South Africa, where inequality of access exists.

The theme of digitalisation of media councils is not new, as research on media councils in the digital age is ongoing. Media councils and the research on these councils have responded to the changing circumstances of news and the rapidly altering contexts in which media councils operate. Such research on the digital aspects of media councils includes the work of Fengler on media regulation on *Crowd-Criticism*: *Media Accountability in the Digital Age* (2012), the work of Diaz-Campo and Segado-Boje on *Codes of Ethics and Internet Worldwide* (2015), the work of Reid and Isaacs on considering a cross-platform media accountability system for broadcast and digital news media in South Africa (2015b), and the work of Eberwein on Press Councils (2019b). The largest project currently underway is *Media Councils in the Digital Age*, which seeks to understand and address the role of European media councils in the digital age, surveying 27 EU member states (Press Councils EU 2021). Whilst there are a few examples of research solely dedicated to the digitalisation of councils, most of the research on media accountability emerging since 2012 has had some connection to the digital, as the digitalisation of news and ethics is relevant to the shifting industry.

The research on digitalisation and media councils yielded from these studies is meaningful and valuable but can only act as a guide to councils in circumstances different to those of European contexts. Africa's internet penetration rate of 43,2% vastly differs from Europe's 89.2% and North America's 93,4% penetration rates (Internet World Stats 2023), resulting in a need for careful and thoughtful adoption of international practices in South African contexts (Berger 2011). The functioning and reach of councils in the digital age differs depending on the context and access of its publics.

As institutions are being affected by digitalisation, so too are the accountability institutions which regulate them. In a country like South Africa, where inequality of access to digital technologies prioritises the haves over the have nots councils need to consider digital processes and communications and how these relate to the realities of public's access. Ultimately, the question of the public access, and public interest is central to the future of councils in the country. For the public to participate in digitalized processes, access is an important consideration. Access can be affected by physical access to smart devices, internet technologies and the digital skills to utilise these technologies (van Dijk 2020: 1). "Inequality of access to the Internet" (Castells 2002: 248) has

increasingly affected social groups who do not have access to these technologies. A lack of access can be likened to digital inequality. Digital inequality can be exasperated by race, ethnicity, gender and socioeconomic status, often reinforcing existing social inequalities (Robinson, Cotten, Ono, Quan-Haase, Mesch, Chen, Schulz, Hale & Stern 2015: 570).

In Africa, leading authors have highlighted how ICT disparities have exasperated inequality in Africa, noting that “the digital divide – the unavoidable void between those with access to information and communication technologies (ICTs) and those without – remains a major problem in Africa” (Mutsvairo & Ragnedda 2019: 14). This unequal access to information technology enables or constrains the ability of the public to participate in an Information Society and to participate in institutions governed by ICTs (Fuchs & Horak 2008).

Despite being constrained by vast social inequality, high unemployment rates, limited disposable income and marginalised communities (Moyo & Munoriyarwa 2021: 367), South Africa has high levels of internet penetration on the continent (Dalvit 2022). Eighty percent of the South African population has access to smartphones, yet, the high costs of data and the internet, evident by the #DataMustFall movements, indicates that the country has “failed to ensure affordable data, which is in the public interest” (Moyo & Munoriyarwa 2021: 176). Resultantly, institutions which rely on digital technologies would need to consider the access and skillsets of the public they serve and offer practical technological support for online and technology-based processes.

The ultimate consideration of the digitalisation of media councils in the Global South should be how to reach the public at grassroots levels. This raises a number of questions such as: if public access to the internet and digital technologies is a challenge, is the public affected by the digitalisation of media councils? Are the institutions still able to fulfil their public service mandate? Are there alternative considerations for the digital process to reach the needs of the public? What type of communications strategies would complement digital processes? The study notes the current digitalisation of the media and the digitalisation of the processes of the regulatory mechanisms and asks how this move in digitalisation affects the ability of the “less connected” (de Lanerolle et al. 2020) to participate in the mechanism, to be heard and to find recourse for their concerns.

2.11 Principles informing a model for complaints mechanisms in South Africa

As extracted from the literature, a few principles model the importance and purpose of media councils. Some of the principles could support the regulator and complaints systems to achieve greater success, through a focus on the processes which resolve complaints (process), the context in which they operate (place), for the public, and the media involved in the process (people).

2.11.1 Processes informed by the public interest

Mechanisms should resolve public complaints - be seen as an extension of the right to freedom of expression (FoE), as the right to complaint about infringements of FoE related to privacy, defamation, safety, and other human rights should be the bare minimum. More than that, the regulators offer a standard for media behaviour and reportage in line with the law and ethics of professional engagement.

2.11.2 Context and operations informed by place

1. Mechanisms should be fit-for-purpose and contextually responsive to the needs of the society they serve.
2. Culturally responsive and sensitive/adaptive. Mechanisms should respond to the linguistic, cultural, religious and other sensitives of the country in which it is situated.
3. Contextually responsive: nationally we have advanced accessibility and economic capability at the centre, whilst in rural and peripheral areas, these communities are less connected. Mechanisms must consider how to we support these communities' rights to complain about media reportage and production.
4. Technologically responsive, mechanisms should consider processes which respond to issues of digital inequality, being available both online and offline, through an array of communicative solutions ranging from basic telephonic services to more advances online complaints opportunities. This method could counter inequality and extend the councils' reach to local communities.

2.11.3 Participative democracy and stakeholder involvement

1. The public: The public are served through the process and, thus, require support, access and careful consideration to enhance participation. Public complaints processes should be accessible, user-friendly and audience centred in order to ensure that the mechanism speaks to the needs of the public. Mechanisms succeed based on their public visibility and, thus, must

consider participation and engagement with the public. Visibility to the public would enhance accessibility, publicity of its existence, and credibility, if it is performing its function well.

2. The media: The mechanism must operate with the buy-in of the media, who must submit to the powers of the mechanisms if it is to survive. The mechanism is often voluntary and without the media commitment to adhere to mechanism findings, it will be impossible to secure. The mechanism must also be credible to the media, to ensure that the media trusts the judgements being allotted.
3. The media and the public: In collaboration with other MAS, the mechanism could operate for the greater good of the media and society it serves.

2.12 Conclusion

Media councils have traditionally operated as complaint's resolution institutions. If they were to expand their reach and public profile, they could become a mechanism for accountability in the public interest. Media accountability mechanisms as a public good, measures the responsiveness of such institution to resolve complaints, and, furthermore, evaluates the ability of the media councils to support press freedom, enable responsibility of the press to the society they serve, to act as a channel for the relationship between the public and the media, and, most importantly, to support public participation while supporting citizenship and the practicing of citizen rights.

The study notes that the state of the South African media requires a greater level of accountability than what the mechanisms are designed to provide. In this specific case, as some of the troublesome media producers do not belong to these institutions and do not uphold their codes of conduct, a greater commitment to media accountability systems could support the work of these councils. MAM theorises that, whilst the media council is central to the accountability system, other Media Accountability Instruments could offer an opportunity to further support the media and their daily production, and to further critique and generate awareness around media producers who fail to uphold industry standards.

CHAPTER 3: RESEARCH DESIGN

As a field of research, media accountability has gained traction in South Africa, mainly due to threats of government intervention that have stoked debate (Berger 2010). Studies on media accountability and the mechanisms which enforce them became essential to countering the rhetoric-based debates on press freedom and its threats at the time. The Protection of State Information Bill (POSIB), a national bill initially titled the Protection of Information Bill (Berger 2011), sought to classify information held by the state, criminalising possession of state classified information. Later, ANC conference resolutions around the Media Appeals Tribunal (MAT) spurred further concern about the possible intervention of the state (Reid 2014). The studies which emerged from this period offered many critical contributions to understanding the field of media accountability in the country, whilst later studies offered valuable assessments of how regulatory bodies fared under the threats of state intervention. Since then, studies on media accountability mechanisms investigated the audience and their participation in accountability processes (Reid 2017; Reid & McKinley 2020; Wasserman 2022).

With a renewed interest in national accountability mechanisms, this study seeks to better understand media councils and mechanisms for media accountability, asking, are the media accountability mechanisms (MAM) in South Africa responsive and fit to regulate complaints on media conduct? To answer this question, the research project adopts new approaches to the study of MAMs, investigating three areas of importance, namely: people, process, and their connection to place.

The study examined 'people' and how the mechanisms involved the public and the citizenry in complaints resolution. The public refers to the participants within the complaint's resolution process, which the mechanism is meant to serve. The study theorises the public as audiences of readers, viewers and listeners who are also citizens (Bertrand 2000) with the "right to freedom of expression, which includes the right to freedom of the press" (South African Constitution 1996, Section 16). The study also prioritises the analysis of 'process', investigating the procedures related to the complaint's resolution process and the daily operations of the councils. The study examines how these processes enhanced or deterred the council's effectiveness. Finally, the study of 'place' explores the relationship between the mechanism and its location. The investigation of place acknowledges the contextual realities that inform the democratic nature and operations of the media, and its relationship to the public. The study of place asserts that the fit-for-purpose (Berger 2011) practices of a media council would be determined by its location, the media and the society it serves.

3.1 Stage 1: Overview of the study and methodology

Over the past three decades of post-democracy in South Africa, numerous national media accountability institutions have existed for advertising, print, broadcast and online media. Whilst there are various statutory and voluntary mechanisms (see Chapter 2 for more detail), this study adopted a comparative case study of the two most popular mechanisms, with the most extensive media membership. The Broadcasting Complaints Commissions of South Africa (BCCSA) and the Press Council of South Africa (PCSA) are the most popular complaints regulatory institutions for broadcast, print and online media. The comparative case study method selected, provides a case overview of each mechanism and further offers a cross-case analysis of the two mechanisms and their operations to further the collective understanding of their operations and the complaint's resolution process in the country.

3.1.1 Trends in the study of media councils

Previous studies on the BCCSA and the PCSA have yielded significant results which furthered the knowledge about their performance, institutional characteristics, operational conditions, and the context in which they function. The most extensive studies of the BCCSA have offered statistical data on the rulings by the BCCSA and investigated the internal policies of the BCCSA. The most comprehensive study provided by Ciaglia (2015) sought to discover the levels of politicisation in public broadcasting, evaluating 343 rulings published by the BCCSA between 1994 and 2014 concerning SABC 1, SABC 2, SABC 3, e.tv and M-Net, examining the rulings, networks and sanctions of the case. The second-largest study on the BCCSA investigated its broadcasting codes and rulings related to religion (Scharnick-Udemans 2016). The third substantial study offered a critical appraisal of the mechanism, its procedure of resolving complaints, its treatment of its complainants, the lack of accessibility of the mechanism to the public, and the resulting monopoly and freedom enjoyed by its signatories as a result (Reid & McKinley 2020: 179-181).

Whilst these three studies have yielded the most critical data on the BCCSA to date, they form part of a range of studies that have referred to the BCCSA as part of a more extensive study. For instance, the studies that have yielded the most critical data on the BCCSA do so concerning the following research areas. Studies on the BCCSA have looked at its inception as part of a more extensive study of the media in the country (Thloloe 2012: 111–113); commented on its mandate as part of a more

comprehensive study on regulation within the country (Mtimde 2012: 123); examined its rulings as part of a study on the accountability of the SABC (Ciaglia 2017); examined the BCCSA's relationship with the SABC (Duncan 2008); investigating the editorial independence of the SABC (Lotter 2016); or assessing the BCCSA's procedure of laying complaints and the accessibility of its process as part of the study on underrepresented voices in the news media (Reid & McKinley 2020: 161-184). The majority of studies citing the BCCSA have focused on core issues which the BCCSA have ruled upon, using the rulings as the precedence for the matter, such as the rulings relating to freedom of expression (Du Plessis 2015), dignity (Venter 2007) and gender (Rudman 2012). Further studies evaluate the rulings of the BCCSA related to reporting on Israel-Palestine (Tasseron 2021), or their judgments on the watershed periods of controversial television shows like *Yizo Yizo* (Ndlovu & Smith 2011).

Compared to the limited research on the BCCSA, the Press Council has been at the centre of extensive investigation, research and critique for the past two decades. Resultantly, studies on the PCSA have offered great insights into its role, function and ruling processes, contributing valuable knowledge on the council's ruling procedures and outcomes (Cilliers & Froneman 2014), its practice of self-regulation (Berger 2010; Duncan 2014), and the relevance of the PCSA in its specific context (Berger 2011). Other studies contemplated the PCSA process, recommending the adoption of third-party complaints (Reid 2014: 63). They examined how procedures conducted internally and by the Press Freedom Commission contributed to the shape and structure of the council, shifting from an media-initiated self-regulator to a media-initiated co-regulatory mechanism (Reid & Isaacs 2015a). The latter of these studies is the largest, analysing 350 rulings between 2009 and 2013 (Reid & Isaacs 2015a).

The two studies conducting a complete evaluation of both mechanisms were released by Cheruiyot (2019a), evaluating media criticism in South Africa and Kenya; and the Satchwell Report (2021), an independent report on media ethics in South Africa initiated by SANEF. The studies found that both mechanisms provide an essential service to the public as co-regulatory institutions and successfully regulate complaints against the media (Cheruiyot 2019a; Satchwell et al. 2021). With criticism that whilst the media "report the two regulatory agencies as fair" (Cheruiyot 2019a: 216), "critics, especially activists, see the two councils as too friendly to the media" as their criticism of journalists is only expressed internally (Cheruiyot 2019a: 216).

When evaluating the study of these mechanisms, specific trends in the researcher's choice of research design and methodology have emerged. These trends outline the shifting approaches to understanding the mechanism over time. For instance, the trends show that although the areas of knowledge

generated are similar, the evidence consulted, the methods selected, and the approaches adopted differ significantly. The trends show four general methodological approaches to the study of MAMs shifting from a textual approach to a more empirical approach.

The first trend in studying these mechanisms is the document or theoretical analysis. Seminal South African studies on media councils are theoretical academic texts, basing their analysis on normative theory (Kruger 2009), structure (Berger 2011), policy (Duncan 2014), rights and freedoms (Venter 2007; Rudman 2012), independence (Duncan 2008; Ciaglia 2017) and theoretical arguments (Kruger 2009). These studies are valuable but offer little insight into the actual functioning of the mechanism, as they do not deal with the mechanism's mandate of resolving complaints, an issue investigated later by authors conducting empirical research.

The second trend continued to generate empirical evidence, using textual analysis as the study method. Benchmark studies on the BCCSA and the PCSA made use of qualitative content analysis to offer insightful discoveries about the media accountability regulatory bodies in question (Cilliers & Froneman 2014; Reid & Isaacs 2015a; Ciaglia 2017), with some using the analysis of institutional documents to support the main focus of their study (Kumwenda 2010; Thompson 2016; Baron 2017). While others used submissions from the mechanism alongside the institutional data (Satchwell et al. 2021). This trend used textual analysis of rulings and related documentation to explore the data through various theoretical lenses. The authors offered answers to questions about the complaints process, complaints rulings, and statistics on the resolutions. This textual approach to the study had many advantages and valuable outcomes but only commented on what is evident through the recorded and archived data.

The third trend relates to the self-study efforts of the mechanism through a series of studies on the PCSA, conducted by the PCSA in 2011 and by the Press Freedom Commission (PFC) in 2012 (Reid 2017). These studies involved participation from the council and yielded information about the structure, constitution, complaints processes, codes of conduct, and recommendations on the mechanism's future. Furthermore, these studies were more participatory because they involved public submissions, in which public and civil society members were invited to share their thoughts on the council. This approach facilitated a shift regarding whose voice was heard. Still, as the submissions were mainly from interest groups concerned with media accountability regulation, they did not offer much information about the public complainant's experience using the mechanism.

It should be noted that no evidence is publicly available of a BCCSA self-study, but it is assumed that some internal process must have taken place to draft the Constitution in 2022 and the Code of Conduct in 2023. Furthermore, very little academic research is available about the internal processes of the BCCSA, how records are dealt with and how policy shifts are made. Whilst some of these policy documents are publicly available on its website, requests to share the reasons for the updated Constitution were met with months of silence from the BCCSA up until the publication of this study.

The fourth trend shows a change in methods and research design towards the inclusion of interviews. Whilst the recorded data was valuable, it did not answer questions about the perspectives and experiences of the mechanism and its process of resolving complaints. This gap was narrowed through a small number of studies, which included interviews with individuals who impacted the implementation of MAM policy. Earlier studies conducted email exchanges with the press ombudsman (Bothma 2014), whilst other studies conducted interviews with academic experts or civil society leaders on the politicisation of the broadcast arena (Ciaglia 2017). Later studies interviewed journalists, media critics and media accountability agents from the PCSA and BCCSA (Cheruiyot 2019a). These "field research" instances in the form of interviews significantly shifted from previous approaches to MAM research. Yet, the interview selection criteria meant that the knowledge generated from experts, activists and leaders was prioritised to update the process and policy which informs it. The choice of interviewees resulted in a potential silencing of pertinent voices who could add value to understanding the phenomenon.

The two studies which brought the research on media councils closer to the public voice include Cheruiyot's (2019a) study, which supported a diversity of viewpoints by having the voices of media critics and activists, some of whom are members of the public; and the Reid and McKinley (2020) study which shifted whose voice is listened to, by seeking to understand the experience and voices of the BCCSA complainant, representing the audience and their complaint from the point of laying a complaint to its resolution. The study yielded novel findings on the experience of utilising the accountability mechanism and the inaccessibility of the mechanism for the audience (Reid & McKinley 2020:179-184). The study acknowledges that the choice of interviewees resulted in a potential silencing of pertinent voices who could add value to understanding the phenomenon.

Finally, in investigating whether a trend of comparing the mechanisms through a comparative analysis exists, it is evident that very few studies have compared the PCSA and the BCCSA, with a few studies (PFC 2012; Reid & Isaacs 2015b; Satchwell et al. 2021) offering a comparative focus. Other studies have made some comparative analyses and claims, yet this comparison was not the core

focus of the study. Examples of these studies include Duncan's (2016) analysis of the right to freedom of expression in South Africa; Baron's (2017) analysis of newspaper reports on corruption; with Cheruiyot's (2019a) analysis of journalism critique offering great value to the comparative study of the two councils. While this approach has not become a trend in accountability research in the country, it could be a sensible approach to analyse both institutions comparatively, as both mechanisms promote their mandate of serving society by mediating complaints against the media, and both encourage the involvement of the public in their processes. Notably, whilst this is not a national trend, this has become an international trend with authors comparing media councils (Bertrand 2000; 2005; 2012; Fielden 2012), authors comparing media instruments (Eberwein et al. 2011; Fengler et al. 2015; Eberwein et al. 2019; Fengler 2022), and authors comparing media accountability codes globally (Campa & Segado-Boj 2015; Fidalgo et al. 2022; Thomas et al. 2022). The trend of comparative studies of media councils, media codes and media accountability instruments/systems has proven a successful approach internationally.

In reviewing the trends which have emerged in accountability research, this study sought to incorporate the comparative study, by, firstly, comparing the documents on each organisation; secondly, comparing the self-study efforts of each organisation and its capabilities as a learning organisation; and, thirdly, comparing the statistical data on rulings and analysis. As the fourth approach of interviewing individuals who have made use of the system to understand their experiences of the complaints resolution process in its entirety had not yet been adopted as a methodology in media accountability research to date, the study introduces this method to capture the richness of the participant's voices and experiences, before comparing them. Their voices are presented within the data analysis Chapter 4 and Chapter 5 and utilised to compare the user's experience of the media councils. The comparative approach is presented in the comparative cross-case study in Chapter 6.

3.1.2 Positioning the study and its methodology

Whilst these studies have been of great value to understanding the MAMs in question, the methods yield specific results about the data. This study has prioritised theory related to people, processes, and places to frame the data using a particular theoretical lens of 'fit-for-purpose'. Firstly, the focus on the process responds to the gap in knowledge about the complaint's resolution process. Despite the numerous studies on the rulings, many questions exist about how the entire process unfolds, from laying a complaint to its resolution. By focusing on process, the study inspects the multiple

adjudications and decision-making processes responsible for the outcome of the complaint, including the close study of the hearing/tribunal, which has yet to be investigated. Secondly, the study draws on the theory of people, specifically, through the audience-centred approach and voice/listening theory. As evident in the analysis of previous studies, very few studies draw on the voices of those involved in or responsible for the accountability process. Thus, questions about their experiences remain. Considering the gaps in knowledge about the complaints processes and the experiences of those involved in the processes of the BCCSA and the PCSA, this study adopts an approach to the study of MAM, which examines its relationship to participative processes, the places which inform their context and the public who make use of and engage with them.

3.1.1.1 Process: the complaint's resolution process

The analysis investigates the processes employed by the mechanism, as it considers the complaints resolution process. Most of the data about the BCCSA and the PCSA was developed by studying a complaint and its resolution. Even though numerous of these studies exist, only one looked at the complaints resolution process in its entirety, reviewing multiple data sources beyond the final ruling (Reid & McKinley 2020: 161-184). The usefulness of this approach lies in its recognition that statistical data only provides an overview of the numerical data associated with rulings and does not contribute to understanding the process resulting in the accumulated statistical data. Thus, this study seeks to understand the process holistically and provide insight into multiple areas, including the public hearing. Little information on the PCSA hearing or BCCSA tribunal exists. Thus, this study could offer a new approach to the study of MAM by extending it to the public hearing and providing insight into how it operates.

3.1.1.2 Place: a case for context

The second area of analysis is related to place, its context, and the environment in which a MAM operates. South Africa differs significantly from other research centres as its unique social and political history varies considerably from other countries in Africa and the world. Whilst others may have similar economic and political conditions, none are identical to its circumstance. Contemplating these nuances, researchers have called for approaches that move from traditional, universal and dominant approaches to research with context-relevant approaches.

Context extends the study of a phenomenon beyond a positivist approach to one that evaluates the phenomenon concerning its unique circumstances (Rule & John 2011: 39). Circumstances include the relationship between the phenomenon and the related social, political, organisational, cultural, and policy factors (Rule & John 2011: 39-40). An approach bound in context reflects the richness and

uniqueness of the phenomenon being studied instead of replicating universalised studies produced in the 'global north' (Mutsvairo 2018), aligning with the calls from authors who have for many years cautioned against claims for universality as practices presented as universal were found to be local to Europe and the West (Wasserman & Rao 2008), underpinned by ideas, beliefs and theories about society and social organisation (Smith 2012: 49), made 'real' through a "shared" system of knowledge (Smith 2012: 50) not always reflective of the Global South (Berger 1998). The investigation into context values the conditions in which these mechanisms are situated and seeks to recommend fit-for-purpose interventions suited to the country it serves. This study contextualises the study of MAM by analysing the key texts and interviews against the backdrop of the realities of South Africa, its media, and the socio-economic and political conditions in which they operate.

3.1.2.3 People: an audience-centred approach

The third area of analysis offers insight into the complaint resolution process through the experience of its users. The audience-centred approach is a research attitude that "regards the audience, the media end-user, the ordinary person on the ground as primary and central to research effort" (Reid & McKinley 2020: 23). This approach is especially relevant to this research study, as rare opportunities have been made available to the public to contribute to the thinking on media accountability. Input on print media accountability was made possible through public submissions to the Press Freedom Commission (PFC) in 2012 and the PCSA in 2011 (Reid & Isaacs 2015a), with no opportunities for input on broadcast accountability and the processes of the BCCSA. Following suit, research into these MAMs has overlooked the user, with little data being recorded on the experience of the MAM user.

Drawing on the audience-centred approach to policymaking in the Global South, developed by the Media Policy and Democracy Project, this study seeks to invert the trajectory of policy-making by adopting the end-user as the point of departure. In doing so, the study investigates the needs of the audience to explore how the mechanism could meet those needs through policy interventions or regulations required to enable a transformed mechanism (Reid 2017). Intending to understand the complaints process from the point of laying a complaint to its resolution, the study harnesses the voices of key role players, focusing on the complainants' experience of the process. Yet, as the MAM process and adjudication involves a plurality of voices, namely members of the public (complainant), representatives of the media producer in question (respondent), and mediators (commissioners/councillors) appointed to oversee the tribunal/hearing, the study seeks to balance the experience of the user, with the experiences of the other parties involved in the mediation process, to provide a holistic view of the process.

Adopting an audience-centred approach (Reid 2013; Duncan & Reid 2013; Reid 2017; Reid & McKinley 2020; Reid & Malila 2021) as the point of departure, the study seeks to draw on the user/audiences' lived experiences and perceptions of the mechanism to expand upon what is known about its functioning. Employing this approach, the study seeks to uncover silenced/stifled voices that could enhance understanding and subsequent functioning of media accountability in South Africa. Audience members, who are potential participants in this study, could be considered silenced or voiceless "not because they have nothing to say but because nobody cares to listen to them" (Reid & McKinley 2020: 4). Noting the important criticism by theorists on voice, that the voices heard are often the result of conditions which further facilitate power and access (Reid & McKinley 2020; Dalvit 2022), this study recognises that cases studied often elevated matters of public interest to the phase of the public hearing, signalling that the cases analysed would reflect cases which have some semblance of public interest and often have less focus on the personal experiences of marginalised groups.

To consider the voices of the complainants and contribute substantially to the ongoing national debate, this study focuses on the public voice by interviewing the public complainant. Alongside it, the media's and the mediator's voices offer some balance and clarity on their experiences and resulting perceptions of the MAM.

3.1.3 Research questions

RQ 1: To what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?

To answer this primary research question, secondary research questions were identified:

RQ 2: Are the institutional mechanisms functional?

1. Is the MAM resolving complaints fairly? Do they serve their mandates?

RQ 3: Do the MAMs respond to the needs of the public?

1. What do the experiences and perceptions of the end-users reveal about the MAM and its functioning?
2. What does the public complainants' experience reveal about the MAM? And does the complainant experience the mechanism as open, accessible, and responsive to their needs?

3. How does this relate to the media respondents' experience of the complaints? What do the media respondents' experiences reveal about the MAM? And do the press, who are called to account by media accountability mechanisms, experience it as satisfactory?
4. How does this relate to the mediator's experience of the process? What do the mediators' experience reveal about the MAM? And do they experience the body administering complaints adequately?

RQ 4: Is the MAM satisfactory/competent? And relevant to its contextually stipulated needs?

1. Are the policies, operations and practices relevant to its contextually stipulated needs?

RQ 4.1: Should the current MAM prove to be satisfactory/competent -

1. Which elements of the mechanism and its complaints resolution processes are 'fit-for-purpose'?
2. What recommendations can be made to improve the current systems?
3. What policies, operations, or practices need to change, shift, or alter to create a more enabling, responsive and user-friendly system?

RQ 4.2: Should the current MAM or elements of the MAM prove not to be 'fit-for-purpose' -

1. What alternative model can be adopted?
2. What factors should it include to address the current MAM's inefficiencies?

3.1.4 Research design

Contemplating the nuances in the implementation of media councils and their dependence on context, this study foregrounds context by adopting a case study research design. The study explores these cases in the South African context to avoid neglecting contextual circumstances, which could lead to a misunderstanding of the real-world conditions of the phenomenon (Yin 2014: 162-163). Attentiveness to the context in which the mechanism operates is vital to understanding its practices and fitness-for-purpose (Berger 2011, 39) and avoiding a superficial analysis that neglects the temporal, spatial and depth dimensions of the case being studied (Rule & John 2011: 49). This focus on context and the uniqueness of the mechanism informed the choice of case study research design to investigate the BCCSA and the PCSA, their functionality, fitness, and responsiveness to the needs of the South African public.

Case studies gather information to enable a description of the event/organisation in question (Berg 2012: 6) through an in-depth empirical inquiry into a phenomenon within a specific context (Yin 2009: 18). Using the case study approach, the researcher adopts a two-case study design and compares the practices (Yin 2009) of the BCCSA and the PCSA, as the institutions hold similar mandates. The study positions the BCCSA and PCSA as separate, bounded units (Creswell 2013: 97) comprised of multiple data sources and guided by questions about the institution and its processes, which inform the data collection tools selected. The study adopts three methods for the case study design: qualitative content analysis, observations, and interview methods.

3.2 Stage 2: Identifying the case and its boundaries

This study is designed to expand on the existing knowledge about the BCCSA and the PCSA, its institutional structure, mandate, and complaints resolution procedures. Adopting a case study approach allows the researcher to study the complaints process from the point of laying a complaint, through its mediation, to the point of its resolution, whilst centring the contextual conditions in which the complaints resolution process occurs. Using various methods, such as document analysis, observations and interviews with key stakeholders to yield data on the complaints process and the experience of participating in the adjudication process, the study analyses evidence on the media councils and the relevance of their processes for the South African context. The study adopts the seven stages of a case study research protocol to conduct the research, inspired by leading case study researchers John W. Creswell and Robert Yin. The protocol was devised by reviewing and cross-analysing the case study protocols introduced by Creswell (2013) and Yin (2014) and combining them to advance the validity and accuracy of the investigation.

Why a case study? A ‘case’ refers to a phenomenon in its particular context (Rule & John 2011: 40; Farquhar 2012: 6; Creswell 2013: 97), whilst the term ‘case study’ refers to the process of conducting an investigation (Rule & John 2011, 4) and embraces a qualitative approach to conducting research (Rule & John 2011; Creswell 2013; Yin 2014). Qualitative approaches have been described as interdisciplinary (Struwig & Stead 2001), underpinned by multi-method approaches to understanding the multiple experiences which exist simultaneously (LeCompte & Schensul 1999; Creswell 2013) and embraces the possibility of truth as relative to those who experience it. Qualitative research delves into subjective terrain by considering the participant's perspective of the issues being investigated (Struwig & Stead 2001; Creswell 2013) and the social context surrounding the research (Struwig &

Stead 2001; Marshall & Rossman 1999) in which the investigator explores a bounded unit in real-life (Creswell 2013: 97).

Although case studies have grown in popularity, numerous criticisms of the approach have been noted. These include the confusion between the two types of case studies, namely the teaching tool versus the research methodology (Yin 2014; Hamilton & Corbett-Whittier 2013). The former is heavily criticised for the lack of rigour, generalisability and comparative advantages (Rule & John 2011: 40), with the latter questioned for its validity, confirmability, and credibility (Yin 2014: 45). Notably, these criticisms have become less prominent as case studies have adopted more rigorous and systematic research standards, such as the case study protocols introduced by Creswell (2013) and Yin (2014), to advance the validity and accuracy of the investigation. For Creswell, five stages of the research design are advised. Firstly, identifying the case and its boundaries; secondly, determining the sample and area of study; thirdly, determining the data sources and undertaking the data collection; fourthly, analysing the data around the case, the thematic areas and context; and finally, interpreting the data through a report on the relevance, meanings and learning's (Creswell 2013: 100-101). Although Creswell offers a stepped approach for case study research, the protocol is unsuitable for this study due to a lack of theoretical deliberations. Alternatively, reflecting Yins four steps in the case study procedure, which entails providing, firstly, the overview of the study; secondly, the data collection procures; thirdly, the data collection questions; and, fourthly, a case study report guide (2014: 85), it is clear that whilst these steps could be helpful to this doctoral study, they do not allow for a rigorous analysis.

Considering the merits of both protocols and their usefulness for case study research, this study adopted a new research protocol, emerging from the syntheses of the two protocols evaluated. Resultantly, the new protocol included the significant areas required for this study, and, by amending these two protocols, this case study design became more rigorous and scholarly.

Table 4: Case study protocol

| |
|---|
| Case Study Protocol |
| Stage 1: The overview of the study (Yin 2014: 85). |
| Stage 2: Identifying the case and its boundaries (Creswell 2013: 100 -101) |
| Stage 3: Determining the sample and area of study (Creswell 2013: 100 -101) |
| Stage 4: The data collection procedures (Yin 2014: 85) |
| Stage 5: Analysing the data around the case, the thematic areas, and the context (Creswell 2013: 100 -101) |
| Stage 6: A case study report guide (Yin 2014: 85) on the relevance, meanings, and learning (Creswell 2013: 100–101) |
| Stage 7: Using the findings, the context, and the theory to draw conclusions and recommendations for the present and future functioning of the case in question. |

By applying the seven stages of the case study protocol to the study of MAM, the study can deduct the most valuable points from previous protocols to enhance the study of MAM within its context. The study protocol makes methodological transferability to studies in different contexts possible, and, thus, the study can be replicated, and the case study methodological approach can be generalised.

3.3 Stage 3: Determining the sample

This study of the media accountability mechanisms in South Africa, involves the study of two MAMs, namely the BCCSA and the PCSA. Each MAM is studied to further what is known about the institution, its complaints resolution process, and the experiences of its users. The study used purposive sampling to select institutional and other relevant documentation which could contribute to understanding the phenomenon (Creswell 2013: 156). Purposive and convenience sampling is used to select the six complaints/rulings analysed. As the Broadcasting Complaints Commission of South Africa’s tribunals and the Press Council of South Africa hearings are public processes, and the ruling

documentation is available publicly on the media councils' websites, convenience sampling allowed the researcher accessibility to public hearings, based on when the tribunal/council met and if the MAM alerted the researcher to the existence of the hearing/tribunal. The six complaints (one BCCSA complaint and five PCSA complaints) had to meet specific inclusion criteria to be selected; complaints had to:

1. Be laid with the BCCSA/PCSA and found to be valid and within the ambit of their mandate;
2. Proceed to the hearing/tribunal stage or the appeals stage, where the case is deliberated upon;
3. Be ruled upon by the adjudicators or appeals panel between 2020 and 2022.

Purposive sampling was adopted to ascertain the appropriateness of the case and the willingness of the complainants, respondents and adjudicators to participate in the study. If the complainant was unwilling to participate, a new complaint was selected, thus becoming a potential limitation on the study. The complainant in each case determined whether or not the case proceeded to the interview stage. Of the cases observed, three of the complainants contacted agreed to participate in the study. The three cases involving News24 were not included in this study because the complainants and News24 chose not to participate in the research or answer questions about their involvement in the Press Council processes.

The three cases analysed closely included in-depth interviews with the complainant (member of the public laying the complaint), and, in those cases, the complainant's consent was required for the interview portion of the study. The interviewees were limited to those who initiated the complaint, namely, 1) the public complainant; and where possible, the study included responses from 2) the BCCSA/PCSA mediator/adjudicator; and 3) the media signatory/member.

1. Public: the complainant refers to a member of the public who lays a complaint with the BCCSA/PCSA; this list is based upon the complaints listed with each mechanism.
2. BCCSA/PCSA representatives: The representative refers to one of the BCCSA/PCSA councillors, judges, or leaders involved in the complaint mediation.
3. Signatories/members: The media signatories/members refer to the broadcaster or publication complained against; see the protocol for the possible list.

Time Frame: With the core of the study conducted in 2020, 2021 and 2022, the cases studied were limited to this time frame. The extension of the study in 2023 did not include individual case studies, and focused on the review of institutional changes relating to the adoption of online and digital strategies. Furthermore, the cases accessed depended on the MAM's communicativeness and willingness to share information on the hearings/tribunals. Notably, as very few hearings occur within the MAMs processes, few hearings are available for study.

3.4 Stage 4: Data collection procedures

The data collection procedures investigate whether or not the mechanisms studied are fit-for-purpose and responsive to the needs of their audience/user. The data collection procedures occurred in two phases, firstly, analysing the institutions as case studies; and, secondly, analysing complaints resolution processes. Each stage of data collection made use of different methodologies, the former drawing on document analysis and interviews, and the latter drawing on document analysis, observations and interviews with participants in the complaints resolution process.

Table 5: Stage 4 of the data collection procedure

| STAGE | | Data Collection Procedures | | |
|---------------------|----------------------------------|----------------------------|---|--------------------|
| Phase of Collection | Area | Method | Sample | Time of Collection |
| PHASE 1 | Institutional Case Study | Document analysis | Institutional and policy documents | 2020 - 2023 |
| | | Interviews | Ombudspersons, chairpersons and executive leadership | |
| PHASE 1 | Complaints resolution case study | Document analysis | Complaints and ruling documentation | 2020 - 2023 |
| | | Observations | Hearings and appeal hearings | |
| | | Interviews | Complainants, respondents, and adjudicators involved in the hearing | |

The methods employed were determined by the research questions posed, as the first phase questioned the functioning of the council, and the second questioned the user's experiences of the council and its processes. The institutional study sought to investigate the overall functioning of the media council by employing data analysis of the internal documents, external and public-facing documents, records of rulings and interviews with members of the media councils in leading positions. Whilst the complaints resolution case studies sought to investigate the user's experience of the process and the media council by evaluating complaints brought before the media council. This evaluation required observations of hearings, an occurrence which rarely occurs at the PCSA and the BCCSA, as both councils predominantly adjudicate complaints on paper. The hearings were selected as the sampling

criteria because they offer an opportunity for the user to represent their own experiences and concerns about media reportage and involve a dialogue between the public (complainant), the media (respondent) and the media council (regulatory body) on the standards, reportage and expectations of the media in the country.

The five Press Council hearings and single BCCSA hearing observed between 2021 and 2022 offered a sense of how the councils approach hearing processes and public participation in those processes. The public complainants and media respondents participating in the hearings were contacted to request their participation in the study, with three of the six case study participants willing to participate. The interviews with the complainants form the basis of the case study, alongside the interviews with adjudicators, responses from media houses, ruling documents and court documents in the case of the BCCSA in which matters appear before the courts. The analysis of these various data collection methods is embedded in the study and its findings. A detailed discussion of the methods and sample is presented to explain the rationale for the selection and utilisation of the methods employed.

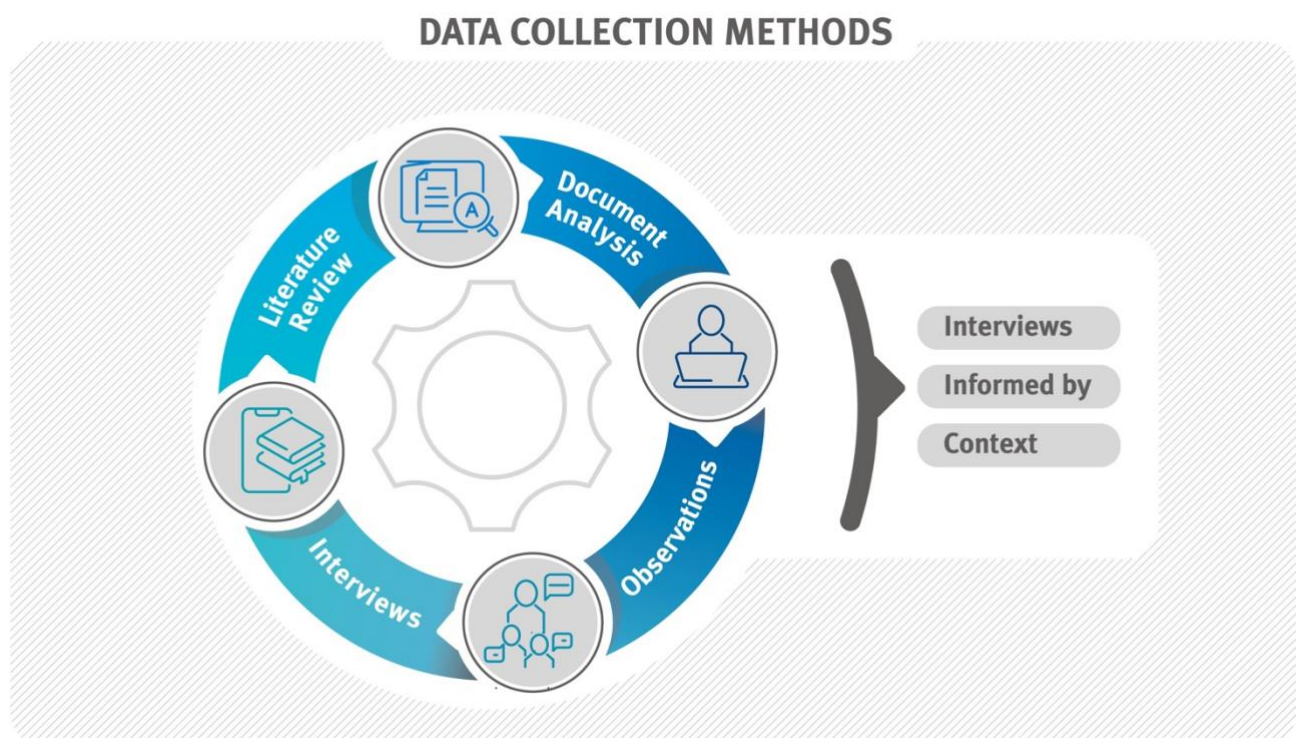


Figure 2: Data collection procedures

3.4.1 Documentation and information

Document analysis involves the study of a document as an artefact or record, which offers a rich source of information to be analysed (Karrpinen & Moe 2019: 251). This study adopts this method as “policy and industry documents present an obvious starting point for media policy analysis” (Karrpinen & Moe 2019: 249). The method is a sensible choice for this study and allows the researcher to understand the background of the policy being studied through a primary data source that is publicly and readily available.

Document analysis has become popular in research studies. It poses numerous benefits to the researcher, as documents can be reviewed continuously, have specific details of people and events, covers a broad spectrum of information, and is unobtrusive as the evidence is already in existence before the case study. Yet, this method also has challenges if the documents are difficult to retrieve and if there is bias in the selection criteria or discrimination in the documentation authorship (Yin 2018: 157). Therefore, when utilising this approach in media policy research, one should note that documents frame issues and present a construct of reality from one perspective (Karrpinen & Moe 2019: 251). In this case, documents created by the mechanism might not be neutral and could have an unintended bias.

This method was used in two phases in the study. Firstly, in the study of the mechanism itself through the analysis of its foundational documents, and, secondly, in understanding the complaints resolution process through the analyses of critical documents. The selected documents were studied using directed qualitative content analysis.

Table 6: Documents analysed

| Documentation and information | | | |
|-------------------------------|------------------------|--|--|
| Publicly available | Area | BCCSA | PCSA |
| | About the mechanism | About the BCCSA Frequently asked questions | About the Press Council Council membership |
| | Constitution | BCCSA Constitution (no longer available on the website, by request only). | PCSA Constitution |
| | Criteria for complaint | BCCSA criteria for a complaint | PCSA complaints procedure PCSA complaints form |
| | Reports | Chairpersons' reports (Annual reports, no longer available on the website, accessible by request only). | Reports published in the State of the Newsroom (closest to an annual report, no annual reports published by the PCSA). |
| | Code of Conduct | The code for subscription broadcasts (2009b) and the "new code of conduct for free-to-air licensees (BCCSA 2009a) BCCSA Code. BCCSA code of conduct for online content broadcasters (BCCSA 2023). | Press code of ethics and conduct for South African print and online media (PCSA 2022a). |
| | Rulings | Rulings on complaints, tribunals and appeals. | Rulings on complaints, hearings and appeals. |
| Information requested | Statistics on Rulings | Shared by the BCCSA. | Shared by the Press Council. |

| | | | |
|--|---|---|--|
| from the media council is not available on the website | Minutes | NOT shared by the BCCSA. | Internal Minutes of the Press Councils meetings in 2020 and 2021. Subcommittee reports 2022 and 2023. |
| Information requested but not received and thus unable to be used in the study | Access to sensitive information manual BCCSA Access to info | The following documents were refused: Information related to the internal confidential mediation between NAB and the BCCSA. Internal reports and minutes. | All information related requests granted. |

Secondly, the document analysis was utilised to study the complaints resolution process, which involved the study of the complaint submitted by the complainant and the final judgement, which was released thereafter. These documents were analysed alongside the relevant codes. As part of the directed content analysis, the researcher coded the documents for several markers, discussed in greater detail in the sections that follow.

3.4.2 Observations

Observations are a qualitative research method where the researcher observes a phenomenon in its real-world setting. Observations refer to the activity of researching whilst immersed in a 'foreign universe' to observe a process whilst it takes place (Bourdieu 2003). The researcher attempts to understand the complexity of the process by being immersed in it and seeks to understand the process from the perspective of those being observed through contact with subjects in the place they usually spend time (Bogdan 1973). As a widely adopted method utilised in educational, psychological, anthropological and sociological research projects, there has been little consensus on the aims or outcomes of observation research (Pohland 1972). Yet, there is agreement that observation involves

learning about the routine activities of participants in their natural setting (LeCompte & Schensul 1999). The method requires the researcher to describe and analyse the event in its setting, keeping notes of what emerges and keeping notes of the setting and the environment (Bogdan 1973).

In understanding the complaints process, observations were utilised to understand better the hearing/tribunal adjudication process, which is essential in establishing how the regulatory process unfolds. The study observed a series of hearings to gain insights into the hearing process.

In the case of the BCCSA: a complaint can be subjected to one of two adjudication processes. It can either be referred to a commissioner who evaluates the written arguments of the complaint and respondent alongside the case's merits, or it can be subjected to a tribunal/hearing process. The tribunal hearing is adopted for a "more serious complaint" (BCCSA 2020d) in which between three and five commissioners deliberate on the complaint and hear evidence from the complainant, respondent, or their legal advisors. Little research has been conducted on the tribunal process, as many studies focus on the case's outcome through the ruling analysis.

Within the PCSA: the hearing refers to the arbitration process in which the ombudsman resolves a complaint after both the complainant and respondent present evidence and submit arguments about the case (Press Council Review 2011: 40). The Press Council Review recommended that the hearing be made public and studied as part of journalism studies programs, advising that the council "advertise hearings and encourage public attendance so that interested parties can get a better understanding of the process" (Press Council Review 2011: 9). To date the hearing has not been studied. Resultantly, this method responds to earlier calls for the study of the public hearing and yields important information about how the ruling was resolved. By observing the tribunal hearing as it unfolded, the researcher uncovered data about the hearing in its real-world setting (Yin 2018: 165).

The cases observed were public hearings, available for public attendance. The six hearings observed occurred online through Zoom technology. The hearings were attended virtually by the researcher and observed as a public process. The observation of hearings made use of simple categories of observation captured through field notes, describing what occurred in the hearing/tribunal and how these occurrences were interpreted by the researcher. This is also a limitation on the observation process, as only one researcher conducted the observation and could have incurred bias. The observations were captured through field notes which described what occurred in the hearing/tribunal, and the notes were uploaded to computer software, NVivo, for archiving and analysis.

Table 7: Complaints/Cases observed

| Cases studied and observed | | |
|------------------------------|---|---|
| Hearings/appeals Observed | BCCSA | Press Council |
| | SOS vs SABC ² (SOS vs SABC 2021) | Hearing Danikas vs Daily Maverick (Danikas vs Daily Maverick 2021a; 2021b) |
| | | Appeal Hearing Lumko Mtimde vs Daily Dispatch (Mtimde vs Daily Dispatch 2021a; 2021b) |
| | | Appeal Hearing Marlon Goss vs News24 (Goss vs News24 2021a; 2021b) |
| | | Appeal Hearing Matshela Koko vs News24 (Koko vs News24 2022a; 2022b) |
| | | Appeal Hearing News24 vs Conrad Gallagher (News24 vs Conrad Gallagher 2022a; 2022b) |

3.4.3 Interviews

Upon completion of the observation of the public hearings, the complainants were contacted to request interviews regarding their experiences of the complaints processes. Interviews are popular with communications disciplines to gather information through dialogical processes, which allows the researcher to study and learn from the interviewee (Rao & Ting Lee 2005: 101). The nature of the interview is open-ended, allowing the researcher to capture the interviewees' experience and sense of reality (Yin 2014: 88-112). By conducting open-ended, semi-structured interviews with the complainant, respondent and the commissioner/ombudsman, the researcher was able to draw on the

² The case of the SOS vs SABC appeared before the BCCSA. Notably, as the Press Council of South Africa was responsible for the online and social media complaints of the broadcasters during 2021, the complainants also laid a complaint with the Press Council. The Press Council instead indicated that the BCCSA decision would be binding and did not adjudicate on the case.

experiences of the MAM users to establish their perceptions of the mechanism and its fitness. Interviews were chosen to further the understanding of the nature of the organisation, its limits and challenges (Dilley 2004: 127), but, more importantly, to allow the researcher to listen to the voice of those who experienced the mechanism.

Through semi-structured interviews, the researcher posed questions about the process involved with laying, sanctioning, and resolving complaints. The sample was based on the cases analysed during the observation stage, which allowed the researcher to explore the participants' experiences as they reflected on the adjudication process. To conduct the interviews, the researcher adopted the procedure of gaining consent for interviews from the participants, contacting interviewees to set up times for the interviews, conducting the interviews using the questions described in the protocol, and analysing the interviews using a thematic content analysis method, which was used to write up the preliminary findings. The data collection instruments for interviews were developed based on the expectations of the data collection protocol, which includes a basic introduction of an interview, information and instruction about the interview, an opening question, content questions, probes and closing instructions (Creswell & Creswell 2018: 304). See the Appendix H at the end of this document for more detail.

Table 8: Interviews conducted

| Interviews conducted on each mechanism | | |
|--|------------------------------|----------------------------|
| Interviewee category | BCCSA | Press Council |
| Interviews with media council/tribunal members | Sunette Lotter (Chairperson) | Latiefa Mobarra (Director) |
| | | Pippa Green (Ombud) |

| | | |
|--|---|--|
| | Brian Makeketa (Deputy Chairperson) | Fanie Groenewald (Public Advocate) |
| | | Izak Minaar (Regulatory subcommittee) |
| Interviews with the complainants: towards an audience-centred approach. | Justine Limpitlaw ³ (complainant) | Lumko Mtimde ⁴ (complainant) |
| | | Aris Danikas ⁵ (complainant) |
| Interviews with the adjudicators: balancing the audience voice with a right to reply | No interviews were granted as the BCCSA did not respond to the email requests for interviews. | Karthy Govender (adjudicator) |
| | | Judy Sandison (adjudicator) |
| | | Peter Mann (adjudicator) |
| Interviews with the respondent: balancing the audience voice with a right to reply | No interviews were granted as neither the SABC nor the ENCA responded to several calls, emails or Tweets to their executives, managers, or spokespersons. | A written response received from the <i>Daily Dispatch</i> . No interviews were granted by the <i>Daily Maverick</i> or their news team, who did not respond to several calls, emails, or Tweets. |

³ Justine Limpitlaw is a media lawyer and Adjunct Professor specialising in media law, communications law and broadcasting. She has written a series of books on broadcasting and press freedoms in Africa, and has assisted in drafting broadcast policy, legislation, and regulation (Limpitlaw 2012).

⁴ Lumko Mtimde is a former special advisor in the office of the presidency, is the former CEO of the Media Development and Diversity Agency (MDDA) and National Community Radio forum and served as a councillor for the Independent Broadcasting Authority (IBA) and the Independent Communications Authority of South Africa (ICASA) (Mtimde 2012).

⁵ Aris Danikas is a whistle-blower on the Cato Manor unit and an honorary fellow at Blueprint for Free Speech. He served as a volunteer police reservist for the Cato Manor unit since 1999, publicly blew the whistle on the unit in 2008 and has since published a website on the Cato Manor Police Death Squad (Danikas 2022b). The case of the Sunday Times and the Cato Manor unit, including accusations of inaccurate reportage and politically motivated coverage of the unit, are detailed in the Satchwell et al. (2021) *Inquiry into Media Ethics and Credibility report*.

3.4.4 Information handling

The study used numerous data sources including documents, interviews, and observations. The data collected and analysed was handled with care and respect for its contributors. To protect anonymity, the study limited access to the raw data by providing access to the information to selected project collaborators, such as the researcher, the supervisors, and the transcriber. The information recorded was saved on a secure Google Drive folder accessible to the researcher and supervisors. Furthermore, the information was loaded onto data management software (NVivo) for analysis. The findings were discussed using the names and identities of the interviewees, as all of the participants consented to being identified, and some requested their identity accompany their statements. The decision to identify the interviewees whilst taboo in some instances, was a deliberate decision in this study, to further the commitment to inclusion of voice and public participation in the presentation of the research.

3.5 Stage 5: Data analysis

The data analysis was conducted and reported on in four analysis chapters. Chapters 4 and 5 report on the institutional overview based on the analysis of policy, institutional and internal documents of the BCCSA and the PCSA, respectively, whilst Chapter 6 presents the findings of the cross-case analysis of the BCCSA and the PCSA.

Analysis of the institution: Within the first instance of understanding the mechanisms of an institution, the documents analysed were institutional and were supplemented by interviews with institutional leaders.

Analysis of the complaints resolution: The processes involved analysing the ruling documents, hearing observations and complainant/respondent/representative interviews. The information used a thematic tree to lead the data coding, alongside an emergent coding method to capture what emerged from the participants' process experiences.

For a detailed approach to the thematic analysis developed during the pilot study, see Figure 3 below, which reflects the dominant codes related to: 1) context; 2) institutional considerations; 3) mandates; 4) relationships to stakeholders; 5) complaints processes; and 6) code-of-conduct/prescriptive standards, each of which includes subthemes and codes.

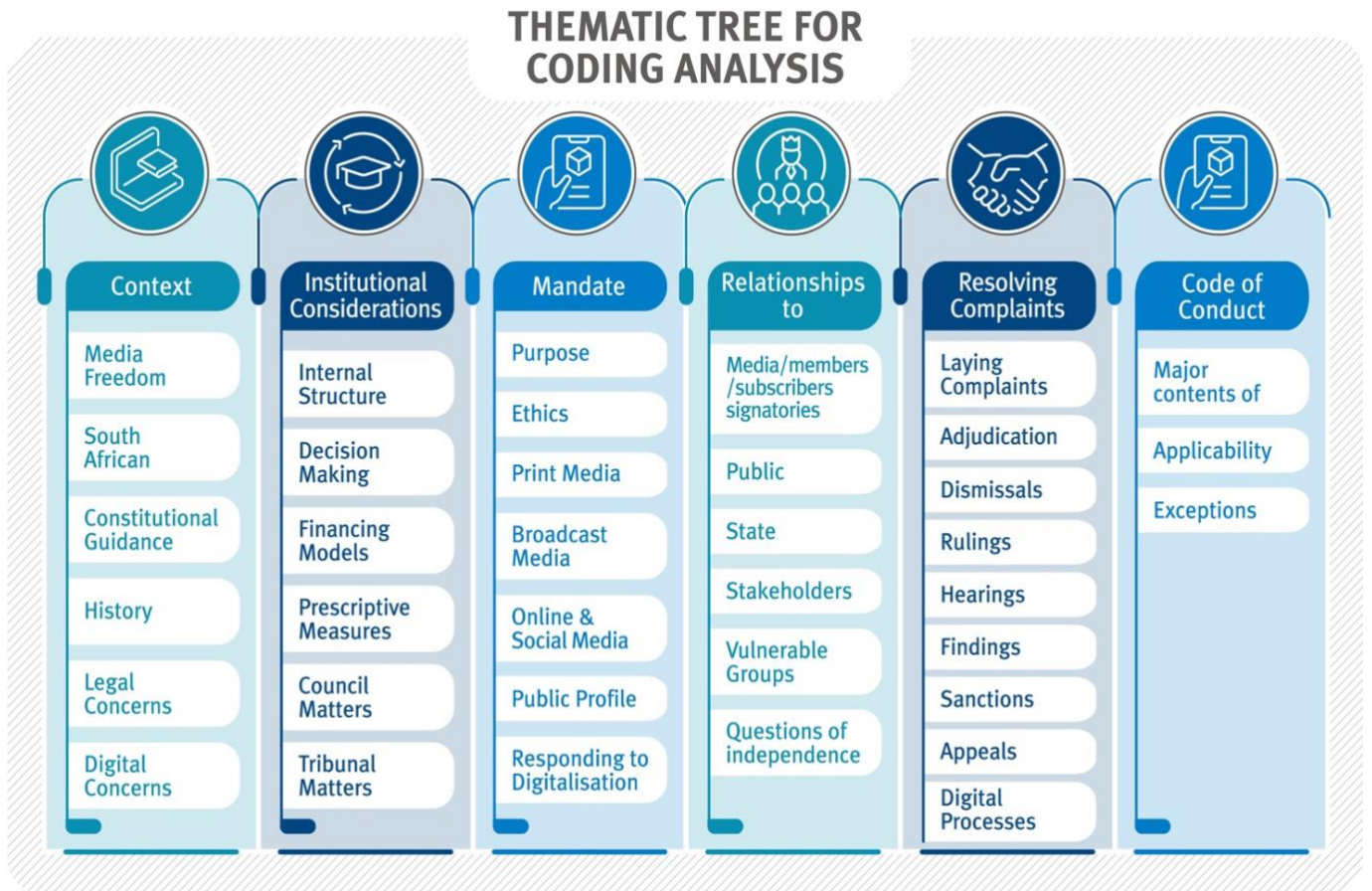


Figure 3: Thematic tree adopted for coding and analysis

3.5.1 Overall analysis strategy

The pilot data analysis and coding of the institutional and policy documents assisted in developing the approach and data analysis strategy. Using Creswell’s (2018) approach, the study proposes five steps for data analysis.

3.5.1.1 Organising the data

The project sought to conceptualise and organise the data scientifically. Imported to NVivo, the data was organised according to the institution, the phase of data collection and the method used.

3.5.1.2 Reading and memo’ing

The researcher read the data and made notes, comments and reflections on the data to better understand the data.

3.5.1.3 Describing, classifying and categorising data

Using a thematic tree, the data was coded using predetermined code categories. The study also allowed for emergent coding, which developed codes as the analysis progressed. The codes were then reviewed and recategorised to achieve concrete themes with their relevant sub-themes.

3.5.1.4 Interpreting the data

The data was interpreted using a mixture of human interpretive approaches and technological interpretive approaches. These technological approaches analyse, compare and interpret the data. Technological approaches utilise the NVivo computer-assisted categories of data analysis for specific terms, narrative text, repetitive words and the like (Yin 2018: 213). The study used NVivo word frequency queries, text search queries and word trees to interpret such analyses.

Notably, the primary approach to interpreting the data utilised the researcher's insights to understand, analyse, compare, and interpret the data by interpreting the content analysis findings. Firstly, "frequencies of specific indicators" (Hasebrink & Hölig 2019: 150), for example, the recurring experiences or preferences for a specific process or strategy, were identified in the interview data. The study also searched for "patterns, insights and concepts that seem promising" (Yin 2018 215). Secondly, the data analysis examined the recurring themes and content which emerged (Yin 2018: 213). Thirdly, the data analysis interpreted the data according to each case subject, namely the BCCSA and the PCSA, by playing with the emerging data (Yin 2018: 215). Thereafter, the analysis aimed to identify the interplay between the theoretical framework and the concepts explored (Hasebrink & Hölig 2019: 152).

After the initial case studies presented in Chapter 4 and Chapter 5, a comparison of the two mechanisms, through a cross-case synthesis, evaluated the two cases against each other. The technique sought to understand each case holistically as a bounded unit rather than a series of variables. Using "case-based" syntheses, the data across the cases were compared and presented in Chapter 6. The goal of the synthesis was to maintain the integrity of the case whilst making comparisons between them (Yin 2018: 244-246). It was also necessary to discuss the similarities and differences between the individual cases in the study and if/how the cases were sufficiently comparable. Finally, the data analysis was guided by the research questions, looking for answers to the questions posed by beginning with the more minor questions and leading to the main question (Yin 2018: 213) about the responsiveness and fitness of the mechanism. Ultimately, the analysis sought to be of high quality, address the most significant aspects of the case study, and speak to the research questions posed (Yin 2018: 248-249).

3.5.1.5 Representing the data visually

Visually representing the data involved “packaging what was found in text, tabular, or figure form” (Creswell & Poth 2018). The visual representation of the data drawn on NVivo visual charts, maps and diagrams where relevant, and similar diagrams were devised by the researcher where applicable.

3.6 Stage 6: Presenting the findings as a case study report

The thesis presents the case study analysis, and the cross-case comparative analysis as reports, alongside theoretical deliberations relevant to each case. This presentation follows the case study protocol developed to support rigorous analysis and scholarly discussion. The case study analysis of the Press Council of South Africa (Chapter 4), the case study analysis of the Broadcasting Complaints Commission of South Africa (Chapter 5) and the cross-case study analysis of the voluntary media councils for print, broadcast and online media in South Africa (Chapter 6) present the case study analysis, findings, theoretical deliberations and recommendations of the study. These case studies are underpinned by three central themes, including the institutional evaluation of the media councils, the evaluation of the complaint’s resolution processes of specific cases, and the experiences of the audience complainants.

3.6.1 The institutional study

The institutional study presents the analysis of the mechanisms and its data. The data made available by the media councils, through publicly accessible documents, and through interviews with the institutional representatives could yield one-sided results if studies of the mechanisms only investigate the materials provided by the institutions being studied. An institutional study is valuable, but as it only evaluates the voices and documents offered by the mechanism, often from the council's perspective, it does not offer information about the complainant or their experiences. Institutional documents, texts and statistics on rulings form part of the study, but these are not the only source of data.

3.6.2 The case studies

The case study presents the analysis of specific cases, from their inception to their completion. The study of the complaint includes the complainant’s original complaint, the hearing, the ruling, the appeal (where applicable) and the outcome. The relevant hearings and appeal hearings were observed. Observing the hearings allowed the researcher to investigate the protocol of events and question how

these were actioned. Further, the observations of the hearings allowed the researcher to question issues of power between the primary stakeholders in the hearings and, to observe the power relations between citizens and the legal representatives in the process. The case analysis and observations formed the basis of the interviews with key stakeholders in the complaints resolution process to facilitate a special focus on the audience/complainant laying the complaint.

3.6.3 An audience-centred approach to the study

The audience-centred approach “adopts the media user/consumer, and at times the aspirant media user/consumer, as central to the research enquiry” (Reid & Malila 2021: 28). Adopting such an approach requires centring the experiences of the user, who is the audience and consumer of a media text and, simultaneously, initiates the complaint to be processed by a media council. Traditional communication channels value the sender first and the receiver last, so too has policy-making interventions followed this similar formula (Reid 2017; 2020). The audience-centred approach inverts this formula to consider bottom-up approaches to understanding policy and media-related processes, by evaluating the “perspectives, needs and communications challenges of the audience” (Reid 2020: 6) and then exploring how the media and its related sectors should respond to better fulfil the audience’s needs.

This study sought to include the audiences’ experiences by conducting in-depth interviews with the complainants in the complaints resolution process. The three complainants willing to discuss their experiences are also members of the public, state and civil society groups. Whilst they reflect the experiences of the public complainant, it could be argued that they do not reflect the experiences of the vast majority of potential users of the system. These complainants with knowledge of legal and regulatory structures could be argued to occupy the position of a ‘knower’, making their experience possibly easier than those of the general public, some of which come from poor or marginalised environments (Reid & McKinley 2020).

Noting that complainants might have a particular experience of the mechanism, this study sought to balance the experience of the complainant with the voices of other participants in the process. The audience-centred approach asked questions of the complainants and their experiences, which led to statements about their experience of the process, the outcome and the regulator's future. For the purpose of fairness, this study further inquired with the media respondent and the regulatory adjudicators about their stance on the matters raised, offering the right to reply in the in-depth interviews about the cases analysed.

Balancing the complainants' views and voices with the right to reply was important to provide a fair and balanced analysis of the cases presented. In many cases, several attempts were made to contact media companies for replies over a six to 12 month period. Only one of the five media companies contacted responded. The media's lack of responsiveness to numerous requests suggests that the media are unresponsive to public concerns and signals that media councils are able to ensure accountability from the media, as councils obligate the media to acknowledge concerns from the audience and account for them. This outcome suggests that councils provide reasonable recourse for some form of response and reaction from the media against whom a complaint is laid. Upon request for a reply from the media councils, the Press Council of South Africa was forthcoming, and the adjudicators were willing to discuss the concerns raised by the complainants. However, the BCCSA ignored requests for interviews and responses.

THESIS STATEMENT 3: The study of media councils needs to expand on the methodology utilised to examine the responsiveness of media councils, as existing methods echo institutional data and voices.

The thesis evaluates the press council and media councils generally as a media accountability mechanism and recommends that studies on mechanisms find new methods of exploring councils to allow for different success and efficiency indicators. The thesis, firstly, recommends different approaches to research design (further elaborated in Chapter 3), which recommends using a case study methodology supported by an array of methods to analyse a complaint from its inception to its resolution, such as using observations to analyse hearings. Secondly, the study recommends adopting an audience-centred approach to research and policy-making processes (Reid 2017; Reid & McKinley 2020), which foregrounds the complainant's experience whilst balancing it with the voices of other stakeholders.

Value of this approach: By adapting varying methods for analysing a complaint from its inception to its completion, a new data set is available for scrutiny. The study proposes that the methods used to analyse media councils affect the outcome and understanding of the council, and, thus, relying on institutional data alone will reiterate institutional voice. Furthermore, whilst the study findings are guided in a South African context, and the cases cannot be generalised outside of this context, the methods and approaches of using an audience-centred approach to case study analysis of MAM can be duplicated in studies in any context where complaints are laid by the public against the media, to understand the public voice and experience of MAM. Thus, the methods and approach can be generalised and adapted to studies in other contexts.

3.7 Stage 7: Conclusions and recommendations

Drawing on the findings presented in Chapters 4, 5 and 6, the study draws to a conclusion by describing a model for media accountability. Chapter 7 presents the model for media accountability in a unique context like South Africa, with an ever-digitalising media environment, which serves a “less connected” audience (de Lanerolle et al. 2020). The model recommends that media councils and other media accountability mechanisms consider the needs, accessibility and connectivity of its audiences, listen to the needs of these audiences and consider reaching marginalised publics as an extension of its current media centric mandate. Chapter 8, the conclusion chapter, summarises the study, its findings and its contribution to understanding media councils and their relationship to people, process and place.

3.8 Ethics

This study received written approval from Unisa's Research Ethics Review Committee. A copy of the approval letter is included in Appendix 1. As the media hearings and complaints are public processes, accessible to the public and in the public domain, no permission was required to observe the hearings. As this is a public process, the findings are generalised and anonymised. The observations from the hearings are presented within the text as generalised findings on the processes in place.

The final stage of the interview process depended on the participant's willingness to participate in the study. Participants involved in the hearings were contacted to request their participation. Those who were willing to participate, and granted their permission to participate, were included in the study. Participation was voluntary, and interviewees were informed that they may withdraw at any point. Due to the public nature of the MAM and the rulings, participants were asked if they wanted to remain anonymous; if they wanted to maintain anonymity, they were asked to inform the principal researcher accordingly. None of the participants chose to remain anonymous.

3.9 Conclusions

The chapter discussed the study's methodological approach, detailing the data collection methods and data analysis of the BCCSA and PCSA complaints resolution process. The chapter precludes the analysis and findings chapters of the study.

CHAPTER 4: CASE STUDY ANALYSIS OF THE PRESS COUNCIL OF SOUTH AFRICA

The Press Council of South Africa is central to the media accountability landscape of the country. As a popular complaints resolution body, the council acts as a mediator and interlocutor between the media and the public. This chapter presents the findings on the independent evaluation of the PCSA. The results present an analysis of the processes it employs to resolve complaints, the people it serves, its operations in South Africa and the contextual nuances related to operating in this geopolitical location. The chapter answers the research question: “to what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?” The study finds that the PCSA is mostly fit-for-purpose and sufficiently resolving complaints, as it enforces media compliance and responses where there are no other platforms for the public to call the media to account. The chapter further identifies areas where the PCSA could improve and enhance its operations, and presents these findings and recommendations for improvement, basing these recommendations on the analysis and the findings of the study.

4.1 Introduction

The Press Council (also called ‘the Council’ and ‘the PCSA’) has become synonymous with media regulation in South Africa. The Council, established in 2007, follows multiple iterations since the initial introduction of the Press Board of Reference in 1962 (Press Council Review 2011). The Council has been at the centre of public debate, research, and reform, undergoing multiple reviews over the past decade resulting in changes to its structure and functioning (Press Council Review 2011; PFC 2012; Reid 2013; Reid & Isaacs 2015; Reid 2017; Satchwell et al. 2021). Considering the shifts in media accountability and the presumed alteration of media council operations in technological advancement, this study analyses the PCSA between 2020 and 2023.

The study questions to what extent the Council is “responsive and fit” to regulate complaints about media conduct. Using its mandate as the key indicator of the mechanism’s responsibilities, the study evaluates the Council's ability to fulfil its mandate as a critical indicator of its functionality (RQ 2). The study refers to the Council's responsiveness (RQ3) as its ability to adapt to a changing society, media landscape and public. It examines its fitness as its ability to respond to contextually specific needs (RQ4) concerning its fitness-for-purpose within its South African context. Finding that the Council is functional, responsive, mostly fit-for-purpose, and has satisfactorily met the requirements of RQ2, RQ3, and RQ4, the study recommends possible improvements (RQ4.1) to the Council and its operations to further its responsiveness and reach.

4.2 The Press Council: responses to previous research efforts

The Press Council of South Africa is the only national media accountability mechanism regulating public complaints about print and online media content. The Council is an “independent co-regulatory mechanism” established to settle disputes between public complainants and the media (PCSA 2020). Using the Press Code as its guide, the Council adjudicates complaints received from the public about media reportage deemed unethical, inaccurate, or unfair (Press Code of Ethics and Conduct 2020). The mechanism has a rich history as the print regulator of the country, initially established as the Media Council in 1962 in response to the threat of government censorship by the (NPU) Newspaper Press Union (Berger 2010). The Council was renamed the Press Council in 2002 (Berger 2010) and finally renamed the Press Council of South Africa in 2007 (Press Council Review 2011), continuously reforming its name, approach, and practice. The reform of the PCSA was critical to fending off statutory intervention through the apartheid era and well into the democratic period. The reforms to the Council were a means of defending media freedom after being threatened (Berger 2011) through intimidation by political and state groups (Reid 2014), who warned of secrecy bills and media tribunals (Reid & Isaacs 2015) to replace the current media accountability system.

To fend off this state intervention, the Council was scrutinised in two separate review processes where stakeholders debated the most suitable regulation system for the press (Reid 2014). The PCSA conducted the first review in 2011. Fifty-eight written and oral public contributions were used to evaluate its processes, enabling interested parties and the public to share their views and contribute to the PCSA’s research (Press Council Review 2011). The second review was conducted through the Press Freedom Commission, established by SANEF and the Print and Digital Media South Africa

(PDMSA) in 2012 (Reid & Isaacs 2015b). The PFC, chaired by Chief Justice Langa, evaluated the PCSA and its processes and procedures against global best practice and expectations of press councils. The Council continued to open itself to the scrutiny and review of researchers (Reid 2014; Reid & Isaacs 2015a; Reid 2017). In addition, it annually contributed to the national discussion on regulatory processes by reporting in the State of the Newsroom report published by the Wits Centre for Journalism (2013; 2015-2016; 2017; 2018; 2019-2020) and continued to contribute to national research within the country (Satchwell et al. 2021).

The Council introduced various changes after the Press Council and Press Freedom Commission review processes. These vary from the cosmetic change to a co-regulatory system which significantly resembled the previous self-regulatory system (Reid & Isaacs 2015a) to more substantial changes, such as the introduction of the Public Advocate. Other changes include the suspension of the waiver that prohibited legal action and acceptance of third-party complaints (Reid 2014). The most significant change occurred in 2016 when the Council extended its reach to include the regulation of online media (PCSA 2020d). Despite the transformation, criticism of the country's press regulatory system continued (Reid 2017).

4.2.1 The legal waiver

The removal of the waiver sparked debate within the sector. The Council first experimented with dropping the waiver for one year in 2014 (SoN 2014), eventually eliminating it by 2016. The study found that removing the condition to waive their right to legal action after entering the PCSA process didn't significantly affect the overall structure of the Council.

“Of those 500 complaints a year, I think only three people have sued, not a year overall. And, in fact, none of them successfully; in one, they settled for an apology. The other case was withdrawn, and I think then somebody else dropped it, and the reason why is because it's very it's very costly and time-consuming to use, and often people just want a kind of a dignity restored. They want something that acknowledges that they can't be treated as though they had no rights, and I think that's what we do” (Ombudsperson P. Green 2021, personal communication, 12 February).

Only three complainants have sought further legal recourse in the courts. None of the three cases that went to court was successful. Thus, it seems to do away with the waiver to maintain the right to legal action that has not significantly affected the Council's operations. This could imply that the process offered by the Council was sufficient, less costly and less time-consuming than court proceedings. Notably, the waiver has unexpectedly affected the participation of legal representation in the

complaints resolution process and led to greater legal representation in cases (further explored in the section on complaints below).

4.2.2 Third-party complaints

Third-party complaints refer to complaints from public members concerned about media reportage and functioning (Reid 2014). The study finds that two of the cases analysed in-depth were third-party complaints, with numerous complaints laid to the PCSA expressing concern for media standards of reportage. The study reiterates the findings of previous researchers that “third-party complaints into the Press Council system served to increase the system’s credibility, opened the system to the public and citizenry concerning its inclusiveness, and enabled an increase in the public profile of the Press Council” (Reid 2017: 78). Arguably, the inclusion of third-party complaints encouraged the participation of interest groups, regulatory experts and legal experts. These complainants could bring matters of concern before the Press Council for adjudication, supporting the Council to evaluate public, civil society and legal concerns about the media, strengthening external media accountability systems/instruments through formal intervention from the Council.

4.2.3 Co-regulation

Co-regulation is a model which supports the interests and participation of the public and civil society in a regulatory institution (Miranda & Camponez 2019). The study finds that the Council is succeeding in its mandate to regulate complaints reasonably while failing to operate as a co-regulatory mechanism for handling complaints. The failure relates explicitly to a lack of representation and engagement with the public. Having media-aligned persons in public representative positions guarantees media-aligned views and could hamper the co-regulatory structure - which enables the inclusion of divergent views - and compromise the diversity of voices. The notion of co-regulation is still of concern, as evident in the findings presented, with the study recommending that the PCSA revise its co-regulatory approach.

4.2.4 Jurisdiction in the online era

Research has scrutinised the Press Council on numerous occasions, all of which have found that the Council serves its mandate of complaints resolution well (Press Council Review 2011; Press Freedom

Commission 2012; Reid & Isaacs 2015). More recently, studies examining the Council and its operations do so against the call for more credible media conduct. The Inquiry into Media Ethics and Credibility report (Satchwell et al. 2021) commissioned by SANEF and conducted by van der Walt Ehlers, examined the media and its accountability institutions, finding that the PCSA allows for effective “self-regulation of the media” (Satchwell et al. 2021). The report found the Council accessible to the public (Satchwell et al. 2021), as evidenced by the multiple complaints submitted to the Council. The report also noted multiple examples of the media transgressing the press code, as the media fails to report accurately and follow expected journalistic practice (Satchwell et al. 2021), evidenced by the *Sunday Times*. The report pointed to the reality that the Council can only be effective through the participation of the media, as in the case of the *Sunday Times*, when the issue did not serve before the Council, undermining the process and the public confidence in journalism (Satchwell et al. 2021). The findings reiterated that the PCSA effectively resolved complaints but cautioned about the jurisdictional overlap with the broadcasting sector as an area needing urgent consideration (Satchwell et al. 2021).

The study finds that jurisdictional overlap has become less problematic since the BCCSA introduced its online code but still exists concerning membership concerns and social media-related complaints. The study explores the jurisdictional overlap that is still of concern in 2023 and is further discussed in the presentation of findings.

4.3 The Press Council adapting to a changing media environment

The Press Council services hundreds of members, and their traditional online and social media content, in response to the digitalising media environment. Within the 21st century, technology has become ingrained in media production and is, thus, inseparable from media accountability. Whilst the theme was not sought through inductive coding, it emerged through deductive coding as a prominent theme in the study of the Council. Technological digitalisation was evident in two significant areas of the Press Council. Firstly, as one of the mediums under the PCSA jurisdiction and, secondly, in the digitalised process in response to the COVID-19 pandemic.

The Press Council made a bold decision in 2016 when it adopted online media to its regulatory jurisdiction. Since then, the Council has regulated print and online media content complaints with a catch-all code of conduct suitable to both mediums. This method seems to yield favourable results, as the uniform approach allows both mediums to face the same level of scrutiny regardless of the

platform. This approach differs from the one adopted in 2016 when online media was first included in the Press Councils' jurisdiction, which saw it run two separate processes for the differing mediums (SON 2016). Both online and print media had similar procedures, with print media being overseen by the then Public Advocate Latiefa Mobara, and the then Ombud Johan Retief, whilst the then Deputy Ombud for Online Media Paula Fray oversaw complaints related to online media, and the then Deputy Advocate for Online Media Dinesh Balliah assisted complainants to lay complaints with the ombud. This division of process existed for 2016 whilst the PCSA tested its new jurisdiction, after which online media fully integrated into the Council's internal operations. In a review of the Press Councils' statistics, it seems the Council is effectively resolving complaints based on the existing code. Still, expanding the code to incorporate digital news production and online journalism concerns could be necessary.

Based in Johannesburg, the PCSA hosts most of its hearings and operations from this location. Noting the vast spread of 60,6 million citizens across the country's nine provinces (Stats SA 2022), the Council has tried to overcome the challenges caused by the size of the country and the economic reality of the public which utilises the system. Adapting to this context, in the rare cases of hearings being held, the Council would occasionally hold its hearings in different provinces by travelling to the complainant's location, drawing on the expertise of adjudicators in other provinces. Mobility of hearings ensured the complainant could attend (Executive Director L. Mobara 2021, personal communication, 01 February.), as the Press Council does not cover the costs of in-person attendance of hearings. With the COVID-19 pandemic and the move towards technology, geographical location has become less of an issue, as the hearings have been held digitally. Still, digital connectivity and unequal access to technology and internet resources have their associated challenges, so this move is not without its shortcomings. Notably, as the Council resolves complaints on paper (internally), very few hearings are held annually. Hearings are held when complaints are deemed in the public interest, and, thus, the concerns for hearings and their location are less prominent.

South Africa, as a young democracy, after its recent history of apartheid which inherently curtailed the freedoms of the country, its citizens and their media, has a nuanced set of considerations related to media accountability (Wasserman 2022). Other countries in the Global South, have a similar set of contexts and conditions, and media accountability instruments in these democracies have to respond to the challenges of a young democracy, whilst adapting to its specific social, political and historical realities to be fully fit-for-purpose in its locale (Berger 2010).

Culturally and linguistically, South Africa's rich multilingual environment is evident in its 11 official languages and numerous unofficial ones (Stats SA 2022). English is the predominant form of communications in the country, with some institutions choosing to only publish in English as "is not economically viable to produce them in more than one of South Africa's eleven official languages" (Stats SA 2022: 43). Despite these economic imperatives, the Council has tried to respond to the need for multicultural and inclusive approaches to accountability. The Council has made the code available in four languages: Zulu, isiXhosa, Afrikaans, and English. They are willing to accept complaints in languages other than English as their staff are multi-racial/multi-lingual. The multilingual has become an important consideration as many subscriber publications operate in multiple languages.

"If someone sends us and often, we have had complaints where someone has written an entire complaint in isiZulu... But we haven't had a particular problem with the kind of complaints we've received in isiZulu, because as I said we are able to provide some kind of translation. And usually, often if we don't provide a translation, we ask the newspaper to provide a translation. But yes, that is something that I think we really do need to look at is that kind of access, how do we improve that access" (Executive Director L. Mobarra 2021, personal communication, 01 February).

The adjudication occurs in English and, whilst a complainant has never required a translator, the Council is willing to provide one if this is necessitated. The Council has noted the importance of this flexibility as many of the subscriber publications/members are not English publications (Executive Director L. Mobarra 2021, personal communication, 01 February). This ability to cater to a diversity of language and cultural groups, is further echoed in the Press Code calling for special consideration "to South African cultural customs" (PCSA 2020e). Considering the country's history, which denied a diversity of cultures, religions and languages, having the Press Code call for and normalise respect for different cultures, races, and language groups is important for journalism and its accountability in a young democracy.

4.4 Press Council membership

The study notes that the central issue for the Council is its ability to adapt to technological changes advanced during the COVID-19 pandemic. In response to COVID-19 and the halt on human contact, the Council operated as an online Media Accountability Mechanism, using digital processes and internet technologies to carry out its mandate. Although this shift was unplanned due to the pandemic's circumstances, the Council adjusted relatively well and proved its ability to regulate online media and operate solely through online processes and interactions. The study notes the

continued teething problems and successes resulting from the shift in the model. The study identifies the shift from a blended model of media accountability, using technological processes and face-to-face engagements, to an exclusively online process as the most significant shift within the Council in the last few years. This shift is an important area of study because although the Council has continued to operate, it has done so exclusively through technology. As the country has limited accessibility, adopting technologies must consider inclusivity and accessibility.

The study analyses the PCSA and identifies recommendations around its processes of appeal, its jurisdiction, and collaborative practices. The study's recommendations acknowledge the current processes and suggest how the existing methods can be improved to enhance the user experience of the online process. Finally, the findings of this chapter contribute to the overall recommendation in Chapter 6, suggesting a more intentional use of technology by developing a shared online platform for media accountability mechanisms in South Africa.

4.4.1 Membership processes

The Press Council of South Africa was established through the involvement of its Constituent Associations, which found the need to have a "voluntary independent co-regulatory system involving the press and the public" (PCSA 2020d). The Council's media representatives are selected from the founding Constituent Associations, guaranteeing SANEF holds two seats, the Interactive Advertising Bureau South Africa (IABSA) has two chairs, and the Forum of Community Journalists (FCJ) and the Association of Independent Publishers (AIP) hold one seat each (PCSA 2020d). Whilst the position holders/representatives might change, the number of seats allocated to the constituents is fixed. The group should engage with relevant media organisations, such as Constituent Associations linked between the PCSA and SANEF, IABSA, FCJ and AIP. It is recommended that the PCSA use the Constituent Associations to ascertain better the current operations of the members aligned to these groups and understand their current and future media production possibilities.

Existing members and their content fall under the ambit of the Council, which can only adjudicate disputes against the members who voluntarily fall under their jurisdiction by becoming a subscribing member of the PCSA (Ombudsperson P. Green 2021, personal communication, 12 February). As members of the PCSA, these media are expected to maintain ethical practices in journalism and adhere to the PCSA standards. When members fail to maintain these standards, the public may complain to the Council, which assists with complaints resolution between the media and the public

complainant. Currently, the membership processes should be scrutinised for two significant reasons. Firstly, as the number of members is unknown, it causes major concerns regarding who can be complained against, and, secondly, as many of the members belong to both the BCCSA and the PCSA, there is a jurisdictional concern as essentially the public could complain to the Council about broadcasting misdemeanours.

4.4.2 Media membership

Members are the voluntary subscribing publications that produce print and online news media in South Africa. Whilst reviewing the PCSA site, it seems that the Council has more than 600 members: including 21 mainstream newspapers, 38 local newspapers, 111 complimentary newspapers, 64 magazines, 218 AIP members and 156 online members, including broadcasters such as the SABC and ENCA (PCSA Membership List 2018). Yet, in discussion with the Council, it is searching for answers on the exact number of member publications, as it still seeks to recoup from the COVID-19 disruptions to the media, as publications exist in different formulations after the pandemic. For example, "People haven't closed the publications. Okay. They may not be printing, but they haven't closed, so they haven't shut down the publication" (Executive Director L. Mobara 2021, personal communication, 01 February).

This context has dramatically affected media accountability in the country, as the shifts within the media directly impact the institutions responsible for its regulation. Some examples of these shifts relate to the membership, funding possibilities, and the support for the PCSA by publishing houses which have since closed. The functionality of the Council has been affected immensely, as expressed in the reports to the Council circulated at the quarterly meeting, affirming that the organisation understands:

“The Press Council will not be immune from the restructuring in the industry... In the months ahead, we will need to transform the Press Council to meet our mandate of resolving editorial complaints efficiently and effectively, while at the same time ensuring the stability of the organization” (PCSA 2020c).

Considering these realities, the PCSA and its Constituent Associations have started looking at the suitability of the media and the future of the Council, as the sustainability of the press is one of the critical issues facing the Council and its future (Executive Director L. Mobara 2021, personal communication, 01 February). To remain operational and sustainable, mechanisms must respond to a changing media landscape to ensure their future survival.

Emerging as a factor affecting every element of the Press Council and its operations, the COVID-19 pandemic surfaced as a prominent theme in data analysis. The COVID-19 pandemic has devastated the media (Rumney 2020; Dugmore 2021; Schiffrin et al. 2021a), resulting in austerity measures in the industry, the closure of numerous publications, the changing staffing practices, and the dwindling income of the media. The pandemic has affected the Council and its functionality and operations for the foreseeable future in multiple ways (Executive Director L. Mobarra 2021, personal communication, 01 February; Ombudsperson P. Green 2021, personal communication, 12 February), one of which relates to the membership of the Council.

Since the lockdown implemented during the COVID-19 pandemic, subscriber members have fluctuated as news and media producers adapt to the changing context (Executive Director L. Mobarra 2021, personal communication, 01 February). On the one hand, there are requests for new members, mostly smaller, digital, niche publications; on the other hand, the existing membership numbers still need to be discovered. The membership before the pandemic was relatively easy to monitor, but since the pandemic, this has become more challenging for numerous reasons. For instance, the smaller producers/members who fall under the AIP Association of Independent Publishers are tough to track.

“AIP for example, submitted the same list that they gave us pre COVID. But then if you look at the research .. that came out just after the kind of COVID crisis... the issue [is] that the list was exactly the same. And when I queried it .. AIP, said to me, well, people haven't closed the publications. They may not be printing but they haven't closed, or they may not necessarily be as active as they were previously. So, they, instead of producing one publication a month, they may now produce every three months, does that make them an active member? ... [additionally], there are a whole lot of publications that have closed. And some of them have gone online only” (Executive Director L. Mobarra 2021, personal communication, 01 February).

It is unclear how many members the AIP has as some closed, whilst others have halted printing without 'officially' closing their publications, others are publishing less frequently, and others are migrating to digital platforms instead. Membership numbers have progressed downward, with numerous publications, magazines, and larger media companies closing. The most prominent media houses affected are, for example, Media24, which has seen the closure of five newspaper magazines, decreased publication frequency, the introduction of a paywall for content, and 660 job losses across Media24 print and distribution divisions (PCSA 2020c). The Council will need to ascertain the number of members operational and affected by the COVID-19 pandemic. Whilst such a task might prove challenging, having each constituent member discover the information and review their membership could become possible for the Council to ascertain.

4.4.3 *Members as funders*

Media owners, media houses, and smaller members/subscribers fund the Press Council of South Africa and could, upon request, have access to their facilities, venues and equipment when needed. “Our funders are your media owners. Your big media houses. They are the core funders of the organisation” (Executive Director L. Mobarra 2021, personal communication, 01 February). These subscribers and funders pay an annual fee dictated by the Council, yet relevant selected publications can subscribe without paying (PCSA 2020d). Funding from these organisations is provided depending on the organisation's size, with smaller papers contributing smaller amounts than larger media houses (Ombudsperson P. Green 2021, personal communication, 12 February). The pandemic has affected the potential funding structure of the Council:

“The problem for the Press Council, the real challenge at the moment is that because the media industry funds it, and funds it proportionately and because the media industry has been hit very hard by the pandemic and the lockdown you know in terms of a complete drop off in advertising circulation figures going through the floor, our budgets have been cut quite substantially because we just have less money. So, that will as much as the media is impacted by the lockdown, we are also quite badly impacted” (Ombudsperson P. Green 2021, personal communication, 12 February).

The funding provided by the media owners, media houses, and subscriber publications covers the operational costs of the PCSA, which draws up a budget for operational costs annually.

According to the PCSA Executive, media owners provide funding without interference in the business of the Council. In turn, the Council offers information on the industry, regulations and training where required. Beyond providing the funding, these organisations do not have access to the funding or information on how it is spent—the PCSA has an internal Finance Committee which oversees its spending and budgets (Executive Director L. Mobarra 2021, personal communication, 01 February). The Finance Committee oversees all financial spending and staff remuneration. A qualified councillor/adjudicator chairs the Committee. It includes two other councillors, two adjudicators, independent volunteers from relevant financial/accounting institutes, and two ex-officio representatives from subscriber publications who are part of the larger publishing houses (PCSA 2020d).

Ultimately, as the Council is a self-regulatory institution set up and funded by the media, the Council's finance depends on the membership and the funding the membership group provides. As the sustainability and income generation for the media is affected, so too are the sustainability and income possibilities of the Press Council. The Council could consider external funding sources outside the

media, view public, educational, and non-governmental funding sources, or partner with other regulatory institutions with more funding support, like the BCCSA. Notably, the study recommends that public and civil society funding sources could strengthen a public-centred, co-regulatory mechanism to support the Council and strengthen external interventions.

4.4.4 Members of multiple media councils subscribe to multiple codes

The Council has included an extensive list of broadcasters in its membership, including e.tv and SABC television and radio channels, evidenced by the online list of media members which could be complained about on the Press Council drop-down list of its complaints form (PCSA 2023b). Whilst the BCCSA has included online complaints of broadcasters, they still do not deal with social media posts related to the content, which might require complainants to use the Press Council as a secondary complaint process. This inclusion of broadcasting online sites essentially expands the reach of the Press Council, allowing them to include broadcasters in their stable, and extends the relationship of the PCSA with the BCCSA, as, in essence, they would need to rule on complaints with a social media component together. This relationship could be formalised by the NAB becoming a constituent of the Press Council or by the BCCSA and the PCSA developing a systematic approach for regulating broadcasting complaints, including social media posts of the content of concern. The study recommends that the PCSA decide on its members with multiple regulators, such as broadcasters, and whether or not they can rule on the social media aspects of the members concerned.

4.5 Complaints resolution processes

4.5.1 Stages of the complaints resolution process

Complaints resolution processes involve three parties, namely, the ‘complainant’ - the member of the public laying the complaint; the ‘respondent’ referring to the subscriber publication being complained against; and the Press Council representation, which mediates and adjudicates the complaint (PCSA 2020d). As the complaints resolution is the core mandate of the Council, this study focuses on understanding the processes of the PCSA. The complaints resolution mechanism involves the resolution of complaints from the public about media reportage. After a member of the public lays the complaint, the complaints resolution process happens at three levels within the Council. Firstly, through the intervention of the Public Advocate who assists the complainants through the process of laying the complaint (PCSA 2020c), the public advocate further aims to settle the complaints through

mediation and find a suitable outcome for the complainant. Secondly, at the level of the Press Ombudsman, who adjudicates on complaints brought forward by the Public Advocate or in cases where the complainants were not satisfied with the outcome of the Public Advocates' intervention. Thirdly, the complainant can seek recourse at the appeals level, with the Appeals Panel chaired by retired judge Ngoepe (PCSA 2020c). The outcomes of the complaint's resolution process depend on the processes that the Public Advocate could resolve, the Ombud and the adjudication panel, or the Judge and the appeals committee. The outcome is communicated as a ruling that includes a finding for or against the complainant and a sanction issued as a penalty. The Councils' complaints resolution processes extend through multiple stages examined in the table below.

Table 9: The Press Council complaints resolution mechanism

| Complaints Resolution Mechanism June 2023 | | | |
|--|-------------------------------------|---|------------------|
| Function | Role | Position | Representatives |
| Mediation | Public Support | Public Advocate | Fanie Groenewald |
| Adjudication | The Office of the Press Ombud | Press Ombud (Older Ombud structure ended in April 2021) | Pippa Green |
| | | New Ombud structure beginning in May 2021 (PCSA 2021) | |
| Press Ombud | | Mr Herman Scholtz | |
| Deputy Press Ombud | | Mr Tyrone August | |
| Deputy Press Ombud | | Prof Franz Kruger | |
| Administration | | Public Director | Latiefa Mobara |
| | | Case Officer | Khanyi Mndaweni |
| | Personal Assistant | Millicent Gumede | |

| | | | |
|-----------------------|---|--|----------------------|
| | | Financial Administrator | Fatima Seedat |
| Adjudication panel | Press Representative selected from Constituent Associations | South African National Editors' Forum (SANEF) | Joe Thloloe |
| | | South African National Editors' Forum (SANEF) | Tshamano Makhadi |
| | | Forum of Community Journalists (FCJ) | Andre Gouws |
| | | Association of Independent Publishers (AIP) | Mohmood Sanglay |
| | | Interactive Advertising Bureau South Africa (IABSA) | Heather Robertson |
| | | Interactive Advertising Bureau South Africa (IABSA) | Judy Sandison |
| | Public Representatives selected from the list of those who applied for the position | Lawyer and Human Rights Commissioner | Prof Karthy Govender |
| | | Former Journalist, now Media Owner | Peter Mann |
| | | Deputy Dean of Teaching and Learning in Humanities. | Mpho Chaka |
| | | Author | Janet Smith |
| | | Former Journalist, editor, media trainer and current CEO of Fray Media | Kaizer Nyatumsumba |
| | | Advocate and lawyer | Ben Winks |
| | | Academic and researcher | Reginald Rumney |
| Journalist and author | John Matisonn | | |
| Appeals | Chairperson | Retired Judge | Judge Bernard Ngoepe |

4.5.1.1 Laying a complaint

The Council only reviews media publications reported to the Council by formally laying a complaint. The complaint can be laid through numerous technologies, including online. The process relies heavily on initiating the complaint by the complainant, who lays the complaint using the online form, via telephone, or in writing within 20 working days from publication (PCSA 2020c). The complainant is the most critical person in the process, as, without them, there would be no complaint to resolve (Executive Director L. Mobara 2021, personal communication, 01 February). All the complainants interviewed found the process of laying the complaint simple and found the “process is accessible” (Complainant J. Limpitlaw 2022, personal communication, 10 April) as they have online access and the skillsets to lay the complaint.

4.5.1.2 Intervention and mediation by the Public Advocate

The Public Advocate provides the first level of contact between the public and the Ombud’s office. The Public Advocate will explain the process to the complainant and assist them in completing the complaint in writing or even writing it up if required (Executive Director L. Mobara 2021, personal communication, 01 February). The public advocate is not a legal advocate, but an advocate for the people.

“We quite often referred to the public advocate, as the so-called champion of the complainant. And so that's really the initial thing was the idea of having a public advocate. And naming it the public advocate... to make it quite clear that he is there to assist the public. Not just let's say, assisting with the initial complaint formulating the initial complaint, but also mediating on behalf of the Republic” (Public Advocate F. Groenewald 2023, personal communication, 06 July).

While the role is public-focused and seeks to support the complainant through the complaint's resolution process, the Public Advocate is also the first to deal with complaints from the public to determine whether they should be accepted or not dismissed. The complaint is dismissed if it doesn't breach the code of conduct, falls outside the Council's jurisdiction, or is outside the deadline. If the complaint is relevant and within the jurisdiction of the Council, it will be accepted. Furthermore, if the complaint is accepted, the Public Advocate will attempt to resolve the complaint (Ombudsperson P. Green 2021, personal communication, 12 February) through mediation to find an amicable resolution, often in the form of a right of reply, an apology, or a correction (Executive Director L.

Mobara 2021, personal communication, 01 February) to allow the publication to make amends. If this process is unsuccessful, the complaint will be escalated for adjudication by the Ombud.

4.5.1.3 Adjudication by the ombudsman and/or adjudicators

The formal adjudication takes place through the office of the Ombud. The adjudication can be done by the Ombud or one of the Deputy Ombudsmen (Executive Director L. Mobara 2021, personal communication, 01 February). The Ombud can adjudicate in two ways: an on-paper review of the case or a hearing with other adjudicators (PCSA 2020c). Currently, the most popular course of adjudication is where the Ombud makes an on-paper decision, as the complaint is quickly resolved by reviewing the offending article/media content, the complaint, and the Code of Conduct. To further facilitate this means of adjudication, the Ombud may, where required, conduct further research, and ask questions of the complainant and respondent (Ombudsperson P. Green 2021, personal communication, 12 February).

4.5.1.4 The Public Hearing

The public hearing is a rare occurrence in which complexed cases in the public interest are dealt with in a transparent and open forum of the public hearing. If the facts of the case are unavailable or the outcome is unclear, the Ombud will adjudicate by hearing. These hearings could be informal, conducted with the complainant and the respondent only, or formal, in which case the adjudication panel is convened along with the respondent and the complainant. A majority vote makes the final decision. The latter has been the popular choice of hearing (PCSA 2020c). Whilst the panel hearing is the more popular choice, hearings are a rare course of action for adjudication. In 2020 there were “probably about ten, and those are both appeal and adjudication hearings” (Executive Director L. Mobara 2021, personal communication, 01 February).

The public is welcome to observe all hearings, except those related to children or sexual violence (PCSA 2020c). These hearings are open to the public, yet no public notice is issued about upcoming hearings, thus it is more accurate to state that these hearings are open to interested parties, who have knowledge of the upcoming hearing, and request to participate. If required, the complainant may request the Public Advocate represent them at the hearing (Executive Director L. Mobara 2021, personal communication, 01 February). Still, legal representation is permitted at the hearing only if exceptional circumstances are predetermined by the adjudication panel, such as circumstances related to the complexity of the dispute, the public interest, and so forth (PCSA 2020c). When necessary, the Ombud may co-opt persons with specialised skills and knowledge to assist (PCSA 2020d), as done in

the cases of allegations of tax fraud⁶ (Ombudsperson P. Green 2021, personal communication, 12 February). Public hearings rarely and only occur in extraordinary cases and could be held more often to allow visibility of the Council and its work.

When interviewed, complainants found the hearing process to be unsatisfactory. They agreed with the overall ruling, which found in their favour, but felt strongly that the process was biased.

“Some of those things that I felt like they didn’t want to believe me. They were bias and they were questioning me like I was some criminal. That’s how I felt” (Complainant A Danikas 2022, personal communication, 09 May).

The hearing observed (Aristides Danikas vs Daily Maverick. 2021) provided antagonistic space for a debate between the complainant, a whistleblower on the Cato Manor saga documented by the *Sunday Times* (Rupiah 2018) and a witness, who was the leader of the Cato Manor squad. Instead of a discussion of the *Daily Maverick* article, the complainant and the witness embarked on a character assassination of each other. The Press Council adjudicators stepped in to call the participants to order in the hearing. The inclusion of witnesses created a quasi-court environment in which participants argued their cases. This hearing mimicked other hearings observed in which high-profile cases were debated before the council. Whilst other hearings did not include witnesses, many hearings duplicated the antagonistic space detailed by the complainant.

This claim of bias was also made by the complainant (Lumko Mtimde vs Daily Dispatch 2021a) in the appeal hearing against the Daily Dispatch. The complainant, who worked on statutory regulatory bodies in the past, expressed concern about the process which seems to favour the media and their legal teams. The complainant also expressed concerns about the judge of the appeals process, stating that “because he is employed and appointed by them... the fact of the matter is, he is employed by the Council. And this was not the first time. The press ombudsman and the press council, even in my previous time, I saw this bias” (Complainant L. Mtimde 2022, personal communication, 24 May). The complaint before the Press Council appeals process related to a

⁶ Kevin Wakeford vs *Sunday Times* (PCSA 2020f) is a case in which Mr Wakefield complained about an article “*Sars goes after top ANC brass in Bosasa scandal*” which alleged he owed R1.68 million in taxes. He was not approached for comment, and the article described him alongside government officials with tax concerns. The matter involved SARS confidentiality and policies and, thus, required specialist attention and skills to decipher.

complaint about a misleading headline which did not include the full name of the OR Tambo Municipality, leading the complainant to be concerned that readers might misconstrue the article to refer to the deceased OR Tambo. The complaint was laid with the Daily Dispatch directly, after which it was laid with the Press Council South Africa, and ruled on by the ombudsman, in both cases the complainant was dissatisfied with the outcome and requested an appeals process as the complainant sought a punitive sanction of some kind.

Adjudicators in both cases questioned how the council could be biased yet find in favour of the public? They explained that, as the findings were in favor of the complainants, it would be difficult to claim bias.

“It would be ironic that the general accusation that Press Council hearings are biased in favor of media is true at all. I really don’t. In fact, I’d say the opposite. I’d say they tend to be biased in favor of the complainant. If there’s if there’s bias, it’s that way.” (Adjudicator P. Mann 2022, personal communication, 07 September)

The adjudicators of the process responded to the concerns of bias, noting that the outcome of the case found in favour of the complainant. Many noted this outcome to signal that the Press Council was not biased or in favour of the media, but instead shows its ability to find in favour of the public.

When interrogating why the process led to the complaints feeling unheard, or misunderstood, the adjudicators noted that the structure of the hearing process could be the reason for the complainant’s dissatisfaction.

“When we’re doing the adjudication, we’ve got all the facts before us and plenty of time to look at everything, plus the knowledge of the press code. ... I think the process was extremely fair. And in fact, we found in his favor in this in this particular case” (Adjudicator J. Sandison 2022, personal communication, 06 September).

This sentiment was echoed by the media respondent, who found the “press ombud to be extremely sensitive to public opinion” (Daily Dispatch Internal Ombud A. Carlisle 2022, 10 April). The media respondent expressed that:

“The outcome of both the hearing and the appeal went against the Daily Dispatch. I may not personally have agreed with either outcome, but the matter was thoroughly ventilated, and the process was fair. The publication has accepted the outcome, issued an apology and made changes to its internal processes” (Daily Dispatch Internal Ombud A. Carlisle 2022, 10 April).

The respondents may not agree with the ruling, but still complied, as they value the regulatory system. This ruling led to an outcome by the appeals adjudication team, as the recommendation by the public advocate and the ombud were not satisfactory to the complainant. The system thus allows multiple opportunities for engagement regarding the complaint. For complaints to reach the

hearing or appeals hearing phase, it would have been through multiple iterations of reviews by the Public Advocate, the Press Ombudsman, and the adjudication team. Once the complainants have been given an opportunity to present their cases, they are often probed for evidence and asked further questions to clarify any misunderstanding about what was presented. The complainant interviewed found the process to be a quasi-legal process mimicking court proceedings and questioned whether this was conducive for the public.

The publication “was allowed to bring a team of lawyers, and I had no lawyers, I had to deal with on my own because obviously, it’s going to cost to take lawyers... it should have legal support that is given to the complainants, but it doesn’t. Instead, it allows the media to have their legal team, and of course, the Press Council also has got a senior legal mind the retired judge; therefore, it is not a process that is in the public interest. Or maybe to put it differently, whilst the self-regulatory system is regarded as not a court, but the appeal system is almost like a court, but only supporting the side that has the money to bring a legal team. And the side that does not have the money will assume that the process is a fair process, only to find that actually you are in a quasi-court environment. I had to write an affidavit which that legal team of experts and I saw them at the hearing. It was quite a strong team.” (Complainant A. Danikas 2022, personal communication, 09 May).

The adjudicator's response to the concern echoes the Press Councils' interventions with legal experts in the complaints and hearings processes, noting:

“What we are very careful about is if we have, say, an ordinary member of the public on one side, and some publication with lawyers as well, we’re very careful to give the complainant actually a lot more leeway to make sure they do not feel intimidated, or, or, or disempowered or anything like that. So, it’s very, very important that ordinary people can raise concerns about anything they feel that is wrong in the media. I believe we on the on the panels were very, very conscious of that.” (Adjudicator J. Sandison 2022, personal communication, 06 September).

It is clear that a difference of opinion exists between the complainants experiencing of the hearing and the adjudicators overseeing the hearing process. The adjudicators use the hearings as an opportunity to probe the evidence before them, whilst the complainant uses the hearing as an opportunity to tell their story, share their concerns on media conduct and be heard without being probed. Hearings should, thus, consider a mid-way between these two extremes, creating a hearing structure which allows the complainants to have their say without fear of intimidation, and one which allows adjudicators to prove the evidence presented. Whilst both parties agree the ruling is an important indicator of the success of the process, they seem to differ on what constitutes fair practice.

4.5.1.5 Rulings

The case's outcome is shared online in the form of the ruling. The ruling has become an essential tool for the Council as it has become the primary data source for research on its effectiveness. The rulings explain the merits of the case and outline the findings of the case, along with the transgressions of the code of conduct and the associated sanction. Sanctions may include, firstly, caution or reprimand. Secondly, a correction, retraction, or explanation, accompanied by an apology; thirdly, an order to publish the complainant's reply/comment; or, finally, any other directive found to be suitable by the Ombud, the Adjudication panel or the Appeals panel (PCSA 2020c). The sanctions are accompanied by instructions relating to the prominence of where the sanction should appear, the category of offence (tier 1, tier 2, or tier 3), and what form the sanction should take (ibid). Sometimes, the respondent (media member) may act the sanction as they deem fit. In others, the Ombud issues a space-fine for the sanction to be implemented on a specific page, for instance, the front page (PCSA 2020c).

“Making amends for something that was published incorrectly, then specifically, that correction, apology, whatever must be published on all platforms that it was originally published, that includes print, and all the online including social media platforms, and even go so far as the personal social media accounts of the of the journalist, if he had shared that story” (Public Advocate F. Groenewald 2023, personal communication, 06 July).

Members are expected to publish the apology, correction, explanation or retraction on all platforms where the original content was published, including online platforms, websites and social media. They are also expected to ensure that all employees and freelancers who share the original content share the sanction on their social media accounts (PCSA 2020e). This approach is meant to ensure the visibility of the sanction online, and that the apology and outcome are evident in the online searches related to the matter and the complainant.

“What it means is that when people complain about something that's online. They want to know that when someone googles their name, that the thing that they've complained about is not the first thing to appear. The first thing to appear is an apology to them at the top. So, we often ask that a story be updated, or that if there's an apology or that it runs at the top, so that it's immediately evident” (Ombudsperson P. Green 2021, personal communication, 12 February).

When the original content remains online, all versions of the online content must be edited or amended to include a link to the apology/sanction published (Ombudsperson P. Green 2021, personal communication, 12 February). Monetary fines are not a sanction but may be imposed if a member repeatedly causes the same offence or does not comply with the ruling and sanctions, which form part of the resolution of complaints (PCSA 2020c). This approach has yet to be used but remains more of a warning to publications.

4.5.1.6 Appeal

The third possibility for adjudication is an appeal. Chaired by retired Judge Ngoepe, the appeals committee reviews the case and can overturn the Ombud's decision if needed (Ombudsperson P. Green 2021, personal communication, 12 February). The appeals process is separate and independent of the Ombud's process, and an appeal judgment may happen in one of two ways: through reviewing the case on paper or through a hearing (PCSA 2020c). The appeals hearing requires the convening of the chair and the appeals committee; notably, the appeals panel comprises members of the adjudication panel, albeit two different members from those who first ruled on the complaint. The appeals panel reviews the statements by the respondents and the complainant, the Public Advocate's review, the Press Ombudsman's finding, and the request for an appeal. If the appeal is accepted, the judge will make a new decision on their own or with the aid of the appeals panel.

The observations of the appeals gave great insight into the hearings and the process as it unfolds. The study observed the four appeals hearings and found that, whilst they reached completion, they were marred by technological and other concerns. The hearings hosted via Zoom were often reliant on the quality of the user's connection and environment. This would indicate cause for concern with complainants who are less technologically connected (de Lanerolle et al. 2020).

Whilst four complainants involved in the appeals hearings were contacted to participate in the study, only one responded to the participation requests. The complainant expressed concern about the hearings process, noting that:

“Whilst the self-regulatory system is regarded as not a court, but the appeal system is almost like a court, but only supporting the side that has the money to bring a legal team. And the side that does not have the money will assume that the process is a fair process, only to find that actually you are in a quasi-court environment ... in a court system, you would either be given access to state laws through the legal aid board, and that then helps you as then a person who does not have that support. So, this process needs to consider something like that, so that somebody could help the complainants to be able to present their cases in the manner that is expected by this system.” (Complainant L. Mtimde 2022, personal communication, 24 May).

Based on the data acquired, it is evident that the appeals process is not less-user friendly, similar to the hearings process, in which complainants are expected to argue their case. Complainants to the Press Council of South Africa do have the public advocate available for their support, who can assist with preparing for the hearing and can argue on their behalf. However, the complainant felt further support was needed and provided recommendations of what that support could include. The

complainant noted that, whilst they are comfortable with the law and generating the necessary documents for the appeals process, other members of the public might not be ready or equipped to write these documents.

“Writing affidavits, writing heads of arguments, helps the panel and the appeal panel to be able to probe the methods. But you need to be assisted to do that if you a person who needs that assistance, and that would be my suggestion to augment the system.” (Complainant L. Mtimde 2022, personal communication, 24 May).

The complainant expressed concerns about the hearings needing to support individual public complainants. The Press Council will need to consider how their appeals processes operate in order to balance the media’s right to legal representation, alongside the public’s right to complain, be heard and understood. The latter requires greater support. This would be important to support the growth and functionality of the appeals process, which has historically been under pressure for intervention by the state (Duncan 2010; Berger 2011; Reid 2012).

This concern was raised again by the complainant interviewed, as they requested the need for an independent appeals process. The complainant stated that Council should "take seriously the need for an independent regulatory appeal mechanism...you can still have your self-regulated system. But, if you want to appeal their decision, you go to a body that is not funded by the industry" (Complainant L. Mtimde 2022, personal communication, 24 May). The complainant, who has been a vocal proponent of an independent system, problematises the Council because "if you look at the structure of the Ombudsman, council, and the appeal, it's all said and driven from one device" (Complainant L. Mtimde 2022, personal communication, 24 May).

The adjudicator responded to the concerns raised about an appeals tribunal, noting that the appeal is a good alternative to the option of state and court proceedings. “Where would you have a situation where, without costs, you can have your issue adjudicated... by highly competent people and have a fully reasoned judgment?” (Adjudicator K. Govender 2022, personal communication, 12 September). The adjudicator reiterated that press councils are based on a global model, "places like Australia and New Zealand, various other places, have adopted this similar system, in the UK, etc. So, I think it's an innovative system" (Adjudicator K. Govender 2022, personal communication, 12 September). The adjudicator also finds that the system in its current form works and is timeous. “An alternative would be going to court, that will take you two years before you get a decision. And what people want most is, because the articles been published, they want to leave as quickly as possible, to the time the article was published” (Adjudicator K. Govender 2022, personal communication, 12

September). With the adjudicators believing in the system, its functionality and the systems commitment to public complaints, they find the alternative to be unnecessary.

The study notes the concerns by the member of the public and the responses by the adjudicator, alongside the observations of the appeals hearing, and recommends that the Council evaluates the appeals hearing, and considers the purpose and role of the public complainant in this process. The study also recommends that, at the very least, the Council should inform complainants about the nature of the quasi-legal process they will enter into. The Council does have the public advocate to support the complainant, but, in the current form of the hearing, it is recommended that the Council provide access to a legal advisory for the member of the public. Alternatively, the current legal format of the hearing in which the public must write heads of argument and argue these before the appeals panel should be reviewed. The current trend of having media companies represented by legal counsel, whilst the public complainant has the public advocate only, seems to balance the power of voice in the hearing in favour of the media company. Yet, this has not affected the outcome, as the appeals panel sided with the complainant in two of the three appeals observed.

4.5.2 Complaints resolution statistics

The Council's effectiveness has been measured by their statistics. Researchers agree that it is achieving its mandate and successfully resolving complaints – this is further asserted by examining the record of rulings over the past decade (Edwards 2012; Reid and Isaacs 2015a; Satchwell et al. 2021). The Council also uses these statistics to measure their efficiency and has made these available for public scrutiny as a part of the State of the Newsroom (SoN 2013; 2015-2016; 2017; 2018). These statistics became the measure of the Council's activity and success, as many researchers have used the annual statistics regarding complaints as evidence of the Council's prevalence in society (Edwards 2013; Reid & Isaacs 2015a; State of the newsroom 2013 - 2020; Satchwell et al. 2021). The Council has also concluded that their resolutions have been successful, “I think it's been fairly successful in terms of the number of complaints and what it's resolved” (Ombudsperson P. Green 2021, personal communication, 12 February).

Below are the statistics since 2010 and have been included to re-evaluate the Council's success narrative.

Table 10: PCSA record of complaints

| Year | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 (Jan - June) | Total | Average |
|------------|------|------|------|------|------|------|------|------|------|------|------|------|-------------------------|-------|---------|
| Complaints | 212 | 256 | 285 | 487 | 461 | 591 | 536 | 491 | 533 | 449 | 744 | 845 | 125 | 6015 | 462,6 |

Over a decade, between 2010 and 2022 (June), the Council received 6015 complaints, averaging 462,6 complaints per year. The complaints show an increase in the number of complaints received after 2012 as between 2010-2012 the Council received an average of 242 complaints (Reid and Isaacs 2015), well below the current average of complaints. During the next few years, 2013 – 2018 (SoN 2018), the Council received 3107, averaging 517 complaints per year. The 2019 – 2020 period saw the most significant fluctuation in complaints, with 449 complaints in 2019, 744 complaints in 2020 and 845 complaints in 2021. Notably, the complaints spiked in 2020 due to the 230 complaints against the front-page article in the *Rapport* regarding the Crowd 1 scheme⁷. Overall, there has been an increase in complaints received by the Council. Researchers evaluating the Council have used the annual increase in complaints as evidence of success, noting that the body has become more transparent and popular as a complaints mechanism, with more members of the public making use of its services. After decades of statistical evaluation, the consensus is that the Council can be deemed successful because of the increasing number of complaints being laid with it.

Table 11: PCSA record of rulings

| Five-year period | NUMBER OF COMPLAINTS | FOR ADJUDICATION | WITHDRAWN | RESOLVED | PENDING | DISMISSED Declined |
|------------------|----------------------|------------------|-----------|----------|---------|--------------------|
| 2016 | 537 | 216 | 49 | 96 | 11 | 153 |
| 2017 | 499 | 145 | 39 | 107 | 9 | 199 |
| 2018 | 533 | 104 | 20 | 83 | 0 | 318 |
| 2019 | 435 | 54 | 8 | 67 | 9 | 311 |

⁷ 235 Complaints were received on one issue, which seems that it is a targeted concern about the representation of Crowd 1 in the *Rapport*. The concerns relate to reports that Crowd 1 operates as a pyramid scheme.

| | | | | | | |
|--------------|------------|-----------|-----------|------------|-----------|------------|
| 2020 | 744 | 39 | 9 | 70 | 38 | 588 |
| 2021 | 845 | 33 | 17 | 219 | 44 | 532 |
| Total | 3593 | 592 | 142 | 642 | 111 | 2101 |

The Council has been and continues to be praised for its adjudication processes, and the statistics on its successful adjudications have been used to validate its effectiveness (Satchwell et al. 2021). Upon closer evaluation of the record of complaints, it is evident that the Council has many dismissals, which have since been renamed declines. Declining to accept complaints often occurs when the complaints are outside of the jurisdiction of the Council or in the case of a mass influx of complaints. When receiving multiple complaints about the same issue, such as the case of Nampree vs the *Sunday World*⁸ in which 285 complaints were received (PCSA 2021), only one complaint can be accepted to allow one complainant to participate the process.

The dismissal numbers are increasing annually, with 2101 of the 3593 complaints dismissed. Thus, dismissals are a cause for concern. Upon investigation with the Council, the dismissals continue because either the complaint falls outside of the timeframes of the Press Council’s complaints procedure, there is no apparent transgression of the code, or the complaint does not fall under the jurisdiction of the Council’s complaints process. In many cases, the Public Advocate will advise the complainant if the complaint should be sent elsewhere, for example, to the Department of Labour (Executive Director L. Mobarra 2021, personal communication, 01 February). If the complainant feels the Public Advocates' dismissal is unfair, they may appeal it, and the Press Ombud will deal with this query directly (Ombudsperson P. Green 2021, personal communication, 12 February).

There are many opportunities to find recourse for the complaints dismissed. Complainants can apply for review by the ombudsperson when the complaint has been declined/dismissed by the Public Advocate. If unsuccessful, the complainant can refer the matter to the Appeals panel. This opportunity to review declined/dismissed cases have further strengthened the complaints process and allowed multiple interventions when complaints have been dismissed at various stages of the complaints resolution process. Dismissals should be a concern for the researchers and the public; it is recommended that the Council keeps a record of dismissals, stating why each complaint has been

⁸ Nampree vs *Sunday World* (PCSA 2021) in which the *Sunday World* published a potential victim's sworn statement to the SAPS without her consent.

dismissed. If there is a trend in complaints that are dismissed because they do not transgress the code but have a valid reason for being laid, it could lead to amendments to the code or the constitution.

Despite the high number of dismissals and a few unaccounted cases, using quantitative data on rulings to assess the Council's effectiveness is a reasonable approach to researching the Press Council. Finding new ways to represent, share, and make this data available to the public might be helpful as the statistics continue to be published (Edwards 2012; Reid & Isaacs 2015a; SON 2013 – 2018; Satchwell et al. 2021). As these records are essential to the Council, the public, and the academy, the Council should consider fine-tuning and repackaging them for public consumption. Since the record appears to bear weight within the research community as an indication of the Press Councils' success, it would also be essential to deliberate on how these statistics could be used to engage with and account to the public as part of the Press Council's communications and duties.

Of concern is that these records of complaints are not available on the Press Councils' website. The Press Council needs to publicise an annual review of its activity and account to the public through its communications platforms. This speaks to a lack of accountability by the Council and shows low engagement with its stakeholders, especially the public, who cannot access the Council's internal reports where this information is readily publicised and may not know to read the latest media reviews and research on the matter. Once again, the Council is encouraged to review its public engagement through its communications.

4.5.3 Complaints processes and delays

In 2021, the Council received the most significant number of complaints since its inception. As discussed, the duplicated complaints considerably raised this number. Overall, the Council adjusted well to working from home and rethought its ongoing methods during the COVID-19 pandemic. Whilst much progress has been made, numerous delays in the Council's complaints resolution processes occurred for various reasons such as the evolution of journalism in the country, editors working from home, the Council's internal staffing changes, and disputes on more complex cases which needed to be thoroughly researched by the Press Ombud (PCSA 2020a; 2020b; 2020c; 2020d). This is challenging, as the Press Council complaints procedure aims to settle complaints within 14 working days or to refer the complainant to Adjudication (PCSA 2021c). Still, delays were expected from the COVID-19 pandemic that caused global disruption. Noting these concerns, the Council sped up the backlog of resolutions by having the Executive Director perform Public Advocate duties before

the appointment of the PA. By appointing Johan Retief (the previous Ombud for many years) as an Acting Assistant Press Ombudsman, the Council managed to speed up the rate of adjudicated complaints (PCSA 2020c). The creative solution of employing more than one Ombud will help the Council cut costs and speed up resolutions timeously in future. This experimental measure was institutionalised in May 2021, when the Council introduced its new Ombud structure, where two deputies support the Ombud. As the Council continues its work, it will be essential to evaluate how the shift in structure affects the resolution of complaints.

4.5.4 The digitalisation of the complaints resolution process

The Council's process has become almost entirely digitalised from the laying of the complaint to its resolution. The complaints happen via email or the complaints form; the initial follow-up by the public advocate happens via telephone or email; the adjudication process happens via paper (circulated via email) or via hearings (conducted on Zoom); the appeals occur via paper (circulated via email); and the hearings (conducted via Zoom), the outcomes and sanction are handed down via email or telephone and published on the website. The in-person engagements have fallen away, with the Council meetings being held virtually.

The major shift in the rulings process relates to the Press Councils hearings. Both adjudication and appeals hearings involve public and press representatives and are led by either the Press Ombud or the Chair or the Appeal. Traditionally, the hearing would be held in Johannesburg at the Council's office or in the area where the complainant is based. The Council adopted a mobile approach to convening hearings, further supported by adjudicators from different provinces. Before the COVID-19 pandemic occurred, the hearing would occur in a physical location and would, thus, require travel to facilitate such a hearing. Since the lockdown and the pause on human contact, the hearing has been conducted virtually, which has led to certain gains. The digitalisation of the hearing process has decreased the cost, and virtual hearings have made this process financially and geographically simpler, encouraging greater participation and allowing more people to observe the hearings (Executive Director L. Mobarra 2021, personal communication, 01 February). This might increase public participation, but these hearings have yet to be fully realised. Thus, the idea of hearings being open to the public is touted as an essential philosophy of the Council but does not occur in practice as access is only granted to a select few members of the public who have requested access to the proceedings and are, thus, assumed to have a vested interest in the proceedings. The Council might need to open their processes by publishing the dates to the public to request access or by broadcasting

its hearings via a live streaming tool for those interested in listening without engagement. Since the hearings have become a virtual event, using online technologies through digital conversations, this shift is the most significant change in the Council's processes. Due to this significant shift in the operational process, the hearing is recommended to be further analysed to understand the hearing process and the effects of digitalisation.

4.5.5 Codes of conduct guiding the complaints resolution process.

The Press Council has jurisdiction over the content produced by members who voluntarily subscribe to the code (Reid 2017). The media are “encouraged to operate within the specified code of ethics ... are held accountable to that code ... maintain[ing] legitimacy in the eyes of the public” (Reid 2014: 61). The code was developed after examining over 100 codes of conduct from different media organisations and councils globally (Thloloe 2012: 111-113). The current version of the code has undergone multiple iterations of editing and reworking to reflect the context of the changing news industry. This includes the code instituted after the internal review in 2011 (Reid 2017); the revised Press Code following the recommendations of the Press Freedom Commission in 2012 (Reid 2017); the revised version of the code including the regulation of online media in 2016 (Reid 2017); the older version of the code of adopting a set of guidelines around user-generated content and other digital related matters released in 2020 (Press Code 2020); and the latest version looking similar to the previous one with an additional section around public data (Press Code 2022a).

The Press Code is the guiding document for the PCSA, established after multiple reviews of the Press Council (Press Council 2011: 3). Press codes are integral to the operations of the Council and its history, as they signal the industry's progression “from defining ethical principles and then formalising them as codes, to establishing a mechanism for enforcement” (Kruger 2009: 17). The Press Code is fundamental to the study of any council, as it is the standard against which complaints against the media are evaluated (Kruger 2009: 36). Whilst this has become an accepted mode of operations for media councils, some have lambasted the reliance on the code because it reflects the power relations amongst media and other groups more than a true reflection of media accountability (Plaisance 2000: 265). Yet, it should be noted that the press code and the reliance on the press are country dependent and differ based on the context of each council.

The Code of Conduct is the source of the agreement between the media and the public, and the Press Council is arguably the custodian of that agreement. Thus, the multiple inputs into the Press Code

over the past few years have been integral to developing a robust code of conduct, which speaks to the expectations for media conduct, which guide the press on their content. The Code of Conduct is for print and online media. It applies to any content published in printed additions, members' websites, members' social media accounts, and any other digital spaces or other digital formats (Press Code 2020). The content can extend to written text, video, audio, or pictorial formats. The code also governed third-party content created by external sources and shared or republished via members. Members are also encouraged to have their social media policies and guidelines aligned with the Press Code.

The code states that media producers must follow the Constitution and the South African Bill of Rights. Beyond that, producers should ensure that their content is produced "truthfully" (Press Code 2022a: Section 1.1) and reported in a "balanced manner" (Press Code 2022a: Section 1.2), committing to "honest" reporting unless the public interest dictates otherwise (Press Code 2022a: Section 1.4). The code prescribes the expectations on news reporting (Press Code 2022a: Section 1), independence (Press Code 2022a: Section 2), privacy and dignity (Press Code 2022a: Section 3), issues of discrimination (Press Code 2022a: Section 5) and warns of advocacy of opinions (Press Code 2022a: Section 6) and commentary (Press Code 2022a: Section 7).

With an awareness of the historical realities of the country, the Council must often work through complaints about news reportage which transgresses racial and socio-cultural expectations. It has also made allowances for this in its Code of Conduct, stating that journalism should "avoid discriminatory or denigratory references to people's race, gender, sex, ... and not refer to such status in a prejudicial or pejorative context ... [unless] it is in the public interest" (Press Code 2022a). The expectation set out in the code shows an awareness of the need for sensitivity when reporting, which is in stark opposition to the media and its reportage in the past (Bird & Garda 1996).

The Code of Conduct also covers data protection, aligning with the Protection of Personal Information Act (POPIA) of 2013 (Press Code 2022a: Section 4), with an extended section on data to "4.4. use and disclose personal data only for journalistic purposes" (ibid) and to protect the intrusion of privacy which the publication of personal information such as addresses could cause. The code seeks to protect vulnerable subjects by prohibiting members from publishing the HIV/AIDS status of any individual or the identity of a rape victim (Press Code 2022a: Section 2) unless the individual consents to publish their details in a report. The code guides the press to protect children (Press Code 2022: Section 8) and confidential sources of information where needed (Press Code 2022a: Section 11) and demands that the media "avoid shady journalism" (Press Code 2022a: Section 12), in which sources

are paid. The guidelines also extend to the visual representation of the article, as the report's content should be reflected in the headlines and captions of the report, and pictures should not misrepresent the audience or be manipulated (Press Code 2022a: Section 10), especially calling for media producers to exercise care when depicting violent and graphic content (Press Code 2022a: Section 9). The second chapter of the code seeks to address the issues of online media production and publication, stipulating the principles and expectations for user-generated content and activities online (Press Code 2022a: Chapter 2). The section on online ethics is very slim. The PCSA does not include guidelines on misinformation, disinformation, and other digital-related journalism ethical breaches. The call for truth and truthful journalism could cover this issue.

Furthermore, does it dictate the consideration of AI and machine learning in newspapers, and it could be questioned if this should be included, and to what extent the Press Code should be prescriptive to the use of technology and the disclosure on the use of technological tools in the newsroom? The study poses these as questions to consider as, to date, the code has been sufficient to rule upon online complaints, as only some have required a rethinking or amendment of the code. Arguably, having a generic catch-all code of conduct seems to have worked for the Council up until now, as it allows journalists and media producers to share common approaches and ethical values without being too prescriptive of journalistic conduct (Christians & Nordenstreng 2004) – codes should be a guide that is operational when journalists are endowed with their sense of morality (Bertrand 2000).

The grey area of regulation between the BCCSA and the PCSA is the second area which needs to be considered regarding the Code of Conduct is the application of the code:

“All content that is published on a social media account operated by a member; and all content that is created by a member and published on any platform that is available on the world wide web (i.e., online) or in digital format” (Press Code 2022a).

The Council, in some cases, is responsible for ruling on complaints related to the social media posts of print online and online broadcasters; the BCCSA can rule on complaints related to online broadcasts, but it does not extend to social media complaints. As members of the broadcasting body still belong to the Press Council, they could be complained against through the PCSA and sanctioned using the existing code for those who wish to guarantee that the social media equivalent of broadcasting information is dealt with accordingly. Currently, whilst the Council has this jurisdiction, the code only speaks to the exclusion and responsibility of user-generated content but does not mention any specific prescriptive expectations on social media usage.

The Council shared a standard social media usage policy to supplement the existing code, guiding journalists to balance their voice online with their professional communications and responsibility. While the PCSA offers the policy as a guideline, it encourages media companies to develop their own social media guidelines. The policy covers public interaction, reputation management and bias, and specifies considerations related to the publication, sharing and liking of content online. The policy also recommends care related to intellectual property and confidential information, as content producers and journalists can be held accountable for information shared on private or public platforms.

Voluntary guidelines that companies without their own can adopt seem valuable, yet, they also have their challenges. On the one hand, the policy creates awareness of the ethical responsibilities of journalists online and the ethical challenges around social media communications. It warns of reprisals against journalists who share their personal opinion in public spaces (Larsen Fadnes & Krøvel 2020) and clarifies the issues and challenges facing online content creators who create new forms of relationships with their audiences. This allows journalists to contemplate their online engagements as individuals (Wu 2019). On the other hand, the extensive social media guidelines could be overly prescriptive. They may lead to self-censorship by journalists and media producers who choose to omit and refrain from sharing information in their work and online engagements, protecting themselves and their job security in the public sphere, despite their commentary being in the public interest (Larsen et al. 2020: 1). Public self-censorship may be inadvertently promoted because of the extensive social media guidelines. The guidelines state that all journalists can be held liable by their media companies for personal and private communications – this could lead to fear of reprisal. Creating awareness of the repercussions and stating the necessity for care in online platforms is a balancing act and a widely accepted consequence of technology and social media, enabling and delimiting the freedom of speech online (Larsen et al. 2020). Thus, the guidelines are necessary. However, the PCSA may need to reconsider whose interests the guidelines foreground.

4.6 The Press Council and its governance structures

The Press Council of South Africa operates as both a complaints resolution mechanism and an oversight body, which resolves complaints laid by the public. The latter ensures that the complaints resolution mechanism is effective and accountable to the management body. The two sections operate independently, whilst the overall functioning relies on interdependence. Thus, to fully realise the

organisation's success, the Ombud's office and the oversight committee must work together. To best understand the regulatory body, it would require understanding the functions of both the institution and how they operate in an integrated manner. To fully understand the dual structure of the Press Council of South Africa, this is discussed in Section 4.4.1, and the complaints resolution processes are evaluated in Section 4.4.2.

As an oversight body, the Council is the executive body that oversees the functioning of the PCSA by providing management, decision-making, and governance support. The Council takes a birds-eye view of the organisation and supports the complaints resolution mechanism to achieve its mandate. The Council holds quarterly meetings to discuss PCSA operations and issues pertinent to the Council and the industry. It has the ultimate decision-making power over the PCSA and its future as it has “the power to consider and decide on any matter arising from this Constitution or the functioning of any officer appointed in terms of th[e] Constitution” (PCSA 2020d). These powers extend to decisions about all areas of the organisation, including financing, staffing, complaints procedures, the Code of Conduct, and the organisation's future. The Council may amend the PCSA Constitution, the Complaints Procedure, and the Press Code through a two-thirds majority vote (PCSA 2020d). “the media industry is represented in the form of editors... and then there are public, the council consists of 12 individual councillors, six of the public and six representing the press” (Ombudsperson P. Green 2021, personal communication, 12 February). An overview of the Council and its representatives are outlined in the table below.

Table 12: Press Council structure

| Press Council Structure | | | |
|---|--------------------|--|------------------|
| June 2023 | | | |
| Representative | Position | Profile | Seat Holder |
| Press members of the Council comprised of | Deputy Chairperson | South African National Editors' Forum (SANEF) representative | Amina Frense |
| | | Forum of Community Journalists (FCJ) representative | Marietta Lombard |

| | | | | |
|---|---------------------------------------|--|---|-------------------|
| representatives from constituent associations | Council member | Association of Independent Publishers (AIP) representative | Dunisani Ntsanwisi | |
| | | Interactive Advertising Bureau South Africa (IABSA) representative | Nwabisa Makunga | |
| | | Interactive Advertising Bureau South Africa (IABSA) representative | Izak Minnaar | |
| The public representatives of the council | Council member | Former Press Council ombud and journalist | Pippa Green | |
| | | Replacing legal practitioner/CCMA Commissioner (held the position up until 2021) | Saber Jazbhay (held position up until 2021) | |
| | | Communications professional | Kemantha Govender | |
| | | Journalist and communications professional | Faizal Dawjee | |
| | | Media trainer, communications professional and former journalist | Themba Sepotokele | |
| | | Communications professional, journalist and editor | Mary Papayya | |
| | | Academic and former journalist | Sisanda Nkoala | |
| Ex officio members | Complaints mechanism staff compliment | Press ombud (former ombud structure ending in April 2021) | Pippa Green (until 2021) | |
| | | New ombud structure beginning in May 2021 (PCSA 2021) | | |
| | | Press ombud | | Mr Herman Scholtz |
| | | Deputy press ombud | | Mr Tyrone August |
| | | Deputy press ombud | Mr Franz Kruger | |
| | Public director | Latiefia Mobara | | |

| | | | |
|--------------------|-------------|-----------------|------------------------|
| | | Public advocate | Fanie Groenewald |
| Appointments panel | Chairperson | Chair | Justice Yvonne Mokgoro |

Governance and co-regulatory commitments: The Council comprises public and media representatives in the co-regulatory framework. The constitution dictates that the Press Council comprises 12 Councilors and a chair of the Council, with the Councilors representing the media and the public, with six representatives from each group. Notably, the key figures responsible for the operations of the Press Council, such as the Press Ombud, the Executive Director and the Public Advocate, are considered *ex-officio members* of the Council, as they form part of and inform the Council but have no voting rights (PCSA 2023: Constitution). The press representatives take up six seats on the Council, and these persons are chosen from the Constituent Associations, allowing these associations to remain involved with and be paramount to the structure and decision-making of the Council. The public representatives comprise 6-8 seats on the Council and are chosen from public nominations. These representatives are expected to be persons of integrity with a strong interest in the media, believe in media freedom and believe in the code of ethics but are “not in the employ of the media” (Press Council Applications for Public Representatives 2021).

As evidenced by the current public representatives, this area of representation requires closer attention. By its current standards, the co-regulation model seems unattainable for the Press Council, which often conflates the notions of media and public representation. In 2022, the public representatives included former journalists, editors of news organisations and media owners, and even a former press ombudsman, with very few public representatives being non-media-aligned persons. The lines have become so blurred that a former press ombud, Pippa Green, is now a public representative, and a previous public representative Tyrone August, who served as an editor of the *Cape Times*, became one of the first deputy Ombuds in the country. This is a cause for concern - as it moves outside the co-regulatory commitment to public participation and engagement.

The Council has six public representatives and four former journalists deeply embedded in the media. It is possible that the changes in the structure of the Council implemented 2021-2023 have moved the Council closer to co-regulation of the press, as the three new ombuds represent both public and media interests. Ombud Herman Scholtz's appointment is also a move toward public participation in the Council. He is currently an advocate with the Pretoria Bar but has 13 years of experience as a former

journalist (Ngqakamba 2021), allowing him to straddle between legal and journalistic experience. Yet, most public representatives are former journalists with formal media training and expertise. Deputy Ombud Tyrone August is also a veteran journalist (Ngqakamba 2021), and Deputy Ombud Franz Kruger, a former journalist, has served for the past few decades as an academic and media commentator. In other ways, the Council has moved further from its commitment to co-regulation by having former press ombuds serve as a public representative.

This shift to the media as custodians of the public interest leans toward the self-regulatory model of media accountability. Thus, whilst the PCSA agrees that “the press is enriched by public participation in a co-regulatory process”, enhancing journalists' ethical conduct and standards through public participation PCSA (Press Council 2023: Constitution), it would seem that the historical self-regulatory practices of the Council prevail. These sentiments are further echoed by the operations of the PCSA, which still affirms the importance of a self-regulatory complaint mechanism for print media as “the best way to guard against censorship on the one hand, and complete ... lack of accountability or irresponsibility on the other” (Ombudsperson P. Green 2021, personal communication, 12 February). Echoing similar sentiments of findings over the past few years, that, in fact, the mechanism still fulfils the self-regulatory function well (Satchwell et al. 2021) and that the self-regulatory structure largely continued after the adoption of the co-regulatory mandate after the Press Freedom Commissions inquiry, as the Council had already maintained a similar structure comprising of media and public representation (Reid & Isaacs 2015a).

Complainants expressed some concern over the self-regulation of the council stating:

“I think the experience of self-regulation is one wish, if you are from the profession, you will be saying it's good. And if you are from the public, you will have a different take on it. And that led to if you recall, some years back when there was a strong debate on this matter. And, sadly, the professionals in the profession academia, right to journalists, were a defensive mode, as opposed to opening up their ears and eyes and look at what needs to be done.” ... “And in my view, the point is not to say, we don't need self-regulation, but to say you need to be able to appeal self-regulatory decisions to an independent body that will then assess whether the self-regulation decisions were objective or not.” (Complainant L. Mtimde 2022, personal communication, 24 May).

It might be the right time for the Council to reevaluate its commitment to co-regulation in name and practice, and reconsider the representatives on the Council, to centre public representation and fully realise the vision of the co-regulatory structure. As a co-regulatory mechanism, the Council must be more specific about what it defines as public and which public it chooses to engage. For instance, if the Council supports that former journalists fill public representative seats, it should be made clear

that the process is not entirely co-regulatory but leans further towards self-regulation, drawing on the expertise of former journalism professionals.

The credibility of the co-regulatory system rests on the commitment to public participation and the representation of public voice. Public voice stimulates further dialogue in the public sphere. It promotes a diversity of viewpoints beyond the media, motivated by self-interest or professional interest. The co-regulatory system could be damaged if these claims came from the public or political groups who regularly critique the Council. The inclusion of the public and commitment to public voice has been the significant driver of this co-regulatory system. The inclusion of public members who no longer work as media professionals is an interesting approach to the call for public representation, as it allows representatives who have ‘inside’ knowledge of the media’s workings, the newsroom, and the day-to-day news production processes to adjudicate against the press more efficiently. Yet, as the commitment to co-regulation stipulates a mix of public and media representation, the Council should consider including non-media-aligned professionals in its ‘public’ segment of the co-regulatory classification to engage diverse views and opinions about the media.

For several reasons, it is essential to include, value and uphold the commitment to public representation. One of the main reasons is that the current practice of appointing public representation limits the inclusion of diverse voices and perspectives as it leans into working journalists'/media producers' viewpoints. There is near-no inclusion of audience voices. Secondly, this appointment practice limits opportunities for public participation and negates that the public can understand ethical issues intertwined with the media and their reportage. It discounts that the public is a part of the media system and has sufficient knowledge of how it impacts society. The public, who is the audience of the Council's membership, is an essential role-player in the media system and experiences media content daily, and so, arguably, could in some way be viewed as ‘experts’ on the media – albeit from different perspectives. Finally, the Council could lose credibility with the public and its critics, who have silenced vehement criticism against the Council because of this shift to a public partnership, including public participation through co-regulation. The Council has been compared to the BCCSA, a co-regulatory organisation with state participation (Satchwell et al. 2021). If all of its supposed ‘public’ representatives are former journalists, the Council can be accused of being biased in favour of the press/news media. It would do much more for the Council's credibility if the public representatives were, in fact, not former journalists. One solution is for the Council to either reconsider their claim to co-regulation or fulfil the mandate of public participation. An audience-centred approach that considers and values the user's opinion requires intentionally carving out space for public voice, spaces currently filled by media-aligned representatives. This is a disservice to the

claim of public representation. Public engagement should be considered integral to the co-regulatory structure.

4.7 Is the Press Council fulfilling its mandate?

Within the remit of the mandates of the Council, as evident in the section on Mandates (see Chapter 2), the Press Council mandates should examine the commitment to three official mandates, namely: complaints resolution; raising media standards; and supporting media freedom. This should be done whilst considering its goals of serving the public interest and the necessary responsiveness needed to respond to digitalisation. The study evaluates the extent to which the Council has fulfilled these mandates, noting that various councils have different considerations and priorities related to their mandates and functions.

4.7.1 Complaints resolution

The Press Council of South Africa is promoted as a voluntary, non-statutory, quick and cost-effective means for recourse against Subscriber Publications (PCSA 2020d), committing to mediating and arbitrating public complaints about the journalistic ethics, reportage and conduct of subscriber publications (PCSA 2020d). The Council's mandate only extends to complaints brought by the public against media organisations that subscribe as members, and the Council has a list of over 600 member subscribers. The mandate to resolve complaints is the primary purpose of the Council, as their core function is to "settle disputes between newspapers, magazines and online publications, on the one hand, and members of the public, on the other hand, over the editorial content of publications" (PCSA 2020a). Since its reformulation as a Press Council in 2007, the PCSA has resolved complaints on the reportage of print publications (Press Council Review 2011) and later extended this jurisdiction to online media in 2016 after the winding down of the PDMSA⁹

⁹ Print and Digital Media South Africa is a non-profit collective for publishers in South Africa. It provides publishing support services and has the top six media companies as its members, including Independent Newspapers, Media24, *Mail & Guardian*. The organisation's webpage seems to be outdated as it still includes the details of publication houses which have closed or be renamed as its member grouping. (PDMSA 2021. <http://www.pdmedia.org.za/whoware.html>)

(PCSA Constitution, 2016). This shift led to the Council being responsible for resolving complaints about online content (Executive Director L. Mobara 2021, personal communication, 01 February). Whilst it envisioned that this would only relate to the digital publications and online sites of traditional print media (PCSA 2016: Constitution), it is evident that the jurisdiction extends to bloggers, niche online media producers and even broadcasters' content published in online spaces, the latter of which has become a grey area for both the PCSA and the BCCSA (see Chapter 6).

Upon assessing their efficiency, the Council views their effectiveness as successful due to the compliance from their members concerning the rulings and sanctions issued (Executive Director L. Mobara 2021, personal communication, 01 February). Partially, the Council effectively regulates complaints against subscriber publications from the public, and it excludes issues not complained about, or about media companies who are not subscribers. It is evident that the Press Council is succeeding at enforcing media responses, media compliance and overall regulating the media based on public complaints. This is evident by the researcher's attempts to engage with the media on public complaints, succeeding only to receive feedback from the *Daily Dispatch* with a lack of responses from media companies such as Media 24 and the *Daily Maverick*. Ultimately, ensuring that the core function of regulating complaints by the public about the media is being fulfilled.

Whilst this is true, and the Council is performing well as a complaint resolution mechanism, a caveat is evident. The Council is succeeding at ruling on complaints against subscriber publications. Nevertheless, it does not extend to non-subscribers or significant instances of media failure not brought through complaints. Regarding non-initiated complaints, it can be argued that SANEF and other media commentators have taken to media criticism and support ethical journalism in cases in which the media have failed to support good quality media reportage and behaviour (Wasserman 2022). With these media accountability systems and instruments in place, it can be argued that the Press Council does not need to duplicate these efforts to critique the media as the organisations which form part of the overall Press Council membership/governance structure, as well as the independent public and civil society organisations who offer criticism, are already fulfilling this function. The study notes that these accountability systems continue to fulfil this mandate, which does not entirely absolve the Council. Thus, the study recommends that the Press Council consider extending its powers from lodging complaints to responding to extreme media unethical behaviour and further to support ethical journalism and raise media standards without overstepping its jurisdiction. The Council could more effectively address this mandate if they were to actively seek cases of unethical media conduct and choose to act and rule on them. These instances and commentary on unethical

media content could improve the standing of the PCSA within the public sphere, as they could be seen to be leading the debate on significant issues of concern.

On the issue of non-subscribers, as a voluntary co-regulatory mechanism, the Press Council has no jurisdiction or power over non-subscribers. The Council has in the past silently lamented the withdrawal of "Noseweek and Independent papers, which have chosen to withdraw from the self-regulation of the Ombud Process" (Satchwell et al. 2021). The Council has managed to deal decisively with non-compliance by publicly expelling and reporting on media companies who refuse to follow the guidance of the Council, as seen in the case in which the Press Council expelled the *South African Jewish Report* (Press Council 2022) for failing to enact the sanctions of the Council, threatening instead to withdraw from the body. The Council will need to consider alternative routes for non-subscribers that could be enacted to penalise their non-compliance, similar to the BCCSA, where those who choose not to fall under the jurisdiction of the BCCSA are automatically under the jurisdiction of the Complaints and Complaints Committee (CCC) of ICASA (BCCSA 2020b).

Furthermore, the public can use alternative recourse through the courts to complain about non-subscribers, as seen in the Independent Media instance in which a public member sued the non-subscribing publication for defamation and won (Ramos vs Independent Media 2021). Recourse before the law is also available to the public using the Press Council process. One consequence of not waiving legal rights and action has been increased legal representation and complainants' use of legal experts. The involvement of lawyers in the process has resulted in unnecessary paperwork, which has slowed down the Ombud process (Ombudsperson P. Green 2021, personal communication, 12 February). This was later addressed by amending the complaint guidelines to limit the number of axillary documents complainants can submit. The PCSA updated its complaints information to state that the "Public Advocate will advise complainants (especially legal representatives) that excessive lengthy complaints and/or annexures should be revised before it will be accepted. A complaint should normally not exceed five A4 pages. Even complicated complaints should not exceed 10/15 A4 pages" (PCSA 2023).

4.7.2 Raising journalism standards

Raising journalism standards is the core mandate of the Council. Whilst this one of its core mandates, the Press Council also commits to promoting ethical journalism (PCSA 2020d), protecting media freedom (PCSA 2020d), and "garnering support for media freedom as a cornerstone of democracy"

(PCSA 2020b). Initially, researchers found that the Press Council “concentrate[s] almost entirely on the adjudication function. Only recently has it added the defence of media freedoms to its aims, but it is still developing a sense of what this might mean in concrete terms” (Kruger 2009: 41). This has improved over the past decades through collaboration with its member groups. This is made possible through the Council adopting a separation of powers between its two divisions, on the one hand, its council and, on the other, its ombudsman and their complaints resolution function. The PCSA’s member organisations such as SANEF continue the work of maintaining its auxiliary mandates related to media standards and press freedom, etc. These mandates could be strengthened through collaboration with other institutions, such as academic and journalism training institutions and media-linked civil society organisations.

To further the goal of raising media standards, the Council must consider the ethical practices of its members and their newsrooms. Councils cannot be entirely responsible for ethical journalism, as this is embedded within media production practices in newsrooms and media houses. Thus, the onus is on media companies, producers and journalists to take responsibility for their ethical media production. The study recommends that the Council reiterate this expectation to existing subscribing members alongside recommendations for complementary internal mechanisms. These mechanisms do not replace the Council's mandate and should instead be seen as complementary to the existence and authority of media councils (Bertrand 2008). The Council currently supports the raising of standards within newsrooms by publishing guidelines on children’s rights, gender issues, social media policies, etc.

“It's clear that some people either misunderstand or purposefully or not some of those clauses and bind work around it, or whatever. So instead of trying to put more details in the press code, we prefer to rather issue guidance notes on the implementation.” (Council member I. Minaar 2023, personal communication, 30 June).

The inclusion of these guides (2023a) can be viewed as a media accountability instrument, which the council makes accessible to its members, with the aim of raising media standards of production. This should be seen as a starting point but should, ultimately, encourage newsrooms to develop their own sets of internal practices for raising the quality of ethical production.

4.7.3 Promoting press freedom

The Council's mandate and Code of Conduct are centred around the Constitution and the Bill of Rights (PCSA Code of Conduct 2020: Preamble). In addition to upholding and promoting the

Constitution, the Council is committed to the freedom of the media, a byproduct of constitutional democracy. This commitment is echoed in the PCSA constitution and the Press Code, reaffirming a commitment to freedom of expression and freedom of the press, and mandating its members to uphold and promote these rights (PCSA 2020d). Furthermore, the Council operates within the South African legal system, as the law enables it, and accepts the legal framework and the complainants' right to seek a legal alternative for dispute resolution (Ombudsperson P. Green 2021, personal communication, 12 February). To further the success of the Council, it needs to consider its purpose of serving the public within an environment of digital inequality. For the Council to succeed, it needs to engage with the public and employ processes which remain responsive to the needs of a society with varying levels of digital accessibility.

4.7.4 Press Council and the public it serves

4.7.4.1 Public access and visibility

The PCSA is public-centred and accessible through the public advocate. This service enhances complainants' access to support if needed and provides technological assistance with complaints if required. Yet, the accessibility has not always translated into visibility, and the PCSA could enhance its public visibility. The Press Council has succeeded in developing online platforms for regular communications with its public. The website shares the rulings, whilst the Press Council Twitter and Facebook pages share the rulings, the advertisements, and notices from the Council with its 1279 Twitter followers (@Press Council_SA 2021) and its 743 Facebook users (sapresscouncil 2021). This connectivity with various actors allows the PCSA to remain accessible online, and to have increased visibility and online presence through virtual interactions. Its website and social media are well managed, but the public could miss their work if you do not follow them. The best possible means of visibility would be to encourage the print media and online media members to publicise the work of the Council and the right to complain. Currently, members who post the Press Council advisory often are mostly new online publications and seem to rely on the PCSA to boost their credibility. For example, the South African, an online publication which regularly aligns itself with the Press Council. This publication of membership and the right to complain could significantly enhance the Council's visibility to its member publications' users, which is the community it is meant to serve. This enhanced public participation could allow for public debate, encouraging critical discussion within the digital public sphere (Banda, Mudhai, Tettey 2009; Bosch 2010) around accountability issues, possibly enhancing the dialogues around journalism and media accountability online.

Regarding publishing the Press Councils' activities, the Council publicises its activities and rulings via the Press Council Website (PCSA Rulings 2021). The website and email are its core means of communication. The website has had the same look and feel since 2007, which coincides with the Council's establishment on 1 August 2007 (Review 2011). A newer website was introduced but faced extensive challenges in January/February 2020, when it was plagued by malware, causing older rulings to disappear. The older website was reinstated later that year with extended functionality (PCSA 2020a). The Council also shares similar communications and links to important notices posted on the website via its Twitter account, using the handle @PressCouncil_SA, and via the Facebook page named 'The Press Council South Africa' (PCSA FB 2021). The Council acknowledges the need to become more active on social media and consider the best means to publicise the Code of Conduct to reach the public and the industry. To date, the Council mainly relies on its members publishing their logo and contact details in their papers and on their websites, but this is only enforced if it is part of a sanction resulting from a ruling or the penalty for transgressing the code. The Council could learn from the success of the BCCSA and encourage members to post their details to encourage greater visibility to their reading public. Other public activity includes participation in research reports, conversations with industry leaders and corporates, with a significant focus on workshops about the code of conduct with subscriber publications and with other interest groups.

Workshops with subscriber publications such as the *Sunday Sun*, *News 24*, *Arena*, *Daily Maverick* and other members focus on the code of conduct and the standards of reportage expected.

“The code is the basis, we are saying you have to adhere to the code, ok, so the code is really the most important document, that we expect all our member subscriber members to adhere to, and then we provide them with the kind of guidelines for other bits of reportage, whether they adhere to the guidelines or whether everyone in the newsroom knows about the guidelines that's very hard for us to assess” (Executive Director L. Mobarra 2021, personal communication, 01 February).

Workshops with other interest groups, such as the Bankers Association and Discovery, in these instances the council

“tend[ed] to focus on what their expectation should be of the media. So, you know, if a journalist calls you, and he says to you, I want the information now, you have a right to say to the person, sorry, but I cannot provide the information, because the code requires me to be given reasonable time” (Executive Director L. Mobarra 2021, personal communication, 01 February).

The Council noted the need to expand its reach to the public through online and social media engagements, sharing videos and seminars on media and digital literacy, news, and accountability

“I think we are going to have to be a lot more active, in terms of our social media, for example we publish the rulings on Facebook on twitter and we email them out, I think we need to almost

start a much more concerted campaign around publicizing maybe even part of the code” (Executive Director L. Mobara 2021, personal communication, 01 February).

In realising the need to extend its own visibility, the Press Council launched the FAIR campaign in 2023. The FAIR campaign seeks to respond to the need for visibility within the public sector and for visibility with the audiences who engage with media content and might want to respond to it via complaints structures offered by the media council.

“Now, this fair campaign, we'll be rolling out, the first one was just making sure that all the publications carry our logo. ... we'll be following this up with the members next year, ... and we'll have some, let's say explanation that via articles about the press code, making them aware of their rights.” (Public Advocate F. Groenewald 2023, personal communication, 06 July).

The FAIR campaign aligns with the realisation of citizens’ rights to media freedom. It seeks to educate the public about their rights and the right to complain about low media production standards. The growing online presence signals the Councils adaptability and the commitment to responsiveness.

4.7.4.2 Public participation in the co-regulatory structure

As a co-regulatory institution, the Council has committed to public participation in the Council proceedings by including members of the public on the adjudication panel, the appeals panel, and the Council (see Section 4.5). Furthermore, the PCSA committed to serving the public through the complaint resolution process and instituted the Public Advocate position to support the public complainant. The public often tries to access the Ombud's services to address non-media-related complaints, such as employment concerns and neighbourhood complaints, to name but a few. The Council assists where possible and aims to redirect the complainant to a more appropriate channel. The Council views these irrelevant complaints as indicating public trust in their ability to resolve complaints (Executive Director L. Mobara 2021, personal communication, 01 February). The empathic response from the Ombud's office could further enhance this public trust. On the other hand, these irrelevant complaints could indicate that while the public is aware of the Ombud, they are not always knowledgeable about its function and mandate. The Council will need to consider its definition of public. They only interact with the public through the complaint resolution process, yet most of what they define as public engagement is with media-linked professional organisations. This is only one group of potential 'publics' that the Council engages, allowing for a possible expansion of their notion of the public and their engagements.

4.8 Is the Press Council responsive and fit to regulate complaints?

The Press Council of South Africa has proven to successfully operate as a media council through multiple research efforts (Review 2011; Press Freedom Commission 2012; Reid 2014; Edwards 2015; Reid & Isaacs 2015a; Reid 2017; Satchwell et al. 2021). Whilst previous studies evaluated its complaints resolution statistics as an indicator, this study used different criteria to measure its success. The study evaluated the ruling records, observed the hearings, and interviewed the then Ombud (Pippa Green 2021, personal communication, 12 February) and the executive director (Latiefa Mobarra 2021, personal communication, 01 February). The study also considered three cases for in-depth study, by reviewing the complaints resolution processes from the point of laying the complaint to the point of its conclusion. This was done by reviewing the complaints, observing the hearing, reviewing the rulings, interviewing the complainants, interviewing the adjudicators, and attempting (after several efforts) to interview the media respondent.

RQ 1: To what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?

To answer this primary research question, secondary research questions were identified: The study echoes earlier findings that the Council is responsive and fit to regulate complaints on media conduct and improve this functionality by placing greater attention on specific areas of its functionality, namely, its online hearings, its appeal processes, its public communications and its overall approach to co-regulation. The conclusion that the Press Council is functional was reached for numerous reasons, the major one being the responses of the three complainants who found the "Press Council as responsive and fit to regulate on complaints of media conduct?" All three complainants responded by stating that they found it fit to regulate complaints, supporting the decisions of numerous researchers and echoing the findings of the adjudicators, ombuds and directors. One complainant stated they are fit because they have "a better understanding of newsrooms of what's required" (Complainant J. Limpitlaw 2022, personal communication, 10 April). Whilst the first complaint found the Council's understanding of the media to be a strength, two of the complainants seem to indicate this knowledge as a problem due to the alignment of the Council to the media they regulate, as this could result in subjective findings due to the Council being "funded by this very industry" (Complainant L. Mtimde 2022, personal communication, 24 May).

When asked if they would ever use the process again, all complainants stated:

“Yes, I would, I would use them again.” (Complainant, personal communication, 10 April J. Limpitlaw 2022).

“Yes. I think it's a case by case scenario in my case was complex. Yes... the process was painful and fair. And I don't think the handle it appropriate. Other cases, maybe they've done a better job. But judging on my particular case, there is room for improvement.” (Complainant A. Danikas 2022, personal communication, 09 May).

“Yes, but there must be an independent appeal mechanism as to balance in the event where their decisions are subjective, which is unavoidable.” (Complainant L. Mtimde 2022, personal communication, 24 May).

The three complainants found the Council to function and rule effectively on complaints. Two of the three, upon evaluation of their cases, stated that they found recourse and would use the Council again, but found that there are areas which need improvement. The third case, which shared jurisdiction with the BCCSA, found no recourse, as the Council relied on the BCCSA to make a decision and "The Press Council then said, thank you very much. We're not taking this any further. In other words, they didn't deal with it at all." (Complainant J. Limpitlaw 2022, personal communication, 10 April). Indicating no intervention in the case where a shared jurisdiction existed with the BCCSA. The recourse implies that the Press Council adjudicated on the complaint, and required the media to respond to and comply with the sanctions given. The Council is influential as it has been able to force media response and compliance where the public has been unable to. The Council has been able to do this due to its respectability in the field, the collaboration of its members, and the trust and credibility it has with the media and the public. However, with this recourse, the study recommends that changes be made to the Councils' approach to public hearings, appeals processes, and jurisdictional overlap. These recommendations are examined further in the sections below.

RQ 2: Are the institutional mechanisms functional?

Evaluating the main research questions shows that the PCSA is responsive and fit to regulate complaints on media conduct. As evidenced by the analysis of the statistics and the processes, the Council is in working order. The operations of the Council shifted in response to the COVID-19 pandemic and the level five lockdown in March 2020, which mandated South Africans to work from home wherever possible. With most PCSA staff working from home, processes and communication channels shifted with meetings, communications and complaints resolutions becoming digitalised. The digitalisation of the complaint's resolution has been both sped up and delayed by the COVID-19 pandemic. In some instances, having the hearing move from a physical location to be accessed

digitally through online platforms has made the hearing less costly, easier, and faster to resolve. Yet, the process has been slowed down in other ways. For example, editors working from home, and job losses, closures and retrenchments which led to a slowing down in communication-related to resolving complaints with the publications and their editors (Ombudsperson P. Green 2021, personal communication, 12 February).

The Council has also managed to innovate its practice through this challenging time, including moving office locations due to the PSS closure, cutting costs where possible, and expanding its Ombud structure. The ombudsperson resigned from a full-time role. The Council considered restructuring the Council to support the employment of multiple Ombuds, sharing the ombudsman role in a 'part-time' capacity, which is presumed to cut costs (Executive Director L. Mobara 2021, personal communication, 01 February). This structure was introduced in May of 2021, with an Ombud supported by two Deputy Ombuds (PCSA 2021). Ultimately, the Council has adapted well and has continued to resolve complaints through less costly means despite the massive shifts caused by the Pandemic. Moreover, the Press Council can be assessed as responsive to local conditions and should remain in touch with the context of the country they serve. As seen with the COVID-19 pandemic and the rapid changes it brought, the Council continually adapted to such changes. Based on this response to contextual realities and their shifts, the Council could be seen as an organic organisation, constantly shifting its structures and procedures to accommodate local specificities.

RQ 3: Do the MAMs respond to the needs of the public?

Context examines the nature of the case in its environment by situating the occurrences/events studied within its geographical, social, political, economic, and disciplinary environment. It cannot be studied in isolation (see Chapter 3). Context is central to this study for three significant reasons. Firstly, because the notion of context is indivisible from case study analysis and, thus, forms an integral part of this study. Secondly, because scholarly studies within the Global South have continued to argue for research which reflects uniquely African contexts, to fully articulate the ideas, ideologies and representations of reality from an African perspective (Mano & Milton 2021). Thirdly, because, for the past decade, the study of the progress of press councils and their ability to respond to their relevant contexts has been the determinant of a council's success or fit-for-purpose (Berger 2011). For the past decade, research on media accountability mechanisms in South Africa has seriously considered context central to the study of press councils. The press council, whilst a 'universal' and shared

structure, takes its roots and character from the country and context in which it operates. Therefore, this approach of evaluating the effectiveness of a council concerning its contextual conditions is necessary because the fitness-for-purpose of the council is determined by its ability to serve the society in which it is located (Berger 2011). The PCSA is able to respond to the needs of the public by using differentiated technological means to ensure accessibility, allowing public support through the public advocate, and by having the codes available in different languages to support multiple linguistic and cultural groups.

RQ 4: Are the MAMs satisfactory/competent? And relevant to their contextually stipulated requirements?

Upon review of the data, observation of the processes and based on the interviews with complainants, adjudicators, and regulatory leadership, the Press Council is competent and satisfactory. The user's interviewed expressed a strong belief in the functionality of the Council as the ruling found in favour of the complainant. Yet, they simultaneously expressed concern about their treatment in hearings and appeals hearings. Ultimately, they found the outcomes of their processes fair and just, stating that they would use the system again. However, all noted that improvements to the system were needed.

RQ 4.1: Should the current MAM be satisfactory/competent – What recommendations can be made to improve the current systems?

The Press Council of South Africa effectively resolves complaints from the public and can be considered to be administering complaints effectively and efficiently. Its effectiveness could be a result of adapting to contextual, political, social, geographical and technological demands. These gains could be furthered by having the Council consider the public, their interest and their participation, furthering its potential to operate as a public good. To operate as a public good, the PCSA should evaluate the structure of the public hearing and appeal processes and review the overall functionality of the Council as a co-regulatory structure.

The public participates in the PCSA process to lodge complaints and have their grievances heard. These complaints and appeals hearings have been experienced as hostile by the complainants. Considering audience-centred approaches, the Council should review the hearing process. Whilst these operate as a quasilegal process, not all complainants are prepared to argue their cases in such a

forum. It is, thus, recommended that the Council consider how these spaces could support potential complainants and enhance the communicative rights of its users (Reid & McKinley 2020).

Considering the mandate of a public good, the Council would need to review its operations and stance on co-regulation participation. In committing to the public and their interest, the Council should review its policies on public engagement and participation. Whilst the Council is effective and doing well to support public accessibility, it could further support the realisation of the public interest through the representation of the public on the Council. The study recommends the PCSA launch an internal inquiry into its approaches to public engagement. This could be coupled with an ad hoc committee on public participation, aiming to have the public fully participate in the co-regulatory system.

4.9 Recommendations on the future of the Press Council

The findings show that the PCSA is effectively ruling on complaints and effectively regulating its members. The Council has, furthermore, committed significant effort and resources to making the complaints resolution processes accessible to potential complainants and provided support via the Public Advocate. Considering these findings, the study recommends that the council consider its engagements with the public, consider its hearing processes and their structure, review their outward facing profile, and respond to the issues of jurisdiction.

4.9.1 Engaging with the public

Press Council could improve its current operations by considering more authentic engagements with the public, by:

- Setting up an ad hoc committee on public participation to examine the potential for public participation and feedback within the system.
- Allowing its structure to examine and receive feedback from the public experience of the Councils complaints resolution process.
- Reviewing its commitment to and implementation of the public's participation in the co-regulatory structure of the Council, to foster authentic engagement and participation.
- Enhancing its outward facing profile. Whilst the FAIR campaign is acknowledged as an important step to reaching the public, the Council is encouraged to make relevant information such as its records of rulings and an annual report publicly available online.

4.9.2 Improving its processes

The council could enhance its own processes by allowing for:

- Reconsideration of the format and structure of public hearing and appeal hearing to provide an environment where voice is encouraged, and complainants are listened to and understood. A space in which their dignity is prioritised.
- Considering the best use of digital technologies in the public hearing process.

4.9.3 The Council and its relationship to other entities

The council is advised to collaborate with the BCCSA on issues of jurisdiction and to come to an agreement on how the regulation of broadcast content online will be approached. The Council is responsible for online broadcasting content and must, thus, find a suitable solution to exercise this right as it is in the public's interest to do so.

4.9.4 The Council as a public good

Finally, it is recommended that Press Council evaluate its potential as a public good, and to review how it could adopt a stance that furthers its current commitments to public access and recourse.

CHAPTER 5: CASE STUDY ANALYSIS OF THE BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA

5.1 Introduction

The BCCSA rules on public complaints against broadcasters which form part of the National Authority of Broadcasters (NAB), including many public, private and commercial broadcasters in the country (BCCSA 2022). The BCCSA was founded by the NAB, the industry body responsible for the BCCSA (Kruger 2009: 18). Established in 1993, and officially recognised by the IAB/ICASA in 1995 (Lotter 2016: 15), the BCCSA seeks to provide cost-effective and speedy administration of complaints against content broadcasted by signatories, which form part of the NAB National Association of Broadcasters (Milton & Fourie 2015: 193) and the Association of Christian Broadcasters (BCCSA 2019: Chairperson Review: 13). NAB and the BCCSA have been operational for 30 years, celebrating the anniversary of its establishment in 2023. Both entities are respected by the broadcasting fraternity, evident by their continued support of and voluntary engagement with these bodies.

The BCCSA is mandated to adjudicate complaints and maintain a high standard of journalism (Mtimde 2012: 123). In line with this mandate, this study seeks to understand the complaints process and provide insight into multiple areas of the process, including the public hearing. To date, little information on the hearing or tribunal mediation of complaints exists, allowing this study of the public hearing to offer new insight into how it operates. The study analyses the BCCSA and its operations, mandates, policies, and implications for the digitalising media industry. The study examines the BCCSA as a regulator, which has been historically influential in its regulatory function and holds credibility with the broadcasting fraternity. The case study analyses the past decade of the organisation's operations, paying close attention to the period between 2016 and 2023, in which changes to its constitution and operations were initially proposed and refuted (BCCSA 2016: Chairpersons Report), and later accepted (BCCSA 2022b). The latter has been foregrounded,

questioning the constitutional changes and whose interests are represented by the change. The study also extends into 2023, considering the shift in the BCCSA code of conduct to include online media, examining the code and its possible implications for the regulatory space. The study finds the BCCSA to be functional, responsive and fit to regulate complaints about the broadcast media, yet notes multiple areas in which the BCCSA can improve.

5.2 The Broadcasting Complaints Commission of South Africa (BCCSA)

For 30 years, the BCCSA has operated as an independent tribunal, valuing independence, natural justice, and freedom of information as foundational principles (BCCSA 2022a). Until the changes to its Constitution in 2022 and the Code of Conduct in 2023, the mechanism maintained its status quo, with little changes to its operations and governance structures since 1993 and maintaining the same codes of conduct since 2009 (BCCSA 2009a). The BCCSA is one of two regulatory authorities for broadcast media. The BCCSA has jurisdiction over and can adjudicate complaints about broadcasters which form part of the NAB (Ciaglia 2017: 822). Broadcasters who do not belong to the NAB fall under ICASA's Complaints and Compliance Committee (CCC) (milton & Fourie 2015: 19). The BCCSA reports to ICASA annually about the level of compliance of the broadcasters. The broadcasters' compliance could affect their annual license renewals, as licenses can be revoked because of non-compliance with the BCCSA (Rudman 2012: 78). The BCCSA, whilst it reports to ICASA, remains independent from ICASA. Yet, as the mechanism is mandated by the Electronic Communications Act 2005, it still works alongside ICASA, as it sends annual reports on the broadcasters and their compliance (BCCSA 2019: Chairpersons Report), cannot amend broadcasting codes without the agreement of ICASA (Reid & Isaacs 2015b: 30) and cannot oversee complaints about elections (Ciaglia 2017: 822).

The independent regulatory authority of the BCCSA is guaranteed under Section 192 of the Constitution (Lotter 2016: 14), which allows for bodies that regulate broadcasting in the public interest and represent the diversity of South African views (milton & Fourie 2015: 192). The call to reflect the public's interest and diverse viewpoints stem from the historical racist apartheid regime which ran the broadcast sector before South Africa became a democracy in 1994. In line with the country's history as a colonial and apartheid state, broadcasting was an area of concern for the country. It extended the apartheid ideology and communications structure (Collins & Louw 1991; Collins 1992; Teer-Tomaselli 1995; Fourie 2001; Louw & milton 2012; Rabe 2020; Chiumbu & Motsaathebe

2021). The BCCSA was born out of the need to counter authoritarian advances in the media by the apartheid government (Louw & Milton 2012).

The history of the BCCSA is interwoven with the history of the broadcast system in the country, as the formation of the BCCSA is the direct result of the measures set in place to transform the media industry from an apartheid, state-led monopoly to the broadcasting sector it is today (Collins & Louw 1991; Collins 1992; Teer-Tomaselli 1995; Fourie 2001; Louw & Milton 2012; Rabe 2020; Chiumbu & Motsaathebe 2021). Broadcasting was critiqued because the “medium was used as a tool to subjugate black people further and to marginalise them” (Chiumbu & Motsaathebe 2021: 1), supporting apartheid values as evidenced by “Radio Bantu, [and] most of the black press being used as instruments of propaganda” (Biko 1987: 14). The shift in broadcasting came in the 1990s, a period of significant broadcasting reform in the country. These changes resulted from the need to transform the sector and emerged from the intersections between the apartheid state, the democratic state, the broadcasters, and the public. This new legislation adopted during the emergence of democracy sought to safeguard the interests of the public and ensure public broadcasting over state interests (Fourie 2013). Its independent functioning was meant to decrease the states' involvement and power over the broadcasting sector, in contrast to the pre-democratic history of the broadcasting sector in the country (Louw & Milton 2012). The BCCSA has traditionally acted as an independent mechanism, servicing the interests of the public (BCCSA 2020b).

The study presents the findings of the analysis of the BCCSA documents, the analysis of one hearing, interviews with the complainant and discussions with the BCCSA chairperson and deputy chairperson. Based on this analysis, the study, firstly, concurs that the BCCSA is functional and partially fit-for-purpose yet recommends essential areas which must be urgently addressed to support the process being more public-centred, publicly accessible and fair. Secondly, the study evaluates the changes to the BCCSA Constitution and recommends that the tribunal carefully manage the self-regulatory relationship whilst remaining committed to independent, credible and fair complaints resolution, holding the public's interest as its guide. Finally, the study presents the newly introduced Code of Conduct (2023) findings and recommends considering the BCCSA jurisdictional issues as it enters digital media regulation. Presently, the BCCSA is in a state of flux. The study presents these findings noting that the BCCSA is undergoing rapid change as it adopts new technologies, extends its jurisdiction, and reviews its current complaints resolution processes.

5.3 The BCCSA: responses to previous research efforts

The BCCSA, in existence since 1993, has relied on chairperson reports as its means of communication. The most consistent commentary on the BCCSA came from chairperson J Van Rooyen (1994; 2007; 2011), who occasionally published in academic journals. Whilst this research is valuable, its objectivity can be questioned due to his positionality as its founding and only chairperson for more than 20 years. The other and more independent source of information on the BCCSA has been by authors who have studied the body as part of the South African regulatory system, many of whom also studied the PCSA simultaneously (Fourie 2002; Kruger 2004; Limpitlaw 2012, Mtimde 2012; Milo & Stein 2013; Reid & McKinley 2020; Satchwell et al. 2021). Whilst this contribution has aided the understanding of the BCCSA, many authors analyse the constitution and codes available on the website, with only a few studying the cases resolved by the BCCSA.

In recent years, more research has been conducted on the BCCSA. The most extensive study of the BCCSA was conducted by Ciaglia (2015), in which 343 rulings between 2011 and 2014 were qualitatively analysed to understand how the BCCSA rules upon complaints of five major television channels. The findings were very elucidating on the rulings and biases of the BCCSA but did not centre the BCCSA as the subject of the study. The analysis on rulings allowed other topics of concern to be studied, with authors assessing rulings for the BCCSA jurisprudence related to complaints and rulings on hate speech (Rudman 2012), the SABC (Ciaglia 2017), freedom of expression and defamation (Du Plessis, 2015), religion and public broadcasting (Scharnick-Udemans 2016) and on children (Lotter 2016). Most of these studies indicate the BCCSA as functional with some room for improvement.

One study which differed from the finding of the BCCSA as functional, investigated the resolution of a complaint as it traced the experiences of the complainants laying the complaint with the BCCSA. The landmark study investigated the BCCSA's process of handling the complaint laid by the Glebelands group after ANN7 aired the faces of vulnerable members, placing their lives at risk (Reid & McKinley 2020). "The Glebelands v ANN7 case surfaced problematic barriers of accessibility to the BCCSA system" (Reid & McKinley 2020, 178), including concerns of accessibility to the resources required to lay the complaint, concerns for the English-only procedure of complaints resolution, concerns about a lack of a public advocate to provide support and guidance in laying the complaint with the body, and concern for the administrative burden which accompanies poor and marginalised communities trying to access the system and lay complaints (Reid & McKinley 2020, 178- 180). Whilst noting that the BCCSA found in favour of the Glebelands community, the study

shares essential insights on the BCCSA, criticising the lack of support for public complaints and recommending means of making it more accessible to the public, through the inclusion of a public advocate to support the complaints, providing representation for the complainant at the hearings, and considering how to circumnavigate issues of hearing costs and issues of English only tribunals. To date none of these recommendations have been included in the BCCSA operations.

Other research trends show the relationship between research on the BCCSA and the PCSA. Research on the BCCSA has been used as a comparative marker for the PCSA's operations on several issues, such as fines (Duncan 2014), third-party complaints and online media jurisdiction (Reid 2017), and the functioning of the BCCSA and the PCSA (Reid & Isaacs 2015b, Cheruiyot 2019a, Satchwell et al. 2021). Others included the BCCSA as a footnote because it ruled on a complaint about the television show *Yizo Yizo* (Ndlovu & Smith 2011), or the Palestine-Israel reportage (Tasseron 2021), as the BCCSA cases set a precedent on what is or is not acceptable within society. This precedent is based on the concept of jurisprudence, which the BCCSA uses consistently in their interpretation of the code, stating:

“In a sense, we've built up a jurisprudence and ... we refer to previous judgments... we tried to put a jurisprudence out there that would be objective in the sense and that broadcasters would know how we how the code should be interpreted ... and how it should be applied” (Chairperson S. Lotter 2021, personal communication, 09 March).

Interestingly, whilst most of these studies offer in-depth findings on the BCCSA, only a few centre on the BCCSA in their research questions. The studies all found that the BCCSA was functional in regulating complaints, with many recommending areas of improvement and growth. Two of the measurements point to the need to improve access and proactively deal with the jurisdictional overlap of the BCCSA. This study evaluates two critical recommendations, suggesting one more based on the need for further research.

5.3.1 Improved accessibility

It has been recommended that the BCCSA improve its accessibility to the public (Reid & McKinley 2020). The report on the *Inquiry into Media Ethics and Credibility* recommended "industry co-regulatory bodies to improve the accessibility of complaints mechanism" (Satchwell et al. 2021: 296). This study agrees with this finding and reiterates the recommendations of other authors that the BCCSA consider accessibility in terms of its languages and supports public complainants through a

public advocate of sorts (Reid & McKinley 2020). The study reviews the accessibility of the BCCSA, finding it lacking. The study reiterates the call for improved accessibility of the complaints mechanism beyond email correspondence which is currently the only way the BCCSA can be reached. Furthermore, the study finds that the public hearing and appeals process has come under scrutiny from members of the public. These processes need to be reviewed to become more accessible and fairer to the public which utilises them.

5.3.2 Unified approaches with other regulatory bodies

Satchwell et al. (2021) identified the jurisdictional overlap between the BCCSA and the Press Council, as, at the time of the report, broadcasters formed part of the Council's jurisdiction due to online complaints only being dealt with by the PCSA. The report recommended the "potential benefits to develop a single co-regulatory code dealing with all content platforms – print, online and broadcast" (Satchwell et al. 2021: 96). Since the BCCSA chose instead to introduce a new code of conduct for broadcasters, this study evaluates the Code of Conduct (2023) and recommends that the BCCSA consider how its members should manage the jurisdictional overlap which results from the new code.

5.3.3 The need for further research

Whilst the chairperson reports are essential and valuable tools to communicate with stakeholders, the study notes with concern the limited independent research available on the BCCSA. The BCCSA could also develop self-evaluative research on its processes and structures or commission independent research on the organisation. The study recommends that the BCCSA consider allowing independent research on its operations as current research on the BCCSA is limited. The research could aid the BCCSA process and support transparency.

5.4 BCCSA Membership

5.4.1 Broadcasters, signatories and membership

The BCCSA has a range of community, privately owned and public broadcasters as its members or signatories. These members align with the code of conduct and fall under the BCCSA jurisdiction for

complaints. The public broadcaster falls under the BCCSA jurisdiction, including its three SABC TV channels and 18 radio channels, including Umhlobo Wenene FM, SAFM, Metro FM and 5Fm. The privately owned media under the BCCSA include the subscription channels and streaming platforms, such as M-Net and Multichoice, which owns DSTV, e.tv and StarSat (TopTV). Privately owned media comprises 18 radio stations such as 702, YFM 99,2, and Gagasi FM (BCCSA 2023a). Community broadcasters also belong to the BCCSA, including Faith Terrestrial TV and the 19 radio stations affiliated with the Association of Christian Media (ACM). The BCCSA also has another 22 community radio stations listed under its stable, including campus radio stations such as Rhodes Music Radio and TUKS FM.

South Africa has a vibrant community radio infrastructure, with some stations belonging to the BCCSA, whilst ICASA regulates most community broadcast media as they are not all signatories of the BCCSA code. ICASA is responsible for spectrum allocation and licencing, and regulates all broadcasters (ICASA 2022), except NAB community members who fall under the jurisdiction of the BCCSA (NAB 2022).

Signatories have the opportunity for “termination of membership” (BCCSA 2020c; 2022b) with a very stringent one-year cool-down period, as they will be liable for fees and must adhere to the code for one year after termination. After the one-year cool-down period after the request for termination, broadcasters will fall under the jurisdiction of the statutory Complaints and Compliance Committee (CCC) of ICASA.

5.4.2 Membership and its statutory implications

Notably, whilst the BCCSA is an independent institution, the penalty for its members non-compliance is far-reaching. Whilst the BCCSA is independent of the state and ICASA (Chairperson S. Lotter 2021, personal communication, 09 March), the study argues that, as the BCCSA reports to ICASA annually (BCCSA 2019: Chairperson Report 2019) about the level of compliance of broadcasters, it cannot be viewed as entirely free of statutory obligation. Furthermore, broadcasters are expected to comply with the findings of the BCCSA, and, if they do not, their compliance could affect their annual license renewals, as licenses can be revoked because of non-compliance with the BCCSA (Rudman 2012: 78). Furthermore, as the mechanism is mandated by the Electronic Communications Act 2005, it still works within the statutes of ICASA; it cannot amend broadcasting codes without the agreement

of ICASA (Reid & Isaacs 2015b: 30) and cannot oversee complaints about elections (Ciaglia 2017: 822).

5.4.3 The complexity of membership, jurisdiction and digitalisation

Whilst the signatories of the BCCSA are straightforward, it is complicated by the jurisdictional overlap currently in place. The first overlap between the BCCSA and the PCSA, discussed in Chapter 4, evaluates the members of the BCCSA belonging to the Press Council. Until 2023, this jurisdictional issue was of grave concern for the BCCSA, the PCSA and the industry at large, as all streamed and online content complaints needed to be lodged with the BCCSA and the PCSA. Since the publication of the new BCCSA Code of Conduct for licensed broadcasters for online content services (2023), it has become less of an issue. The study points to some jurisdictional problems with the BCCSA signatories, all of whom still have dual membership to both bodies, recommending that the BCCSA consider the implications of this dual membership. The study also raises the issue of social media content, as the BCCSA code doesn't extend to social media posts, recommending that the BCCSA addresses how complaints related to social media content should be dealt with.

Another jurisdictional question exists, asking which of the NABs members should be signatories? Currently licensed members of NAB are signatories of the BCCSA. Yet, the potential for enlarged membership is evident as the BCCSA has moved online and echoed a more significant commitment to NAB's self-regulation, resulting in the possible expansion of the BCCSA signatory list. There is also a need to reassess the current NAB member/BCCSA signatory relationship. Currently, NAB includes two ICASA licensed broadcasters (ICASA 2022), which should fall under the jurisdiction of the BCCSA but do not appear on their signatory list (BCCSA Signatories 2022), namely, the commercial stations Classic FM and NWFM (NAB 2019). Whilst these stations do fall under ICASA (ICASA 2022), it is recommended that the BCCSA review the NAB membership list and consider whether these ICASA licensees should form part of the signatory list.

The possibility for enlarged membership of the NAB could cause further confusion in the future. The potential for membership growth of the BCCSA becomes complicated by its relationship to the NAB and its adoption of online content codes. The NAB has a large membership of broadcasters, some of which are regulated by the BCCSA, as evidenced by their signatory list, yet others are not on the signatory list as they are associate NAB members and enjoy partial membership rights. Since the BCCSA operates as a self-regulatory council for NAB members, it could be argued that these

associated NAB members could be included in the signatory list in the future. An example of such a scenario is escalated by members like *The Media Connection*, which represents “200 local community radio stations” (The Media Connection 2022a) in nine provinces as part of the organisation (The Media Connection 2022b). Some of those represented by *The Media Connection* are traditional stations such as Bush Radio, which is a member of the NAB and a signatory of the BCCSA. Yet, the other Media Connection members are not clearly stated as signatories of the BCCSA. Presently, many of these radio stations fall outside of the jurisdiction of the BCCSA, as they are exclusively online, yet the future might look substantially different.

Judging by the draft Next Generation Radio Frequency Spectrum for Development Policy (Gov Gazette 2022), aligned to the Electronic Communications Act No 36 of 2005, the future of South African radio is online. The government, by “optimising the age of technology” (Gov Gazette 2022), intends to repurpose radio waves for state use and instead allow "radio be accessible to the general public via online technology” (Gov Gazette 2022). The policy dictates that radio “*Spectrum will be utilised for national security while ICTs will be used for radio*” (Gov Gazette 2022). Spectrum will be supported by the roll out of 5G networks, introduced in 2022, meant for broadcasting radio stations via online technology. The policy also allows for the shutdown of the older internet signal, foreseeing the "shutdown of obsolete and ineffective networks", with 2G envisioned to be phased out on 31 March 2024 and 3G phased out by 31 December 2024.

With the shift in policy and the envisioned online radio transmissions/broadcast, the radio environment, currently regulated by the BCCSA, is set to change dramatically. Another potential regulatory question on extended jurisdiction could arise. The example of *The Media Connection*, and the 200 local radio stations, many of whom are streamed online, could be eligible for licensing with ICASA, as radio spectrum accessibility will expand due to internet connectivity and 5G provisions. The 200 radio stations currently not reflected within the BCCSA signatory list could potentially become part of ICASA and, therefore, the NAB. Thus, possibly extending the BCCSA signatories. These stations, whether traditional or online, could fall under the jurisdiction of the BCCSA since the regulatory jurisdiction has expanded to online content (BCCSA 2023a).

The BCCSA adopted online content regulation in February 2023, defining online content services as "an on-demand streaming or downloading service provided by a BCCSA Signatory, a broadcasting service licensed by the Independent Communications Authority of South Africa" (BCCSA 2023b). Thus, the BCCSA and the NAB should consider how these 200 broadcasters, which fall under the NAB member organisation, form part of and should be regulated in the future. “Digital technologies

have enhanced radio's consumption" (Chiumbu & Motsaathebe 2021), which could further the argument that the country and its listeners could benefit from having spaces for the traditional and online radio stations of *The Media Connection* in which they could raise their concerns about radio content in the ever-digitalising radio space. The implications must be carefully considered, as the extension of 200 members to the BCCSA signatory list could curtail its ability to resolve complaints if they experience an influx.

Notably, the government's digitalisation and migration plans have been haphazard and implemented far slower than anticipated, as evidenced by the digital terrestrial television (DTT) set-top box introduction. Thus, as the government policy provisions indicate, these issues might be further off than in 2024. Regardless of the final implementation date, the regulatory environment should consider what this shift will mean for "The regulator" (Gov Gazette 2022), presumed to be ICASA and the related complaints mechanisms. The recommendation furthers that the BCCSA should consider how it will prepare for online complaints and manage online signatories when radio provisions move online. In the interim, it is recommended that the BCCSA clarify its relationship to the NAB members, such as *The Media Connection* membership and their potential to become a BCCSA signatory.

5.5 BCCSA complaints resolution processes

5.5.1 Stages of the complaints process

The Broadcasting Complaints Commission of South Africa is mandated to resolve public complaints about the content its signatories broadcast (BCCSA 2020b). Operating as an independent judicial tribunal, the BCCSA rules upon complaints using the principles of natural justice (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May) and develops jurisprudence on issues and interpreting the code of conduct (Chairperson S. Lotter 2021, personal communication, 09 March). The BCCSA applies three codes of conduct to its signatories, one for free-to-air channels, one for subscription broadcasters and one which extends to the online content services of licensed broadcasters (BCCSA 2023a). The Code of Conduct defines the expectations for broadcasters, their licensing agreement with ICASA and the programming classifications imposed by the Film and Publications Board (BCCSA 2017: FAQ).

The BCCSA rules on complaints to provide a cost-effective and speedy settlement (BCCSA 2022b: 2). The complaints resolution process involves laying the complaint by the public in response to unacceptable content. The registrar reviews the complaint and, if accepted, the complaint proceeds to

the adjudication phase. Adjudication by either a commissioner or a tribunal of commissioners results in a ruling published on the BCCSA website. If complainants or broadcasters are unhappy with the outcome, they appeal to the appeals tribunal.

Furthermore, since the removal of the waiver (2016-2017), if complainants remain dissatisfied with the outcome of the process, they may find recourse within a court of law. Recourse before the law is an important and democratic right for all citizens in the country. The recourse before the courts allows complainants unhappy with the BCCSA decision to take their case before the courts. Since the removal of the waiver, complainants could seek legal recourse in a court of law. This has only happened on two occasions, both of which were unsuccessful (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May). The removal of the waiver and the procedure has not had a material effect on the BCCSA or its processes (BCCSA 2016 – 2017: Annual Review).

The study finds that the BCCSA is functional and fit to rule on complaints but there are concerns as issues of accessibility, a lack of public support, its self-regulatory claims and the jurisdictional matters might need revision. Yet the mechanism should be commended for aiming to be responsive to its broadcasters' digital and online needs, it is hopeful that it will be responsive to two more areas. These are social media and digital broadcasts and the needs of the public related to appeals and costs. Researchers and members of the public who have experienced the system have asked for the complaints resolution process to be more publicly accessible and supportive and have called for the appeals process to be reviewed. The sections below outline the stages of the complaints resolution process as per the BCCSA procedures. The section further discusses each of the stages of adjudication, recommending areas for closer review by the tribunal.

5.5.1.1 Laying the Complaint

Who can lay a complaint with the BCCSA? Currently, only those with email access are able to lay a complaint. The BCCSA needs to increase its accessibility for complaints. The complaints resolution process is functional but only accessible to those with email. The telephones have an automated message diverting complaints to emails, and the website doesn't have a space in which potential complainants can comment, lay a complaint, or ask for assistance. The BCCSA states that complaints against the broadcast signatories are laid with the BCCSA via post, fax, or email. Yet, these technologies are not accessible or in use. Thus, only complainants with email addresses and access can complain to the BCCSA. It is recommended that the BCCSA, at the very least, allow for telephonic complaints. At best, the BCCSA should allow for complaints to be submitted through their online site to support complaints to be stored in an online database, to keep a further record of rulings

and to ensure that complainants can easily lay a complaint online. It is recommended that the BCCSA include a ‘contact us’ form on the website which could allow public complainants to share their concerns on the website and ask for assistance with laying a complaint. The BCCSA should also consider the introduction of a public advocate, who could assist the public in laying complaints with the BCCSA system. The BCCSA currently have a secretary and a case officer, but it is unclear what their relationship is to the public and the needs of complainants who might be less proficient in English or lack access to email required to lay a complaint.

5.5.1.2 Evaluation of complaints by the registrar

The complaint is received by the registrar, who checks it against the criteria of the complaint and the Code of Conduct (BCCSA 2022a). The registrar or chairperson decides if the complaint should be entertained and if it falls within the ambit of the code (BCCSA 2022a). The registrar also interacts with the respondent and gathers the evidence of the broadcasts accordingly. This section of the process is currently where many complaints are dismissed, "not entertained", "does not have enough information" (despite attempts to elicit such information) (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May) or does not meet the requirements of the code or refers to issues which are not within the jurisdiction of the BCCSA (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May). The registrar is further responsible for receiving complaints, evaluating and classifying complaints, engagements with the complainant and the respondent, and deciding what would occur next. The registrar or chairperson evaluates the complaint and evaluates the *prima facie* proof of contravention of the Code of Conduct (BCCSA 2017: FAQ). Through communications with the broadcaster and the public, the registrar can resolve complaints, as evidenced by the multiple instances of the public complainant accepting an apology from the broadcasters (BCCSA 2017: Chairpersons Report 2017). Yet, later reports noted that this number could account for the lack of responses to the follow-up apologies from broadcasters (BCCSA 2019: Chairpersons Report).

5.5.1.3 Tribunal hearings

Tribunals are informal spaces in which adjudicators hold discussions with complainants and respondents to reach a settlement on the cases heard (2023b). The tribunal publicly reviewed the case by the Support public broadcasting coalition (SOS vs SABC 2021). It used a systematic and orderly approach to the hearing; all participants given a fair chance to speak and be heard. Hearings do not allow "legal or any other representation at such proceedings but may be accompanied by advisers" (2023b). The tribunal included adjudicators and complainants with legal expertise, but still managed to allow a less formalised and court like proceedings. The tribunal listens to material, and hears the

arguments and evidence presented by the complainant and respondent, but neither party needs to attend as the tribunal will go ahead with or without their input (BCCSA 2017: FAQ). The meetings historically were held at the BCCSA boardroom in Johannesburg (BCCSA 2017: FAQ) and have since been moved online with Zoom. The commissioners deliberate on the case and agree on a judgement. Tribunals are open to the public (BCCSA 2020e: Criteria for complaint).

The process began with replaying the broadcast content being complained about. The complainants and respondents had the opportunity to present their arguments and give their evidence. The tribunal asked clarifying questions, thanked both parties for their submissions and adjourned the hearing. The ruling was later sent to the parties involved and published online. The complainant found that the hearing went well but was hindered by technological issues.

The hearing was odd, because one of the tribunal members just kept dropping their call, they just didn't have good internet systems. So that's, you know, that caused some problems. I don't think the BCCSA is technology is, is very good... the experience of the hearing was fine. The adjudication process wasn't fine. (Complainant J. Limpitlaw 2022, personal communication, 10 April).

As hearings become more technological focused, these should consider the technological interference and challenges faced by the users initially accessing the Zoom hearing. The hearing process whilst functional, practical, fair and well-organised, was troubled by technological connections.

5.5.1.4 Adjudication and rulings

Adjudication is the settlement of complaints in terms of the code of conduct (BCCSA 2022a). The rulings and resolutions of complaints involve the registrar, chairpersons, and commissioners, who work together to evaluate and adjudicate complaints. Resolving complaints relies on the registrar and the 12 BCCSA commissioners responsible for the resolutions (BCCSA 2020d). The process involves two possible adjudications, either by a commissioner or the tribunal. Adjudication by commissioners allows the commissioner to listen to or watch the broadcast and consider the material against the code of conduct. This is usually enacted when the case is an apparent and straightforward contravention of the code. The tribunal is only enacted when the complaint is more severe or complex (Chairperson S. Lotter 2021, personal communication, 09 March).

The complainant interviewed about their experience of the adjudication and hearing stated that "Okay, so the experience of the hearing was fine. The adjudication process wasn't fine. They were ruling that they didn't need to broadcast an apology. I mean, they found them guilty" (Complainant J. Limpitlaw 2022, personal communication, 10 April). The complainant was deeply concerned by the

adjudication and the case findings and, as a result, took the complaint to appeal as they were concerned about the sanctioning and findings of the hearing.

The outcome of the complaint is written and shared with the complainant and respondent, and published on the BCCSA website. The registrar follows up on the sanctions imposed, and in the case of fines, these funds are paid to the BCCSA account. As the BCCSA is linked to ICASA, non-compliance by the broadcaster can be reported to ICASA through the non-issue of a compliance certificate, which could lead to issues with license renewal.

5.5.1.5 Appeals led by the Chair of Appeals

If parties are dissatisfied with the ruling, they may appeal the decision (BCCSA 2022b: 13). If the chairperson rejects the appeal, the parties may apply with the deputy chairperson (BCCSA 2017: FAQ). The appeal is reviewed by the appeal tribunal, led by the Chair of Appeals and two commissioners who were not involved in the original tribunal process (SOS vs SABC 2021). If the outcome of the appeal aggrieves any of the parties, they appeal to the appeal tribunal within five days of the ruling (BCCSA 2022b). The case has brought to light concerns about the appeals processes, with the complainant finding the process unfair and unlawful. The complainant stated:

“We appealed, we won, and we got lumped with a security costs order because we were the appellant, and that equalled the SABC. I mean, R10,000 ... nothing for the SABC and ruinous for a small NGO that’s relying on volunteers. So, the overall outcome was really bad. And that is why we have gone to the High Court to take them on review ... What we are arguing is that the decision was so bad, the rulings were so bad, that they had to be set aside for the process being unlawful (Complainant J. Limpitlaw 2022, personal communication, 10 April).

The complainant, who forms part of a civil society organisation, has taken the matter to the High Court to declare it unlawful and to review the BCCSA process before the courts. The complainant has the right to take the broadcast complained about to court and seek recourse in the courts since the discontinuation of the waiver in 2016. Notably during this process, the BCCSA was taken to court to declare Rule 3.9 of the Procedures unlawful and “unconstitutional because it denied a complainant it’s right to approach a court for redress” (BCCSA 2016-2017: Annual Review). The BCCSA chose not to oppose the application and removed the rule from their procedures. The complainant noted that “neither the SABC nor the BCCSA are defending this matter in court.” This could indicate that “they know that there is a problem with the judgment that there was a problem with the process.” (Complainant J. Limpitlaw 2022, personal communication, 10 April).

The BCCSA Procedures Section 4 of the Appeal to Tribunal explains the BCCSA's approach to costs in two sections of the procedure, namely Section 4.4 and Section 4.8 which state:

4.4. Where such leave is granted, the said Chairperson may require from the party who applied for such leave to provide security to the Registrar for the costs of the appeal by the Appeal Tribunal, which costs would include the foregoing procedural costs and would be based on an appeal, which does not last longer than one day. (BCCSA 2023b: Procedures Section 4.4).

4.8. The Appeal Tribunal may, where it is deemed appropriate, order an appellant to pay the costs which the Commission had in determining the appeal. Such costs would consist of the fees and costs payable to the persons who were involved in the allowing of the appeal, the hearing thereof plus an administrative fee determined by the Chairperson of the Commission from time to time. An Appellant shall be notified by the Registrar of the possible costs involved when the appeal is lodged. (BCCSA 2023b: Procedures Section 4.8).

The complainant argues that the adjudication is unfair and that the appeals process is unjust. The appeals are brought to the BCCSA from the public, and holding them liable for the costs, even if the BCCSA finds it in their favour, should be deemed unconstitutional. This study agrees with the concerns related to costs for appeals which are expected from public complainants and NGOs to appeal their rulings by the BCCSA.

The study, firstly, recommends the BCCSA consider its approach to sanctions and apologies. While the BCCSA does fine its broadcasters, the publications of apologies are a valuable sanction which can be used to signal to and educate the public about unethical publications. Monetary fines are helpful, but the apology could serve an important function for stimulating public debate and discussion. Secondly, the study suggests that the BCCSA reconsider the appeals process and the costs of appeals for the public. The process should not be costly to the public and civil society organisations who query issues of adjudication.

5.5.2 Complaints resolution statistics

The BCCSA has kept immaculate records for the past few decades, with the earliest reports utilized in this study, accessed from 2010-2011 onward (BCCSA 2010 – 2011: Chairperson Report). The reports are an excellent outward facing tool for communications with the public about the BCCSA processes and offers transparent explanations on the BCCSA and its progress. These reports were once publicly accessible on the website (BCCSA 2020a) but have in recent years been removed from the website, and are only available at request (BCCSA 2023d). The reports include an

overview of the BCCSA activities for the year, along with the statistical data on the complaints, rulings, and findings of the BCCSA.

The statistics and records of complaints have become the generally accepted data source for evaluating the complaints mechanism and mandate. Statistics serve as the fundamental indicators and have been used by numerous studies to evaluate performance. The BCCSA has made their record of rulings available to the public through annual reports up until 2019. Since then, the reports have remained only for the BCCSA/NAB AGM and have not been made public, making accessibility to the records a significant challenge. The researcher received the data from the BCCSA for the 2021 period but could not receive further data on their records. The following data explores the 11 years of data available from the BCCSA.

Table 13: BCCSA complaints

| Overview of complaints laid with the BCCSA | | | | | | | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|------|------|------|------|-------|
| Year | 2010 2011 | 2011 2012 | 2012 2013 | 2013 2014 | 2014 2015 | 2015 2016 | 2016 2017 | 2017 2018 | 2018 2019 | 2019 | 2020 | 2021 | 2022 | Total |
| Complaints | 1260 | 1586 | No report | 1643 | 1643 | No report | 2219 | 2010 | 2254 | 2254 | 2431 | 2068 | 1493 | 20861 |

According to the statistics for the 11 available years, the BCCSA receives, on average, 2086 complaints annually, with a steady annual increase in complaints. The number of complaints could indicate the public’s interest and trust in the BCCSA (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May), but, as there are no statistics on the number of complaints from different sectors, be it the public, third-parties, businesspersons or politicians, it is not possible to verify whether the public is using the service.

The record of the rulings shows that whilst the BCCSA receives many complaints annually, the bulk of these is not entertained; thus, the true reflection of the BCCSA's record on complaints is reflected in column 2 of the table below, which comprises the following formula CE (Complaints Entertained) = CR (Complaints Received) – CNE (Complaints not Entertained). This formula reflects the total

number of complaints entertained by the BCCSA and is the true reflection of the complaints that are ruled upon and investigated by the BCCSA.

Table 14: Detailed record of BCCSA rulings

| Detailed Record of Rulings | | | | | | | | | |
|---|-------------------------------|---------------------|---|--|---|-----------------------------|------------------------------|-----------------------------------|-----------------------------------|
| Total number of complaints dealt with by year | | | | | | | | | |
| Date | <u>Complaints entertained</u> | Complaints received | Complaints not entertained = (Column 5+6) | <i>Not entertained because of jurisdiction</i> | <i>Not entertained due to vagueness</i> | Dealt with by the registrar | Adjudicated by commissioners | Tribunals | Informal |
| 2010 - 2011 | unknown | 1260 | No further information in the report | | | | | | |
| 2011 - 2012 | 326 | 1586 | 1912 | 1180 | 732 | unknown | 57 | unknown | |
| 2012 - 2013 | Unknown. No report available | | | | | | | | |
| 2013 - 2014 | 86 | 1643 | 1557 | 1064 | 493 | unknown | 36 | unknown | |
| 2014 - 2015 | 54 | 1643 | 1589 | 1074 | 515 | unknown | 23 | 10 | unknown |
| 2016 - 2017 | 506 | 2219 | 1713 | NA | 1713 | 148 | 80 referred six upheld | unknown | |
| 2017 - 2018 | 330 | 2010 | 1680 | 963 | 717 | 127 | unknown | 30 were referred, and five upheld | 93 accepted broadcasters' apology |
| 2018 - 2019 | 1429 | 2254 | 825 | | 825 | 162 | 95 referred 20 upheld | 8 | |
| 2019 - 2020 | 528 | 2431 | 1903 | 1903 | | 217 | 68 | 8 | 220 complaints accepted |

The trajectory indicated by the blue line in the graph below is, thus, a fairly accurate indication of what the BCCSA rules upon, whilst the rest of the complaints are dismissed at the registrar's discretion for various reasons. The issue of jurisdiction is one of the leading causes for complaints being dismissed, an indicator of the importance of the jurisdiction of the BCCSA in their mandate to rule on complaints.

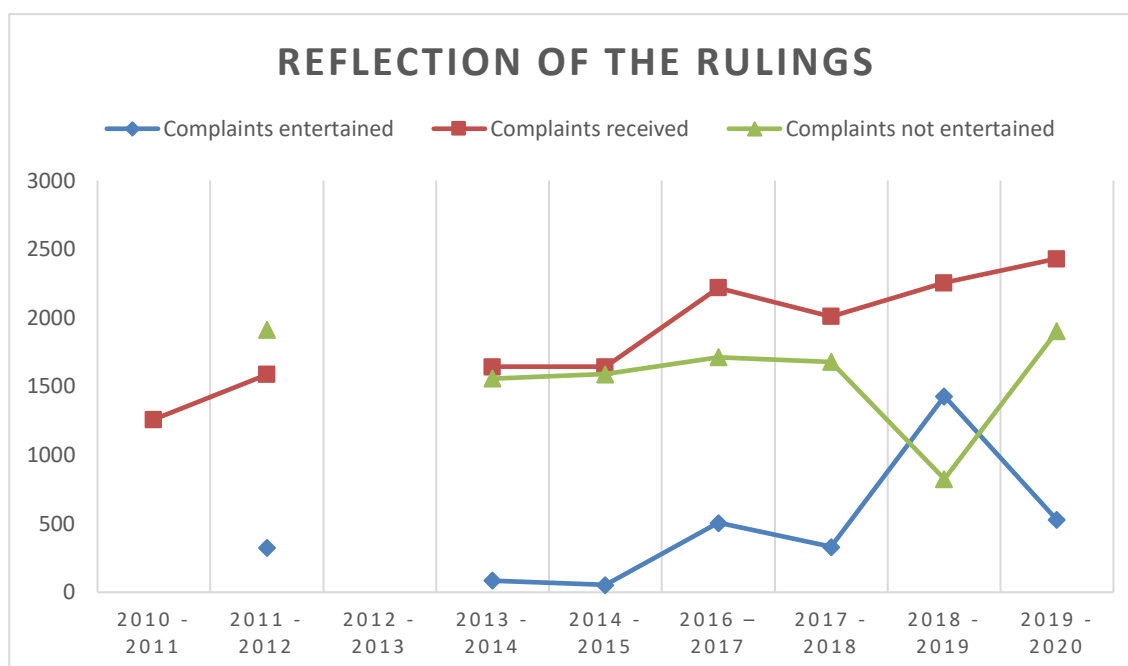


Figure 4: Broadcasting Complaints Commission of South Africa rulings

The other reason cited for declining to entertain is that "not all of these complaints were referred for adjudication since not all the complaints constituted a *prima facie* contravention of the Code." (BCCSA 2022: Chairperson Report). Upon analysis, it is evident that whilst the BCCSA receives many complaints, most of these are not entertained for various reasons, primarily related to jurisdiction or vagueness. The Complaints Not Entertained are usually declined because "they related to advertisements, Subscription Fees, SABC TV Licence, Consumer matters, Printed Media, News24, Internet and Social Media, Cinema movies, Dignity of another person, Broadcasters not signatories of the BCCSA, Requests for dismissal of presenters, Scheduling changes, Cell phone providers, Human Rights matters, not members of the National Association of Broadcasters" (BCCSA 2016 –

2017; 2018 – 2019: Chairpersons Reports), or because the complaints are "lodged after the 30 days required in our procedure, orchestrated campaign, etc," (BCCSA 2019: Chairperson Report).

Vagueness usually relates to a lack of clarity on the complaint, resulting in incomplete complaints despite the registrars' communications with complainants requesting further information (BCCSA 2018 – 2019: Chairperson Report). The BCCSA stands by their reasons for not entertaining the complaints, as details such as the time, date and channel of the broadcast are required for the BCCSA to investigate the concerns relayed by the public. These details allow the BCCSA to follow up on the complaints, ascertain the content for review, and allow the BCCSA to determine according to the code if the complaints were within the watershed periods etc. (Chairperson S. Lotter 2021, personal communication, 09 March).

5.6 Codes of conduct guiding the complaints resolution process

5.6.1.1 Traditional broadcasting codes

The BCCSA oversees broadcasting complaints in line with broadcasting standards (Kruger 2009: 18), using the codes of conduct almost verbatim with the ICASA code (Scharnick-Udemans 2016: 166). Whilst the code might seem restrictive, it is linked to the South African Constitution and its principles of freedom of expression, leading to a "constitutional bias" within the context of judgements handed down, as they find in favour of freedom of expression due to its "paramount importance" (Scharnick-Udemans 2016: 167).

The BCCSA introduced the two codes of conduct in 2011, the first being the Free-to-air Code of Conduct for broadcast services licensees (BCCSA 2009a) and the Code of Conduct for subscription broadcasters (BCCSA 2009b). The codes differ, with the former being more restrictive due to the nature of the audience being considered the public and the latter being less prescriptive due to the multiple parental controls which can be put in place to restrict inappropriate viewing.

The contents of the codes illustrate the expectations for broadcasters on how to produce and air information that meets high professional standards. The code for free-to-air broadcasters outlines how to approach broadcasting violence and hate speech (BCCSA 2009a: 3), broadcasting content to children (BCCSA 2009a: 6) and outlines the expectations on news production (BCCSA 2009a: 11). Moreover, how to proceed with "controversial issues of public importance" (BCCSA 2009a: 13). The subscription code maintains the same spirit as the free-to-air code. Still, it extends to parental control

mechanisms (BCCSA 2009b: 21) and the differing expectations in the watershed period (BCSA 2009a: 7)¹⁰. The code's prescription on the news is short, stating that media producers should produce information "truthfully", report in a "balanced manner", committing to "honest" reporting unless the public interest dictates otherwise (BCCSA 2009a: 11). The code prescribes the expectations for news reporting but seems geared towards programming and entertainment more than news.

The BCCSA is committed to freedom of expression, information provision, and the viewer's freedom to receive information. These principles are foundational to the operations of the BCCSA and the interpretation of the code of conduct, which aims to be less prescriptive, and, instead, seeks to provide viewers with the information needed to make informed decisions about their viewing and listening. The only exception to these freedoms is protecting children and individual privacy and integrity (Chairperson S. Lotter 2021, personal communication, 09 March), which could clash with the rights to freedom of expression and information. These considerations become essential to the registrar, who establishes the relevance of the complaint according to the *prima facie* interpretation of the code (BCCSA 2020c: Constitution 1.5.1). The commissioners adjudicate on complaints using the code of conduct on the principles of natural justice (Chairperson S. Lotter 2021, personal communication, 09 March) and justice prudence on existing interpretation of the code (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May).

5.6.1.2 *The introduction of the BCCSA's Code of Conduct for online content services*

The BCCSA has had the same codes of conduct for many years, with signatories adopting the codes of conduct for free-to-air (BCCSA 2009a) and subscription services (BCCSA 2009b). In 2023, the BCCSA announced a shift in its jurisdiction, evidenced by the new code of conduct regulating online content services. The BCCSA's Code of Conduct for online content services for licenced broadcasters "regulates Catch-up, Box Office, Radio Podcasts, Radio Streaming, and Video on Demand that are under the editorial control of the BCCSA Signatories (NAB members). It does not include social media posts, printed news articles, DSTV Box Office, Showmax or Netflix programme" (BCCSA 2023c).

¹⁰ Watershed indicates the time when content and programming is suitable for some viewers and not others, usually intending to protect children and sensitive viewers from inappropriate programming. The BCCSA defines it as " the period between 21h00 and 05h00 for free-to-air television Broadcasting service licensees" (BCCSA 2009a).

The principle of the new code is almost identical to the 2009 Free-to-air code (BCCSA 2009a). The new code, whilst indicating an extended reach of the BCCSA, indicates this shift by replacing the words "programming" and "broadcast" (BCCSA 2009a) with the phrase "online content" (BCCSA 2023c). Notably the sections on comment and controversial issues of public importance are similar, whilst the wording differs slightly.

The other area in which the 2009 and 2023 codes differ is the issue of audience advisories. When screened online, audience advisories have more flexibility as “the advisory may be a prior audio or visual warning, an advisory on the EPG listing, or a warning within the content itself” (BCCSA 2023a), indicating that user advisories can be shown before the show or during the show itself (BCCSA 2023a). Traditional broadcasts have less flexibility:

The advisory must be visible on the screen for a minimum of 90 seconds at the commencement of the programme and for a minimum of 30 seconds after each advertisement or other break. Where the frequency of the said subject matters, or any one or some of them, is high, a continuous advisory will be necessary, whether it is broadcast before or after the watershed. (BCCSA 2023a).

Indicating that broadcasters must display user advisories prior to, during and at add breaks (BCCSA 2009a). These advisories are meant to reflect the Films and Publications Board classifications, as the current advisories state that:

Where a Films and Publications Board classification for a film exists in terms of the Films and Publication Act No. 65 of 1996, such classification may be used as a guideline for an advisory to the broadcast of the film. (BCCSA 2009a).

The other significant shift to the online code is the removal and exclusion of three sections of the code, two of which relate to news, with the other referring to elections. The code has excluded three phrases. Firstly, "Broadcasting service licensees must advise viewers in advance of scenes or reporting of extraordinary violence, or graphic reporting on delicate subject matter such as sexual assault or court action related to sexual crimes, particularly during afternoon or early evening newscasts and updates" (BCCSA 2009a: Section 9). The removal of this clause indicates the lack of watershed periods online, with streaming services needing to be less time-sensitive to public viewing than their public service counterparts.

Secondly, it removed the phrase: "Broadcasting service licensees must not include explicit or graphic images or language, related to news of destruction, accidents or sexual violence which could disturb children or sensitive audiences, except where it is in the public interest to include such material"

(BCCSA 2009a: Section 9). This exclusion shows a move away from prescriptions on sensitivity. Notably, the code has an extensive section on Children (BCCSA 2023a: Section 4) and their protection against violence, abuse, safety, and profanity. The code also adapts the 2009 phrase on children's programmes, stating, "Animated Online Content for Children, while accepted as a stylised form of storytelling which may contain non-realistic violence, must not have violence as its central theme, and must not incite dangerous imitation" (BCCSA 2023: Section 4.3). Thus, reiterating the BCCSA's commitment to the protection of children. The final exclusion concerning elections (Section 14) and competitions (Section 16) shows the nature of online programming, allowing broadcasters to discuss elections and host competitions online. The matter of election coverage could become a challenge for the public broadcaster, which has appeared before the BCCSA on issues of editorial independence from the ruling party.

Commentators could condemn the shift to be online, having very little change to the BCCSA codes or operations, as problematic. Yet, as the BCCSA needs the support of ICASA to review the codes, it might have been the best approach to extend the jurisdiction without an entirely new code. This approach has been adopted by multiple regulators around the world, with many adopting their code to online jurisdiction without substantive changes (see Chapter 2). Notably, as the future of the BCCSA signatories will change due to the self-regulatory adoption (BCCSA 2022b: Constitution), resulting in all licenced NAB members being considered for BCCSA membership, the extension of the jurisdiction to online media (BCCSA 2023a) and the future of a shifting radio spectrum being replaced by online radio access (Gov Gazette 2022), it is recommended that the BCCSA consider its code of conduct for the future of digital broadcasting.

5.6.2 The code versus practises of BCCSA signatories

The newly introduced BCCSA Code of Conduct for Online Content Services for Licenced Broadcasters regulates online content of its existing licensed broadcast signatories. The code reproduces much of what has been the regulatory modus operandi of the BCCSA, with minor changes and exclusions. The BCCSA has amended the existing 2009 free-to-air code to adapt to online environments. Notably, this principle of adapting existing codes to online environments has been the international approach to ethical codes of conduct, with many media councils reproducing their codes for online environments. Whilst this might have worked in other cases, it proves less suitable to the

current online/broadcasting practices of the BCCSA’s signatories, as many make use of the platforms excluded from the BCCSA’s mandate. The code defines online content service as:

On-demand streaming or downloading service provided by a Signatory, who is a broadcasting service licensed by the Independent Communications Authority of South Africa, which-

- a) is under the Signatory’s editorial control;
- b) has the primary purpose of providing audio and /or video content, and which has similar characteristics to traditional broadcasting,
- c) is provided to the public or sections of the public, and
- d) is delivered to the end user of an online delivery medium, including the internet but does not include Social Media content or User Generated Content. (BCCSA 2023a).

The definition of online content includes streaming services provided by the broadcasters/signatories, under the editorial control of the broadcasters. Examples of these services are reiterated:

The BCCSA’s Code of Conduct for online content services for licenced broadcasters “regulates Catch-up, Box Office, Radio Podcasts, Radio Streaming, and Video on Demand that are under the editorial control of the BCCSA Signatories (NAB members). (BCCSA 2023a).

Thus, the BCCSA will only have the authority to regulate the streaming services of the BCCSA signatories. This is a cause for concern, as the BCCSA code excludes all social media content, resulting in a caveat in the major communications approaches/networks of online broadcasting platforms. When reviewing the online communication practices of the broadcaster, it is evident that online media and social media form part of its operational and practices.

Table 15: Broadcast signatories social media usage

| Area | Chanel | YouTube Users | Twitter Handles | Facebook Accounts | Frequency of use | Content |
|--------------|--|--|---|--|--|--|
| Public Tv | SABC TV SABC 1 SABC 2 & SABC content specific channels | SABC News SABC Lindaba | @SABCNews @MorningLive SABC @SABCPortal @SABCPlus @Official_SABC1 @SABC2 @SABC_Sport @SABCEducation | SABC News SABC Sport SABC1 Mzansi Fo Sho | Daily on all YouTube, Twitter and Facebook | News and entertain content posted, including: <ul style="list-style-type: none"> • News videos, photography, articles • Links to the YouTube page livestream • Official statements • Retweets of videos from their journalist's accounts • Content programming • Videos and snippets from television shows. |
| Public radio | MetroFM 5FM Umhlobo Wenene FM Radio 2000 Lotus FM | Metro FM 5FMTV Umhlobo Wenene FM Radio2000 _za Lotus FM | @METROFMS A @5FM @UWFM88_10 6FM @radio2000_Z A @LotusFM | METRO FM 5FM UMhlobo Wenene FM 88 – 106 Radio 2000 Lotus FM | Daily on Twitter and Facebook, less frequent on YouTube | News and entertainment content <ul style="list-style-type: none"> • Photos • Videos • Links to news shows • Snippets from segments |
| | e.tv | e.tv | @etv | E.tv | Daily on Twitter and Facebook Weekly on YouTube | News content <ul style="list-style-type: none"> • News articles, videos, photos • Links to the YouTube livestream • Links to the ENCA.com website |

| | | | | | | |
|--|--------------------------|-------------------------|---------------------------|-----------------------|--|---|
| Private TV | MNET | | @MNET | M-Net | Daily on all YouTube, Twitter and Facebook | <ul style="list-style-type: none"> • News show promo's |
| | Newzroom Afrika | Newzroom Afrika | @Newzroom405 | Newzroom Afrika | Daily on all YouTube, Twitter and Facebook | <ul style="list-style-type: none"> • News content • Television promo videos • Snippets and excerpts from news segments. • News stories, videos, photo's • Links to the livestream YouTube channels |
| | ENCA | ENCA | @ENCA | ENCAnews | Daily on all YouTube, Twitter and Facebook | <ul style="list-style-type: none"> • News content • Television promo videos • Snippets and excerpts from news segments. • News stories, videos, photo's • Links to the livestream YouTube channels |
| | Openview | Openview | @openviewforever | Openview | Daily on Twitter, weekly on Facebook and YouTube | <ul style="list-style-type: none"> • Entertainment and sports content |
| Private Radio With daily YouTube live stream | 702 KFM | Radio 702 Kfm 94.5 | @radio 702 @933KFM | 702 KFM 94.5 | Daily on YouTube, Twitter, Facebook | <ul style="list-style-type: none"> • Direct livestreams on YouTube channel • News and entertainment content • Photos, videos, and articles from their websites • Links/adverts for shows |
| Private Radio | HeartFM1049 Gagasi FM | Heart FM Gagasi 99.5 | @heart1049FM @GagasiFM | Heart FM Gagasi FM | Daily on Twitter, Facebook, less on YouTube | <ul style="list-style-type: none"> • News and entertainment content • Photos, videos, articles • Links to and adverts for shows |

Most of the broadcasters/signatories use social media accounts to repost and repackage content, thus, all these posts and accounts are now outside of the ambit of the code. Examples of the signatory's use of social media platforms such as Twitter and Facebook are included in the table above, with many signatories posting news and entertainment content online daily. The code also does not distinguish its stance on YouTube, a popular streaming service for South African broadcasters. YouTube could be classified as a social media and video-sharing service as it allows users to post and comment on content generated on the site. As most of the signatories of the BCCSA code have channels on YouTube, post content to the site daily, and livestream most of their television shows alongside other newsworthy content such as press briefings, court room appearances, parliamentary addresses etc, these channels should form part of the regulatory ambit of the code. Since they do not, alternatives for social media content regulation should be sought.

5.7 The BCCSA and its evolution

5.7.1 BCCSA and its governance structure

The governance and oversight of the BCCSA have, on the one hand, a complaints mechanism responsible for ruling complaints against the broadcasters by the public and, on the other hand, a governance structure that determines the running and operations of the BCCSA. The complaints mechanism is entirely independent of the NAB and other entities (Chairperson S. Lotter 2021, personal communication, 09 March), whilst the governance of the BCCSA is more complex due to its redefined self-regulatory commitment (BCCSA 2022)

Historically, the BCCSA operated as an independent tribunal, independent from its founder NAB (BCCSA 2021: Constitution). The governance until 2021 was entirely the responsibility of the commissioners. The BCCSA structure includes 12 commissioners, 11 part-time and one who serves as the chairperson (BCCSA 2020d) and a commissioner who serves as a deputy chairperson for five years (BCCSA 2020d: BCCSA Frequently asked questions). The BCCSA has had four chairpersons in its 30-year history, Prof Kobus van Rooyen (1993 – 2015); Mr Justice Mokgoatheleng (2015 – 2016), who resigned after one year; Prof Henning Viljoen (2016 – 2020); and Advocate Lotter (2022 – 2026), with the interim chairpersons' role being fulfilled by commissioners in an acting capacity, including Brian Makeketa who was acting chairperson in 2016, and Advocate Lotter in 2021 (BCCSA 2011 – 2021: Chairpersons Reports).

The process relies heavily on the commissioners, who must be of good standing, not linked to the state or any statutory body, and not be the partner or spouse of someone in a position within the state (Constitution 2020: 9). The BCCSA’s governance relied on the commissioners to deliberate on and decide upon the operations, and decide on the organisation, its constitution and its rulings in Annual General Meetings (AGM) through a 2/3 majority vote (BCCSA 2020: 11). The commissioners are supported by the registrar, who deals with complaints, mediates complaints, and sees to the daily running of the BCCSA.

Table 16: BCCSA tribunal structure

| BCCSA Tribunal Structure | | |
|---|---------------------------------------|-------------------------|
| June 2023 | | |
| Position | Profile | Representative |
| Chairperson of the appointment and appeals panels | Retired constitutional court judge | Judge Johan Froneman |
| Office of the BCCSA | Registrar of the BCCSA | Shouneez Martin |
| | Secretary of the BCCSA | Deyana Julius |
| | Complaints officer | Kyle Erentzen |
| Chairperson | Academic and legal professional | Adv. Sunette Lotter |
| Deputy Chairperson | Media law specialist | Brian Makeketa |
| Commissioners | Academic and legal professional | Dr Mohamed Chicktay |
| | Academic, filmmaker and policymaker | Dr Melanie Chait |
| | Attorney and broadcaster | Mr Richard Chemaly |
| | Corporate communications professional | Mr Isaac Dhludhlu |
| | Media and communications professional | Ms Palesa Kadi |
| | Academic, media professional | Dr Linda Venter |
| | Advocate and financial/tax expert | Adv. Boitumelo Thlakung |

The list of BCCSA commissioners (listed in the table above) shows an interesting mix of commissioners who have legal and media expertise, indicating an intentional focus on the legal approach dominating the BCCSA deliberations and governance, supporting the claim that the BCCSA operates as a judicial tribunal (BCCSA 2020b: About the BCCSA). The inclusion of commissioners with a media background is an addition to the BCCSA, as these media persons are also grounded in policy and legal studies, strengthening the quasi-judicial focus of the tribunal values with the needed media expertise in the area.

5.7.2 The BCCSA adapting to change

In 2009, a few changes occurred within the BCCSA, such as the introduction of a free-to-air and subscription code for television services. In the second period of its existence, 2010 - 2019, the BCCSA can be seen as static, undergoing very few changes to its constitution, operations and codes of conduct. With the exception being the removal of the waiver barring complainants from legal recourse in 2016. The removal of Rule 3.9 from the BCCSA procedures resulted from the application to the High Court against the rule in which the complainant was expected to sign a waiver, barring their right to sue for damages after the BCCSA outcome and ruling (BCCSA 2016 – 2017: Chairpersons report). The BCCSA did not oppose the application, instead, removed the rule, and amended its procedure accordingly (ibid).

The BCCSA is arguably in a state of flux, as, since 2021, it has undergone rapid change in response to the COVID-19 pandemic and the shifting needs of the industry. The change began with the BCCSA's response to the COVID-19 pandemic. The changes adopted included moving processes online through Zoom meetings and tribunals (Chairperson S. Lotter 2021, personal communication, 09 March; Deputy Chairperson B. Makeketa 2021, personal communication, 19 May) and internal meetings to online spaces. Notably, very little documentation exists on the BCCSA's response to COVID-19, as they have not published any public documents since 2019 and have not produced any chairperson's report since 2019. Furthermore, the rulings on complaints do not indicate the move to the online environment, with only one indicating conclusively that the tribunal took place via Zoom. For these reasons, it is recommended that the tribunal be further investigated to understand its response to COVID-19.

The BCCSA has further adapted with a new constitution, a revised code of conduct, and an extended jurisdiction. Until 2022, the BCCSA chairperson and commissioners had complete discretion over

the operations, funds, staffing and overall existence of the BCCSA (BCCSA 2022: Constitution). The only influence from external parties was the reporting of the BCCSA to ICASA (BCCSA 2018: Chairperson Report), moreover, the reporting to its funder and founder, the NAB. Still, the BCCSA was "not, in any manner, accountable or answerable to the NAB" (BCCSA 2020b: About the BCCSA). However, the proposed changes to the constitution, effective as of 2022, will significantly affect the current operations and structure of the institution. The proximity of the BCCSA to its founder will alter substantially, with the BCCSA being viewed as a self-regulatory institution aligned to the NAB and the NAB being given authority over the running, finances and operations of the BCCSA. For this reason, the changes implemented in the BCCSA Constitution will be closely examined to fully understand the consequences of the changes on the future of the BCCSA. The BCCSA, arguably a static institution due to its lack of growth in its past few decades, was criticised for not adapting to a changing society. Currently, the changes enacted to the code for online and the constitution, shows minor changes to its content regulatory codes, with major changes to its mandate as an independent tribunal. Notably, despite the criticisms that the BCCSA does not address the needs of its multiple publics (Reid & McKinley 2020), very few public centred changes are evident within the BCCSA mandate, constitution or operations.

5.7.3 The BCCSA as an independent tribunal

Classified as a self-regulatory institution motoring public complaints, the BCCSA has a vital role within the country's broadcast system. Whilst founded and funded by the NAB, the BCCSA has historically asserted independence from the NAB, emphasising that "it would conflict with its corporate and judicial independence to be called an industry body" (Scharnick-Udemans 2016, 164). Interestingly, the new constitution removed the NAB from its founding principles and no longer mentions the NAB as a funder and founder of the BCCSA as it did in the 2021 Constitution. Instead, it refers to the establishment of BCCSA as a "voluntary association." and as a "self-regulatory body" (BCCSA 2023: Constitution).

Between 1993 and 2021, the BCCSA classified itself as an independent tribunal (Ciaglia 2017: 822), which regulates broadcasting content for radio and television, monitoring public complaints based on two codes of content for subscription broadcasters and free-to-air broadcasters (Reid & Isaacs 2015b: 3-4). During the three decades of its existence, the BCCSA "went to great lengths to assert its independence", including having a public nomination system to elect commissioners and having the chair appointed at the AGM (Scharnick-Udemans 2016: 164). In contrast to this statement, assessing

the independence of the BCCSA to the NAB has been difficult, as they share funding, are committed to liberal democracy, and found in their 1998/1999 self-assessment that the BCCSA could indirectly influence broadcasters' programming due to the rigorous controls instituted by the BCCSA and its code (Scharnick-Udemans 2016: 165). This commitment to independence was echoed in 2016 when the BCCSA rejected the proposal by the NAB not to institute any changes as they feared NAB influence and the possible "impact on the independence of the BCCSA" (BCCSA 2016-2017: 2).

The NAB requested changes to the constitution of the BCCSA, to have the chairperson appointed by the NAB, to reduce the number of years commissioners serve, to report finances to the NAB, to have the number of commissioners reduced, to have the NAB terminate the BCCSA at any time, and to have the NAB edit the BCCSA (BCCSA 2016-2017: 2). In response, the BCCSA stated that it "decided not to accede to any of these requests/suggestions as they would impact on the independence of the BCCSA... [as] the BCCSA will resist any effort to chip away at its independence, to ensure that the public and broadcasters are equal before the tribunal" (BCCSA 2016-2017: 2). Considering the history of the BCCSA and the rejection of the changes in 2016, the study remains critical of the proposed changes for 2022. These changes are almost identical to the modifications rejected in 2016 and could even be seen to exacerbate the control of the BCCSA by the NAB.

This change in 2022 shows the development of the BCCSA from an independent tribunal to an NAB self-regulatory body. The NAB has been allocated a more prominent position within the new constitution, evidenced by the increased references to the group. The 2021 Constitution references the association 41 times compared to the 2022 Constitution, which references it 20 times. The discussions and references to the NAB in the 2022 Constitution include the definition of the "NAB" as "the National Association of Broadcasters, a voluntary association established by radio and television broadcasters, representing all three tiers of broadcasting"; 27 references to the NAB within the document, and also about "Broadcasters" defined as "the broadcaster members of the NAB", referred to a further 13 times (BCCSA 2022b). These 41 references, whilst a seemingly simplistic indication of the shifts within the BCCSA, point to a significant change in the role and responsibility of the NAB regarding the functioning, funding, and future of the BCCSA. The shifts within the Constitution represent the shifts between the BCCSA and the NAB, which holds dual roles as the founder, funder, and member of the BCCSA. The BCCSA includes many public members on its board and, thus, shares the public interest in its makeup. However, if this is not written into policy, the current shift to the self-regulatory NAB institution could lead to the degradation of this interest and protection of the public. It is recommended that the BCCSA institutionalise some level of commitment to the current public and independent adjudicators on the tribunal, as this involvement

of the legal practitioners and members of the public has strengthened the independence of the BCCSA in previous years.

5.7.4 The BCCSA declares a change in structure from an independent tribunal to a self-regulatory institution

The BCCSA, according to its 2022 Constitution, has become a self-regulatory institution; this is affirmed by the following clauses added to the new constitution, which did not appear in the older version of the constitution:

The BCCSA is a self-regulatory body for broadcasters as provided for in the ECA in terms of Section 54(3). This section provides that the code of conduct prescribed by ICASA shall not apply to a broadcasting service licensee who is a member of a body which has proved to ICASA's satisfaction its members subscribe and adhere to an acceptable code of conduct enforced by that body by means of its own disciplinary mechanisms, which are also acceptable to ICASA. (BCCSA 2022b: Section 1.2).

When comparing the 2021 version and the proposed 2022 changes to the constitution of the BCCSA, it is evident that a change has occurred. The old constitution refers to the founding principles of the BCCSA, an "independent and impartial tribunal" provided for by Section 34 of the Constitution of South Africa, which guarantees that "the independence of the BCCSA is absolute" (BCCSA 2020 Constitution). The BCCSA now claims to be a "self-regulatory body for broadcasters as provided for in the ECA in terms of Section 54(3)" (BCCSA 2022b). This transformation to a self-regulatory body as provided for in the Electronic Communications Act can be seen as a reformulation of the BCCSA, removing the commitment to independence and the commitment to Section 34 of the Constitution and replacing this with the concept of self-regulation is a significant shift for the BCCSA. This idea of it being a self-regulatory body was not part of its original conceptualisation. The previous versions of the constitution ensured that only the BCCSA might amend its constitution (BCCSA 2021: Constitution). The constitution reiterated the independence of the BCCSA from the NAB and illustrated the importance of the BCCSA's independence.

This change could be seen as a minor one, with commentators finding that "there are very few real changes to the Constitution" (Complainant J. Limpitlaw 2022, personal communication, 10 April). The previous constitution didn't mention the NAB, and the current one implies that "the BCCSA is a functionary effectively now of the NAB, and that is how it was envisaged ... in the Electronic

Communications Act” (Complainant J. Limpitlaw 2022, personal communication, 10 April). Arguably, authors could say the BCCSA has always been a de facto subsidiary of the NAB; thus, the move to self-regulation doesn't make any significant difference. Yet, closer inspection of how the self-regulatory structure has been instituted means it can be argued that the modification affects the BCCSA's current functioning and potential future.

The study investigates these changes and notes it as a fundamental shift from the BCCSA operating as an independent tribunal, independent of the NAB, to operating as a self-regulatory body. The changes to the constitution, in essence, support the NAB in gaining control over a few areas of the BCCSA functionality, including its finance, physical positioning, hiring processes, and independence.

The self-regulatory practice in the constitution allows for strengthened independence from both the BCCSA and NAB in some ways, as seen with appointments. The "Appointments of the Chairperson, Deputy Chairperson, Registrar and Commissioners to the BCCSA shall be made by an Appointment Committee, chaired by a retired judge, or attorney or advocate with at least ten years' experience, whom the NAB shall appoint after consultation with the Commissioners of the BCCSA." (BCCSA 2022b: Section 4.1). The appointments committee also includes four public members to balance the public's and media's interests. This appointment shift is slightly different from previous versions as now the "Appointment Committee, chaired by a judge of the High Court of South Africa ... The members of the Committee shall be the following: the Chairperson of the BCCSA, the Chairperson of the NAB or a person designated by them, plus two external persons" (BCCSA 2022b: Section 5.1). The appointments committee also has further power to manage commissioners, remove commissioners, and determine staff remuneration (BCCSA 2022b: Section 5.1). The appointments committee seems vital to the survival of the BCCSA and has an essential role in its governance. Having the NAB and BCCSA removed from the process could strengthen it. The constitution does reiterate that "[n]othing in this Constitution shall be construed as removing the power of the Chairperson and Deputy Chairperson of the BCCSA to manage the daily functions of the employees of the BCCSA" (BCCSA 2022b: Section 5.1), reiterating the daily governance of BCCSA business by the chairperson and the BCCSA.

The primary issue which has come from the shift in regulatory structure is the matter of financing. The autonomy to determine the usage of funds has been removed from the BCCSA and given to the NAB, which now determines how funds will be utilised. Firstly, the NAB can now decide how funding will be used within and by the BCCSA, as the NAB will determine the appointment

committee's remuneration, expenses, and fees (BCCSA 2022b: Section 16.2). The appointments committee will determine the revenue, costs, fees, and salaries of the BCCSA (BCCSA 2022b: Section 16.3). The shift in funding seems to align with the current reality in the industry of austerity, thus, allowing the NAB to lessen the funds previously allocated to the BCCSA finances, expenses, and auditors, which were determined exclusively by the BCCSA and paid by the NAB with little room for negotiations. The downfall of the shift is the lack of financial autonomy of the BCCSA, which now relies on the NAB to finance every element of its existence. The only independence the BCCSA has over its funding is by imposing fines, as “[t]he proceeds of any fines imposed by the Tribunal or Appeal Panel shall be retained by the BCCSA” (BCCSA 2022b: Section 16.4). The fines imposed upon broadcasters have increased to ZAR100, 000, and this is the only finance that can be used at the discretion of the BCCSA (BCCSA 2022b: Section 16) and can be kept in a separate BCCSA account. This funding can be utilised to train commissioners and to share information with the public about the BCCSA (ibid). The only challenge with this means of income for the BCCSA is that it is currently being disputed in the courts of law as an unfair appeals practice. The “recommendation is that provision in the procedure, which is an annexe to the Constitution, about the appellant paying costs, no matter what the outcome is, is appalling” (Complainant J. Limpitlaw 2022, personal communication, 10 April) and has been taken to court for review. If not managed correctly, the incentive for the BCCA to create and generate some form of income removes the punitive reason related to fining and could replace it with the need to support and generate additional income. As the costs of appeals are also an income generator, the BCCSA could be incentivised to host more appeals to secure funding. Thus, the funding issue currently in place needs to be reviewed.

This might not be the intention; the legislation allows the broadcasters to operate the structures of the BCCSA. Whilst this is similar to the Press Council structure, it has multiple affiliate organisations (SANEF, IAB, etc.) and operates more like a coalition than a power unto itself. Hypothetically, it could have seriously damaging consequences, as the fate of the BCCSA rests on the integrity of the NAB. If the NAB were to act without integrity and try to "capture" the BCCSA, there would be no means to fend off this intervention. It is, thus, recommended that the BCCSA consider co-regulation instead of self-regulation to foreground the system of public participation and independent scrutiny of the media. A shift to co-regulation would support the separation of powers between the NAB and the BCCSA, with the public having a more significant say in its running. Currently, the BCCSA acts independently and is run by leading legal and public servants; this is the strength of the BCCSA tribunal, which should be preserved and defended.

5.8 Is the BCCSA fulfilling its mandate?

5.8.1 Regulating complaints

Both the chairperson and the deputy chairperson maintain the BCCSA is fulfilling its mandate to the public. The mandate to resolve disputes between the public and the media on broadcasting issues is being performed using natural justice and supported by the legal framework of the country (Chairperson S. Lotter 2021, personal communication, 09 March). Furthermore, the BCCSA effectively fulfils its mandate, as evident by the public usage of the mechanism and the high-profile complainants who also use the system (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May). Yet, the complaints resolution process needs revisions and improvements, with claims that it is unlawful, illegal and not operating in the public interest. The complainants agree that the BCCSA is functional and practical but take issue with the complaints related to the hearing proceedings and the outcome of those hearings.

5.8.2 Supporting ethical journalism

The BCCSA is part of a media accountability system and is now the self-regulatory body for the NAB. But, since this relationship came due to possible duress and is clouded in secrecy, it is unclear if it is genuinely collaborative or forced/punitive. For the BCCSA to support ethical journalism and media production, it would need to consider its role in holding the NAB to account in this area and strengthening its code of conduct around the news.

5.8.3 Promoting press freedom

The changes proposed by the BCCSA in the 2022 Constitution ultimately ensure that the NAB is the managing body of the BCCSA and its funds, aligning the BCCSA to shift from an independent tribunal to a self-regulatory body. This shift prioritised the interests of the media above the interests of the public, and could be seen to promote press freedom and the interests of the press above others.

5.8.4 Serving the public interest

5.8.4.1 Public access and visibility

The website includes the rulings and annual reports, which allow the public to access the documents and operations of the BCCSA. The advisories allow the BCCSA to create awareness with the public through its more than 33000 annual advertisements aired by its broadcast members (BCCSA chairperson review 2010-2011; 2011-2012; 2013-2014; 2014-2015). The public is informed about the BCCSA through the website and advisories, but this is a one-way communication without any engagement. The role of the media is only brought before its users through the BCCSA disclaimer aired on television, with no dialogue between the BCCSA, interest groups and the public. Yet, the study finds that BCCSA is visible to the public but not accessible to it.

Furthermore, the BCCSA has garnered public interest, with numerous parodies and fake BCCSA accounts emerging on Facebook. In 2017, the groups developed a page titled ‘SABC1 – BCCSA broadcasting channel complaint of South Africa’ has 1329 followers and invites its users to “report a complaint” (BCCSA Parody Page A 2017), with another created in 2019 titled ‘BCCSA’ (BCCSA Parody Group B 2019) which includes the logo of the BCCSA in one of its posts. The BCCSA parody page claims to take complaints about television actresses (BCCSA Parody Page C 2019). Whilst these parody pages are not the actual BCCSA, they collectively have more than 2000 followers and, thus, reach the public, some of whom pose questions and others who lay complaints in the comments section. For example, stating, “Please intervene on Uzalo; it is using strong language lately we are tired please do something” (Public comment on BCCSA Parody Page A 2017). The existence of these social media pages, and the engagement with the public on the pages, suggest that the BCCSA should consider their online and social media presence.

The examples of the updated constitution and code being a crucial area could have allowed public engagement. This could be attributed to the quasi-judicial nature of the BCCSA, which simulates court proceedings on paper. Yet, if this is true, the BCCSA is adopting some legal principles and not others, as even the legal system operates transparently, with the courts granting access to the public through principles of open justice. The BCCSA doesn't seem to value principles of open justice, as it does not report to the public and hasn't had a public report since 2019. It doesn't allow public input or discussion, doesn't host many public hearings, and even charges members of civil society for appeals won. These are reasons for concern and suggest that the BCCSA consider its relationship with the public carefully. Whilst it is visible, it could expand this to engagement and participatory potential. The study recommends that the BCCSA consider its public engagements, make its information publicly accessible, and make the institutional processes more accessible and audience-centred.

5.8.4.2 *The public and transparent processes*

Transparency requires openness about media production processes, acknowledging and rectifying mistakes, and explaining decisions made (Kruger 2004: 35). Whilst this is expected of the media, it is also expected of the institutions which regulate them. The BCCSA seems to be moving away from its commitment to transparency. The chairperson's reports and the constitution were once readily available on the BCCSA website, but since the website reconfiguration in 2021, these documents are no longer publicly available. Whilst these documents are available on request (as was possible for the researcher), they are of public interest and should be publicly available. The BCCSA must improve its transparency and share information in the public interest. It must make important information like its constitution publicly available on the website, noting instead that the "BCCSA Constitution and Annual Reviews will be made available on request" (BCCSA 2023: Constitution). This need to request the constitution seems out of alignment with previous operating procedures, as the constitution was readily available for public consumption.

Furthermore, it is recommended that the BCCSA adopt a transparent approach to its relationship with the NAB, which has shifted since the new constitution was introduced in 2021 and formalised in 2022. This lack of transparency by the BCCSA does not align with the historical operations, independence, transparency, and accountability of the BCCSA and is a cause for concern. The research, thus, recommends that the BCCSA adopt an open and transparent approach to its communications about its operations, its relationship to the NAB and its altered constitution. The study also suggests that the BCCSA be open to independent research and scrutiny by independent research to further what is known about the organisation and its operations.

5.9 Is the BCCSA responsive and fit?

The study reviews the functionality (RQ2) of the commission concerning the fulfilment of its mandates and examines its responsiveness (RQ3) as its ability to adapt to the technological and other needs of a changing society. The study grounds its findings on the fitness of the commission in its ability to respond to the South African context and recommends means of enhancing its fitness with improvements to the system (RQ4.1).

RQ 2: Are the institutional mechanisms functional?

Yes, they are functional and can resolve complaints, but there are areas of concern.

RQ 3: Do the MAM respond to the needs of the public?

The BCCSA can be argued to be responsive to technology and the media but not the public. The BCCSA shift to digital processes indicates that it is responsive to COVID-19 and the need for technological innovations. The BCCSA's adoption of the code for online content and the commitment to the NAB as a self-regulatory body indicates that the BCCSA is responsive to the interests and needs of the media. There is no indication of the BCCSA being responsive to the public, as it is only available via email and, thus, not easily accessible; it does not have a public advocate or other support mechanisms for the public; its codes are only available in English; and it currently fines the public for appeals processes. Thus, the BCCSA needs to be more responsive to the needs of the public.

RQ 4: Are the MAM satisfactory/competent? And relevant to its contextually stipulated requirements?

Partially, yes.

RQ 4.1: Should the current MAM be satisfactory/competent – What recommendations can be made to improve the current systems?

The study recommends that the BCCSA evaluate its relationship to the public, their regulatory interest, and its role as a public good.

5.10 Recommendations on the BCCSA

5.10.1 Commitment to the public

The BCCSA has historically operated as an independent tribunal balancing the rights of citizens alongside the codes and expectations of the media. The BCCSA should reaffirm its commitment to public interest, and further its commitments to operating as a public good, which is freely accessible and without exclusions (UNESCO 2022). If the BCCSA were to adopt a commitment to the public good, it would need to consider its public accessibility, affordability and appeals recourse systems.

The BCCSA would need to reaffirm its commitment to the public. Since adapting to a self-regulatory institution, it should declare how this change in name and shape affects its commitment to the public, and their interests.

The BCCSA could benefit from audience-centred approaches (Reid & McKinley 2020) to reviewing their operations. By considering the user of the system, they could build more user-friendly systems which enhances accessibility to the system. Accessibility for the complainant to lay complaints through various means and by offering support for the complaints process through a public advocate type figure. Accessibility includes making the codes of conduct available in multiple languages, and supporting translators to support complaints in multiple languages if needed.

5.10.2 Adapting the appeals processes

The BCCSA could reconsider its current appeals process to replace it with services at no cost, which better serve the public. Considering the needs of the public and the mandate of the public good, the BCCSA would need to offer appeals recourse at no cost. It would need to revisit its costing structure, allowing freely accessible appeals processes for complainants seeking recourse, instead of the ZAR10 000 cost currently attached to appeals. They could, at a minimum, allow the costs of the appeals to be waived if the appellant wins the appeal, but this would still attach a hefty cost for appeals who seek recourse and lose. A no-cost appeals process, like the PCSA's appeals process could offer greatly accessibility and recourse to its users.

5.10.3 Relationship to its founder and funding body

The BCCSA could also consider its relationship with the NAB and how it impacts its potential as a public good. Previous iterations of the BCCSA were funded by the NAB but remained separate from its funding matters. The current process requires the BCCSA to be answerable to the NAB for its finances and funding. The BCCSA would need to carefully consider its funding model, as its current means of auxiliary funding could be garnered from appeal costs and fines to broadcasters, both of which could be misused if it were to be a driver of income for the regulatory mechanism. To ensure that the fines remain a matter of recourse, and that appeals are available at no cost, the BCCSA should continue to be adequately funded by the NAB as it has been in the past, while maintaining some independence over the use of its finances.

5.10.4 Mandate and jurisdiction

The dismissal of complaints based on jurisdiction causes concerns on the correct jurisdiction problem. As jurisdiction has been one of the largest reasons for the dismissals of complaints, the BCCSA should consider the caveat in the regulation of social media and online complaints. If the BCCSA is unable to regulate social media and online complaints itself, it should consider collaboration with the Press Council. A shared approach to broadcast and online content would allow the BCCSA to regulate broadcasting and the PCSA to regulate the online content of broadcasters. Alternatively, they could consider a cross-platform complaints mechanism (Reid & Isaacs 2015b) in which they share complaints processes and partner around the regulation of broadcast, print and online media. If the BCCSA is unable to collaborate with the PCSA due to statutory or other commitments, the BCCSA should continue to regulate broadcast only and allow the Press Council to exercise its jurisdiction over online complaints of its broadcasters.

5.10.5 Digitalisation and the future

As the digitalisation of the broadcasting arena becomes common practice, the BCCSA will need to consider its approaches to its regulation. Acknowledging that the BCCSA has accepted the online media sites of its signatories under its code, it would need to contemplate other concerns, such as how it will manage the future of broadcast, streaming, online and social media regulation? As the state plans to move over to streamed radio in coming years, there is a possibility of increased broadcasters on streaming platforms. Currently, the BCCSA only regulates licence members of the NAB, and does not consider streamers, podcasters and individual subscriptions to its code. Considering the shift of broadcasting via online technologies in the coming years, the BCCSA should consider an analysis of the future of broadcasting and the recourse mechanisms available to the public.

5.11 The BCCSA and the public good

Adopting an audience-centred approach to the analysis of the complaints processes and accepting the additional mandate of operating as a public good could enhance the accessibility and reach of the mechanism. Consequently, it would also have implications on the time, staffing, and funding required to be fully available to public. For such a mandate to be fully realised, a revisioning of the BCCSA, its operations and its future, would be advised.

CHAPTER 6: CROSS-CASE STUDY ANALYSIS OF THE VOLUNTARY MEDIA COUNCILS FOR PRINT, BROADCAST AND ONLINE MEDIA IN SOUTH AFRICA

6.1 Introduction

The study of media accountability mechanisms in South Africa, has considered the literature, examined existing studies and methodological approaches and produced two in-depth cases studies on the Press Council of South Africa and the Broadcasting Complaints Commission of South Africa. The study seeks to evaluate both cases concurrently, comparing similar and opposing operations, and commenting on their successes and failures. To conduct such a comparison, the study draws on the cross-case synthesis technique, a methodological approach recommended by Yin (2018).

6.2 Cross-case synthesis of South African media councils

The cross-case synthesis technique provides a methodology for analysing and comparing cases within a larger case study. The cross-case synthesis technique is used to evaluate the two cases against each other. After each case is analysed separately, the method recommends analysing the cases comparatively. The technique seeks to understand each case holistically as a bounded unit and not as a series of variables. Then using a “case-based” synthesis, the data across the cases is compared. The goal of the synthesis is to maintain the integrity of the case whilst making comparisons between them (Yin 2018: 244-246). It is also necessary to discuss the similarities and differences between the individual cases in the study and if/whether the cases were sufficiently comparable. Ultimately, the analysis supports a high-quality comparison of the most significant aspects of the case study (Yin

2018: 248-249). The technique also aims to speak to the research questions posed early on (Yin 2018: 248-249).

The study compares the cases of the Press Council of South Africa and the Broadcasting Complaints Commission of South Africa, and finds multiple similarities and differences in its operations, governance, approaches and processes. The study presents these differences in relation to the research questions. The chapter compares the councils and the extent to which they are, firstly, fulfilling their mandates (functional); secondly, responding to the needs of their publics and the changing digital environment (responsiveness); and, thirdly, suitable to their context (fit-for-purpose). The study presents these comparisons in response to each research sub-question. The evaluation of the separate research questions supports the final evaluation of the primary research question (**RQ 1**): To what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?

6.3 Comparing media councils and their mandates

RQ 2: Are the institutional mechanisms functional?

The study seeks to compare these institutions and theorise their existence in relation to understanding what media councils are meant to be within the South African context. In doing so, the study analyses the institutions, their operations, their mandates, their memberships and other categories, and finds that the two organisations are becoming increasingly similar in some respects whilst overlapping in others. Ultimately, the chapter questions their functionality in operating as distinctly different institutions that share jurisdictional oversight over the social media of broadcast media and evaluates this overlap in terms of fitness-for-purpose in South Africa.

Table 17: Comparative study of media councils

COMPARING MEDIA COUNCILS

| Media Council |  BCCSA BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA |  Press Council |
|---------------|---|--|
| Established | 1993 | 2007 (reformed/renamed body) |
| Reach | National | National |
| Jurisdiction | Broadcast and online | Print, online and social media |
| Members | NAB Members | 600+ subscribers and independents |
| Funding | NAB | Constituent associations and individual members |
| Documents | Constitution | Constitution |
| | Code of conduct for broadcaster services licensees (2009) | The press code of ethics and conduct for South African print and online media (2022) |
| | Code of conduct for subscription broadcasters (2009) | |
| | Code of conduct for licensed broadcasters for online content services (2023) | |

The BCCSA and the PCSA could be viewed as democratic institutions established in 1993 and 2007, respectively. The former oversees broadcasting and its online content, whilst the latter regulates print and online publication. The individual case studies found both councils to be functional in fulfilling their complaints resolution mandate, yet, echoed concerns over areas which needed to be addressed and reconfigured with urgency. The study acknowledges key areas of concern relating to the jurisdiction, governance and complaints resolution processes.

6.4 Jurisdiction

The Press Council of South Africa currently has the largest number of signatories, reach and responsibility, overseeing print and online media, and has over 600 subscriber publications (PCSA Report 2022). The publications form part of either independent subscribers or associated members. Associated members refer to journalistic associations that form part of the Press Council founding committee and allocate at least one member representative on the Council (PCSA Report 2019). The BCCSA is responsible for the regulation of complaints against subscribing broadcasters which belong to the NAB. The broadcasters are classified as community, commercial/private, or public broadcasters (BCCSA signatories 2022), including 70 radio stations and 8 television stations. The BCCSA has also adopted the online content of its signatories (BCCSA 2023a), beginning a new trajectory for the mechanism in the future.

As the BCCSA initially only dealt with traditional television and radio content, until February 2023, the BCCSA recipients also fell under the jurisdiction of the Press Council, as the BCCSA did not deal with online complaints. The Press Council was responsible for and had jurisdiction over the broadcasters' online websites and social media content. The Press Council, which first adopted online complaints in 2016, explained:

“The broadcasters came on board in 2016 following careful negotiations between the Press Council and the regulatory wing of the Interactive Advertising Bureau of South Africa (IAB), the umbrella association of online media in SA. The IAB has since undergone several changes due to its changing mandate, and we now work closely with the publisher members of the IAB. We felt it was important for the Press Council to deal with the issues of convergence and the rise in digital media. We are only responsible for the online content of our broadcaster members.” (Executive Director L. Mobarra 2021, personal communication, 01 February).

Since this interview, the broadcasting regulatory framework shifted once more, to support the BCCSA jurisdiction over its member's online complaints. The BCCSA found this a better solution than aligning with the Press Council codes/processes etc., noting that:

“The original proposal that the BCCSA should conclude a memorandum of understanding with the Press Council was off to a rocky start but became moot when the idea for a Code for Online broadcasting was promoted.” (Adv Lotter in the BCCSA 2022: Chairpersons Report).

Whilst this is an important development for the sector and the regulation of broadcast content streamed online, the issue of dual membership and the subject of social media content still prevails.

Both councils and their codes speak to the online media environment and its regulation (PCSA 2016; 2020; BCCSA 2023a). The PCSA included the digital in their mandate and code since 2016, receiving

complaints about traditional print media and their content published online. Thus, the PCSA is responsible for resolving complaints about online content, as the Council extended their jurisdiction over online news publications to include the online content of more traditional print media members and other solely online/digital media members (PCSA 2016: Constitution). The PCSA also maintains jurisdiction over social media content of their members (Press Code 2022).

The BCCSA, as the independent tribunal overseeing complaints on the broadcast media, now includes the content of its members published on their online websites (BCCSa 2023). However, the BCCSA does not have jurisdiction over social media content, as:

The Code regulates Catch-up, Box Office, Radio Podcasts, Radio Streaming, Video on Demand that are under the editorial control of the BCCSA Signatories (NAB members). It does not include social media posts, printed news articles, DSTV Box Office, Showmax or Netflix programmes (BCCSA 2023c).

Thus, whilst the BCCSA oversees its licensees and their online content, the PCSA handles print, online and social media. The question of the jurisdiction of social media has been posed (see Chapters 4 and 5), showing that the Press Council still has jurisdiction over social media channels. The implication of the jurisdictional overlap requires further consideration by both councils as YouTube and other social media sites are popular spaces for the sharing of broadcasts and the livestreaming of broadcasting content.

Judging by existing cases, such as the landmark case currently before the courts, the issue could become extremely problematic and leaves both councils open to extensive scrutiny. In BCCSA cases analysed, the complainant notes that they also had to complain to the Press Council, as:

“The genesis of this complaint was a broadcast that was broadcast in late November 2020. And I heard about someone sent me a WhatsApp link to the interview, because it was on it was broadcast on it was uploaded onto YouTube as soon as it had finished being broadcast on the view, which is the DSTV SABC channel” (Complainant J. Limpitlaw 2022, personal communication, 10 April).

The member of the public chose to complain to the Press Council about the YouTube content of the SABC, which remained on their YouTube channel for months after the initial broadcast. The complaint was based on a different code and required a different set of arguments and processes.

“So, we thought that both codes were of relevance in this matter. And then we complained to the SABC itself, because it was a violation of their editorial policies, which they had recently adopted. And we complained to the Press Council, because the video was on the SABC YouTube channel, and the BCCSA has no jurisdiction over us online content. But the Press Council does. And so we had to argue that differently because it's a different code” (C1 2022)

The complainant, thus, had to lay a complaint with the media company, the BCCSA on their broadcasting issue aired on a public broadcaster, and had to lay a further complaint with the Press Council as the council oversees online and social media content on the broadcast members.

The complainant found that, as the BCCSA was the council responsible for the primary complaint, “the Press Council then said, thank you very much. We're not taking this any further” (J. Limpitlaw 2022, personal communication, 10 April), with the outcome that "the Press Council has chosen to agree with the BCCSA" (J. Limpitlaw 2022, personal communication, 10 April), despite the BCCSA ruling being problematic. Thus, the PCSA has not enacted the right to rule on or disagree with the BCCSA, setting a troubling precedent on the relationship between the two councils and their members. It seems that despite the inclusion of online media by the BCCSA, the issue of social media content and dual membership of BCCSA signatories to the Press Council still exists. Thus, a collaboration between the BCCSA and the Press Council is recommended to ascertain how these issues will be dealt with in future. Collaboration could occur through a cross-platform effort in which the councils jointly oversee matters related to social media posts. Social media includes YouTube, which most of the BCCSA signatories use daily.

Thesis Statement 5: Media councils could benefit from national collaborative action through a cross-platform media accountability system.

6.5 Governance

When reviewing both constitutions, certain similarities appear, such as the principles of existence, their purpose, objectives, and membership, but they differ regarding the powers and reach. Currently, the BCCSA adopts a self-regulatory structure, and the Press Council adopts a co-regulatory structure. However, both the operational and foundation principles of the media councils echo a commitment to self-regulation. Both the BCCSA and the PCSA highlight their commitment to self-regulation, as both resulted from the interventions by the profession to regulate the quality of information (Miranda & Camponez 2019).

Whilst self-regulation has been an important and globally recognised form of regulation (Eberwein et al. 2019), South Africa moved away from self-regulation as a result of the political pressure on

the Press Council (Reid 2014) during the Press Freedom Commission almost a decade ago (PFC 2012). Even though the majority of South Africans voted to keep self-regulation as the dominant form of regulation in the country (Reid 2014), the Council adopted a different form of regulation to please its critics. The Council seems conflicted with the co-regulation commitment. Despite the co-regulatory claim, the Press Council states that it is committed to upholding the Constitution, the law of South Africa, and Section 16 of the 2019 Declaration of Freedom of Expression in Africa, which encourages media self-regulation to promote the highest standards of the media profession. The Council also includes the disclaimer that whilst press freedom is important, it is enriched through public participation in a co-regulatory process and affirms "that co-regulation involving exclusively the press and the public will enhance journalistic standards and ethical conduct" (PCSA 2020d: Constitution). The Council chooses co-regulation but echoes self-regulatory structures in many instances (see Chapter 4).

The Broadcasting Complaints Commission of South Africa seems equally conflicted since its adoption of self-regulation. In the past, it operated as an independent tribunal, but since its latest Constitution (BCCSA 2022b) it has committed to self-regulation. The commitment seems to only exist in the Constitution and amongst the discussions of the NAB, as the BCCSA has not engaged the public on the matter and has removed the Constitution (containing this commitment) from the website. This structure, evidenced by the section on the establishment of the BCCSA, explains that it is a self-regulatory institution as allowed for in the Electronic Communications Act (BCCSA 2022b).

The BCCSA is a self-regulatory body for broadcasters as provided for in the ECA in terms of Section 54(3). This section provides that the code of conduct prescribed by ICASA shall not apply to a broadcasting service licensee who is a member of a body which has proved to ICASA's satisfaction its members subscribe and adhere to an acceptable code of conduct enforced by that body by means of its own disciplinary mechanisms, which are also acceptable to ICASA (BCCSA 2022b).

Thus, the BCCSA is a self-regulatory body with statutory oversight. If the body is found to be unsatisfactorily dealing with complaints, it can be dealt with by ICASA, indicating some potential for statutory intervention.

As co-regulation with the public could enhance and strengthen the regulatory system and appease the state, it could be considered an option for both councils. Whilst the BCCSA, in its constitution has moved away from the independent tribunal to one promoted as a self-regulatory body, its complaints mechanism continues to operate as an independent arbitration function, identical to its previous operations prior to the constitutional change. This shift in the constitution with the

potential to affect the future of the complaint's resolutions independence is questioned as this could become complicated in the future (see Chapter 5). Considering the past 10 years of regulatory developments of the country, which focused on public participation and independence of the media from their regulatory processes, the current formation of the BCCSA should be carefully considered and argued for. Especially as it seems a co-regulatory structure seems closer to the way the BCCSA previously operated. Both organisations show support for the possibility of self-regulation in their principles, but, based on their diversion from self-regulation, it could be argued that perhaps self-regulation would not be the best fit for either council, and could possibly not be fit-for-purpose (Berger 2011). Thus, both organisations should focus could closely on co-regulation or "voluntary shared regulation" (Miranda & Camponez 2019: 31), which strongly focuses on regulation which includes different actors alongside media actors, such as public opinion representatives, legal experts and academics.

6.6 Complaints resolution processes

Both the BCCSA and the Press Council are responsible for overseeing complaints on the media by resolving these disputes through a cost-effective and quick arbitration process as an alternative to court proceedings. As evidenced by Chapters 4 and 5, both councils regulate complaints effectively, but both processes could be improved. When speaking to members of the public who have used the system, it seems that the hearing and appeals processes could be greatly improved, but ultimately, the overall processes of both councils are successfully fulfilling their complaints resolution mandates. Whilst these organisations are achieving their mandate to rule upon complaints about the media, these complaints and findings did not necessarily impact the media industry (Bertrand 2000). Councils are reactionary (Reid 2014) in their mandate, and only resolve complaints after the public has laid them and have been deemed within the jurisdiction of the council. Thus, the councils should consider how to become more proactive in stimulating dialogue on rulings that have occurred to further their impact on the media. This could also stimulate debate within the media about where the future of ethical conduct and good practice would lead. Thus, while these bodies are proving effective at resolving complaints, it is recommended that they improve certain elements of the process and become more proactive in stimulating robust engagement on ethics and professional practice amongst its members.

Table 18: Comparative analysis of media council processes

| Comparative analysis of the BCCSA and PCSA process | | |
|--|---|---|
| Process | BCCSA | Press Council |
| Complaints | Laid via email only | Laid via phone, email, or website forms with the assistance of the public advocate. |
| Adjudications | <p>On paper mostly</p> <p>Hearings are seldomly considered. When hearings are utilized, they are seldomly accessible.</p> <p>The registrar oversees the complaint with a case officer.</p> <p>The chairperson or any other commissioner can rule on complaints.</p> | <p>On paper mostly</p> <p>Hearings are selectively employed. Hearings are utilised in cases of public interest and in possibly landmark cases. The hearings are rare, but when they are held, they are transparent and open to the public.</p> <p>The Public Advocate oversees the complaint alongside the case officer.</p> <p>Only the ombud and deputy ombuds can rule on complaints. These ombuds draw on adjudicators as required. Adjudicators provide input on paper submissions where required.</p> |
| Rulings | Based on code of ethics and jurisprudence. Also, case and context specific. | Based on the code of ethics and jurisprudence. Also, case and context specific. Draws on experts' advice where necessary. |

| | | |
|------------------|---|---|
| <p>Sanctions</p> | <p>General sanctions:</p> <p>Dismissals</p> <p>Reprimands</p> <p>Correction/summary of the findings broadcasted.</p> <p>Response by the complainant broadcast (right to reply).</p> <p>Imposes fines not exceeding R100 000.</p> <p>Powers of the adjudicator or tribunal also include:</p> <p>The right to criticise the complainant if its relevant “in its reasons for its findings, record criticism of the conduct of the complainant in relation to the complaint, where such criticism is in its view warranted;” (BCCSA Sanctions 2022).</p> <p>Determine the broadcasting of in specific ways “direct that a correction and/or a summary of the findings of a Tribunal be broadcast by the respondent in such manner as may be determined by the Adjudicator</p> | <p>Tier 1 – Minor breaches are sanctioned with an apology.</p> <p>Tier 2 – Serious breaches are sanctioned with reprimands, cautions, corrections, retractions, apologies.</p> <p>Tier 3 – Serious misconduct is the same as tier 2.</p> <p>Sanctions as directed by the ombudsman or chair of appeals. These can be placed on the front page (tier 2 and tier 3 offences) or anywhere in the publication with the stamp of the ombud (tier 1, 2, 3 offences). The wording of these space finds can be specified by the ombud.</p> <p>Powers of the ombudsman also extends to:</p> <p>Fines: to date no fines have allocated by Ombud but could be allocated in the case of non-compliance.</p> <p>Expulsion: The Ombud can expel a member for noncompliance, as seen in the case of the Jewish Report in 2022.</p> |
|------------------|---|---|

| | | |
|---------|---|--|
| | of the Tribunal;” (BCCSA Sanctions 2022) | |
| Appeals | <p>Cost R10 000 regardless of whether the appellant wins or not (Complainant J. Limpitlaw 2022, personal communication, 10 April)</p> <p>Rulings overturn reasonable judgements (Complainant J. Limpitlaw 2022, personal communication, 10 April)</p> <p>The process of the hearing worked well and gave the complainants and respondents an opportunity to be heard.</p> | <p>No costs allocated; appeal processes are free.</p> <p>Rulings and outcome viewed as “fair” (L. Mtimde 2022, personal communication, 24 May)</p> <p>The process could be more public and user-friendly (Complainant L. Mtimde 2022, personal communication, 24 May). The hearing duplicates a court proceeding, complainants, respondents and their legal representation argue their cases and are cross-examined about their presentations.</p> |

Both organisations have a national reach and regulate media across South Africa. Both organisations are guided by their constitutions (BCCSA 2022a; PCSA 2020d) and codes of conduct (BCCSA 2023a; Press Code 2022a). The codes have many similarities such as their commitment to the protection of children, yet the codes also differ substantially. The Press Code (2022a) focuses on the quality of news and media production and user-generated content issues, whilst the broadcasting codes focus on programming and entertainment (BCCSA 2023a). The Broadcasting Complaints Commission of South Africa has three codes of conduct, the first for free-to-air focusing on content relevant to public broadcasting (BCCSA 2019a) and the second code for subscription licenses, dealing with some expectations of entertainment, programming, news, comment, and the technical

aspects of subscription television controls (2009b), whilst the third online code duplicates the free-to-air code for online spaces (BCCSA 2023a).

The BCCSA accepts complaints via email (BCCSA 2022a). It is possible that multiple BCCSA staff members have access to the email account, but if a member of the public struggles with sending an email or enters the incorrect email address, the complaint might not reach the BCCSA. The concern that an email could be lost means the method of receiving complaints is not ideal. The BCCSA has also noted that if complainants phone and complain in via the registrar, the registrar assists them to lay the complaint and putting it in writing if needed (Deputy Chairperson B. Makeketa 2021, personal communication, 19 May). However, when testing the office number of the BCCSA 2022-2023, an automated message says the BCCSA is unavailable and redirects the public to the email address. Once complaints are received, they are dealt with by the registrar, who uses their discretion on whether to entertain the complainant or not, after which it is circulated and referred to the chairperson of the BCCSA or any of the BCCSA commissioners. This entire process happens via email as the submissions follow the adjudication on paper, after which the ruling is circulated online. The BCCSA process must expand the public's ability to lay complaints and improve the online complaints system beyond the current email-only system.

The Press Council of South Africa has allowed for various methods of laying complaints. The Council utilises an online complaints form, effective since January 2020 and updated in January 2023, allowing complainants to complain about editorial content by logging the complaint via the online form (PCSA 2020c). The Council also allows email and telephonic exchanges. Aware of the challenges around digital access, the PCSA allows for support for the complainant by the Public Advocate who could assist the complainant in formulating and laying the complaint. Thus, if the complainants lay the complaint telephonically, the Public Advocate assists in digitising that complaint via the complaints form if they are unable (Executive Director L. Mobarra 2021, personal communication, 01 February). The online form has space for the details of the complainant, the publication complained against, and space about the details of the editorial content such as headlines, publication dates and multiple questions about the intentions of the complainant to escalate the matter to a court of law (PCSA Complaints 2023b). Resultantly this has made the complaints process more refined as complainants can only lay a complaint on a selected publication, selected from a dropdown list. Whilst this dropdown list seems insignificant, it informs the complaints process, narrowing the possible complaints from every online and print publication, to only include Press Council members (PCSA 2023b). Notably, the broadcasters also form part of the Press Council and can be selected

from the complaints form to complain against, solidifying the Councils jurisdiction over social media related content.

Whilst all complainants interviewed found the councils to be reasonable and functional, indicating they would make use of them again, they expressed concerns with the appeals processes for different reasons. The Press Council complainants were concerned about the combative nature of the hearings and appeal hearings, which felt like a court environment. This could be because only complex and complicated cases are adjudicated by hearings or appear before the appeals panel. Yet, the process could continue to be fair and sound whilst being more considerate to the members of the public who sought to make use of the service. In the case of the BCCSA, the complainant found the hearing to be well organised and user-friendly yet found the outcome of the ruling to be unconstitutional. The BCCSA appeals process is currently before the courts, unopposed. Due to the costs attached to the process, the SOS Coalition and Media Monitoring Africa (MMA) have taken the case to the High Court to overturn the judgement and rule the entire appeals process unlawful. The appeals process is set to change drastically in the coming months. The study recommends that both organisations carefully consider their appeals processes and consider new ways of making the process more user centred and less costly.



Thesis Statement 3: Media councils need to adapt complaints resolution for the digitalised media era to ensure access in the context of digital inequality.

6.7 Comparing media councils and their responsiveness

RQ 3: Do the MAM respond to the needs of the public?

The question further explores the digital environment and public access, asking are these MAMs responsive to the needs of their public in the context of digital inequality. The assessment of the media councils in South Africa and their performance has noted that distinct areas of digitalisation occur in media councils; firstly, the digitalisation question extends to the councils' jurisdiction and mandate. Secondly, digitalisation refers to the complaints and processes of the council. These areas are examined in greater detail below, investigating how each area is affected by the digitisation of the councils.

Table 19: Assessment of media council responses to digitalisation

| Councils and Digitalisation |  BCCSA <small>BROADCASTING COMPLAINTS COMMISSION OF SOUTH AFRICA</small> |  Press Council |
|--|---|--|
| Mandate addresses digital media | ✓ | ✓ |
| Jurisdiction extends to digital media | ✓ | ✓ |
| Mandate addresses social media | ✗ | ✓ |
| Jurisdiction extends to social media | ✗ | ✓ |
| Code of conduct addresses the digitalisation of news | ✗ | ✓ |
| Has a website which is accessible online | ✓ | ✓ |
| The public can lay complaints using digital technologies | ✓ | ✓ |
| Publishes policies online | ✓ Removed their constitution from their website. Despite requests for it to be placed on the website again, this has not been rectified. | ✓ |
| Uses digital adjudication processes | ✓ | ✓ |
| Holds hearings digitally | ✓ | ✓ |
| Holds appeals digitally | ✓ | ✓ |
| Publishes rulings online | ✓ | ✓ |

6.7.1 Jurisdiction

The PCSA included digital content in their mandate and code, solving complaints about traditional print media and their content published online. Thus, the PCSA is responsible for resolving complaints about online content (Executive Director L. Mobarra 2021, personal communication, 01 February), as The Council extended its jurisdiction over online news publications to include solely digital publications and online sites of more traditional print media (PCSA 2016: Constitution). The BCCSA has followed suit, adding online content to its complaint’s resolution jurisdiction alongside an online code of conduct (BCCSA 2023a). Indicating that both councils have adapted to the change in online media and the extended jurisdiction of its members/signatories. Further than jurisdiction,

the councils operate almost exclusively online, having done away with face-to-face hearing etc., during the COVID-19 lockdown.

6.7.2 Processes and complaints

Since the COVID-19 pandemic, the councils have relied exclusively on digital and electronic technologies to receive complaints, communicate with complainants and respondents, and manage the process. These significant changes have affected the council's internal processes, the management of the council, and the public hearing, which has now moved into the digital space. The digitalisation of the processes has occurred over time, stemming, firstly, from the focus on websites and the publications of rulings online, and gradually moving to include the digitalisation of processes. Since the COVID-19 pandemic in South Africa in March 2020, signalled by a hard level-five lockdown in the country, media accountability institutions were also affected by the stay-home mandate in place nationwide. As councils began operating again under lockdown conditions, the institutions and their processes operating digitally, yet, the approaches differ. The approach to the laying of complaints, adjudication of complaints, hosting hearings related to complaints, resolving complaints and publishing those resolutions in the form of hearings all occur digitally.

Whilst both councils are digitised, their accessibility differs. The BCCSA is only available via email, whilst the Press Council is accessible via multiple communicative technologies. The former's website allows for one-way communication, whilst the latter allows for two-way communication. The former provides very little assistance, whilst the latter is easily available and accessible to the public with codes in various languages, and a public advocate providing a supportive role.

As institutions are being affected by digitalisation, so too are the accountability institutions which regulate them. In a country like South Africa, where digital inequality and access to digital technologies is a challenge, how does the digitalisation of councils affect public access to them? Ultimately, the question of the public interest and how the public is affected become central to the future of media councils in the country. For the public to participate in the information and communication society and access the above-mentioned digital processes, these publics require internet access. Access can be affected by physical access to smart devices, internet technologies and the digital skills to utilise these technologies (van Dijk 2020: 1). "Inequality of access to the Internet" (Castells 2002: 248) has increasingly affected social groups in society who do not have access to these technologies. A lack of access can be likened to digital inequality. Digital inequality can be

intensified by race and ethnicity, gender and socioeconomic status, often reinforcing existing social inequalities (Robinson et al. 2015: 570).

In Africa, leading authors have highlighted how information and communication technology (ICT) disparities have furthered inequality in Africa, noting that “the digital divide – the unavoidable void between those with access to information and communication technologies (ICTs) and those without – remains a major problem in Africa” (Mutsvairo & Ragnedda 2019: 14). This unequal access to information technology enables or constrains the ability of the public to participate in an Information Society and to participate in institutions governed by ICT's (Fuchs & Horak 2008).

Whilst constrained by vast social inequality, high unemployment rates, limited disposable income and marginalised communities (Moyo & Munoriyarwa 2021: 367), South Africa has high levels of smartphone penetration (ibid: 168). 80% of the South African population has access to smartphones, yet the high costs of data and the internet, evident by the #DataMustFall movements, indicates that the country has "failed to ensure affordable data, which is in the public interest" (ibid: 176). Institutions that rely on digital technologies must consider the access and skillsets of the public they serve, and offer realistic technological support for online and technology-based processes.

The ultimate consideration of the digitalisation of media councils in the Global South should be how to reach the public at grassroots levels. If public access to the internet and digital technologies is a challenge, is the public affected by the digitalisation of media councils? Are the institutions still able to fulfil their public service mandate? Are there alternative considerations for the digital process to reach the needs of the public? What type of communications strategies would complement digital processes?

6.8 Comparing media councils and their fitness-for-purpose

RQ 4: Are the MAMs satisfactory/competent? And relevant to their contextually stipulated requirements?

Yes, as both councils are functional and could further improve on this functionality.

RQ 4.1: Should the current MAM prove to be satisfactory/competent – What recommendations can be made to improve the current systems in place?

Digitisation of media councils: It is recommended that the councils further the research and explorations of media councils in the digital age and imagine the future of both councils, their integrity, and their role in serving the South African populace specifically. This would age benchmarking current practices, noting that these should only be adopted if they are fit-for-purpose, passing the three-part test for adoption (Berger 2011).

Collaboration: it is recommended that the councils consider the partnerships formed due to the overlap of digital processes. Solidify the relationship between the Press Council and the BCCSA, as the PCSA now rules on BCCSA members' social media content. Therefore, it is important to consider the relationship between councils on social media products, and to solidify the relationship between the BCCSA and the Press Council's rulings on complaints; and how that relationship will continue into the future.

Codes for online: it is recommended that both organisations consider the relevance of the code for current contexts and for digital media production. With digitalisation and the convergence of various media online, both councils would need to consider their codes and if they reflect the practice, ethical and behavioural expectations for journalists and media producers, and if this is made evident through the code.

Process and their accessibility: To consider audience access to the technology required to participate in the complaints process in South Africa. Both councils have digitalised their processes and offered virtual services for complaints. The reality of digital inequality in South Africa would mean that many South Africans would need help accessing web pages or proceedings. The Press Council has supplemented this technology by offering telephonic services, offering an alternative complaints possibility for audiences unable to access the virtual. In recent years, the BCCSA has not been reachable via phone and has had an automated voicemail message directing complainants to email correspondences. If complainants do not have access to the resources and knowledge required to send the complaint via email, this would effectively exclude many South Africans from the process based on their technological access. Thus, it is recommended that in less digitised social contexts, councils consider using telephonic access in addition to online complaints processes.

Supporting the complainant: To consider audience participation and to better support complainants to lay complaints on digital platforms. As evident from previous research, complainants have

struggled to access the BCCSA's processes due to scarce economic resources (Reid & McKinley 2020). Since these processes have moved online, it would be even more challenging to access these virtual proceedings for marginalised communities with fewer resources. Thus, it is clear that the BCCSA could need to, firstly, consider providing spaces for accessing virtual proceedings and, secondly, to further the support structures available for complainants with a public advocate type role similar to that of the Press Council (Reid & McKinley 2020). Notably, the Press Council complainants have been supported through the public advocate to lay the complaints, but some found that the challenge came to the appeals phase where heads of arguments are meant to be delivered, and, thus, the Press Council would need to consider the role of the public advocate in the appeals process and how to support the complainant in this role better.

Complaints resolution in the digital era: To consider the effectiveness in resolving complaints. To design and fine tune the digitalisation of processes in manners which support the complainant. Considering the already digital nature of the councils' processes and the continued move towards digitalisation in the country, it is recommended that the media councils consider the digitalisation of their processes and the resolution of the complaints which suit the audiences they are meant to serve. As South African audiences are fragmented with differentiated digital and economic access, council's would need to consider how complainants could access these digital and virtual proceedings. Public participation in the digital age is one area in which these council should improve. The emergent model (see Chapter 7) offers an approach to media accountability, which foregrounds the public, their participation and access to the mechanism. Noting that public access and participation in the digital age contribute to the fit-for-purpose nature of regulatory mechanisms in a South African context.

6.9 Are the media accountability mechanisms (MAM) in South Africa responsive and fit to regulate complaints on media conduct?

RQ 1: To what extent are the media accountability mechanisms (MAMs) in South Africa responsive and fit to regulate complaints on media conduct?

The study finds that the media are regulating complaints effectively, but should improve its responsiveness and accessibility to be fit-for-purpose in the South African context. This chapter, through a comparative analysis of the BCCSA and the PCSA explores this mandate alongside the Council's capacity to support the “structural conditions needed for the participation of citizens” (Garman & Wasserman 2017: 6), to enable genuine citizenship and "promote public participation"

(Silva & Paulino 2007: 138), whilst holding the media accountable and responsible, balancing the commitment of "mechanisms to assure press responsibility" (Silva & Paulino 2007: 142). The study finds that the media councils differ in the extent to which they operate as publicly accessible media accountability mechanisms. Whilst the BCCSA is more visible to the public and genuinely includes public representation in their governance structure, the Press Council is more successful at supporting public complainants in the complaints resolution process. Both councils have some elements of public participation, albeit from two different perspectives. The former promotes participation in governance and could view its visibility to the general public as enabling participation. The latter is accessible to public complainants, offering fair, cost-effective, audience-centred service, but fails in guaranteeing public participation in its governance, and should continue to improve the visibility of its work and existence to the general public.

Finally, acknowledging that "Press Councils cannot be the only mechanism for the reparation of damages... [and] there is the need to complement the MAS with legal action and advancement of rights" (Silva & Paulino 2007: 146). The study acknowledges the importance of access to legal recourse within the courts but notes the impracticality of access to the courts by many South Africans who are unable to access and afford the means for litigation. Instead, the study explores the potential for other Media Accountability Systems to offer recourse to the public. The study recommends the media, their newsrooms, their media organisations and their media associations strengthen their Media Accountability Systems (MAS). These MAS could be supported by media councils with sets of guidelines and training for implementation. As recommended by a media ombudsperson:

"I do believe we would perhaps benefit from internal ombuds/editors enjoying more training and support from the press council in terms of dealing speedily, sensitively and professionally with complaints/complainants" (Daily Dispatch Internal Ombud A. Carlisle 2022, 10 April).

This approach to including MAS/MAIs could strengthen the media and their reportage, strengthen media accountability, support further responsiveness by the media to the concerns of the public, and provide the public with alternatives for recourse. Ultimately, this approach will rest the ethical responsibility upon the media which produce the news and entertainment content consumed. The MAS could support decentralising media ethics and accountability from media councils to the media itself. This shift to additional non-state means holding the media responsible to the public. Increasing media production standards generally (Bertrand 2007) should not replace the media councils and their importance and should instead exist alongside existing media councils' operations.

CHAPTER 7: MEDIA ACCOUNTABILITY MECHANISMS: A MODEL FOR SOUTH AFRICAN MEDIA COUNCILS IN THE DIGITAL AGE

"Tensions among freedom of expression, media ethics and accountable journalism are not unique to Africa" (Tettey 2006: 230), as these tensions are echoed globally, many countries have adopted media councils as a response. Media councils operate as a complaint resolution mechanism, support press freedom, enable accountability, and fend off state intervention whilst trying to raise media ethics and standards (Bertrand 2008). "Press councils are now to be found all over the world ... all industrialised democracies have some kind of Press Council or are working on one" (Bertrand 1977). These institutions, developed to regulate traditional broadcast and print media, have since had to adapt to digitised media environments whilst continuing to fulfil their multiple mandates. Considering the popularity, continuity and value of media councils, this project presents a theoretical model which emerged from the in-depth investigation of two South African media councils.

Media accountability mechanisms: a model for South African media councils in the digital age, offers a theoretical model for accountability in the country. Based on the data gathered and analysed in the study, the model proposes a set of foundational principles which could be utilised to analyse or revise media councils and their role in the larger accountability system. The model provides a set of theoretical considerations on which new and improved media accountability mechanisms can be modelled. The theoretical model uses the term mechanism to theorise the potential non-state means of accountability in a national system, centring the audience and their needs alongside media councils and other MAS/MAIs. The model proposes media councils as formal non-state means of holding the media accountable in service of the audience and the media.

7.1 Mechanisms for accountability

The term 'Mechanism' is often associated with the theorisation of general accountability and media accountability in particular. The concept of 'the mechanism for accountability' is associated with the theorisation and practice of accountability in various professions, including the mechanisms for public responses to service delivery (Ghazali & Wahab 2017; Gurung, Derrett, Hill & Gauld 2019) and mechanisms supporting media accountability frames (McQuail 1997; Bardoel & d'Haenens 2004). The term 'mechanism' in literature refers to the means of accountability, whether it be an institution, a process, or a system, "there must be a mechanism in place" (Lindberg 2013: 203) to aid in holding the agent accountable and to assist the sanctioning process.

Within the field of media accountability, the term 'mechanism' refers to the means of holding the media accountable (McQuail 1997; Sawant 2003; Duncan 2014, Reid & Isaacs 2015b), with authors suggesting mechanisms as vehicles for handling complaints (Sawant 2003; Kruger 2009), for dealing with grievances about press reportage (Duncan 2014), for monitoring the conduct of the press (Kenney & Ozkan 2011) and monitoring news media performance (Thomass et al. 2022). Others have theorised South African media accountability mechanisms as referring to "self-regulation, independent and statutory regulation" (Mtimde 2012, 119), with the Mtimde advocating for the inclusion of effective statutory and independent regulation to supplement self-regulatory mechanisms (2012, 126). Despite the differences in the theorisation of the term, all authors have agreed that the notion of a mechanism could be useful for ensuring the media are held accountable.

The terminology of a mechanism was first popularised alongside media accountability by McQuail's 1997 study on the "accountability of media to society" (1997), in which he theorises mechanisms and their relationship to the process and procedure of accountability (Plaisance 2000; McQuail 2005b, Tettey 2006; Groenhart & Bardoel 2012; Van der Wurff & Schönbach 2014; Acharya 2015). For McQuail (1997) the process of accountability is reliant on the "mechanisms by which accountability is exercised" (McQuail 1997: 520) involving several logics such as "the working of the media market; political debate; the justice system; commissions of inquiry; independent research; comment and criticism by the media themselves; the pressure of public opinion; media self-regulatory agencies; media professional associations; special lobbies and interest groups; political parties; associations representing the audience" (ibid.). These logics could be seen as the precursor to Bertrand's Media Accountability Systems, as they offer an initial list of political, judicial, statutory, public, and media systems for holding the media accountable, with the logics of non-state audience participation and media collaboration forming the basis of Bertrand's theory in 2000. McQuail problematises the

concern that "modern mass media are less inclined to make voluntary commitments to society, less able to have any meaningful relationship with their audiences and those whom they affect, less ready to enter into dialogue" (McQuail 1997: 518) whilst Bertrand's theory provides a response by finding non-state means of holding the media accountable, allowing the theories of frameworks for accountability and systems of accountability to be intrinsically linked.

The struggle with this terminology within the media environment has been the use and conflation of the terms 'mechanism', 'instrument' and 'system'. The terminology of Media Accountability Systems, theorised as the original introduction of "non-state means of holding the media accountable" (Bertrand 2000), has been discarded with authors expressing concern with its lack of grounding in systems theory (Eberwein et al. 2019), as the term was adapted from the television series M*A*S*H hence the writing of the terminology as M*A*S (Bertrand 2008: 31; Van Krogh 2008: 24; Thomass et al. 2022: 234). Others have recommended the use of Media Accountability Instruments as a relevant terminology (Bardoel & d'Haenens 2004; Eberwein et al. 2011; Fengler et al. 2015) to show the purpose and usage of the accountability systems introduced. Other theorists echo these concerns warning that "the word "systems" here does not refer to systems in any technical or scientific sense. One might rather use the words, "means" or "mechanisms"" (Van Krogh 2008: 24). The study aligns with latter usage of the terminology mechanisms, which refer to the ombudsman as a mechanism (Kenney & Ozkan 2011), a press council as a mechanism (Reid 2014), and others describing mechanisms as enhancing accountability (van Krogh 2008). The term mechanisms often associated with accountability, has become a catch-all phrase to reflect the relationship between accountability and the concretised processes, systems, and instruments in place. Yet, the term has also been associated with conceptual notions of accountability. Consequently, the terminology is adopted within this model to unite the conceptual theorisation of media accountability with the concretised instruments used to ensure accountability, representing both the conceptual and the concrete in the accountability model/framework.

7.2 Media accountability mechanisms: a model for South African media councils in the digital age

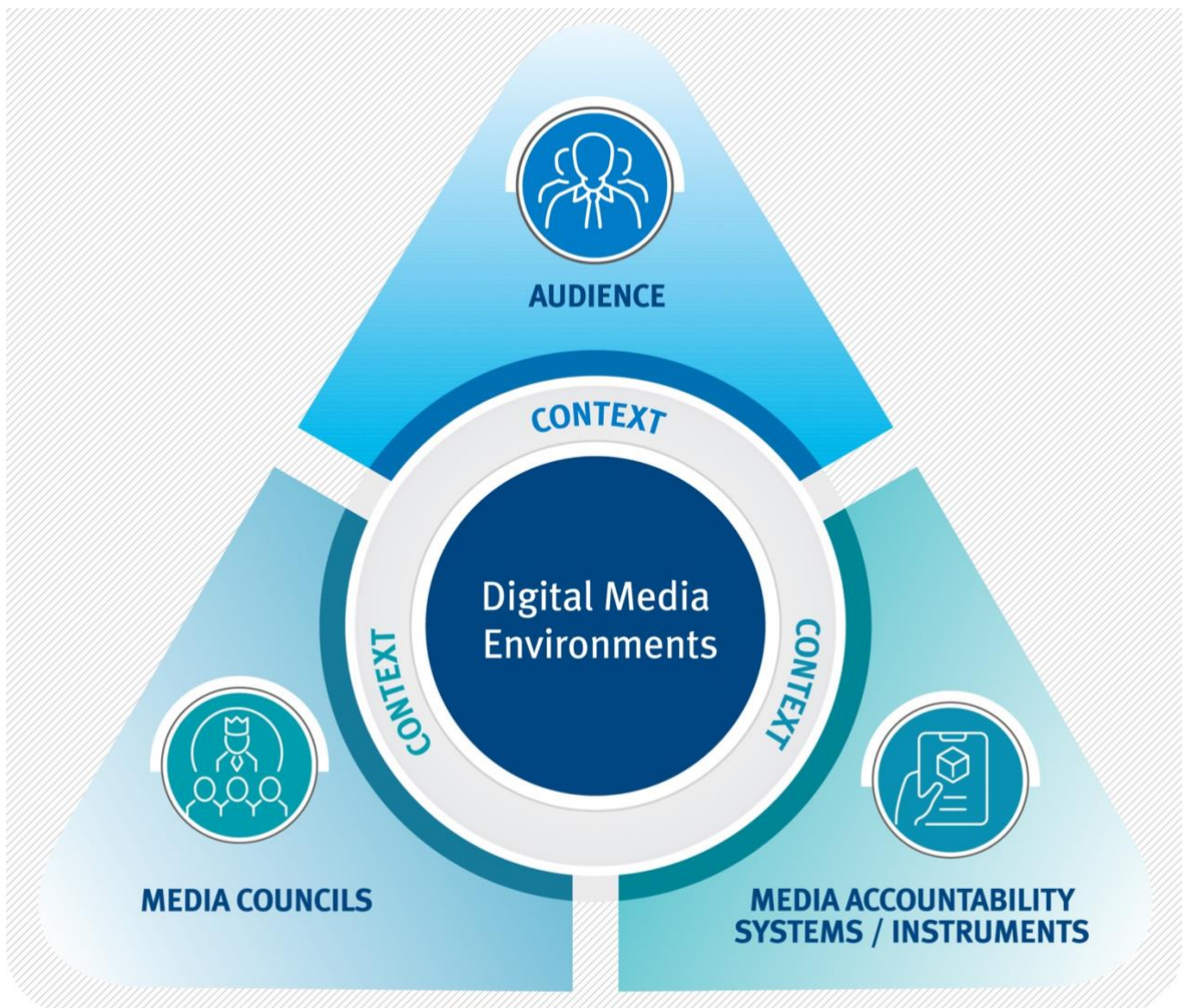


Figure 5: Media Accountability Mechanisms: A model for South African media councils in the digital age

Media accountability mechanisms: a model for South African media councils in the digital age comprises of 5 major elements, namely:

1. Audiences: the audiences, citizenry and public who accountability processes serve;
2. Media Councils: media councils responsible for formal complaints resolution and non-state regulation;
3. Media accountability systems/instruments: MAS/MAI operate in the larger accountability environment;

4. Digital Media Environments: the media environment in which media is produced and distributed. This environment has become increasingly digitalised as traditional mediums extend their reach to online platforms;
5. Context: the national context which determines the accountability framework of the country.

The model proposes that these 5 elements must be collectively considered to support democratic non-state media accountability in the digital age. The inclusion of the 5 elements is a reflection on what the accountability literature currently comprises of, theorising how each of these elements could ideally work together in practice. The model theorises how these critical elements could work together to better support the larger media accountability environment. Each of the elements are discussed in greater detail below.

7.2.1 Audience inclusion

The study affirms the medias "obligations to society" (McQuail 1997: 516). Noting the importance of accountability to different stakeholders (Bardoel & d'Haenens, 2004) and previous studies which reiterate the "self-interest of the news media" (Harro-loit 2015: 38) to be accountable to its own community, the study frames the media as accountable to both society and to its own community. The model foregrounds media audiences as critical stakeholders in the accountability process, drawing on findings that media users provide important feedback on media standards. This study aligns with models which advocate for involving civil society, the media and citizens through participatory media regulation (Fengler et al. 2015). The involvement of the citizen/media user "limits media professional's vigour as watchdogs of their own profession" (Fengler 2012: 186) and balances the voices about the media and their accountability outside of media circles.

This model aligns with the call for audience-inclusive models of media accountability, which value and centre the audience in the accountability process, whilst encouraging citizen participation in accountability. The model values the audience, as "media accountability encompasses any of a number of mechanisms that allow for interaction between the journalistic apparatus of a medium and the impressions, rooted in receivers' set of values, created by messages" (Plaisance 2000: 258). The receivers/audiences receive and interpret the message and can respond to and provide feedback on the message and information. This feedback can be in the form of complaints to the media councils (Reid 2014), through other systems/instruments such as letters to the editors (Bertrand 2000), or through online and "digital media criticism as a form of accountability" (Cheruiyot 2019a: 237).

The study proposes that in the digital age, allowing the traditional and online media to be held accountable through media councils and other MAS/MAIs requires public participation (Silva & Paulino 2007; Wasserman 2022), and views public input and crowd criticism as a legitimate source of feedback for the media in the digital age (Fengler et al. 2015; Cheruiyot 2019). Crowd criticism is theorised as allowing “scrutiny of journalist practice” supporting “participation” and “empowerment” of digital publics through their criticism and feedback, supporting “digital-centred discourse that is less controlled by journalistic actors” (Cheruiyot 2019: 237). This crowd criticism can be helpful in addition to the individualised feedback made possible through media councils where individuals can lay complaints on their concerns about the media.

The public and their interests play an important role in media councils. Just as the media operate in the public interest, so do its accountability institutions (Silva & Paulino 2007; Reid & McKinley 2020). The model views audiences, citizens and the general public as critical to media accountability mechanisms and the systems meant to serve them, implying that these MAS/MAIs should be accessible, responsive and user-friendly for them to be considered fit-for-purpose. The model links fitness-for-purpose (Berger 2011) with the citizens’/users’ needs and how accessibility and responsiveness are measured. Councils could adopt audience-centred approaches and audience-centric processes to support their public engagement. By considering audience-centred approaches (Duncan & Reid 2013), councils can enlarge their focus from media freedom and the freedom of the press to include the freedom of citizens to participate in the media (Reid 2017a). This inclusion of the audience in consideration of policy views their participation as critical to the regulatory process and assumes a bottom-up approach to policy interventions centred around the audience and their participation (Reid 2017b). This approach considers the audience and their accessibility to media products (Reid & Malila 2021) as influencing their ability to participate. Similarly, the study posits that the audience's ability to access media councils will affect their ability to participate in their processes.

Media councils need to consider their accessibility and visibility to media audiences (Reid & Malila 2021), to develop processes and policies which support the access to and visibility amongst "less connected" citizens (de Lanerolle 2020) who form the majority of the country's population. South Africa has a unique set of societal, linguistic, economic, and digital considerations related to its audiences and their accessibility. Mechanisms must consider the audiences and prioritise enabling structures for their voices to be heard. Access to media councils should be free and without exclusions to support them operating in the public interest and as a public good. If the media is a public good (UNESCO 2022), then media accountability by extension is a public good, as it provides balance to

the power and influence of the media. Enabling, accessible and affordable access to such institutions will ensure their continued operations as a public good.

Thesis statement 6: Media councils as Media Accountability Mechanism: Evaluating the public interest mandate of media councils, the thesis advances the statement that media councils could be argued as mechanisms for the public good.

7.2.2 *Media Councils*

Scholars have reviewed media councils and found them to be appropriate media instruments for accountability, which could be strengthened by approaches which support public engagement and visibility (Bertrand 2000; 2005; 2012), media participation and compliance (Fengler 2012). Councils are responsible for the media codes of ethics which guide journalism behaviour (Fidalgo et al. 2021) and offer the public recourse for complaints (Reid 2014). The study elaborates on the idea of a mechanism, positioning media councils as a "regulatory mechanism" (Reid & Isaacs 2015b) and as a "mechanisms to improve public trust in the media" (Kruger 2009: 10), solidifying the importance and relevance of media councils today. The model proposes that councils should be strengthened in their operations to be fit-for-purpose, fit for the needs of the media they regulate and fit for the audiences they serve.

As a formal regulatory mechanism, media councils are integral to the accountability of the media. To be fit-for-purpose, councils should:

1. offer free and accessible complaints resolution processes;
2. allow authentic public participation;
3. be relevant and responsive to the media, its environment and context;
4. be respected by the media and the public; and
5. be supported by media accountability systems/instruments.

Firstly, media councils must meet their existing complaints resolution mandate. To meet the mandate of effectively resolving complaints, councils must make their processes accessible to citizens and complainants. Audience centered, cost-effective and accessible processes speak to the council's fitness-for-purpose.

Secondly, media councils must operate in the public interest and operate as a public good. To do so councils should allow for authentic public participation in accountability and complaints processes. In the case of self-regulation, co-regulation and independent regulation, the public (non-media-aligned individuals), play an important role in the regulatory process. To fully realise the potential of regulatory bodies, the media and citizenry must play an active role within the council to ensure that the public interest is maintained, and public participation is ensured.

Thirdly, to be fit-for-purpose, media councils must consider their responsiveness to varying conditions including the social, political, and cultural environment in which they are located. Media councils must reflect the pulse of their country, adapt to a changing media, and continue to offer checks and balances within the law and within ethical media standards. Media councils and their codes of conduct should be responsive to the national climate, national legal obligations, and the political, linguistic, and cultural existence of the audiences they serve. Additionally, media council's must be internationally relevant, responding to the globalized, international, and transnational media trends. With the onset of digitalisation, councils must be responsive to these changing media environments.

Fourthly, the media must be respected by the media and by the public. To ensure that the councils' findings are upheld and that the sanctions are imposed, the voluntary support of the media and the public is critical to its success. In South Africa, the involvement of the general public, civil society organisations and members of the government through their continued use of the system, alongside the media's compliance with the findings of the councils, shows promise for its continued success.

Finally, councils must be supported by media accountability systems and instruments. To do this, councils must support the self-assessment and commitment of the media to standards of production. Non-state means of accountability which raise the media standards of their media members and signatories, will support their auxiliary mandates of raising media standards. This will ultimately support press freedom and further efforts to fend off state intervention. Thus, councils should continue to encourage media and their newsrooms to improve their ethical and production practices.

In summation, the model emphasises the critical importance of media councils as a complaint's mechanism in the public interest, which offers recourse to the public (Reid 2014), engages with the public (Silva & Paulino 2007), and has co-representation of the media and the public in its councils (Bertrand 2008). Furthermore, MAM theorises the importance of media councils as a public service in the public interest (Silva & Paulino 2007), and premises that the council's engagement with its

public hinges on the ability of its public and audiences to participate, access and engage with the media council (Reid 2017; Reid & McKinley 2020). MAM theorises that this engagement can be strengthened through an audience-centred approach (Duncan & Reid 2013; Reid & Malila 2021), which supports audience/media engagement as a democratic function. MAM theorises the council and its relationship to a shifting media landscape in the digital age (PCSA 2016; UNESCO 2022), using an audience-centred approach which considers the specificity of South African audiences and their ability to engage with these accountability processes (Reid & McKinley 2020).

TS 1: Media councils effectively resolve complaints when they are fit-for-purpose, responding to their contexts and the needs of their media and the public.

7.2.3 MAS/MAIs

In many cases, media councils are successful in resolving complaints against media misconduct, but often fall short of proactively raising media standards (Bertrand 2008). Finding that other accountability mechanisms are more effective in securing compliance; authors have continued to support the calls for media accountability instruments to operate alongside the council (Fengler 2012). These systems (Bertrand 2000) and instruments (Bardoel & D’Hanens 2004; Eberwein et al. 2011) are important to media accountability and ethical media production. Whilst councils can assist with complaints lodged about unethical media conduct, having newsrooms and media producers develop a set of checks and balances for their own practices is important to operate alongside a formalised council and code. The participation and voices of the public (Bertrand 2000; Bardoel & d’Haenens 2004; Silva & Paulino 2007; Fengler 2012; Cheruiyot 2019b; Wasserman 2022) through these less formalised instruments could support further engagement with public concerns and stimulate greater compliance by the media (Fengler et al. 2015). These MAS/MAIs exist alongside media councils, which are theorised as a more formal MAS/MAI (Bertrand 2000; 2005; Fengler 2012). This model recommends embedding these instruments in newsrooms, and drawing on what is offered by media-aligned organisations and the citizenry operating independently of the media. These inputs, criticisms and feedback could enhance the media’s understanding of itself and support reflection on media standards in newsrooms.

Table 20: MAS/MAI examples

| EXAMPLES OF MAS/MAI | | |
|------------------------------------|-------------------------------------|--|
| Independent of media and newsrooms | Media critics | <p>Citizens, social media users and the public could offer criticism on social media, blogs, websites, and other online criticism spaces which support citizens voicing concern on media conduct.</p> <p>Media critics, media watch groups, or scholars in the field could offer a media page/program/blog/vlog/news column/radio show/magazine to publicise, question and evaluate the media and its ethics, or to comment on errors or journalistic grievances. Alternatively, such groups could develop critical reports or books; journalism reviews; or short stories dealing with the media by praising or critiquing performance.</p> |
| | Members of the Public/media users | <p>The public could write letters to the editor; start petitions to put pressure on the media to deliver on certain demands made of them; allow online feedback through message boards/comment sections/blogs/social media pages; and develop consumer reports.</p> |
| | Critical activist and social groups | <p>Activist groups could issue public statements by leaders of the country; publish paid-for-opinion pages by firms or activist groups; and generate a newsletter as a media watch organisation.</p> |
| | Consumer and user feedback | <p>Groups could form a panel of readers/listeners/viewers consulted on their experience of the media; or a club of readers/listeners/viewers who hold dialogues on the media and feed their commentary into the newsrooms.</p> |

| | | |
|--|---|---|
| | Independent research | Independent research could be conducted on media publications, channels, and reportage to share insights on performance. |
| Independent of the newsroom, but media aligned | Media initiated | Media initiated critique of the media, such as a local press council; a national press council; or a media observatory – study centre which observes and reports on the media. The media critical blogs and commentator sites also contribute to such feedback. |
| | Professional associations | Offer a code of ethics; provides a daily media watch service/conversation commenting on the media. |
| | Veteran journalists and journalism educators | Develop cadet programmes for junior journalists/producers, support teaching hospitals and community journalism programmes for training purposes. These programmes could be in person or offered online as asynchronous learning possibilities. |
| | Collaborative institutions | Supports collaboration within the media regulatory councils. E.g., collaboration between media councils to support regulation in instances of jurisdictional overlap. Or ensuring collaboration within regulatory media councils to ensure it comprises of a mix of people with different affiliations; or associations, e.g., a media related associations and citizen participation. |
| | Conference and seminars; international cooperation. | Generating conversations about the media and its performance at conferences and seminars. Also rewards such as prizes, recognition of outstanding journalism, praise of good media practice and other initiatives (to praise good performance) are useful. |

| | | |
|--|---|--|
| Within media organizations and Newsrooms | Journalists and Media Organizations | <p>The use of internal memo's; daily reports; correction boxes, which can become a space for extended self-evaluation.</p> <p>A vox pop/letter from the editor or newsletter to subscribers could keep them informed of what's going on in the publication/channel/site.</p> <p>Where relevant explanatory sidebars dealing with difficult editorial decisions could assist in explaining its stance to its readers/viewers/listeners.</p> |
| | Journalists and Media Organizations | In-house critics; whistle-blowers; media reporter whose beat is media reporting; or a consumer reporter could provide valuable feedback on media reportage. |
| | Independent mediators | One of the senior journalists/editors could take up the role of newspaper ombudsman, ethics editor, or ethics coach inside the newsroom. |
| | Consumer and user | Groups could form a panel of readers/listeners/viewers consulted on their experience of the media; or a club of readers/listener/viewers who hold dialogues on the media and feed their commentary into the newsroom. |
| | Members of the media | Together form an ethics committee inside the newsroom. Can consults on difficult stories/decisions, can provide guidance on mistakes etc. |
| | In house processes | In-house awareness program could be useful by updating staff on regular mistakes, or by having a discussion board of errors that occur within the news medium. Alternatively, these could be generated by an in-house study to determine the issues or relationships with the public. External ethical audits could also be useful. |

The model views the media accountability mechanism as incorporating media councils into a larger media accountability system (Bertrand 2000), which can be supported by the logic of the accountability instruments (Fengler et al. 2015) in a manner which is considered 'fit-for-purpose' to the South African context (Berger 2010). If councils and MAS/MAIs could work in unison, it could contribute to the success and efficiency of the media accountability environment by decentralising core responsibility for ethical media production from media councils to the media itself. The use of MAS/MAIs, such as newsletters, media critiques, in-house newsroom ombudsman or any other means of holding the media accountable, support media responsiveness and ethical considerations, as evidenced in cases like the *Daily Dispatch* where an in-house ombud is accessible to the public.

Conceptualising the decentralisation of media accountability could evolve the current South African media environment from one in which accountability conversations are dominated by the Broadcasting Complaints Commission of South Africa, the Press Council of South Africa and the South African National Editors Forum. These bodies are important and valuable, but their dominance in leading the national conversation has removed the focus from the responsibility of individual media publications, and newsrooms. Moving the responsibility of being accountable from the dominant bodies to the media producers themselves supports the media in their respective spaces to take responsibility for their own production practices and could support their responsiveness to their relevant publics and audiences.

TS 2: Complaints resolution is the core function of media councils. Consequently, councils cannot be solely responsible for raising media standards. Robust media accountability systems can more effectively raise the media standards and media councils can support these efforts.

7.2.4 Digital Media Environments (DMEs)

Digital Media Environments (DMEs) refer to the current media climate in which media production operates via traditional print and broadcast mediums, and through a myriad of online and social media platforms, reflecting “our changing media landscape and the way we select and consume news” (Otto, Thomas, Glogger & De Vreese 2022: 202). The media and the press have migrated online, offering audiences multimedia content via a plethora of platforms. DMEs reflect the shifting production cycle in which the press has adapted to digital journalism offerings (Steensen, Grøndahl Larsen, Hågvær & Fonn 2019; Burgess & Hurcombe 2019; Carlson 2023) in a digitalised environment of “newsgathering, reporting, textual production and ancillary communications” online (Burgess &

Hurcombe 2019: 359). The pace of production has led to concerns about many issues around fast-paced news over the slower news production cycles of the past, and journalism is under increased pressure to maintain its credibility (Hayes et al. 2007) and “balance its efforts to adapt to a digital media environment with the health and welfare of its workers” (Mathews et al. 2023).

The digitalisation of news and the distribution of news online has altered the news market and, as a result, the professional and ethical practices associated with newsmaking have altered along with it (Chari 2017: 25). These changes to the digital environment also altered audience participation and the standards and expectations of audiences who interact with news on online platforms (Palau-sampio 2019: 230). Many studies have considered the audience and their relationship to the digitalisation of the media, with authors examining audience adaptability to online spaces (Nimrod 2017), and their responses to the news stories (Vargo, Schierhorn, Wearden, Schierhorn, Endres, Tabar 2000), alongside audiences and their citizenship in the digital environment (Nah & Yamamoto 2018). As the news became more digitalised, distributed through digital platforms, and consumed through online audiences, councils have had to adapt to the new challenges brought by the digital era, affecting ethics, traditional conceptions of professionalism and the new roles of audience engagement (UNESCO 2019).

The theme of digitalisation and media councils is not a new concept, as research on media councils in the digital age is ongoing. Media councils and the research on accountability have responded to the changing circumstances of news and the rapidly altering contexts in which media councils operate. Such research on the digital aspects of media accountability includes the work on MAS/MAIs (Von Krogh 2008; Eberwein et al. 2011; Fengler et Al. 2022), examination of audiences and “*crowd-criticism*” in the digital age (Fengler 2012; Cheruiyot 2019; Wasserman 2022), work on codes of ethics and the internet worldwide (Diaz-Campo & Segado-Boje 2015; UNESCO 2019; Thomass et al. 2022), and work on councils and their responses to digitalisation (Reid & Isaacs 2015b; UNESCO 2019). The largest project, *Media councils in the digital age*, seeks to understand and address the role of European media councils in the digital age, surveying 45 countries and their 55 codes to examine their response to digitalisation (Press Councils EU 2023). The studies have affirmed the importance of media councils and self-regulation of the media in the digital age (Press Councils EU 2023; UNESCO 2019).

TS 4: Media councils need to adapt complaints resolutions for the digitalised media era.

The research on digitalisation and media councils yielded from these studies is important and useful but can only act as a guide to councils in circumstances outside of European contexts. Drawing on Berger's seminal discussion on the adaptation of regulatory practices to South African contexts and the consideration of international practice in other contexts. As countries in Africa face different circumstances, noted by the continent's 43,2% internet penetration rate compared to the global average internet penetration rate of 67.9% and above (Internet World Stats 2023), the international practice and functioning of councils in the digital age is expected to differ in local contexts due to the differences in access, audience, and levels of digitality.

Media accountability mechanisms recommends strengthening media councils and their responsiveness to the digital age. Adaptation to the digital can be supported through the examination of best practices around the world, but a fit-for-purpose approach to thorough borrowing and adoption of best practices should be avoided. Resultantly, the study suggests that media councils in the Global South should consider self-evaluation of digital practices in support of their media's level of digitalisation and their audience's access to digital participation, often differentiated due to access. Whilst many continue to ponder media councils and their adaptations for the digital age (UNESCO 2019; UNESCO 2022), MAM theorises a differential approach to digital responsiveness which serves all levels of society, including the "less connected" (de Lanerolle 2020). A country like South Africa, affected by differential media access to traditional and online media as "audiences have large variances in their access and accessibility to different media platforms" (Reid & Malila 2021; 26), must consider the audience's ability to access the media and participate in their accountability. South African audiences are not digitally homogenous (Buthelezi, Chatikobo & Dalvit 2021); their accessibility is further impacted by digital inequality, as "digital access, use and benefits are unevenly distributed" within communities, compounded by "the urban/rural digital divide" (Buthelezi et al. 2021). Thus, approaches to media accountability and the councils central to this function must consider the specificity of its audiences and their ability to access and participate in media council processes. The focus on the digital should allow instruments with lower digitalisation and higher levels of digitalisation to be included in the larger accountability system to support all citizens' participation in the council and other MAS/MAIs.

Media councils should consider and respond to the evolution of online media (UNESCO 2022; Fidalgo et al. 2021; UNESCO 2019; Fengler et al. 2015; Campa & Segado-Boj 2015), with this study recommending that all media councils include online and social media distribution of their media members and signatories. For example, the media councils responsible for the printed press should include their online websites and social media accounts in their existing mandate. Similarly, councils

which oversee broadcasting should consider the websites, social media accounts and online streaming platforms of its members' content as part of their mandate. In South Africa, this has partially occurred, with the PCSA absorbing its print and online media members, online, social media and multimedia publications. For the BCCSA, this has occurred to a lesser extent, with the BCCSA absorbing broadcasters and their online websites only. This partial regulation of the broadcast industry is cause for concern, with the social and online media communications of broadcasters lacking a formal means of accountability. The model suggests that a collaborative approach to regulating complaints about broadcasters' online content be adopted.

TS 5: Media councils could benefit from national collaborative action through a cross-platform media accountability system.

This approach will allow the Press Council and the BCCSA to rule on complaints about social media and online content together. The collaborative approach to media accountability could draw on earlier conceptualisations of cross-platform approaches to media councils (Reid & Isaacs 2015b), in which the media councils, which currently share jurisdiction over the social media and online production of broadcasters, work together in partnership to resolve complaints against such content. The cross-platform system could allow for a unified code on social media production, and consider joint rulings and appeals on content which includes a social media component. Alternatively, the BCCSA could include all social media content of its broadcasters, or cede all regulation of the broadcaster's social media sites to the Press Council, as many BCCSA members also belong to the PCSA.

7.2.5 Context

As South Africa differs from its global counterparts, approaches to media councils should consider which practices and processes are most "fit-for-purpose" (Berger 2010) for the South African setting. Calls for media councils to respond to their South African context echo Berger's (2011) approach for *best practice in media self-regulation: A three-way test to avoid selective borrowing and ad hoc transplants*. Critiquing the government's proposed adoption of a statutory media council as a best practice based on the Indian model, Berger noted that a one-size-fits-all approach does not exist because a "common practice is not necessarily always the best practice" (Berger 2011: 40). Berger recommended a) exploring fitness-for-purpose in the original context; b) considering which of these practices can be generalizable; and c) "assessing potential fit-for-purpose in the applied context" (Berger 2011: 42). Thus, the notion of fitness-for-purpose borrowed from Berger's theorisation,

extends the relevance of context in media accountability studies. Whilst Berger argued that the hybrid form of self-regulatory body is best suited to the South African context, as this notion of self-regulatory regulatory bodies proved a challenge for the country a decade ago, the study suggests that later forms of co-regulatory or independent non-statutory councils might be more appropriate.

This study considers self-regulation (see Chapter 2) as the widely accepted regulatory approach adopted by media councils in democratic environments and notes that whilst media-only self-regulated bodies are a popular approach, this approach is not contextually fit-for-purpose in the South African context. Borrowing globally universal practices was not successful for previous iterations of the Press Council of South Africa, which almost faced statutory regulation as a result. The adoption of the self-regulatory model by the Broadcasting Complaints Commission of South Africa, instead of its once independent tribunal, signals another reason to review the regulatory approaches adopted by South African media councils and to question their relevance in the current context.

The analysis in Chapters 4, 5 and 6 presents significant findings on these regulatory bodies and suggests that whilst the councils are effectively ruling on complaints and regulating their media members, areas of improvement should be considered. The PCSA could benefit from a more authentic public participation in its co-regulatory structure, whilst the BCCSA could benefit from a more accessible, responsive, and cost-effective regulatory process. The model recognises the need for authentic audience participation in a South African setting and recommends that context-specific processes consider the audiences, their media consumption, their access, and other factors to be truly fit-for-purpose and fulfil their mandate of resolving complaints from their South African publics.

7.3 Summarising the model

This study theorises media accountability to the public (McQuail 1997) through citizen participation (Banda 2009) in MAS/MAIs in a national media accountability system. MAM is grounded in the notion that the media should act as a self-correcting community (Kasoma 1996), prepared to account for its reportage in South Africa (Kruger 2004). This accountability and answerability is to the public, who initiate complaints with the relevant body. The study evaluates the current operations of the media councils and seeks to strengthen the areas of the council which need continued support such as improving accessibility, engagement, visibility, and the appeals processes. These additions to the media councils could support their fitness-for-purpose. Furthermore, the adoption of audience-centred processes within media councils, supporting access for audiences characterised by differential

digital and media access, could support councils as a public good, freely and easily accessible to the audiences who use them.

MAM theorises media councils as part of a larger media accountability system, seeing their importance as central to the media accountability function. The model media accountability mechanisms view the council and other MAS/MAIs as a feedback mechanism for the public about concerns on media content and reportage. Using the Bertrand model of Media Accountability Systems (2000; 2007) as a point of departure, the study acknowledges that whilst media councils are popular means for holding the media accountable (Bertrand 1977), they could be more effective by operating alongside other accountability instruments as part of a larger media environment, instead of operating in isolation (Bertrand 2000). MAM centres the media council and its importance in the media accountability system (Bertrand 2008) and acknowledges that other accountability instruments could also be successful in enforcing media accountability (Fengler et al. 2015), especially in the digital age (Fengler 2012; Cheruiyot 2019a; Wasserman 2022). The continued development of these accountability instruments could foster greater engagement between the media and its public and support the media to respond better to a changing society and its expectations of media conduct (Wasserman 2022).

7.4 Conclusion

Adapted from the literature which theorises media accountability and its relationship to the citizen and audience, this thesis theorises mechanisms as a means of accountability to the public through citizen participation in the accountability process (Bardoel & d’Haenens 2004; Silva & Paulino 2007). The South African model aligns with theorists that argue that “the basis of morality of African journalism should be the fulfilment of obligations to society” (Kasoma 1996: 109), with one of those obligations being answerability and accountability. Furthering the claim that “the notion of a democratic citizenship should be placed at the centre of Afriethical considerations” (Banda 2009: 239), the model continues to consider media councils and their accessibility and potential for citizen participation as vital to democracy in Africa. Aligning the existence and operations of media councils to MAS/MAI through media and public participation, the framework argues for audience participation and media answerability through formal and less formal accountability processes. With the digitalisation of the media, and the fast pace of media production, opportunities for accountability within newsrooms and in other spaces could add value to the audience and the media.

CHAPTER 8: CONCLUSION

South African authors have questioned the responsibility and accountability of the media in an emerging democracy with a history of state interference (Duncan 2003; Fourie 2004; Hadland 2007; Berger 2010; Reid 2014; Reid & Isaacs 2015a; Ciaglia 2017; Reid 2017; Cheruiyot 2019a; Reid & McKinley 2020; Satchwell et al. 2021; Wasserman 2022). This “media-democracy nexus” (Chuma et al. 2017) presupposes that the media have a role to play in a democratic dispensation. This notion, aligned with the “normative traditional liberal role in which media claim to protect the public interest” (Chuma et al. 2017: 124), has been debated extensively in South Africa (Duncan 2003; Chuma et al. 2017; Reid & McKinley 2020) and elsewhere, with authors debating the power of the media (McQuail 1997; Plaisance 2000; Hadland 2007; Daniels 2020) and its influence (Hall 1997; Bertrand 2000; Wasserman & Rao 2008) in society. Authors have collectively agreed that, considering its role and influence society, the media should be responsible and maintain high standards of ethics (Siebert et al. 1956; SPJ 2014; Tettey 2002; Kruger 2004; van der Wurff & Schönbach 2014; Fidalgo et al. 2021) and when they transgress these standards, the media should be answerable and accountable (McQuail 1997; Bertrand 2000; Fourie 2004; Reid 2017; Fengler et al. 2022; Thomass et al. 2022).

In a young democracy like South Africa, which transitioned to democracy 30 years ago, “the importance of credible media accountability systems that would not be seen as being at the behest of the state was recognized from the outset” (Wasserman 2022: 348). The country’s media-democracy relationship and its historical reality of unequal media access, social inequality and polarisation, indicates that the “traditional “watchdog” model clearly seems to have its limits in this context of inequality and social polarisation ... [and a] more reciprocal, participatory approach of “listening” would acknowledge these limitations” (Chuma et al. 2017: 124). Listening to the citizens who complain about the media allows the study to draw on the voices of audiences and citizens who have concerns about the media and its ethical standards.

Listening to the public about the media and its reportage has been an important shift in the theorisation of media accountability in the last few decades. The acknowledgement of the public (Bertrand 2000), their citizenship (Bardoel & d’Haenens 2004) and their participation in accountability processes (Reid 2017), has shed light on the importance of “the voice of the audience” (Hasebrink 2011: 323) in regulatory processes. Studies linking the public/citizenry to the study of media councils have explored the role and relationship of the public and their participation in Media Accountability Systems

(Bertrand 2000) and Media Accountability Instruments (Bardoel & d’Hanens 2004; Eberwein et al. 2011; Wasserman 2022). MAS/MAIs require the participation of the media and the public (Bertrand 2000), allowing the study of the public and their potential role in the accountability process to be explored.

As media councils are predominantly mandated (OSF-SA 2007) to resolve complaints from the public (Bertrand 2000), it is clear that the public is an important part of the accountability process (Bardoel & d’Hanens 2004). To fully explore the audience and their participation, the study adopted an audience-centred approach, exploring media users as participants in the media policy process (Duncan & Reid 2013; Reid 2017; Reid & McKinley 2020; Reid & Malila 2021). This approach centres the complainant as a media council user, allowing an evaluation of the council and its effectiveness from the perspective of its users. The interviews with participants in the complaints resolution process, namely the complainants, the respondents and the adjudicators, cultivated a particular set of voices, which the researcher sought to listen to, hear and understand. This approach to listening to the users of the media accountability system is embedded in an audience-centred approach to policy research and draws on listening theory to support the approach.

The audience’s voices are presented in Chapter 4 and Chapter 5 as part of the in-depth case study of the Press Council of South Africa and the Broadcasting Complaints Commission of South Africa, two of the most popular media councils in South Africa. Their voices are also presented in the cross-analyses in Chapter 6. These chapters emerged after research employed through various methods, including textual analysis of public and internal documents, observations of public hearings, and interviews with complainants’, respondents and members of the media councils. The data and its analysis is reflected in the findings and inform the recommendations offered in Chapters 4, 5 and 6. Theorising a possible set of principles for consideration by media councils, Chapter 7 offers a regulatory model for media accountability. Whilst many of the findings within the study are useful and valuable, a few of the more prominent findings were reflected as thesis statements for consideration.

8.1 Concluding the findings

Asking whether the media accountability mechanisms (MAM) in South Africa are responsive and fit to regulate complaints on media conduct, the thesis investigates media councils, their fitness-for-

purpose, and their responsiveness to the needs of their audiences. Whilst reviewing the PCSA and BCCSA, and their efforts to meet their mandates of complaints resolution, the study found that, whilst the councils are meeting their mandates to regulate complaints, there are areas which could be improved to further their fitness and their responsiveness to the audiences they serve. Committed to pursuing responsiveness and fitness-for-purpose, alongside the mandates of the media councils, the model *Media accountability mechanisms in South Africa: a model for South African media councils in the digital age* emerged.

The study offered a range of findings, the most prominent of which are presented in the form of thesis statements.

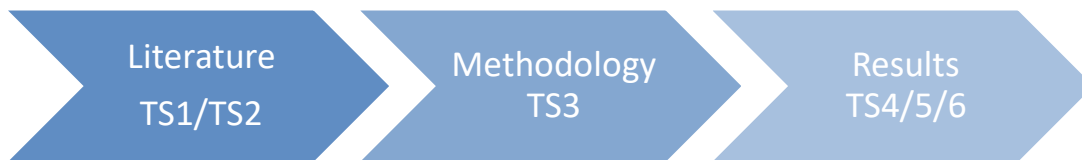


Figure 6: Thesis statements reviewed

TS 1: Media councils effectively resolve complaints when they are fit-for-purpose, responding to their contexts and the needs of their media and the public.

The study finds both the Press Council of South Africa and the Broadcasting Complaints Commission of South Africa to be meeting their complaints resolution mandates. Yet, as evident by the data presented in Chapters 4, 5 and 6, concerns related to the jurisdictional overlap, authentic public participation and accessibility, and the complainant's concerns about certain processes, these councils are not completely fit-for-purpose for the South African context. Addressing these key areas could ensure greater fitness, responsiveness and accessibility of the councils in question. The findings capture the calls for councils to be fit-for-purpose (TS1) by aligning their existences, processes, and operations with their contextual environments, and posits that media councils can only be truly fit-for-purpose when they respond to the needs of their public and their context. The audience is critical to the purpose and mandate of media councils because they initiate the processes of complaints resolution, which is the core mandate of media councils. The study finds that enabling citizen

participation in media accountability systems aids understanding the media (Reid 2014) and supports citizens communicative rights (Reid & McKinley 2020). Listening to and hearing the voice of the audience, supports regulatory processes to become more responsive to the needs of the audience (Hasebrink 2011). The audience-centred approach to policymaking is recommended as a means of assessing audience needs (Reid 2017), whilst the 3-part approach to the adoption of best practice (Berger 2011) is identified as useful for determining contextual relevance, suggesting that media councils effectively resolve complaints when they are fit-for-purpose, and respond to their contexts, their audiences, and the media they consume.

TS 2: Complaints resolution is the core function of media councils. Consequently, councils cannot be solely responsible for raising media standards. Robust media accountability systems can more effectively raise media standards, and media councils can support these efforts.

The findings further explore the mandates (TS2) of media councils, and whether or not councils are meeting their mandates (OSF-SA 2007). Noting that, whilst complaints resolution is the core function and mandate of media councils, their other mandates, such as raising media standards, are important to the reach and impact of media councils. As media councils operate retrospectively, ruling on complaints about media standards after the audience finds fault with what has been produced, councils cannot be present at the site of media production and, therefore, cannot be fully involved in the ethical decisions and standards of the press. The thesis recommends the consideration of media accountability systems/instruments and how they could be utilised by media members and signatories to improve their own media production and newsroom practices to support ethical production and raise their media standards. Theorising media council's as media accountability systems (Bertrand 2000) or media accountability instruments (Fengler et al. 2022), the study positions media councils as one of the accountability interventions available. The incorporation of other, less formalised MAS/MAIs should never replace the importance and authority of media councils (Bertrand 2008) but should instead support proactive accountability measures within media organisations, where the responsibility for ethical media practice lies.

TS 3: The study of media councils needs to expand on the methodology utilised to examine the accessibility and responsiveness of media councils, as existing methods echo institutional data and voices.

Institutional studies on media council research are at risk of reproducing institutional data (TS3) due to the commonly used methods such as textual analysis of institutional documents and interviews

with institutional leaders. This study utilised these initial methods of institutional data analysis and interviews with the councils' chairpersons and ombudspople. The study further sought to explore alternative methods for the study of media councils. Responding to the gap in research methods utilised for the study media councils, the study incorporated the observations of six hearings, five at the Press Council and one at the Broadcasting Complaints Commission of South Africa, allowing an opportunity to review the public hearings and appeals hearing, which only occur in select cases of public interest. The hearings provided new insights into how processes unfold, how the power dynamics of hearings are navigated and how the semi-judicial structures of the hearings affect the overall process in place. The study further sought to draw on voice, and to listen to complainants who were willing to share their experiences on participation in the council processes. Three of the six complainants were willing to participate, with one sharing their experiences on the BCCSA and two complainants sharing their experiences of the PCSA. The complainants were all members of the public, but could be argued to represent legal, civil and statutory opinions on the accountability processes in place. The study found value in including multiple perspectives and voices in accountability processes, and thus sought to balance the perspectives and interests of all parties involved in the process by interviewing the adjudicators of the hearings, alongside the media respondents. The responses from three Press Council adjudicators, one media respondent, and the three complainants were analysed, the findings of which are embedded in Chapters 4, 5 and 6 of this thesis. The findings emerging from the data analysis offer considerations about media councils and informs the model proposing media accountability mechanisms and the notion of media councils as mechanisms for the public good.

TS 4: Media councils must adapt complaints resolution for the digitalised media era.

The consideration of media councils and the digital (T4) emerged as an area of study during the evaluation of the media councils and their complaints resolution processes. In response to COVID-19 and the mandate to stay home, the processes and work of the councils became fully digitised, prioritising this theme within the study. The question of the digital evaluated the extent to which councils are responding to complaints about online and social media, making use of digital processes, and being responsive to the digital evolution of the media. Considering the context of South Africa's unequal access to digital and electronic technology, the thesis recommends that councils located in South Africa and similar environments/contexts should carefully consider their use of digital technologies, balancing them alongside other forms of technology to ensure that they remain accessible to less connected audiences.

TS 5: Media councils could benefit from national collaborative action through a cross-platform media accountability system.

The fifth consideration on the collaboration of media councils (TS 5) emerged from the problem of jurisdictional overlap, in scenarios where media councils seemingly share jurisdiction to rule on certain complaints. The specific case of the BCCSA only regulating complaints about traditional broadcast content and website information poses a challenge to the regulation mandate as most of the broadcasters make use of social media platforms and YouTube. According to current jurisdiction, the Press Council would, thus, be responsible for regulating such complaints for their broadcast members. The complexity of two regulatory bodies ruling on the same complaints via various media platforms poses a problem for jurisdiction, jurisprudence and the prima facie reading of the code. The thesis, thus, suggests a collaborative approach to regulating complaints about broadcasting with a social media or online media component. Previous studies have recommended the council adopt a cross-platform approach (Reid & Isaacs 2015b) or adopt a uniform adjudicatory process and approach to resolving complaints, accompanied a “single cross-platform converged code” of conduct applicable across the various media platforms which could be adjudicated by either of the regulatory bodies (Satchwell et al. 2021: 296-297). Noting the potential apprehension toward a unified approach, this study recommends councils could join to form an ad hoc committee to review broadcasting-related social media and online complaints and work collaboratively to rule on these complaints when they arise. Alternatively, the BCCSA could add social and all forms of online media to its mandate or cede the ruling on these complaints to the PCSA. As both media councils appeals processes, could be improved, the notion of a cross-platform appeals process in which both media councils concurrently review appeals processes could be an interesting notion to be explored.

TS 6: Media councils as media accountability mechanisms: evaluating the public interest mandate of media councils, the thesis advances the statement that media councils could be understood as mechanisms for the public good.

The notion of a media council as a public good, would require it first to meet its complaints resolution mandates, whilst improving its public accessibility and contextual responsiveness. Ultimately, the study recommends, firstly, councils consider their policies on public participation and adopt audience-centred approaches to complaints resolution processes. Secondly, proposes councils review their strategies for dealing with jurisdictional concerns around digital and online media, noting that cross-platform collaboration could provide an answer to the dilemma presently faced. Thirdly, the study recommends that councils promote self-initiated accountability efforts by the news media to

improve the standards of reporting. And, finally, contemplating the model for councils in the digital age, the study recommends that councils consider their audiences, their environment and their commitments to the digital in their evaluation of their effectiveness and fitness-for-purpose.

8.2 Assessing the potential contribution

Very simply, the study makes a contribution to the analysis of media councils and their value in society. If any questions on the relevance of media councils existed, the study proves that they are able to do what the public is unable to do, which is hold the media answerable for their reportage, effectively rule on complaints and respond to needs for checks and balances within the media.

Theoretically, the study offers Glocal (Wasserman & Rao 2008) perspectives on media councils today, merging national and international studies on media councils, Media Accountability Systems and Media Accountability Instruments into this body of work. Offering a theoretical model for media councils in the digital age, the study unifies the literature on non-state means of holding media accountability, recommending public and media participation in the process.

Methodologically, an in-depth case study on two South African media councils, followed by a cross-analysis of the council offered a novel evaluation of hearings through observations and interviews with participants in the accountability process. The methodological contribution draws attention to the potential for future studies to adopt alternative methodologies for understanding media councils from multiple perspectives. The methods and approaches also centre the audience complainants, aligning with studies on listening and audience participation.

The findings of the study offer alternative considerations around media councils, accessibility, and responsiveness in South Africa. Merging these ideas with democracy and the role of media councils with participation in media accountability process. The study foregrounds the media and its accountability institutions as a public good, offering an alternative theorisation to the notion of the public good in the field.

8.3 Limitations and critique

The study can be critiqued for its literature which often incorporates media studies literature outside of traditional media council literature. This approach could be seen to enlarge the theorisation or lead to a tangential literature review. The study can be critiqued for its choice of literature and positionality of the authors. The study includes research from South Africa, Africa and the Global South, but as the largest volume of literature on media accountability systems and instruments extends from Europe, many European studies were included in the literature of the thesis. The study could have limited this literature and focused more closely on including literature on media councils in Africa, situating the study in the perspectives of researchers on the continent.

The study's small sample size can be extensively critiqued, as it only observed six hearings and interviewed 13 participants, three of who laid complaints with media councils. The small sample of complainants means the triangulation of user's experiences is not guaranteed. The data was instead triangulated against the analysis of documents, texts, literature, annual reports, and interviews with members of the media council and their adjudications teams. As the study sought to focus on the participants in the hearing process, and only had access to the hearings shared by the council, participation in the study was limited. The study could have extended its reach to anyone who laid a complaint with the media councils, which would extend the study and the participation in the study to those who had their complaints resolved via mediation. This is potentially an area for future research.

Furthermore, the study can be critiqued for offering a theoretical model for media accountability in the digital age. A more practical model on the council and its structure, followed by an organigram could prove useful to the study. The focus on the theoretical model instead sought to offer principles which could be extracted and possibly generalised to other contexts, as each media council is unique in its own context, a practical model would be less generalisable.

8.4 Contemplating future research

Using the model as a point of departure, future research projects could examine media council in relation to the areas identified within the model. Studies on councils could review councils' relationship to the audience, fitness-for-purpose, public accessibility, digital responsiveness.

Audience accessibility: As media users differ in their access to technologies, research could further assess the accessibility of media councils for audiences, especially in less connected environments. Research could assess the extent to which media councils foster authentic public service, promote public participation, and listen to public criticism about their own media processes. This could include research on extent to which audience-centred approaches to policymaking and processes exist in media councils. Methodologically, future research can embrace audience research and extend the studies of media councils to include the voices of its audiences. Studies can examine audiences' experiences of media councils by entering into larger audience studies on media councils, potentially interviewing any complainants who have ever laid a complaint with a council.

Media Councils: Studies on media councils can examine, firstly, the councils in existence in South Africa, in Africa and in the Global South. Secondly, future research could conduct further studies into media councils which have similar jurisdictions to review the extent to which their approaches support or hinder their mandates. Within South Africa, research could analyse the relationship between the CCC (Complaints and Compliance Committee) of ICASA and the BCCSA. Other comparative studies could also evaluate the Film and Publications Board and its relationship to the PCSA and the BCCSA. Exploring councils, their relationship to the public and other bodies, could offer potential insights on duplications and antagonisms between councils and their existing mandates in the country.

Media Accountability Systems and Instruments: The MAS/MAIs in existence in the country could be investigated and archived for further study. Studies can examine the MAS/MAIs and their relationships to the media council in question. Studies can analyse the media environment and how these contribute to or deter from media accountability, and audience-media communications.

Fitness-for-purpose: As each council has its own functionality dependent on the environment in which it operates, research could enhance the fitness for the purpose of media councils. Assessing the environment in which media councils operate alongside their responsiveness to that environment, could offer new insights into the fitness-for-purpose of media councils' operations.

Digital responsiveness: Considering the digitalisation of the media, research on media councils' responsiveness to the digital is an important area of research which should be undertaken in the future. As digital enhancements with the integration of Artificial Intelligence (AI) within newsrooms occur at a rapid pace, research on media councils' responsiveness to and preparation for complaints related to AI-driven media would be vital to the preparedness of media councils globally. This

recommendation is informed by the Press Council and their approach to AI. Around the completion of this study, the Press Council initiated an ad hoc interest group on AI to develop guidelines for AI usage in the newsroom. As this interest group was newly established it did not form part of the extensive study of the Press Council.

Councils as a public good: Finally, the study reiterates the value of councils' mandates and recommends the inclusion of an additional mandate, which could be to operate as media councils in the public good. Whilst an exploratory concept, future research could examine the extent to which media councils could operate as public good, locating the examination in economic theory, the founding discipline of the concept. Conducting research on the economics of the media councils and a public good theory, could allow for an assessment of the economic implications for the concept and the implications of free, accessible and non-exclusionary access to media councils by the public.

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ADDENDUMS

Addendum A

Members BCCSA 2022

| List of the BCCSA signatories and NAB members as listed 30 August 2022 | | | |
|--|---|---|---|
| Category | Listed BCCSA Signatory (BCCSA 2022) | Listed NAB Members (NAB 2022) | Discrepancy between BCCSA signatories and NAB membership |
| Community Radio | <ol style="list-style-type: none"> 1. 1019. Chai FM 2. ACM 3. BAY FM 4. Bok Radio 5. CBFM 6. Cape Pulpit 7. East Rand Stereo 93.9 8. Fine Music Radio 9. Highway Radio 10. IFM 102.2 11. Kingfisher 12. Kovsie FM 13. Mahikeng FM 14. Mix 93.8 FM 15. MFM 92.6 16. Motheo 88.5FM 17. PUKfm 18. Radio Alpha 19. Radio CCFM 20. Radio Islam 21. Radio Pretoria 22. Radio Pulpit 23. Radio Rosestad 24. Radio Today 25. Radio Tygerberg 26. Radio Veritas 27. Rhodes Music Radio 28. Rippel 90.5 FM Stereo 29. Star 91.9 FM 30. TUKS FM 31. TUT Top Stereo 32. UJFM 95.4 33. VOW FM | <ol style="list-style-type: none"> 1. 1019. Chai FM 2. PUKfm 3. ACM 4. BAY FM 5. Bok Radio 6. East Rand Stereo 93.9 7. Fine Music Radio 8. Mahikeng FM 9. Mix 93.8 FM 10. MFM 92.6 11. Radio Islam 12. Radio Veritas 13. Rhodes Music Radio 14. Star 91.9 FM 15. TUKS FM 16. UJFM 95.4 17. VOW FM 18. Pretoria fm, 19. NWU 20. PUKfm, 21. 91.3 Voice of Cape, 22. Shwane FM, 23. XK Xunhweswa Dom Kxui FM, 24. SMVFM 25. 100.5fm radio laeveld 26. The media connection 27. MegaZone | <p>Listed as NAB members and do not appear on BCCSA list</p> <ol style="list-style-type: none"> 1. Pretoria fm, 2. NWU 3. PUKfm, 4. 91.3 Voice of Cape, 5. Shwane FM, 6. XK Xunhweswa Dom Kxui FM, 7. SMVFM 8. 100.5fm radio laeveld 9. The media connection 10. MegaZone <p>Listed as BCCSA signatories, but do not appear as NAB members</p> <ol style="list-style-type: none"> 1. CBFM 2. Cape Pulpit 3. Highway Radio 4. IFM 102.2 5. Kingfisher 6. Kovsie FM 7. Motheo 88.5FM 8. Radio Alpha 9. Radio CCFM 10. Radio Pretoria 11. Radio Pulpit 12. Radio Rosestad 13. Radio Today 14. Radio Tygerberg 15. Rippel 90.5 FM Stereo 16. TUT Top Stereo |

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|----------------------|---|---|---|
| | | | |
| Public Radio | <ol style="list-style-type: none"> 1. 5FM 2. CKI Stereo 3. Good Hope FM 4. Ikwewezi FM 5. Lesedi FM 6. Ligwalagwala FM 7. Lotus FM 8. Motsweding FM 9. Munghana Lonene FM 10. PhalaPhala FM 11. Radio 2000 12. Radio Metro 13. Radio Sonder Grense 14. Radio Sunshine 15. SAFM 16. Thobela FM 17. Ukhozi FM 18. Umhlobo Wenene FM | <ol style="list-style-type: none"> 1. LesediFm 2. Ligwala gwala 3. Munghana Lonene FM 4. Phalaphala FM 5. RSG 6. SAFM 7. Ukhozi fm 8. Umhlobo Wenene FM 9. Motsweding FM | <p>BCCSA signatories not listed by NAB as members.</p> <ol style="list-style-type: none"> 1. 5FM 2. CKI Stereo 3. Good Hope FM 4. Ikwewezi FM 5. Lotus FM 6. Radio 2000 7. Radio Metro 8. Radio Sunshine 9. Thobela FM |
| Community Television | Faith Terrestrial | | |
| Television | <p>Public TV</p> <ol style="list-style-type: none"> 1. SABC 1 2. SABC 2 3. SABC 3 <p>Private tv</p> <ol style="list-style-type: none"> 1. M-Net – Subscription 2. Multichoice (DSTV)- Subscription 3. e-tv – Free to all Channel and OpenView 4. Starsat (TopTV) – Subscription | <ol style="list-style-type: none"> 1. SABC 1 2. SABC 2 3. SABC 3 4. e-tv 5. M-Net 6. Multichoice 7. Starsat | |
| Private radio | <ol style="list-style-type: none"> 1. 702 2. 947 3. 567 Cape Talk 4. Algoa FM 5. Capricorn FM 6. Classic FM 7. East Coast Radio 8. Gagasi 99.5 9. Heart 104.9 FM 10. Jacaranda 94.2 FM 11. Kaya 94.5 | <ol style="list-style-type: none"> 1. 947 2. Jacaranda 94.2 FM 3. Heart 104.9 FM 4. Algoa FM 5. YFM 99.2 6. 5FM (listed) 7. Gagasi 99.5 8. Kaya 94.5 | <p>BCCSA signatories not listed by NAB as members</p> <p>Classic FM, LM Radio</p> <p>Listed as NAB members and do not appear on BCCSA list</p> <ol style="list-style-type: none"> 1. 5FM 2. Good Hope 3. OFM 4. Hot 1027 |

| | | | |
|---|---|---|--|
| | <ul style="list-style-type: none"> 12. KFM 13. LM Radio 14. OFM 15. Power FM 16. Rise FM 17. Smile 90.4 FM 18. YFM 99.2 19. YOUFM | <ul style="list-style-type: none"> 9. KFM 10. East Coast Radio 11. OFM (listed) 12. Good Hope (listed) 13. 567 Cape Talk 14. 702 15. Lotus FM 16. Capricorn FM 17. Kagiso Media 18. Smile 9 19. Smile 90.4 FM 20. YOUFM 21. Power FM 22. Rise FM 23. Hot 1027 (listed) | |
| Associate Members | | <ul style="list-style-type: none"> Telemedia Globecast DSTV Media Mark Sentech The Media Connection Nemisa LM radio United stations A+E network | |
| <p>BCCSA. 2022. Signatories. https://www.bccsa.co.za/signatories/ Accessed 18 August 2022</p> <p>NAB. 2022. Members. https://www.nab.org.za/members Accessed 18 August 2022</p> | | | |

Addendum B

Members Press Council 2020

| NATIONAL PUBLICATION | MEDIA HOUSE |
|-----------------------------|----------------------------------|
| The Citizen | Caxton Publishers & Printers Ltd |
| Mail & Guardian | M & G Media Limited |
| Beeld | Media 24 |
| Die Burger | Media 24 |
| City Press | Media 24 |
| Daily Sun | Media 24 |
| Rapport | Media 24 |
| Die Son | Media 24 |
| Sunday sun | Media 24 |
| Die Volksblad | Media 24 |
| The Witness | Media 24 |
| The Weekend Witness | Media 24 |
| Business Day | Tisoblack star |
| Daily dispatch | Tisoblack star |
| Saturday dispatch | Tisoblack star |
| The Herald | Tisoblack star |
| Sowetan | Tisoblack star |
| Sunday Times | Tisoblack star |
| Sunday world | Tisoblack star |
| Weekend Post on Saturday | Tisoblack star |
| The Times | Tisoblack star |

Local Newspapers

Media House

| | |
|----------------------------|----------------------------------|
| Mid South Coast Mail | Caxton Publishers & Printers Ltd |
| Tembisan | Caxton Publishers & Printers Ltd |
| Daller, Die | Caxton Publishers & Printers Ltd |
| Streeknuus | Caxton Publishers & Printers Ltd |
| Middelburg Observer, Tues | Caxton Publishers & Printers Ltd |
| Oudtshoorn Courant | Caxton Publishers & Printers Ltd |
| Graaff Reinet Advertiser | Caxton Publishers & Printers Ltd |
| Estcourt and Midlands News | Caxton Publishers & Printers Ltd |
| Knysna Plett Herald | Caxton Publishers & Printers Ltd |

| | |
|--|----------------------------------|
| Vryheid Herald | Caxton Publishers & Printers Ltd |
| South Cape Forum/Suid Kaap Forum | Caxton Publishers & Printers Ltd |
| Northern Natal Courier | Caxton Publishers & Printers Ltd |
| Mpumalanga News | Caxton Publishers & Printers Ltd |
| Ladysmith Gazette | Caxton Publishers & Printers Ltd |
| Zululand Observer Monday | Caxton Publishers & Printers Ltd |
| Mosselbay Advertiser | Caxton Publishers & Printers Ltd |
| African Reporter | Caxton Publishers & Printers Ltd |
| Zululand Observer Friday | Caxton Publishers & Printers Ltd |
| Newcastle and District Advertiser | Caxton Publishers & Printers Ltd |
| South Coast Herald | Caxton Publishers & Printers Ltd |
| Lowvelder, The / Laevelder, Die | Caxton Publishers & Printers Ltd |
| Middelburg Observer, Fri | Caxton Publishers & Printers Ltd |
| Lowvelder, The / Laevelder, Die (Friday) | Caxton Publishers & Printers Ltd |
| Witbank News, Fri | Caxton Publishers & Printers Ltd |
| George Herald (Thursday) | Caxton Publishers & Printers Ltd |
| Bosvelder | Media 24 |
| Capricorn Voice | Media 24 |
| Vrystaat | Media 24 |
| Carletonville Herald | Media 24 |
| Eikestadnuus | Media 24 |
| Hermanus Times | Media 24 |
| Potchefstroom Herald | Media 24 |
| Vaalweekblad | Media 24 |
| Worcester Standard & Advertiser | Media 24 |
| District Mail | Media 24 |
| Weslander, The | Media 24 |
| Paarl Post | Media 24 |
| Representative | Tiso Blackstar |

Online Members

Media House

| | |
|-----------------------|-------------------|
| news24.com | 24.com (Media 24) |
| sport24.co.za | 24.com (Media 24) |
| netwerk24.com | 24.com (Media 24) |
| channel24.co.za | 24.com (Media 24) |
| Kick Off South Africa | 24.com (Media 24) |
| Health24.com | 24.com (Media 24) |
| Huisgenoot | 24.com (Media 24) |

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| dailysun.co.za | 24.com (Media 24) |
| food24.com | 24.com (Media 24) |
| Wheels24.co.za | 24.com (Media 24) |
| Drum | 24.com (Media 24) |
| parent24.com | 24.com (Media 24) |
| You | 24.com (Media 24) |
| son.co.za | 24.com (Media 24) |
| Sarie | 24.com (Media 24) |
| 24.com | 24.com (Media 24) |
| Landbou | 24.com (Media 24) |
| litnet.co.za | 24.com (Media 24) |
| truelove.co.za | 24.com (Media 24) |
| media24.com | 24.com (Media 24) |
| Movemag.co.za | 24.com (Media 24) |
| cnbcafrica.com | ABN Media Group |
| citizen.co.za | Caxton Digital |
| rekordeast.co.za | Caxton Digital |
| rekordcenturion.co.za | Caxton Digital |
| lowvelder.co.za | Caxton Digital |
| fourwaysreview.co.za | Caxton Digital |
| mobserver.co.za | Caxton Digital |
| kemptonexpress.co.za | Caxton Digital |
| zululandobserver.co.za | Caxton Digital |
| farmersweekly.co.za | Caxton Digital |
| krugersdorpnews.co.za | Caxton Digital |
| rekordmoot.co.za | Caxton Digital |
| roodepoortrecord.co.za | Caxton Digital |
| georgeherald.com | Caxton Digital |
| albertonrecord.co.za | Caxton Digital |
| risingsunchatsworth.co.za | Caxton Digital |
| looklocal.co.za | Caxton Digital |
| rekordnorth.co.za | Caxton Digital |
| bona.co.za | Caxton Digital |
| sandtonchronicle.co.za | Caxton Digital |
| getitonline.co.za | Caxton Digital |
| northcoastcourier.co.za | Caxton Digital |
| southcoastherald.co.za | Caxton Digital |
| rosebankkillarneygazette.co.za | Caxton Digital |

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| bedfordviewedenvalenews.co.za | Caxton Digital |
| benonicitytimes.co.za | Caxton Digital |
| boksburgadvertiser.co.za | Caxton Digital |
| witbanknews.co.za | Caxton Digital |
| highwaymail.co.za | Caxton Digital |
| northglennews.co.za | Caxton Digital |
| randburgsun.co.za | Caxton Digital |
| brakpanherald.co.za | Caxton Digital |
| southcoastsun.co.za | Caxton Digital |
| ridgetimes.co.za | Caxton Digital |
| vrouekeur.co.za | Caxton Digital |
| newcastleadvertiser.co.za | Caxton Digital |
| autojunction.co.za | Caxton Digital |
| rooirose.co.za | Caxton Digital |
| reviewonline.co.za | Caxton Digital |
| knysnaplettherald.com | Caxton Digital |
| ladysmithgazette.co.za | Caxton Digital |
| randfonteinherald.co.za | Caxton Digital |
| eyethunews.co.za | Caxton Digital |
| phoenixsun.co.za | Caxton Digital |
| springsadvertiser.co.za | Caxton Digital |
| germistoncitynews.co.za | Caxton Digital |
| mosselbayadvertiser.com | Caxton Digital |
| midrandreporter.co.za | Caxton Digital |
| mpumalanganews.co.za | Caxton Digital |
| bereamail.co.za | Caxton Digital |
| alexnews.co.za | Caxton Digital |
| publiceyemaritzburg.co.za | Caxton Digital |
| comarochronicle.co.za | Caxton Digital |
| northeasterntribune.co.za | Caxton Digital |
| bloemfonteincourant.co.za | Caxton Digital |
| capricornreview.co.za | Caxton Digital |
| northcliffmelvilletimes.co.za | Caxton Digital |
| southlandssun.co.za | Caxton Digital |
| gardenandhome.co.za | Caxton Digital |
| southerncourier.co.za | Caxton Digital |
| oudtshoorncourant.com | Caxton Digital |
| steelburgernews.co.za | Caxton Digital |

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|-------------------------------------|-------------------------------------|
| roodepoortnorthsider.co.za | Caxton Digital |
| livingandloving.co.za | Caxton Digital |
| northernnatalcourier.co.za | Caxton Digital |
| risingsunoverport.co.za | Caxton Digital |
| foodandhome.co.za | Caxton Digital |
| suidkaapforum.com | Caxton Digital |
| peoplemagazine.co.za | Caxton Digital |
| vaalweekblad.com | Caxton Digital |
| potchefstroomherald.co.za | Caxton Digital |
| tembisan.co.za | Caxton Digital |
| essentials.co.za | Caxton Digital |
| highvelder.co.za | Caxton Digital |
| vryheidherald.co.za | Caxton Digital |
| parysgazette.co.za | Caxton Digital |
| countrylife.co.za | Caxton Digital |
| womanandhomemagazine.co.za | Caxton Digital |
| risingsunlenasia.co.za | Caxton Digital |
| letabaherald.co.za | Caxton Digital |
| yourfamily.co.za | Caxton Digital |
| heidelbergnigelheraut.co.za | Caxton Digital |
| sedibengster.com | Caxton Digital |
| entrepreneurmag.co.za | Entrepreneur Media SA |
| mg.co.za | Mail & Guardian Online |
| thoughtleader.co.za | Mail & Guardian Online |
| Men's Health | Media24 Magazines |
| Runner's World | Media24 Magazines |
| Women's Health | Media24 Magazines |
| Bicycling | Media24 Magazines |
| topgear.co.za | Media24 Magazines |
| enca.com | Sabido |
| etv.co.za | Sabido |
| eNCA News Android App | Sabido |
| eNCA News iOS App | Sabido |
| Tshwane Bulletin | Tshwane Bulletin |
| Isiboneloeg (Pty) Ltd | Isiboneloeg (Pty) Ltd |
| South African Jewish Report | South African Jewish Report |
| Health E-News Services | Health E-News Services |
| Mohlakamotala Publication (Pty) Ltd | Mohlakamotala Publication (Pty) Ltd |

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|--------------------------------|--|
| Taxinomics Group (Pty) Ltd | Taxinomics Group (Pty) Ltd |
| Groundup | Groundup |
| Spotlight | Spotlight |
| Phumelela Gaming & Leisure Ltd | Phumelela Gaming & Leisure Ltd |
| soccerladuma.co.za | Soccer-Laduma |
| sabc.co.za | South African Broadcasting Corporation |
| rsg.co.za | South African Broadcasting Corporation |
| 5fm.co.za | South African Broadcasting Corporation |
| metrofm.co.za | South African Broadcasting Corporation |
| sabc1.co.za | South African Broadcasting Corporation |
| topbilling.co.za | South African Broadcasting Corporation |
| expressoshow.com | South African Broadcasting Corporation |
| ukhozifm.co.za | South African Broadcasting Corporation |
| sabc2.co.za | South African Broadcasting Corporation |
| umhlobowenenefm.co.za | South African Broadcasting Corporation |
| sabc3.co.za | South African Broadcasting Corporation |
| pasella.co.za | South African Broadcasting Corporation |
| motswedingfm.co.za | South African Broadcasting Corporation |
| lesedifm.co.za | South African Broadcasting Corporation |
| radio2000.co.za | South African Broadcasting Corporation |
| safm.co.za | South African Broadcasting Corporation |
| thobelafm.co.za | South African Broadcasting Corporation |
| dailymaverick.co.za | The Daily Maverick |
| timeslive.co.za | Times Media LIVE |
| sowetanlive.co.za | Times Media LIVE |
| bdlive.co.za | Times Media LIVE |
| sundayworld.co.za | Times Media LIVE |
| heraldlive.co.za | Times Media LIVE |
| rdm.co.za | Times Media LIVE |
| dispatchlive.co.za | Times Media LIVE |
| financialmail.co.za | Times Media LIVE |
| bookslive.co.za | Times Media LIVE |
| sahomeowner.co.za | Times Media LIVE |
| thomechannel.co.za | Times Media LIVE |
| ignitionlive.co.za | Times Media LIVE |

Magazines

Media House

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|---|------------------------|
| Leaders in Wellness (formerly "Leadership in HIV/Aids") | Cape Media Corporation |
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| Black Business Quarterly | Cape Media Corporation |
| The Project Manager | Cape Media Corporation |
| Service (Leadership In Local Government) | Cape Media Corporation |
| Opportunity | Cape Media Corporation |
| Leadership | Cape Media Corporation |
| Farmer's Weekly | Caxton Ltd |
| Food and Home Entertaining | Caxton Ltd |
| Living and Loving | Caxton Ltd |
| SA Country Life | Caxton Ltd |
| Your Family | Caxton Ltd |
| People | Caxton Ltd |
| Vroue Keur | Caxton Ltd |
| Bona | Caxton Ltd |
| Essentials | Caxton Ltd |
| Woman and Home | Caxton Ltd |
| Rooi Rose | Caxton Ltd |
| SA Garden and Home | Caxton Ltd |
| Entrepreneur | Entrepreneur Media (Pty) Ltd |
| Public Sectors Manager Magazine | Government Communication & Information Systems (GCIS) |
| Habitat | Index Publication CC T/ A Habitat |
| De Rebus | Law Society of SA |
| True Love Bride | Media 24 |
| Fairlady Bride | Media 24 |
| Sarie Bruid | Media 24 |
| Weg Kuierkos | Media 24 |
| Weg Namibie/ Go Namibia | Media 24 |
| Kuier | Media 24 |
| Ridge, The | Media 24 |
| Baba & Kleuter | Media 24 |
| Your Pregnancy | Media 24 |
| Kick Off | Media 24 |
| Medical Chronicle | Media 24 |
| Runners World | Media 24 |
| Bicycling | Media 24 |
| TV Plus / English | Media 24 |
| TV Plus / Afrikaans | Media 24 |
| Weg/Sleep | Media 24 |
| Sarie Kos | Media 24 |

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|----------------------------|-----------------------------------|
| Weg/ Ry (Drive Out) | Media 24 |
| True Love | Media 24 |
| Fairlady | Media 24 |
| Women's Health | Media 24 |
| Men'S Health | Media 24 |
| Sa Hunter/Jagter | Media 24 |
| Weg/Go | Media 24 |
| Sarie | Media 24 |
| Landbouweekblad | Media 24 |
| Tuis Home | Media 24 |
| Move! | Media 24 |
| Drum | Media 24 |
| You | Media 24 |
| Huisgenoot | Media 24 |
| Servamus | SARP Uitgerwers |
| Think Sales | Think Sales Corporation (Pty) Ltd |
| Sa Mining | Times Media Group |
| Mims Guide To Otc Products | Times Media Group |
| MDR-MIMS Desk reference | Times Media Group |
| Sa Home Owner | Times Media Group |
| Financial Mail | Times Media Group |
| Mims Fees | Times Media Group |
| Elle Decoration | Isiko Media |
| Elle | Isiko Media |
| Wedding Inspirations | Wedding Inspirations |

APPENDICES

Appendix A Ethics Clearance Certificate



College of Human Sciences
Department of Communication Science
5 February 2018

Reference number: 2018_CHS_Staff_CommSt_004

Proposed title: Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation

Principle investigator: Taryn Isaacs, Department of Communication Science

Approval status recommended by reviewers: Approved

The Ethics Review Committee of the Department of Communication Sciences at the University of South Africa has reviewed the research proposal and considers the methodological, technical and ethical aspects of the study to be appropriate.

Taryn Isaacs is requested to maintain the confidentiality of all data collected from or about research participants, and maintain security procedures for the protection of privacy. The committee needs to be informed should any part of the research methodology as outlined in the Ethics application (Ref. Nr.2018_CHS_Staff_CommSt_004) change in any way.

It is the responsibility of the principal investigator to ensure that the research project adheres to the values and principles expressed in the UNISA Research Ethics Policy, which can be found at the following website:

http://staffcmsys.unisa.ac.za/cmsys/staff/contents/departments/res_policies/docs/Policy%20on%20Research%20Ethics%20-%20rev%20appr%20-%20Council%20-%202015.09.2016.pdf

This certificate is valid for three years.

Sincerely

Mr Gibson Chauke
Chair: Departmental Research Committee
Department of Communication Science



University of South Africa
Preller Street, Muckleneuk Ridge, City of Tshwane
PO Box 392 UNISA 0003 South Africa
Telephone: +27 12 429 3111 Facsimile: +27 12 429 4150
www.unisa.ac.za

UNISA COMMUNICATION SCIENCE ETHICS REVIEW COMMITTEE

Date 07 April 2020

Dear Ms Taryn J Isaacs

Decision:
**Ethics Approval from 07 April
2020 to 08 April 2025**

NHREC Registration #: Rec-
240816-052
ERC Reference #: 2020-
COMMSCIENCE-CHS-55732097
Name: TJ Isaacs
Student/Staff #: 55732097

Researcher(s): Ms Taryn J Isaacs

Supervisor (s): Prof JBJ Reid

Department of Communication Science
University of South Africa
reidbj@unisa.ac.za
012 429 6824

Working title of research:
**MEDIA ACCOUNTABILITY MECHANISMS IN SOUTH AFRICA – A CRITICAL STUDY OF
THE REGULATORY BODIES FOR PRINT AND BROADCAST MEDIA, AND A MODEL FOR
REGULATION**

Qualification: PhD in Communication

Thank you for the application for research ethics clearance by Department of Communication Science Ethics Review Committee for the above mentioned research. Ethics approval is granted for five years.

*The **low risk application** was **reviewed** by the Departmental Ethics Review Committee on **09 March 2020** in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment. The decision was tabled at the Committee meeting on **07 April 2020** for approval.*
The proposed research may now commence with the provisions that:



1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.
2. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the **Communication Science Ethics Review Committee**.
3. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
4. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards to the protection of participants' privacy and the confidentiality of the data, should be reported to the Committee in writing, accompanied by a progress report.
5. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no 4 of 2013; Children's act no 38 of 2005 and the National Health Act, no 61 of 2003.
6. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data require additional ethics clearance.
7. No field work activities may continue after the expiry date (**08 April 2025**). Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

Note:

*The reference number **2020-COMMSCIENCE-CHS-55732097** should be clearly indicated on all forms of communication with the intended research participants, as well as with the Committee.*

Yours sincerely,

Signature :

Smfuphi

Mr Siyabonga M Mfuphi

Ethics Chair :

Communication Science Ethics Review Committee

E-mail: mfuphsm@unisa.ac.za

Tel: (012) 429-6661

Signature :

Eondube

Dr Elijah Dube

Ethics Chair : CREC

E-mail : Dubeeen@unisa.ac.za

Tel: (012) 429 3892



University of South Africa
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 PO Box 392 UNISA 0003 South Africa
 Telephone: +27 12 429 3111 Facsimile: +27 12 429 4150
www.unisa.ac.za

Appendix B Press Council of South Africa

Requests and Permissions

Official request sent to the Press Council of South Africa on 8 December 2020

Request to conduct research at the Press Council South Africa (PCSA)

Ethical clearance #: 2018_CHS_Staff_CommSt_004

Title of the study: Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation

Dear Press Ombudsman

I would like to request permission to conduct research at the Press Council South Africa as part of a doctoral project on media accountability, under the supervision of Prof Julie Reid and Prof Viola Milton in the department of Communication Science at the University of South Africa.

The study entitled “*Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation*” seeks to collect and analyse data on the Press Council South Africa and the Broadcasting Complaints Commission of South Africa in order to develop a comparative case study of the accountability mechanisms for print and broadcasted news content in South Africa. These institutions have been selected because of their regulatory function, public service mandate and public profile.

The study will document institutional processes and procedures from the point of laying a complaint to its publicised ruling. The study makes use of various information sources to better understand the PCSA, and the processes in place to support the resolution of complaints. Resultantly, the study proposes firstly an analysis of institutional documents, complaints and ruling documents, secondly observations of the mediation/hearing, and

finally interviews with the complainant, respondents, and councillors involved. The novelty of the study stems from the use of observations and interviews of the complaints process, in order to understand the complaints resolution process.

Your permission is required for the researcher to; conduct research at your institution, access relevant documentation, observe hearings, interview users involved in the resolution of the complaints, and interview relevant persons at the PCSA.

By consenting to the PCSA participating in this study, we could add value to the research and knowledge available on accountability and regulation in South Africa. As these processes are public processes, very little risk exists in participating in the study. The findings of the study will be presented to the PCSA and will be used by the researcher as part of the doctoral thesis, and for academic participation later on.

Thank you for your time and consideration.

I look forward to hearing from you.

Taryn Isaacs De Vega

Official approval received from the Press Council South Africa on 17 December 2020

Confirmation removed to protect confidential information, available on request.

Appendix C

Permission from the Broadcasting Complaints Commission of South Africa

Official request sent to the Broadcasting Complaints Commission of South Africa on 8
December 2020

**Request to conduct research at the
Broadcasting Complaints Commission of South Africa (BCCSA)**

Ethical clearance #: 2018_CHS_Staff_CommSt_004

Title of the study: Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation

Dear BCCSA Chairperson

I would like to request permission to conduct research at the BCCSA as part of a doctoral project on media accountability, under the supervision of Prof Julie Reid and Prof Viola Milton in the department of Communication Science at the University of South Africa.

The study entitled “*Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation*” seeks to collect and analyse data on the Broadcasting Complaints Commission of South Africa and the Press Council South Africa in order to develop a comparative case study of the accountability mechanisms for broadcast and printed news content in South Africa. These institutions have been selected because of their regulatory function, public service mandate and public profile.

The study documents institutional processes and procedures from the point of laying a complaint to its publicised ruling. The study makes use of various information sources to better understand the BCCSA, and the processes in place to support the resolution of complaints. The study proposes the collection of the following data sources: institutional documents, complaints and ruling documents to be analysed, tribunal hearing to be observed, and interviews with the complainant, respondents, and commissioners involved. The novelty of the study stems from

the use of observations and interviews on the complaints process, to understand the experiences and perspectives of the users involved in the accountability process.

With your permission the researcher would like to conduct research, access relevant documentation, observe hearings, and interview persons involved in the resolution of the complaints processes. Due to Covid-19 and the pause on travel, where possible the study will be conducted using digital and telephone technologies, using face-to-face methods where technological means are not possible.

By consenting to the BCCSA to participate in this study, we could add value to the research and knowledge available on accountability and regulation in South Africa. As these processes are public processes, very little risk exists in participating in the study. The findings of the study will be presented to the BCCSA and will be used by the researcher as part of the doctoral thesis, and for academic participation later on.

Thank you for your time and consideration.

I look forward to hearing from you.

Taryn Isaacs De Vega

**Official approval received from the Broadcasting Complaints Commission of South
Africa on 8 May 2021**

Confirmation removed to protect confidential information, available on request.

Appendix D

Complainant to the Press Council of South Africa Consent Form

Consent Form

Dear Prospective Participant

About the Study: Thank you for considering participation in this study on the Press Council South Africa. This interview is integral to the study entitled *Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation*.

Research: As a participant in the study, you will be interviewed on your experience of laying a complaint with the Press Council South Africa. The interview will be approximately 30 - 60 minutes in length and the questions will be based on your experience of laying a complaint with the Press Council, as well as your experience of the resolution of the complaint.

Participation: As a participant in the study, you will be asked to grant permission for your participation in the research study. Your participation is voluntary and there is no penalty for non-participation. As your participation is voluntary, you are under no obligation to participate. If you do choose to participate, you may withdraw at any point in time.

Anonymity: You have the right to insist that your name not be recorded anywhere and that no one, apart from the researcher and identified members of the research team, know about your involvement in this research. You may choose to remain anonymous, if you would like to maintain anonymity, please inform the principle researcher accordingly.

Ethics: This study has received written approval from the Research Ethics Review Committee of Unisa. A copy of the approval letter can be obtained from the researcher if you so wish.

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Signed consent forms removed to protect confidential information, available on request.

Appendix E

Permission from the Broadcasting Complaints Commission of South Africa

Consent Form

Dear Prospective Participant

About the Study: Thank you for considering participation in this study on the Broadcasting Complaints Commission of South Africa. This interview is integral to the study entitled *Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation*.

Research: As a participant in the study, you will be interviewed on your expertise in the broadcast sector. The interview will be approximately 60 minutes in length and the questions will be based on the Broadcasting Complaints Commission of South Africa.

Participation: As a participant in the study, you will be asked to grant permission for your participation in the research study. Your participation is voluntary and there is no penalty for non-participation. As your participation is voluntary, you are under no obligation to participate. If you do choose to participate, you may withdraw at any point in time.

Anonymity: You have the right to insist that your name not be recorded anywhere and that no one, apart from the researcher and identified members of the research team, know about your involvement in this research. You may choose to remain anonymous, if you would like to maintain anonymity, please inform the principle researcher accordingly.

Ethics: This study has received written approval from the Research Ethics Review Committee of Unisa. A copy of the approval letter can be obtained from the researcher if you so wish.

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Signed consent forms removed to protect confidential information, available on request.

Appendix F

Members of the Press Council of South Africa consent forms

Consent Form

Dear Prospective Participant

Thank you for considering participation in this study on the Press Council of South Africa. This interview is integral to the study entitled *Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation*. I am conducting this research to document the complaints resolution process and to explore the participants' perspectives on the mechanism in question.

Research: As a participant in the study, you will be interviewed on your experience of leading the council and its processes. The interview will be approximately 60 – 90 minutes in length and the questions will be based on the institution, its processes and related information.

Participation: As a participant in the study, you will be asked to grant permission for your participation in the research study. Your participation is voluntary and there is no penalty for non-participation. As your participation is voluntary, you are under no obligation to participate. If you do choose to participate, you may withdraw at any point in time.

Publishing of the interview: As one of the key public figures at the Press Council, your participation in the study will be documented in the body of the research. Your full interview will remain anonymous and may be reviewed by external research support personnel such as a transcriber, a coder and members of the Research Ethics Review Committee, if needed. Segments of your interview will be quoted in the research, but you will be able to review the research chapter prior to publication and raise concerns about any material published there.

Ethics: This study has received written approval from the Research Ethics Review Committee of Unisa. A copy of the approval letter is available if you'd like to review it.

If you agree with the terms of the interview, please complete the consent form below and return it to the researcher prior to the interview.

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Signed consent forms removed to protect confidential information, available on request.

Appendix G

Members of the Broadcasting Complaints Commission of South Africa consent forms

Consent Form

Dear Prospective Participant

About the Study: Thank you for considering participation in this study on the Broadcasting Complaints Commission of South Africa. This interview is integral to the study entitled *Media Accountability Mechanisms in South Africa – a critical study of the regulatory bodies for print and broadcast media, and a model for regulation*. I am conducting this research to document the user's participation in the complaints resolution process and to explore the participants' perspectives on the mechanism in question.

Research: As a participant in the study, you will be interviewed on your experience of laying the complaint, on the hearing/tribunal process and on the outcome of the process. The interview will be approximately 60 – 90 minutes in length and the questions will be based on the process, the hearing/tribunal and the researcher's observations thereof.

Participation: As a participant in the study, you will be asked to grant permission for your participation in the research study. Your participation is voluntary and there is no penalty for non-participation. As your participation is voluntary, you are under no obligation to participate. If you do choose to participate, you may withdraw at any point in time.

Anonymity: You have the right to insist that your name not be recorded anywhere and that no one, apart from the researcher and identified members of the research team, know about your involvement in this research. To protect your anonymity, your answers will be given a code and you will be referred to in this way in both the data and the publications. Your answers may be reviewed by external research support persons such as a transcriber, a coder and members of the Research Ethics Review Committee, if needed.

Ethics: This study has received written approval from the Research Ethics Review Committee of Unisa. A copy of the approval letter can be obtained from the researcher if you so wish.

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Signed consent forms removed to protect confidential information, available on request.

Appendix H

Interview Questions related to the Press Council of South Africa case study

Interview questions for the complainants of the Press Council

The researcher proposes a semi-structured interview to learn more about your experience of laying a complaint with the Press Council South Africa (PCSA). The questions posed are intended to gain clarity on the processes of the PCSA and to understand the complainants experience and perspective on the process and its resolution.

Proposed Interview Questions

1. Please explain your complaint brought before the Press Council South Africa.
2. What was your experience of the process?
3. Did you find the process to be accessible? (in terms of technology, policies, language etc).
4. Did you require any support throughout the process?
5. Did you find the complaints resolution process to be effective?
6. Are you satisfied with the complaint's resolution process? Are there any recommendations for what worked well or concerns of what should be improved the future?
7. What else about the process would you like to comment on?
8. Was this your first time laying a complaint the Press Councils South Africa and would you make use of the ombud again in the future?
9. Did you experience the Press Council as responsive and fit to regulate complaints on media conduct?

In closing: The recorded interview will be transcribed, and the information will be analysed to better understand the functioning of the Press Council. If you so wish, you may request to remain anonymous and not have your name listed in the final proceedings.

Interview questions for the Press Council adjudicators

Thank you for being willing to participate in this discussion about the Press Council's complaints resolution process. The interview will relate to your experience as a member of the Press Council and Adjudication/Appeals panel. The researcher proposes a semi-structured interview, which will be recorded and the data transcribed for use in the study. The questions to be asked are included below.

Interview questions:

Q1: What is your personal experience of being a PCSA Councillor to date?

Q2: Please explain your understanding of the case brought to the Press Council, and what was your experience of being an adjudicator in this case?

Q3: What was your experience of the process, for example the complaint being laid, versus the hearing, versus the appeal etc.?

Q4: How did you come to the decision/ruling on the case?, and what role did the other adjudicators and judge/ombud play in the process of ruling on the complaint?

Q5: Did the virtual nature of the proceedings affect the case, hearing, or adjudication outcome?

Q6: How did you experience of the outcome of the process? 6.1 Did you find the outcome to be fair? 6.2 What internal processes were followed after the outcome/ruling was decided upon? 6.3 Was there a sanction imposed? How was this managed?

Q7: How would you respond to claims of:

7.1 The Press Councils approach to public complaints being biased in favour of the media, 7.2 Unfair treatment of the complainant during the hearing,

7.3 The need for an independent appeals process outside of the Press Council.

Q8: Do you experience the Press Council as responsive and fit to regulate complaints on media conduct?

Q9: Is there any part of the Press Council's process of managing, adjudicating or ruling on complaints that should be improved?

Interview with the Public Advocate

Thank you for being willing to participate in this discussion about the Press Council's complaints resolution process. The interview will relate to your experience as the Public Advocate. The researcher proposes a semi-structured interview, which will be recorded and the data transcribed for use in the study. The questions to be asked are included below.

- 1) What does the Public Advocate role entail?
- 2) Is the Public Advocate role affected by digitalisation in the media?
- 3) Has the Press Council adopted specific strategies for dealing with online and digital media-related complaints?

Interview with the regulator subcommittee head

Thank you for being willing to participate in this discussion about the Press Council's approaches to digital and online media. The interview will relate to your experience as a member of the regulatory subcommittee. The researcher proposes a semi-structured interview, which will be recorded and the data transcribed for use in the study. The questions to be asked are included below.

- 1) What is the legal and regulatory subcommittee? And does the Press Council have other committees?
- 2) How is the Press Council responding to digitalisation in the media?
 - a) Has the Press Council adopted specific strategies for dealing with online and digital media-related complaints?
 - b) Has the Press Council recommended specific strategies to their members for dealing with online and digital media production?
 - c) How could the BCCSA and the Press Council manage online and digital media-related complaints in the future?

Interview questions for the Ombud and Executive Director

About the interview:

Thanks for taking time to participate in the study. The following questions serve a dual purpose: to learn more about the institutional practices of the Press Council and to clarify what emerged from the institutional and document analysis conducted earlier in the study.

1. What is your experience of the Press Council South Africa?
2. In your opinion, what is the role of the Press Council in South Africa?
3. How does the PCSA resolve complaints?
4. Referring to the record of rulings:
 - a. What administration does the PCSA use to keep track of its complaints?
 - b. How does the PCSA keep track of its record of rulings and complaints?
5. How do you determine if a complaint requires a public hearing?
6. How does the PCSA make decisions?
7. What is the relationship between the PCSA and the state?
8. Describe the relationship between PCSA and its funders.
9. Describe the relationship between the PCSA and its members.
10. Describe the relationship between the PCSA and the public.
11. Is the PCSA an effective regulator?
12. In your opinion, is South Africa effective in holding the media accountable for its reportage?

Appendix I

Interview questions related to the Broadcasting Complaints Commission of South Africa case study.

Interview questions for the complainants (BCCSA)

The researcher proposes a semi-structured interview to learn more about your experience of laying a complaint with the Broadcasting Complaints Commission of South Africa. The questions posed are intended to gain clarity on the processes of the BCCSA and to understand the complainants' experience and perspective on the process and its resolution.

Proposed Interview Questions

1. Please explain your complaint brought before the BCCSA
2. What was your experience of the process?
3. Did you find the process to be accessible? (in terms of technology, policies, language etc).
4. Did you require any support throughout the process?
5. Did you find the complaints resolution process to be effective?
6. Are you satisfied with the complaint's resolution process? Are there any recommendations for what worked well or concerns of what should be improved in the future?
7. What else about the process would you like to comment on?
8. Was this your first time laying a complaint to the BCCSA and would you make use of the ombud again in the future?
9. What are your thoughts on the proposed changes to the BCCSA constitution?
10. Did you experience the BCCSA as responsive and fit to regulate complaints on media conduct?

In closing: The recorded interview will be transcribed, and the information will be analysed to better understand the functioning of the Press Council. If you so wish, you may request to remain anonymous and not have your name listed in the final proceedings.

Interview Questions for the BCCSA Chairperson and Deputy Chairperson

About the interview:

Thanks for taking time to participate in the study. The questions asked are to learn more about the institutional practices of the BCCSA and to clarify what emerged from the institutional and document analysis conducted earlier in the study.

- 1) What is your experience of the BCCSA?
- 2) In your opinion, what is the role of the BCCSA in South Africa?
- 3) How does the BCCSA resolve complaints?
- 4) Referring to the record of rulings, how do you keep track of complaints and trace the records of rulings?
- 5) How do you determine if a complaint requires a tribunal hearing?
- 6) How does the BCCSA make decisions?
- 7) Describe the relationship between the BCCSA and the state...
- 8) Describe the relationship between BCCSA and NAB...
- 9) Describe the relationship between the BCCSA and its signatories...
- 10) Describe the relationship between the BCCSA and the public...
- 11) Is the BCCSA an effective regulator?
- 12) In your opinion, is South Africa effective in holding the media accountable for its reportage?

Closing instructions:

The recorded interview will be transcribed and the information will be analysed to better understand the functioning of the BCCSA. The final chapter will be shared with you before being published, and you may withdraw your participation in the study at any point.