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FINAL VERSION

MEDIA SUSTAINABILITY AND UNIVERSAL ACCESS TO PUBLIC INTEREST JOURNALISM

STRATEGIES AND CONSIDERATIONS



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¹ See Dr Harry Dugmore, 'Thinking globally, acting locally: Reviving and sustaining South African journalism in a post-Covid world', March 2021, accessible at https://highwayafrica.ru.ac.za/wp-content/uploads/dlm_uploads/2021/03/Thinking_globally_acting_locally.pdf.

² See Reginald Rumney, 'SANEF's COVID-19 impact on journalism report (interim)', June 2020, accessible at <https://sanef.org.za/wp-content/uploads/2020/06/SANEF-Covid-Impact-Research-Final-Report9-optimized.pdf>.

CONTENTS

ACKNOWLEDGEMENTS.....	2
ACRONYMS.....	5
EXECUTIVE SUMMARY	7
I. INTRODUCTION.....	9
<i>Scope of the report</i>	10
<i>Purpose of the report</i>	10
II. MEDIA SUSTAINABILITY AS A CONSTITUTIONAL IMPERATIVE.....	13
<i>Constitutional framework</i>	13
<i>Freedom of expression and press freedom</i>	13
III. DEFINING PUBLIC INTEREST JOURNALISM	18
<i>Public interest journalism</i>	18
<i>Journalism as a public good</i>	20
<i>Public service journalism</i>	20
IV. MEDIA SUSTAINABILITY STRATEGIES	22
A. Media Sustainability Fund (MSF)	22
<i>Overview</i>	22
<i>Mission of the fund</i>	23
<i>Eligibility criteria</i>	24
<i>Sources of funding</i>	25
<i>Structure and oversight</i>	26
<i>The MSF and the MDDA</i>	27
B. Access to public interest news websites	29
<i>Data costs and access</i>	29
<i>Zero-rating and paywalls</i>	30
C. Fostering competition in the digital economy	32
<i>Engagement with the Competition Commission</i>	32
<i>United Kingdom</i>	34
<i>Australia</i>	37
<i>United States</i>	39
<i>France</i>	39
D. Tax relief and other state support schemes	40
<i>Converting licensing fees</i>	40
<i>An online-ad tax</i>	41
<i>Tax relief for media organisations</i>	41
<i>Tax relief for donors</i>	42
E. Subsidisation, subscriptions, and other income-generating models	42
<i>Access tiering and concessions</i>	44
<i>New business models</i>	44
<i>Government advertising allocations</i>	45
F. Coupon and open access systems	46
<i>Coupons and collective access</i>	46
<i>openTrust</i>	47
G. The establishment of (public interest) wire services	47
H. Education, training, and learnerships	49
<i>Fellows</i>	49
<i>Training for media professionals</i>	50
<i>Media and information literacy (MIL) initiatives</i>	50

V.	RECOMMENDATIONS.....	52
	<i>General Recommendations</i>	52
	<i>Specific Recommendations</i>	52
	Media Sustainability Fund (MSF).....	52
	Access to public interest news websites	52
	Fostering competition in the digital economy.....	53
	Tax relief and other state support schemes	53
	Subsidisation, subscriptions, and other income-generating models	53
	Coupon and open access systems	54
	The establishment of a (public interest) wire service.....	54
	Education, training, and learnerships	54
VI.	CONCLUSION.....	55
	REFERENCES.....	56
	USEFUL RESOURCES.....	60
	ANNEXURE 1: POTENTIAL STRUCTURE OF THE MEDIA SUSTAINABILITY FUND BOARD	61
	ANNEXURE 2: RECENT AND ONGOING MEDIA SUSTAINABILITY INITIATIVES.....	62

ACRONYMS

ABC	Australian Broadcasting Commission
ACCC	Australian Competition and Consumer Commission
ACHPR	African Commission on Human and Peoples' Rights
AIP	Association of Independent Publishers
APC	Association for Progressive Communications
AU	African Union
B-BBEE	Broad-Based Black Economic Empowerment
BBC	British Broadcasting Corporation
BCCSA	Broadcasting Complaints Commission of South Africa
CIPC	Companies and Intellectual Property Commission
COE	Council of Europe
CSI	Corporate Social Investment
CSO	Civil Society Organisation
DBE	Department of Basic Education
DCDT	Department of Communications and Digital Technologies
DHET	Department of Higher Education and Training
DoC	Department of Communications
DTP	Digital Transitions Project
ECA	Electronic Communications Act 35 of 2005
ECtHR	European Court of Human Rights
EU	European Union
FAANGs	Facebook, Amazon, Apple, Netflix, and Google
FCJ	Forum of Community Journalists
IABSA	Interactive Advertising Bureau of South Africa
ICASA	Independent Communications Authority of South Africa
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information and Communications Technology
ISP	Internet Service Provider
ISPA	Internet Service Providers' Association
ITU	International Telecommunications Union
MDDA	Media Development and Diversity Agency
MICT SETA	Media, Information, and Communication Technologies Sector Education and Training Authority
MMA	Media Monitoring Africa
MNO	Mobile Network Operator
MSF	Media Sustainability Fund
NCRF	National Community Radio Forum
PAYE	Pay-as-you-earn
PCSA	Press Council of South Africa
RECs	Regional Economic Communities

RIA	Research ICT Africa
SABC	South African Broadcasting Corporation
SADC	Southern African Development Community
SAMIP	South Africa Media Innovation Program
SANEF	South African National Editors' Forum
SAPA	South African Press Association
SARS	South African Revenue Service
SDGs	Sustainable Development Goals
SETA	Sector Education and Training Authority
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
USAASA	Universal Service and Access Agency of South Africa
VAT	Value-Added Tax
WOAN	Wireless Open Access Network

EXECUTIVE SUMMARY

This report seeks to contribute to SANEF’s mission of achieving media sustainability and universal access to public interest journalism, and it forms part of SANEF’s response to the Independent Panel Report in the Inquiry into Media Ethics and Credibility, prepared by Judge (retired) Kathleen Satchwell, Nikiwe Bikitsha, and Rich Mkhondo.³ In particular, Recommendation D35 calls on SANEF to—

“[s]upport research into the financial viability and sustainability of all forms of news media, examining international approaches to funding independent media, including but not limited to taxation incentives/exemptions, allocation of public funds, pursuit of royalties, levies on online advertising revenue routed offshore by online platforms, or other such methods.”⁴

This report does not purport to offer the solution to media sustainability in South Africa. It does, however, present a series of policy options to promote media sustainability drawn from local, regional, and international comparative practices and examples for further deliberation and debate. Notably, this report complements a variety of recent and ongoing media sustainability initiatives⁵ and offers the reader a high-level overview of options that may be tailored for South Africa’s unique media landscape. Specifically, this report presents eight media sustainability strategies and over fifteen direct policy considerations. These include:

- **The establishment of a Media Sustainability Fund (MSF):** One of the priority media sustainability strategies for SANEF is the possible establishment of an MSF. The mission of the MSF — which may include what is referred to as a local content fund in the Independent Panel Report⁶ — is to support the development, sustainability, and independence of public interest media organisations, in pursuance of the right to freedom of expression and democratic principles. In fully considering an MSF, this report considers its potential mission, eligibility criteria, sources of funding, and its structure and oversight.
- **Promoting access to public interest news websites:** Alongside an MSF, substantially reducing data costs and advocating for the zero-rating of public interest news websites and content have been identified as priority measures for SANEF. In considering these sustainability options, data costs, internet access, and possibilities related to zero-rating access to public interest content, are considered.
- **Fostering competition in the digital economy:** In line with international trends, this report notes international developments, particularly in Australia and the United States, relating to fostering competition in the digital economy, including through enhanced engagement with the so-called FAANGs (Facebook, Amazon, Apple, Netflix, and Google). In the South Africa context, this report suggests possible areas of engagement with South Africa’s Competition Commission.

³ Kathleen Satchwell et al, ‘Independent Panel Report: Inquiry into Media Ethics and Credibility’, January 2021 (updated in April 2021), accessible at <https://sanef.org.za/wp-content/uploads/2021/04/Satchwell-Report.pdf>.

⁴ Id at page 17.

⁵ See “Annexure B: Recent and Ongoing Media Sustainability Initiatives” for further reference.

⁶ Independent Panel Report above n 12 at page 18.

- **Considering tax relief and other state support schemes:** Allied to fostering competition in the digital economy, tax relief and other state support schemes are documented, including possibilities associated with converting license fees to a bespoke tax, the introduction of a new online advertising tax, and various other tax relief proposals for public interest media organisations and donors, including, for example, a proposed amendment to South Africa’s Income Tax Act to allow for tax deductions for businesses, donors, and individuals who subscribe to community and local media.
- **Engaging with different subsidisation, subscriptions, and other income-generating models:** With an emphasis on comparative international examples, the benefits of subsidies are discussed, alongside the potential of “access tiering” — the practice of offering memberships and subscription discounts to older persons, students, and social grant recipients — and new business models.
- **Assessing the potential of coupon and open-access systems:** By way of new sustainability strategies, this report introduces a possible coupon and open access system which facilitates subscriber access to premium content on multiple public interest news websites; and it investigates the openTrust model, which promotes corporate social investment.
- **Considering the establishment of public interest wire services:** To assist with what Frances Cairncross refers to as the “humdrum task or reporting on the daily activities of public institutions” and to promote community media, the establishment of public interest wire services to (1) assist under-capacitated public interest media organisations and ensure that additional public interest media content is produced and distributed for publication, particularly on matters relating to the exercise of the democratic function and its institutions; and to (2) collect local content from community media organisations and distribute it to larger media houses for a fee is discussed.
- **Promoting education, training, and learnerships:** Lastly, this report reflects on the importance of fellowships to train young journalists, continuing development opportunities for mid-career journalists, and the need for the South African government to fund media information literacy (MIL) initiatives.

The report concludes by noting that despite years of decline in advertising revenues and the devastating impact of the COVID-19 pandemic, public interest media actors are proving to be resilient, working tirelessly to develop new media sustainability strategies. This research seeks to complement this tide. With concerted and collective action — and the requisite political will — strides can be made in not only sustaining public interest journalism in South Africa but working towards an enabling environment in which it can grow and flourish.

ENDS.

I. INTRODUCTION

1. The advent of the internet has brought with it many opportunities. The ability to receive and impart information online, in particular through the internet, has become central to the exercise and enjoyment of fundamental rights and freedoms: it enables people to engage in an array of learning experiences, build information and knowledge societies, foster public and private debate, establish organisations, and contribute to public interest innovation.⁷ Through the internet, all people with access, including those in remote and marginalised communities, are better able to exercise and protect their rights and realise their potential.⁸
2. However, alongside continuing difficulties with universal access — particularly in rural and other underserved communities, the internet has also disrupted many industries, including the media industry. More people now read news online than in print, and although online distribution makes news more widely available — and less expensive — for readers, it also presents significant challenges for publishers. As noted in the Cairncross Review:

“Print circulation has been drifting down since the 1950s, but the decline has accelerated since the advent of the Internet, and especially since the arrival of the smartphone just over a decade ago. A sharp fall in revenues has already killed many local newspapers and threatens the quality, if not the survival, of many nationals.”⁹

3. As a result of falling revenues, publishers have had to cut costs dramatically, which has impeded the provision of all types of public interest news. Added to this, the challenges experienced by publishers have been exacerbated by the COVID-19 pandemic. As explained in a report commissioned by SANEF in June 2020:

“For many years, South Africa’s news industry and in particular, its print media, has bucked international trends by managing to stay afloat by claiming a slice of an ever-reducing pie of advertising revenue. The COVID-19 pandemic has effectively taken that pie away and what is left is a news industry desperately looking for new ways of sustaining itself while audience demands for timely, credible but free news surges.”¹⁰

4. In the face of this context, SANEF has identified the urgent need to develop strategies to achieve media sustainability and realise universal access to public interest journalism for all persons in South Africa. These strategies are aligned with SANEF’s commitment to championing South Africa’s hard-won freedom of expression and promoting quality, ethics, and diversity in the South African media.

⁷ APC et al, ‘Perspectives on universal free access to online information in South Africa: Free public wi-fi and zero-rated content’, September 2017 at p 1, accessible at <https://internetaccess.africa/wp-content/uploads/2019/10/UA-Issue-Paper.pdf>.

⁸ Id at page 1.

⁹ Frances Cairncross, ‘The Cairncross Review: A sustainable future for journalism’, February 2019 at page 14, accessible at <https://www.gov.uk/government/publications/the-cairncross-review-a-sustainable-future-for-journalism>.

¹⁰ Reginald Rumney above n 2.

Scope of the report

5. This report does not purport to offer the solution to media sustainability in South Africa. It does, however, present a series of policy options to promote media sustainability drawn from local, regional, and international comparative practices and examples for further deliberation and debate. Notably, this report complements a variety of recent and ongoing media sustainability initiatives¹¹ and offers the reader a high-level overview of options that may be tailored for South Africa's unique media landscape. Specifically, this report presents eight media sustainability strategies and over fifteen direct policy considerations.

Purpose of the report

SANEF's media sustainability objective

6. The purpose of this report is two-fold. First, to contribute to SANEF's mission of achieving media sustainability and universal access to public interest journalism. In doing so, and in recognition of the fact that this requires engagement with a range of different stakeholders across the public and private sector, the research presents an initial proposal of policy options that may be pursued in the short-, medium- and long-term. The strategies and recommendations focus on both public and private sector engagements and interventions. This report is only the first step in this engagement process and should be seen as a "living document" that will be developed over time and which may find application in other research, advocacy, and policy processes.

Inquiry into Media Ethics and Credibility

7. Second, this report forms part of SANEF's response to the Independent Panel Report in the Inquiry into Media Ethics and Credibility, prepared by Judge (retired) Kathleen Satchwell, Nikiwe Bikitsha, and Rich Mkhondo (Independent Panel Report).¹² In particular, Recommendation D35 calls on SANEF to—

"[s]upport research into the financial viability and sustainability of all forms of news media, examining international approaches to funding independent media, including but not limited to taxation incentives/exemptions, allocation of public funds, pursuit of royalties, levies on online advertising revenue routed offshore by online platforms, or other such methods."¹³

8. Other key recommendations found in the Independent Panel Report include:
 - 8.1 Recommendation A2: "Encourage constitutional entities, government institutions and individual policymakers to publicly affirm their commitment to an independent media that robustly engages with all aspects of South African society;

¹¹ See "Annexure B: Recent and Ongoing Media Sustainability Initiatives" for further reference.

¹² Kathleen Satchwell et al, 'Independent Panel Report: Inquiry into Media Ethics and Credibility', January 2021 (updated in April 2021), accessible at <https://sanef.org.za/wp-content/uploads/2021/04/Satchwell-Report.pdf>.

¹³ Id at page 17.

to commit to activities that encourage trust in and support the credibility of such media; and to abjure all actions and comment that undermine it.”¹⁴

- 8.2 Recommendation C26: “Collaborate with like-minded organisations on a large-scale public campaign, involving all stakeholders including lawmakers and policymakers, all levels and spheres of government, industry, commerce and the education sector, to rebuild public trust in the media.”¹⁵
- 8.3 Recommendation D36: “Lobby for public purse support for all continuing professional development discussed in the training recommendations, so that it is available to members of all newsrooms including those too small to be part of taxation-related training levy structures.”¹⁶
- 8.4 Recommendation D37: “Ensure that any such public purse funding is free from conditionalities, underlining that news in a democracy is a public good.”¹⁷
- 8.5 Recommendation D38: “Engage with the media industry at large to seek financial solutions to strengthen various sectors of the media industry by means including but not limited to providing sufficient funding for the SABC to enable the public broadcaster to fulfil its mandate to the people of South Africa; carefully examining the financial and human capacity of the MDDA to support community print, radio and television.”¹⁸
- 8.6 Recommendation D39: “Identify funding sources that can support adequate news organisation investment in producing more in-depth news programming across subject matters, to counterbalance commercial pressures for more lightweight and inexpensive content.”¹⁹
- 8.7 Recommendation D40: “Earmark whatever monies from the media industry in terms of the ECA have been received by USAASA from broadcasting licensees to support the development of broadcast media diversity; and via government and national, regional and local administrative bodies, speedily implement the already agreed allocation and disbursement of the 30% advertising spending levy for the benefit of the community media sector.”²⁰
- 8.8 Recommendation D41: “Inquire into means of taxing the South African operations of the so-called FANGs (Facebook, Amazon, Netflix and Google) so that a portion of said tax revenue is channelled into supporting media diversity, whether

¹⁴ Id at page 13.

¹⁵ Id at page 16.

¹⁶ Id at page 17.

¹⁷ Id.

¹⁸ Id at pages 17-8.

¹⁹ Id at page 18.

²⁰ Id.

through funding media pluralism (for example through the MDDA) or through funding content diversity (for example by funding a local content fund).”²¹

- 8.9 Recommendation H63: “Expand the powers, financial resources, structures and administrative capacity of regulatory bodies to enable them to initiate a complaint to investigate whether or not there has been wrongdoing and a breach of ethics. Such powers would enhance the credibility of the regulatory system in a context where many persons do not follow the current complaints procedures and some persons elect to use social media to complain about journalism, and where it is not possible to compel persons to make complaints through the formal process.”²²
9. Accordingly, this report in both its scope and purpose seeks to complement and develop existing strategies and, where possible, introduce potential new strategies for debate and consideration by journalists, public interest media organisations, and other interested and affected parties and stakeholders, in both the public and private sector. These strategies and considerations may be used in isolation or in combination with the ultimate objective of not only sustaining public interest news in South Africa but working towards an enabling environment in which it can grow and flourish.

²¹ Id.

²² Id at page 21.

II. MEDIA SUSTAINABILITY AS A CONSTITUTIONAL IMPERATIVE

Constitutional framework

10. The Constitution of the Republic of South Africa, 1996 (Constitution) is the supreme law of South Africa. Section 1 of the Constitution makes it clear that South Africa is founded on the values of human dignity, the achievement of equality, and the advancement of human rights and freedoms.²³ The Bill of Rights found in Chapter 2 of the Constitution binds all organs of state,²⁴ as well as natural and juristic persons to the extent applicable.²⁵
11. The state is obliged to respect, protect, promote, and fulfil the rights in the Bill of Rights, which consequently requires the state to take both positive and negative measures to realise the fundamental rights of people in South Africa.²⁶ The obligation to respect requires that the state must refrain from infringing on any rights; the obligation to protect requires the state to take positive steps to prevent a right from being infringed by both the state and private actors; the obligation to promote refers to the duty on the state to take steps to create the necessary culture and social conditions in which the full enjoyment of human rights is possible; and the duty to fulfil refers to the duty of the state to take measures to ensure the full enjoyment of the recognised rights.²⁷ All constitutional obligation must be performed diligently and without delay.²⁸
12. The rights contained in the Bill of Rights are not absolute. However, a right may only be limited by a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom, taking into account all relevant factors including the nature of the right, the importance of the purpose of the limitation, the nature and extent of the limitation, the relation between the limitation and its purpose, and less restrictive means to achieve the purpose.²⁹

Freedom of expression and press freedom

13. The right to freedom of expression is enshrined in section 16 of the Constitution. Section 16(1) guarantees that every person has the right to freedom of expression, which includes freedom of the press and other media, freedom to receive or impart information or ideas, freedom of artistic creativity, academic freedom, and freedom of scientific research. This coheres with South Africa's commitments to freedom of expression under international law, including article 9 of the African Charter on Human and Peoples' Rights³⁰

²³ Section 1(a) of the Constitution.

²⁴ Section 8(1) of the Constitution.

²⁵ Section 8(2) of the Constitution.

²⁶ Section 7(2) of the Constitution.

²⁷ Panel of Constitutional Experts and Technical Committee 4, 'Memorandum: The state must respect, protect promote and fulfil the rights in the Bill of Rights', March 1996 at para 3, accessible at <https://justice.gov.za/legislation/constitution/history/LEGAL/CP008036.PDF>.

²⁸ Section 237 of the Constitution.

²⁹ Section 36(1) of the Constitution.

³⁰ African Charter on Human and Peoples' Rights, 1981, accessible at <https://www.achpr.org/legalinstruments/detail?id=49>.

(African Charter) and article 19 of the International Covenant on Civil and Political Rights³¹ (ICCPR).

14. The importance of the right to freedom of expression and access to information has repeatedly been emphasised at the domestic, regional, and international levels. For example, target 16.10 of the United Nations Sustainable Development Goals (SDGs), seeks to “[e]nsure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”,³² and in principle 1 of the revised Declaration of Principles on Freedom of Expression and Access to Information in Africa³³ (ACHPR Revised Declaration), the African Commission on Human and Peoples Rights (ACHPR) highlights that:

“Freedom of expression and access to information are fundamental rights protected under the African Charter and other international human rights laws and standards. The respect, protection and fulfilment of these rights is crucial and indispensable for the free development of the human person, the creation and nurturing of democratic societies and for enabling the exercise of other rights.”³⁴

15. Press freedom — as a crucial element of the right to freedom of expression — has similarly been concretised in our law. In *Khumalo and Others v Holomisa*, the Constitutional Court explained that:

“The print, broadcast and electronic media have a particular role in the protection of freedom of expression in our society. Every citizen has the right to freedom of the press and the media and the right to receive information and ideas. The media are key agents in ensuring that these aspects of the right to freedom of information are respected. The ability of each citizen to be a responsible and effective member of our society depends upon the manner in which the media carry out their constitutional mandate.”³⁵

16. Notably, in the same judgment, the Constitutional Court went on to discuss the obligations and duties that rest with the media:³⁶

“In a democratic society, then, the mass media play a role of undeniable importance. They bear an obligation to provide citizens both with information and with a platform for the exchange of ideas which is crucial to the development of a democratic culture. As primary agents of the dissemination of information and ideas, they are, inevitably, extremely powerful institutions in a democracy and they have a constitutional duty to act with vigour, courage, integrity and responsibility. The manner in which the media carry out their constitutional mandate will have a significant impact on the

³¹ International Covenant on Civil and Political Rights, 1966, accessible at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

³² See United Nations, ‘Sustainable Development Goals’, accessible at <https://unstats.un.org/sdgs/metadata/?Text=&Goal=16&Target=16.10>. Goal 16 seeks to “[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”

³³ ACHPR, ‘Declaration of Principles on Freedom of Expression and Access to Information in Africa’, October 2019, accessible at <https://www.achpr.org/legalinstruments/detail?id=69>.

³⁴ Id at page 10.

³⁵ [2002] ZACC 12 at para 22.

³⁶ Id at para 24.

development of our democratic society. If the media are scrupulous and reliable in the performance of their constitutional obligations, they will invigorate and strengthen our fledgling democracy. If they vacillate in the performance of their duties, the constitutional goals will be imperilled. The Constitution thus asserts and protects the media in the performance of their obligations to the broader society, principally through the provisions of section 16.”

17. The positive obligations on states regarding the right to freedom of expression bear particular emphasis. In *Ismayilov v Azerbaijan*, the European Court of Human Rights (ECtHR) explained that the right to freedom of expression requires states—

“to create, while establishing an effective system of protection of journalists, a favourable environment for participation in public debate by all the persons concerned, enabling them to express their opinions and ideas without fear, even if they counter to those defended by the official authorities or by a significant part of public opinion, or even irritating or shocking to the latter.”³⁷

18. The ECtHR has also explained that the scope of the positive obligation on states in respect of the right to freedom of expression will inevitably vary, having regard to the diversity of situations of different states, the difficulties involved in policing modern societies, and the choices that must be made in terms of priorities and resources; in this regard, the obligation must not be interpreted in such a way as to impose an impossible or disproportionate burden on the authorities.³⁸

19. It is also relevant to consider the peremptory language used by the ACHPR in the ACHPR Revised Declaration, which includes, but is not limited to, the following principles:

19.1. Principle 1: “States shall create an enabling environment for the exercise of freedom of expression and access to information, including by ensuring protection against acts or omissions of non-state actors that curtail the enjoyment of freedom of expression and access to information.”³⁹

19.2. Principle 5: “The exercise of the rights to freedom of expression and access to information shall be protected from interference both online and offline”.⁴⁰

19.3. Principle 7: “States shall take specific measures to address the needs of marginalised groups in a manner that guarantees the full enjoyment of their rights to freedom of expression and access to information on an equal basis with others. Marginalised groups include women, children, persons with disabilities, older

³⁷ Application No. 65286/13 and 57270/14, ECtHR (Fifth Section), 10 January 2019 at para 158, accessible at <https://hudoc.echr.coe.int/eng?i=001-188993>.

³⁸ Dominika Bychawska-Siniarska, ‘Protecting the right to freedom of expression under the European Convention on Human Rights: A handbook for legal practitioners’, July 2017 at page 91, accessible at http://www.inai.tn/wp-content/uploads/2018/11/20170718_Handbook-Freedom-of-Expression-ENG.pdf.pdf.

³⁹ ACHPR above n 33 at page 10.

⁴⁰ Id at page 11.

persons, refugees, internally displaced persons, other migrants, ethnic, religious, sexual or gender minorities.”⁴¹

- 19.4. Principle 11.3: “States shall take positive measures to promote a diverse and pluralistic media, which shall facilitate the promotion of free flow of information and ideas, access to media and other means of communication, access to non-discriminatory and non-stereotyped information, access to the media by poor and rural communities, the promotion of transparency and diversity in media ownership, the promotion of local African languages, content and voices, and the promotion of the use of local languages in public affairs”.⁴²
- 19.5. Principle 12.1: “States shall guarantee the right to establish various forms of independent media, including print, broadcast, and online media.”⁴³
- 19.6. Principle 13: “States shall establish public service media governed by a transparently constituted and diverse board adequately protected from undue interference of a political, commercial, or other nature . . . and public service media shall be adequately funded in a manner that protects them from undue interference.”⁴⁴
- 19.7. Principle 14.1: “States shall promote a diverse private media as vehicles for the development and dissemination of a variety of content in the public interest.”⁴⁵
- 19.8. Principle 15: “States shall facilitate the establishment of community media as independent non-profit entities, with the objective of developing and disseminating content that is relevant to the interests of geographic communities or communities sharing common interests such as language and culture.”⁴⁶
- 19.9. Principle 37: “States shall facilitate the rights to freedom of expression and access to information online and the means necessary to exercise these rights . . . and shall recognise that universal, equitable, affordable and meaningful access to the internet is necessary for the realisation of freedom of expression, access to information and the exercise of other human rights.”⁴⁷
20. It is undeniable that state support for public interest journalism is in the public interest. As explained by the Committee of Ministers of the Council of Europe (CoE):

“Quality journalism is upheld by journalistic practices that serve the public interest and are based on good faith and the ethics of the profession. Such practices, irrespective of whether performed by professional journalists or other authors, seek to provide

⁴¹ Id.

⁴² Id at pages 12-3.

⁴³ Id at page 13.

⁴⁴ Id.

⁴⁵ Id at page 14.

⁴⁶ Id.

⁴⁷ Id at page 23.

accurate and reliable information that complies with the principles of fairness, independence and transparency, public accountability, and humanity. Journalism committed to these principles should be acknowledged as a public good, so as to emphasise its key role and value for societies and to encourage a wide range of stakeholders, including member States, to join efforts in ensuring its promotion and support, also through financial means.”⁴⁸

21. In the South Africa context, the state is bound by its domestic, regional, and international commitments not only to refrain from interfering with the exercise of public interest journalism but also to take positive steps to support public interest journalism in the realisation of the right to freedom of expression.

⁴⁸ CoE, ‘Declaration by the Committee of Ministers on the financial sustainability of quality journalism in the digital age’, February 2019 at para 3, accessible at https://search.coe.int/cm/pages/result_details.aspx?objectid=090000168092dd4d.

III. DEFINING PUBLIC INTEREST JOURNALISM

22. Public interest journalism is not universally defined. As noted in the Select Committee on the Future on Public Interest Journalism Report⁴⁹ prepared by the Australian Senate (Australian Future of Public Interest Journalism Report), “even if there is no unanimously accepted single definition of public interest journalism, there are certain behaviours, institutions, and principles that have been commonly cited when discussing its role and importance in healthy democracies.”⁵⁰
23. Correctly, it could be considered the “antithesis of media’s darker side, which includes fake news, propaganda, censorship and voyeurism”,⁵¹ and its role has been increasingly recognised in recent research, including the Cairncross Review and the Australian Future of Public Interest Journalism Report, to distinguish between journalism which is a necessary pre-requisite to the full exercise of the democratic function and other forms of reportage which are less relevant to enhancing democratic legitimacy. Importantly, the distinction does not suggest that one is more deserving of legal protections. However, the distinction is useful for the determination of the types of journalism which should be more readily supported by media sustainability strategies.

Public interest journalism

24. The Cairncross review provides a compelling distinction between “high-quality journalism” and “public interest news”, suggesting that while the former is desirable, it may alone not justify specific interventions to ensure that it survives, or is available to as many people as possible.⁵² This argument suggests that high-quality journalism, which may include film reviews, entertainment news, travelogues, and consumer product reviews, may not be a necessary prerequisite to ensure community cohesion, the promotion of public accountability, and the enhancement of democratic legitimacy. Whereas public interest news and journalism, which places these concerns at its core, is central to the democratic function. Notably, the argument does not suggest that public interest journalism cannot be of a high-quality. Instead, it suggests that some high-quality journalism may not be in the public interest and as deserving of specific sustainability interventions, including funding.⁵³
25. The Cairncross Review argues further that two areas of public interest journalism are especially important:

⁴⁹ Australian Senate, ‘Select Committee on the Future of Public Interest Journalism Report’, February 2018, accessible at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Future_of_Public_Interest_Journalism/PublicInterestJournalism/Report.

⁵⁰ Id at para

⁵¹ Andrea Carson, ‘Explainer: what is public interest journalism’, The Conversation, accessible at <https://theconversation.com/explainer-what-is-public-interest-journalism-78996>.

⁵² The Cairncross Review above n 9 at page 16.

⁵³ Id.

- 25.1. Investigative and campaigning journalism: Such journalism — particularly investigations into abuses of power in both the public and private sphere — is high-cost and high-risk.⁵⁴
- 25.2. Reporting on the daily activities of public institutions: Journalism that focuses on the machinery of government, particularly at the local level, is in “great danger” mainly because the size of local audiences is diminishing, with the resultant decrease in revenues.⁵⁵
26. In addition to the views espoused in the Cairncross Review, the South African context may dictate additional emphasis on reporting on the daily affairs of public institutions, particularly relating to writing and gathering local stories in smaller rural towns, villages, and other underserved areas. As a result of the digital divide in South Africa and the limited ability of public interest media organisations to consistently access and service rural areas, promoting reporting in and from these areas is important in promoting access to information and the full exercise of the democratic function across the access-to-news spectrum.
27. In further considering the ambit of public interest journalism, the Australian Future of Public Interest Journalism Report records a submission from the Civic Impact of Journalism Project which posits that there are a number of roles and functions that public interest journalism plays that have been “widely recognised as features of good journalistic practice for at least 70 years”. These include:
- to keep the public up to date with what is going on in the world;
 - to provide the public with reliable information on which they may base choices as participants in political, economic, and social life;
 - to provide a forum for the exchange of ideas and opinions;
 - to be a watchdog on those in power;
 - to help societies understand themselves;
 - to provide the material upon which members of a society can base a common conversation; (and that)
 - these functions all contribute to the working of capitalist democracies.”⁵⁶
28. In addition, the Australian Broadcasting Corporation (ABC), in its submission to the Australian Future of Public Interest Journalism process, argued that the term “public interest journalism” is used synonymously with the terms “quality journalism”, “investigative journalism”, and “accountability journalism”.⁵⁷ Importantly, the ABC noted that these terms recognise that there is a crucial difference between journalism that serves the public good, and journalism that seeks solely to entertain as—

“not all journalism is designed to provide a community benefit. Certainly, it is commonly understood that what is in the public interest does not always correlate with

⁵⁴ Id at page 17.

⁵⁵ Id.

⁵⁶ Australian Future of Public Interest Journalism Report above n 49 at para 1.9.

⁵⁷ Id at para 1.11.

that in which the public is interested. Defining the public interest can be challenging, much less determining the best means of its delivery.”⁵⁸

29. Based on the above, a working definition of public interest journalism which may be adopted by SANEF and which may be useful in furthering discussions on media sustainability strategies could read as follows:

“Public interest journalism refers to journalistic activity that is central to the democratic function and the protection and promotion of the South African Constitution, including investigative journalism, reporting on the daily affairs of public institutions, and local journalism focused on the generation of public interest stories in towns and villages and underserved rural areas.”

Journalism as a public good

30. Allied to the notion of public interest journalism is the notion of journalism as a public good. The Independent Panel Report notes the need to underline the recognition that “news in a democracy is a public good”,⁵⁹ and — as noted in section II of this report — journalism, in general, is correctly acknowledged as deserving of constitutional and international law protections.
31. However, is all journalism a public good? Or is it just public interest journalism that is a public good? For example, relying on previous examples, it is arguable that travelogues and entertainment news — which both constitute journalism — are not as important to the democratic function as investigative journalism and daily court reporting and therefore may not be expressly considered as a “public good” as deserving of support through sustainability strategies. This is not to say that such reportage is not constitutionally protected but, simply, that it is not as important to the public good. Resultantly, it may be useful to further consider the nexus between public interest journalism and journalism as a public good, should they be distinct.

Public service journalism

32. For the sake of completeness, public service journalism is, on occasion, referred to alongside public interest journalism and journalism as a public good and, equally, its definition remains elusive.⁶⁰ However, it is also arguable that public service journalism can be easily distinguished from the two former concepts: it is journalism practiced at a public service broadcaster in service to the public and funded, predominately, by the public purse. However, as with “high-quality journalism”, it may be in the public interest, and it may also be of high-quality. Key distinguishing factors may be ownership and funding. Public interest journalism may be published and funded by both the private and public sector

⁵⁸ Id.

⁵⁹ Independent Panel Report above n 12 at page 17.

⁶⁰ See, for example, Jackie Harrison, ‘Public Service Journalism’, Oxford Research Encyclopaedias, 26 March 2019. accessible at <https://oxfordre.com/communication/view/10.1093/acrefore/9780190228613.001.0001/acrefore-9780190228613-e-867>.

whereas public service journalism may fall squarely within a state-owned PSB and may be largely state-funded.

33. While acknowledging that press freedom is constitutionally protected, distinguishing between public interest journalism, journalism as a public good, public service journalism, and journalism which focuses more on entertainment and consumer product reviews — i.e., journalism which may not be in the public interest but in which the public may be interested — may be a useful point of departure in the initial design of media sustainability strategies and reflections on whether certain forms of journalism, such as investigative journalism and reporting of the daily affairs of public institutions, warrant enhanced support and funding, at least in the short- to medium-terms.

IV. MEDIA SUSTAINABILITY STRATEGIES

34. It cannot be gainsaid that there is an urgent need to develop strategies to achieve media sustainability and realise universal access to public interest journalism for all persons in South Africa. However, selecting which strategies should be used, and the extent of their application, warrants widespread public participation. What follows is a series of policy *options* to promote media sustainability drawn from local, foreign, and international comparative practices and examples for further deliberation and debate.

A. Media Sustainability Fund (MSF)

Overview

35. Ensuring media sustainability requires media organisations to have appropriate funding to meet their mandate effectively and responsively, as well as to serve as a safeguard against undue interference. As noted in the Independent Panel Report:⁶¹

“Transformation of the South African media has been haphazard and incomplete: the nation’s majority population remains severely underrepresented in media ownership and control, in the voices and languages heard on media platforms, and also in the capacity to access those platforms as news consumers. Ownership is even more concentrated; publications have closed; adaption to the imperative for change has been slow and half-hearted. The fragmentation of South African society is mirrored in social media driven media fragmentation and exacerbated by the real circumstances – and the miasma of rumours – created by state capture.

All this is occurring in a global and national situation of severe financial constraints on the media. The worldwide shrinkage of print media and adspend on all platforms except online is reinforced by a national economy whose already parlous state has been worsened by Covid-19. The Boards of media organisations are increasingly commercialised, with news outlets treated as merely another investment vehicle at the mercy of shareholder demand for profits. This impels management involvement, and sometimes interference, in decisions about programming, staffing and content.

Demand for more and faster newsroom output from fewer resources – including fewer, less experienced journalists and sub-editors, and the absence or reduction of time for subeditorial scrutiny and editorial vigilance – makes slippages in standards almost inevitable. The pressure to produce an ever-increasing quota of stories per work period has meant shortcuts necessarily occur, limiting care and attention to detail in research, interviewing, corroborative and fact checks and writing and rewriting.”

36. These challenges are not unique to South Africa. Around the world there are growing efforts to secure funding to support public interest journalism. For instance, in February 2019, the CoE published a declaration reiterating member states’ commitment to ensure stable, sustainable, transparent, and adequate funding for “public service media” in line

⁶¹ Independent Panel Report above n 12 at page 3.

with the principles and standards of the CoE, and encouraged member states to include a variety of measures in their media regulatory and policy frameworks, including:⁶²

- 36.1. “A beneficial tax regime for the production and distribution of journalistic content.”⁶³
- 36.2. “Financial support schemes for media sectors besides public service media, in particular for regional, local, hyperlocal, and not-for-profit community media, with accompanying safeguards for their independent administration and oversight and for equitable and non-discriminatory distribution of such support in line with the principles of transparency and accountability and with the standards of the CoE.”⁶⁴
- 36.3. “Media and journalism development measures financed through a variety of funding schemes including by private-public partnerships and aimed at (i) supporting investigative journalism, including cross-border journalism, and innovative journalistic projects; (ii) developing viable business models for hyperlocal journalism and freelance journalists; (iii) supporting the transition of printed publications to the digital environment; (iv) building a digital presence for small, particularly local media outlets; (v) developing journalistic skills and training and media literacy programmes for newsrooms; (vi) strengthening journalistic ethics and principles such as fact-checking or reflecting a plurality of views present in society; (vii) encouraging and promoting careers in journalism; (viii) developing business skills of media practitioners adapted to the digital economy, including skills for audience measurement and analysis; and (ix) supporting the development of new technologies for newsrooms, as well as funding and increased capacity building for the use of the existing technologies, based on the needs of individual newsrooms and those of their audiences.”⁶⁵
- 36.4. “The possibility for media outlets to operate as not-for-profit organisations and be able to receive donations from local, national, and international philanthropic programmes.”⁶⁶

Mission of the fund

37. One of the priority media sustainability strategies for SANEF is the establishment of a media sustainability fund (MSF). The mission of the MSF — which may include what is referred to as a local content fund in the Independent Panel Report⁶⁷ — is to support the development, sustainability, and independence of public interest media organisations, in pursuance of the right to freedom of expression and democratic principles. Practically, this may include:

⁶² CoE above n 48 at para 12.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Independent Panel Report above n 12 at page 18.

- 37.1. Supporting the operations of media organisations through the making of grants and loans, and the provision of personnel and consulting services.
 - 37.2. Promoting training by funding free or subsidised training programmes for young journalists, providing scholarships to journalism students, funding internships or fellowships so journalists new to the profession can get experience in newsrooms, and developing vacation work programmes with universities, etc.
 - 37.3. Strengthening the mandate of media regulatory bodies, such as the Press Council of South Africa (PCSA) and the Broadcasting Complaints Commission of South Africa (BCCSA), by advocating for greater powers of enforcement and the provision of additional funding.
38. By centralising how the public and private sector can support public interest journalism, such a fund could galvanise this support and release new resources to qualifying entities.

Eligibility criteria

39. There are a number of different criteria that may be applied by the decision-makers responsible for the allocation of resources from the MSF. For purposes of discussion, these may be divided into mandatory and discretionary criteria. (For ease of reference, a comprehensive questionnaire prepared by the Journalism Trust Initiative of the European Committee or Standardisation⁶⁸ (CEN) can be found [here](#). It provides guidance on the structure of a potential questionnaire for MSF applicants.)
40. The *mandatory criteria* that may be applied may include:
- 40.1. **Local presence**: The applicant may need to have a registered local presence (for example, be registered with the Companies and Intellectual Property Commission (CIPC) or as a civil society organisation (CSO) with the Department of Social Development) and have members of the public in South Africa as the target audience.
 - 40.2. **Independence**: The applicant should be independent of vested interests, including political, corporate, or criminal interests. This should be verifiable with reference to objective sources of information about the applicant.
 - 40.3. **Code of ethics**: The applicant may need to subscribe to a code of ethics that provides adequate safeguards for appropriate journalistic standards and be in good standing with the relevant body responsible for the enforcement of the code of ethics.

⁶⁸ CEN Workshop Agreement, 'Journalism Trust Initiative – CWA 17493', December 2019, accessible at https://rsf.org/sites/default/files/cwa17493_0.pdf at page 24.

- 40.4. **Public interest**: The work of the applicant should be to pursue “public interest journalism”. In this regard, funding may be allocated for two purposes:
- 40.4.1. **General support funding**: which supports media organisations at a “core” level and is used in line with their operational requirements. General support funding should be the preferred type of funding, aimed at sustaining the operational requirements of media organisations, without a need to assess the subjects of reportage of the organisation.
 - 40.4.2. **Project-specific funding**: which supports a specific project, such as the establishment of a new desk, but does not consider a particular target of reportage. Project-specific funding should be granted in the exception and should not be based on complex reporting mechanisms or requirements.
- 40.5. **Diversity**: The applicant must have a demonstrable interest in promoting media diversity — including language diversity and strategies to ensure equitable coverage of communities in rural areas — and reducing the digital divide.
- 40.6. **Financial need**: The applicant must have a demonstrable financial need for the funds, which are to be used for activities regarding public interest journalism.
- 40.7. **Disclosures of information**: The applicant must demonstrate an open and transparent approach to funding and management, including through disclosing shareholders, annual financial statements, and alternative sources of funding. Determinations in this regard should be based on objective criteria.
41. The *discretionary criteria* that may be applied may include:
- 41.1. **Commitment to transformation**: The applicant’s commitment to transformation through its structures and activities, including regarding its B-BBEE status, should be a relevant consideration based on objective criteria.
 - 41.2. **Alternative sources of funding**: The ability of the applicant to secure alternative sources of funding should be considered to ascertain the prioritisation of applicants.

Sources of funding

42. The MSF may seek to secure funds from a range of different sources in the public and private sector to better insulate itself from undue influence, including for example:
- 42.1. A dedicated allocation from the state budget.
 - 42.2. Fees paid by broadcasters to Universal Service and Access Agency of South Africa (USAASA).

- 42.3. Taxes or licence fees collected from social media platforms (as part of the measures contemplated in the Department of Communications and Digital Technologies (DCDT) Draft White Paper on Audio and Audio-visual Content Services Policy Framework).
 - 42.4. Contributions from individuals or private corporations.⁶⁹
 - 42.5. Donations from philanthropic organisations.
43. It is imperative that the sources of funding should not influence the determinations made by the MSF itself, and every precaution will need to be taken to ensure that the fund is insulated from undue interference. Importantly, the MSF should consider focusing on introducing new sources of funding into the media sustainability system as opposed to centralising funding from existing sources, save that it may incorporate inefficient current state funding streams and new individual and corporate donations could be channelled through it to shield recipients from donor pressure or undue influence.⁷⁰

Structure and oversight

44. In terms of the structure of the MSF, guidance may be drawn from, among others:
- 44.1. SANEF's Media Relief Fund for journalists who lost their livelihoods as a result of COVID-19.⁷¹ In this regard, the Social Justice Initiative served as the fiscal host for the fund, and played an oversight role to ensure that all funds were fairly and transparently distributed. Furthermore, the adjudication was conducted by an independent panel of media stalwarts, who were responsible for the decision-making.
 - 44.2. The International Fund for Public Interest Media, which is to be governed by an expert board whose decisions will be informed by a larger, representative advisory council.⁷² As noted in the feasibility study, the governance structure is guided by the following principles:
 - 44.2.1. Gender diversity will be essential with an equal number of women and men on the board (or as close to it as possible given that the total number of board members will be an odd number.

⁶⁹ Similar to the sustainability strategies detailed in Section IV-D below, the MSF could register as a Public Benefit Organisation with the South African Revenue Service and apply for a certificate in terms of section 18A of the Income Tax Act 58 of 1962 to enable tax deductions on donations from eligible individuals and donors.

⁷⁰ See, for example, the Multi-Party Democracy Fund established in terms of section 3 of the Political Party Funding Act 6 of 2018.

⁷¹ SANEF, 'SANEF relief fund for journalists', July 2020, accessible at <https://sanef.org.za/programmes/sustainability-media-relief-fund/>.

⁷² James Deane below n 173.

- 44.2.2. Spending priorities are typically determined by the board, not by donors. As well as representing good practice, this principle means that those who support the fund cannot be accused of using their funding to interfere with the internal affairs of those to whom the funding is focused.
 - 44.2.3. Board membership should comprise those best qualified and in the best position to govern a fund of this kind. People will be appointed therefore based on their expertise and credibility, not necessarily on their organisational affiliation.
 - 44.2.4. Governments, representatives of political parties or interests or similar affiliation should not be represented on the board.
45. In structuring the MSF, it is important to consider the history of institutions in South Africa and their potential for greater political contestation, social fragmentation, and capture, compared to more established democracies. As a result, eligibility criteria and oversight of the MSF may need to be based primarily on mandatory and objective criteria, thus limiting discretion and the need for value-based decisions. This, in turn, is better suited to promoting press freedom in line with South Africa's constitutional imperatives and international law commitments. Importantly, media owners should be engaged in discussions on the establishment and oversight of the MSF, particularly in relation to sources of funding and how best the MSF may be shielded from undue influence.

The MSF and the MDDA

46. The Media Development and Diversity Agency (MDDA), which is established in terms of the Media Development and Diversity Agency Act 14 of 2002 (MDDA Act), is a schedule 3A public entity in terms of the Public Finance Management Act 1 of 1999 which is mandated to "promote development and diversity in the South Africa media".⁷³ In particular, the MDDA is mandated to, among others:
- 46.1. Encourage ownership and control of, and access to, media by historically disadvantaged communities, as well as historically diminished indigenous language and cultural communities.⁷⁴
 - 46.2. Encourage the development of human resources and training, and capacity building, within the media industry, especially amongst historically disadvantaged groups.⁷⁵
 - 46.3. Encourage the channelling of resources to the community media and small commercial media sectors.⁷⁶

⁷³ Section 3 of the MDDA Act.

⁷⁴ Id at section 3(b)(i).

⁷⁵ Id at section 3(b)(ii).

⁷⁶ Id at section 3(b)(iii).

47. Notably, the MDDA “is independent and must be impartial and exercise its powers and perform its duties without fear, favour, prejudice, and with any political or commercial interference.”⁷⁷ In addition, it “must not interfere in the editorial content of the media”.⁷⁸ In terms of funding, section 15 of the MDDA Act provides for the following sources of funding: (1) money appropriated by Parliament; (2) money received in terms of private-sector agreements; (3) domestic and foreign grants; and (4) interest derived from any investments. Practically, in its most recent Annual Performance Plan,⁷⁹ the MDDA notes that following a 2017 situation analysis, “the MDDA’s budget is restrictive in that the organisation receives just under half the amount required if it was to service all proposals that it receives”.⁸⁰ It notes further that “financial support through grant funding initiatives is anticipated to be R133 million over the medium term, in support of around 120 projects.”⁸¹
48. In terms of reflections on practical experiences with the MDDA, the Independent Panel Report notes:
- “Informants generally told the Panel that the MDDA has had a chequered history and had not been particularly effective. It was suggested by some that this was because of political complications: it was said that “the MDDA is riven with political battles” and that political contacts were needed to obtain assistance from them.”⁸²
- Others took the view that the MDDA had competency problems in many respects. “Huge inefficiencies” were mentioned where a one-year grant would take two or three years to process.⁸³
- Obvious areas in which there was criticism were business management; financial acumen; sustainability, and planning. It was also suggested that the MDDA lacked imagination, enthusiasm, or energy. These criticisms were linked by informants to allegations of corruption, favouritism, political bias or connections. Obviously, all this has important ethical implications.”⁸⁴
49. In addition to the concerns raised in the Independent Panel Report, the MSF and MDDA are distinct, primarily as the MDDA’s primary focus is on community media, whereas the MSF is concerned with the sustainability of public interest journalism, a broader category. In addition, the MSF is dissimilar to the MDDA in that it not only seeks to fund public interest journalism but also to promote and strengthen media regulatory bodies to ensure credible and ethical journalistic practices in South Africa. However, it may be that the MSF and MDDA can mutually support one another through shared initiatives and capacity building. Further key distinctions between the MSF and the MDDA include:

⁷⁷ Id at section 2(4).

⁷⁸ Id at section 2(5).

⁷⁹ MDDA, ‘Annual Performance Plan: 201920-2021-22’, accessible at https://static.pmg.org.za/MDDA_2019-20_Annual_Performance_Plan.pdf

⁸⁰ Id at page 9.

⁸¹ Id at page 19.

⁸² Independent Panel Report above n 12 at page 123.

⁸³ Id.

⁸⁴ Id.

- 49.1. The MSF will be independent of state oversight but may receive a dedicated allocation from the state budget, alongside multiple other actors.
- 49.2. The MSF may be better placed to assist public interest media organisations to recover from the devastating effects of the COVID-19 pandemic.
- 49.3. By design, the MSF will rely on multiple income and revenue streams, thus ensuring media sustainability over the medium- to long-term.

RECOMMENDATIONS	
A1	The establishment of an MSF — which is independent of the MDDA and state oversight and control — to support, promote, and strengthen public interest media organisations in South Arica should be considered.
A2	The criteria used to determine the beneficiaries of the funding distributed by the MSF should be mandatory and objective — with limited discretion, if any — to insulate the MSF from political pressure and undue influence.
A3	With reference to the Multi-Party Democracy Fund established in terms of section 3 of the Political Party Funding Act 6 of 2018, the MSF could play a similar role in the media industry to channel new individual and corporate donations to shield recipients from donor pressure or undue influence.
A4	The South African government, through the Minister in the Presidency as the Executive Authority of the MDDA, in partnership with SANEF and community media representatives, should conduct a gap analysis to determine the disjunct between the activities of the MDDA and its perceived utility to community media organisations and the media sector as a whole, including an analysis of potential sustainable public-private partnership, including with the MSF, and strategies to strengthen the MDDA in terms of funding and outputs.

B. Access to public interest news websites

Data costs and access

- 50. The Competition Commission’s Report on the Data Services Market Inquiry confirms, based on benchmarking and profitability analysis, that South African data prices are high.⁸⁵ The Report confirms further that—

“the current [data] pricing strategies of the two larger operators are anti-poor insofar as lower income consumers who may purchase less data pay inexplicably higher prices than wealthier, larger volume consumers on a like-for-like basis. This is in the context where pricing overall is already high. Poorer consumers are faced with little option but to resort to purchasing short-validity bundles in pursuit of lower prices, but this is no answer as it does not provide them with continual data access at affordable prices.”⁸⁶

⁸⁵ Competition Commission of South Africa, ‘Data Services Market Inquiry: Final report – Summary of findings and recommendations’, December 2019 at para 5, accessible at <https://www.ellipsis.co.za/wp-content/uploads/2019/05/Data-Service-Market-Inquiry-Summary-of-Final-Findings-and-Recommendations-2-December-2019.pdf>.

⁸⁶ Id at para 16.

51. The CoE correctly makes the case for access, and the concomitant need for a lowering of data costs, stating:

“Quality journalism in its various forms should be available to everyone, irrespective of income levels and other socio-economic barriers. To this end, a range of social welfare measures could be adopted to guarantee those unable to provide for their own basic needs an effective access to a minimum level of information enabling them to form and express their opinions and make informed choices about government and society. Such measures should be based on real and actual needs and should consider the news consumption dynamics in the information society, notably the platforms used by people to reach news.”⁸⁷

52. In his recent research, Dr Harry Dugmore echoes the notion that “data must fall”, arguing that “data provision — in terms of levels of access, minimal standards of quality and reliability, and levels of affordability — needs to be seen as part of the ‘social infrastructure’ which is, in the digital era, as important to people’s well-being as access to electricity and other services.”⁸⁸ Dugmore notes further that “[to] be ‘off grid’, communication wise, as we’ve seen in the pandemic, often means a denial of education opportunities, the inability to be economic active from home and/or seek economic opportunities, and indeed being subjected to a lack of access to multiple informational ‘means of life’.”⁸⁹
53. South Africa’s current data costs should be seen as a direct threat to media sustainability in the digital age and, arguably, may be a direct impediment to the full realisation of a host of other constitutional rights. Resultantly, proactive steps need to be taken by public interest media organisations and interested and affected parties to advocate for further reductions in data costs and universal access to public interest journalism, including through the release of high-demand spectrum and the roll-out of the proposed wholesale open-access network (WOAN).

Zero-rating and paywalls

54. In addition to substantially reducing data costs, the zero-rating of public interest news websites and content has been identified as a priority measure for SANEF. Zero-rating refers to allowing access to webpages without the traditional data costs. However, in practice, this means that the cost would need to be borne by another entity, such as the Internet Service Provider (ISP), a Mobile Network Operator (MNO), or the state.
55. Several levers point to the feasibility of such a measure:
- 55.1. Work is currently being undertaken by the Department of Basic Education (DBE) to ensure that educational resources are available for download at no cost to learners. This is in terms of regulation 9.1 of the Electronic Communications,

⁸⁷ CoE, ‘Draft Recommendation of the Committee of Ministers to member states on promoting a favourable environment for quality journalism in the digital age’, 26 September 2019, at para 1.2.4, accessible at <https://rm.coe.int/msi-joq-2018-rev7-e-draft-recommendation-on-quality-journalism-finalis/168098ab76>.

⁸⁸ Dr Harry Dugmore above n 1 at pages 61-2.

⁸⁹ Id at page 62.

Postal, and Broadcasting Directions, published on 26 March 2020, which requires electronic communications service licensees to provide zero-rated access to local educational content websites.⁹⁰ Zero-rated content which is accessible through this initiative includes government education department websites and portals; content produced by basic education institutions established under the South African Schools Act, 1996; content produced by basic education institutions accredited by Umalusi; local websites offering free access to educational content resources; and local commercial websites that offer all learners unconditional or indefinite free access to educational content resources or offer parents and learners direct access to their schools' respective teaching and learning content resources.⁹¹

- 55.2. In the Competition Commission's Report on the Data Services Market Inquiry, the Competition Commission directed all mobile operators to reach an agreement with the Competition Commission within three months on a consistent industry-wide approach to the zero-rating of content from public benefit organisations and educational institutions to ensure broad application.⁹² The Competition Commission stated further that this agreement should be given formal regulatory status through the Independent Communications Authority of South Africa (ICASA) End-User and Subscriber Service Charter within six months of the report. The starting point for such a list should be the existing collective list of all zero-rated content in this category from all operators, but that process should seek to establish clear principles and criteria to be applied, as well as the application process for those public benefit organisations and educational institutions that seek zero-rating.
- 55.3. In the Directions on Zero-Rating of Websites for Education and Health issued under regulation 4(10) of the Disaster Management Act 57 of 2002, the DCDT mandated that the following websites in the health sector qualify for zero-rating: all COVID-19 related websites identified by the Department of Health; and local websites offering free access to COVID-19 health content resources.⁹³ In addition, the directions provide for the zero-rating of websites of higher learning institutions, on approval by the Department of Higher Education and Training (DHET).⁹⁴ The directions also provide that breakout from landing websites may be charged, particularly if and when the destination site is not covered by the directions; websites with missing technical information required by network operators for zero-rating will not be zero-rated; an electronic communications

⁹⁰ Department of Basic Education, 'Zero-rated basic education websites', undated, accessible at <https://www.education.gov.za/Portals/0/Documents/Recovery%20plan%20page/Links%20for%20schools/dbe-zero-rating-information-27-may-2020.docx.pdf?ver=2020-06-15-091333-973>.

⁹¹ The zero-rating application form is accessible here: https://www.ellipsis.co.za/wp-content/uploads/2020/06/Annexure-A-Zero-rating-Application-Form-43413_651-5-June-2020.pdf.

⁹² Data Services Market Inquiry Report above n 85 at para 48.5,

⁹³ DCDT, 'Directions on Zero-Rating of Websites for Education and Health issued under regulation 4(10) of the Disaster Management Act 57 of 2002', June 2020, accessible at https://www.ellipsis.co.za/wp-content/uploads/2020/06/Directions-on-Zero-Rating-of-Websites-for-Education-and-Health-43413_651-5-June-2020.pdf.

⁹⁴ *Id.*

service licensee that requires login details for websites that need to be zero-rated and are using login authentication must submit a list of websites that will be shared with the relevant departments to make the necessary follow-up, and the site owner or administrator must provide the network operator with default login details in order to facilitate zero-rating; and to enable an electronic communications service licensee to efficiently manage this service, websites with dynamic IP addresses will not be zero-rated.

56. This is an opportune time to engage with the DCDT and ICASA on zero-rating, as the deployment of the Wireless Open Access Network (WOAN) will bring with it opportunities to influence the licensing conditions that are to be applied. As with the MSF, eligibility criteria will need to be determined, but this can arguably be determined in a similar manner by the oversight structure that is established for the MSF.

RECOMMENDATIONS	
B1	Data provision — in terms of levels of access, minimal standards of quality and reliability, and levels of affordability — needs to be seen as part of the ‘social infrastructure’ which is, in the digital era, as important to people’s well-being as access to electricity and other services. ⁹⁵
B2	Further research and greater public debate about zero-rating of public interest news should be a major project for the SABC, and SANEF, to ensure a fair balance between for-profit and public interest media organisations and for a fair balance between rural and local news provision. ⁹⁶

C. Fostering competition in the digital economy

Engagement with the Competition Commission

57. In November 2020, the Competition Commission published its final report on competition in the digital economy.⁹⁷ While addressing a number of pertinent issues, it did not consider the role that competition in the digital economy can play in achieving media sustainability, despite a submission from Media Monitoring Africa (MMA) to this effect.
58. It is our understanding that the Competition Commission now intends to institute a formal market inquiry on this issue, and it may be opportune for SANEF to collaborate with MMA and other similarly-placed organisations to advance the submissions on media sustainability.
59. Technological advancement has precipitated the dissemination of vast amounts of information online, and traditional media organisations have had to adapt their business models to include digital platforms. The migration online has allowed for cheaper

⁹⁵ Dr Harry Dugmore above n 1 at 10.

⁹⁶ Id.

⁹⁷ Competition Commission of South Africa, ‘Competition in the Digital Economy’, November 2020, accessible at: <https://www.ellipsis.co.za/wp-content/uploads/2020/09/Competition-in-the-Digital-Economy-Report-7-September-2020.pdf>.

dissemination costs, while production costs remain high.⁹⁸ The consequence of this has been a global trend towards the concentration of media ownership.⁹⁹

60. UNESCO defines the concentration of media ownership as “an increase in the presence of a company or a reduction in the number of media companies in any market as a result of several possible processes: acquisitions, mergers, agreements with other companies or even the disappearance of competitors.”¹⁰⁰ The issues surrounding concentration are coupled with complexities concerning the proliferation of platforms that redistribute existing content and convergence by distribution platforms. This has made it increasingly difficult to monitor concentration as a result of media platforms adapting the ways in which they disseminate content. Accordingly, there are no longer defined media markets that allow for easy monitoring of concentration.¹⁰¹
61. The concentration of media ownership has been described as the biggest threat to media pluralism.¹⁰² A reduction in the number of content producers limits the diversity of ideas and opinions. Such concentration undermines the free flow of information which impacts, and often limits, the rights to freedom of expression, access to information, and the proper functioning of democracy.
62. UNESCO has identified the challenges to media freedom and pluralism which concern concentration of media ownership as follows:¹⁰³
 - 62.1. Excessive influence of media owners or advertising clients on politicians and government, and the covert manipulation of political decisions in favour of hidden economic interests.
 - 62.2. The concentration of ownership of commercial media, and the influence this might have in the political space, whether the concentration of ownership in the hands of ruling politicians, the concentration of all media in a country within the hands of a single owner, or concentration of all media in the hands of foreign owners.
 - 62.3. The effect of media concentration and changing business models in reducing the quality of journalism (investigative or otherwise), restricting the degrees of editorial freedom, and the erosion in the quality of working conditions and job security for journalists.
 - 62.4. The lack of media ownership transparency and opacity of funding sources.

⁹⁸ Centre for Media Pluralism and Media Freedom, ‘Adapting the understanding of media market plurality to the new digital realities’, May 2019, accessible at <https://cmpf.eui.eu/adapting-understanding-media-market-plurality-to-the-new-digital-realities/>.

⁹⁹ UNESCO, ‘Concentration of media ownership and freedom of expression: Global standards and implications for the Americas’, 2017 at page 9, accessible at https://unesdoc.unesco.org/ark:/48223/pf0000248091_eng.

¹⁰⁰ Id at page 10.

¹⁰¹ Id.

¹⁰² Centre for Media Pluralism and Media Freedom, above n 98.

¹⁰³ UNESCO above n 99.

- 62.5. Potential conflicts of interest arising from journalists' closeness to business interests.
63. Without countervailing measures such concentration increases over time. There is a duty on states to take steps in order to promote media diversity. In General Comment No. 34 to the International Covenant on Civil and Political Rights, the United Nations Human Rights Committee noted that:¹⁰⁴
- “[E]ffective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression ... [C]onsequently, State parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.”
64. Competition law functions to promote diversity and preserve competition by guarding against dominance and allowing new players to enter the market. It is accordingly well positioned to ensure diversity in the media and the continuation of public interest journalism. A number of other jurisdictions — including the United Kingdom, Australia, and the United States — have called on competition authorities to promote competition in the digital economy as a means to foster and promote public interest journalism. These recommendations are outlined below.

United Kingdom

65. In 2019, the United Kingdom published the Cairncross Review, which looked into issues pertaining to a sustainable future for journalism.¹⁰⁵ The Cairncross Review was asked to consider the sustainability of the production and distribution of high-quality journalism, and especially the future of the press, in the dramatically changing digital economy. In particular, the Cairncross Review looked at the overall state of the news media market, the threats to the financial sustainability of publishers, the impact of search engines and social media platforms, and the role of digital advertising. As explained:¹⁰⁶

“The goal of the Review has not been to protect news publishing companies themselves, but to advocate measures that will ensure the market in which they operate is efficient, and to defend their most democratically significant outputs. As such, the Review focused on the following two areas:

First, is the market in which publishers now operate a fair one, or has the rapid growth of the big online platforms — especially Google and Facebook — created distortions that justify government intervention? The platforms now not only take a large share of the market for advertising, they also provide the routes that many people use to find news online. The Review offers some recommendations intended to create a better balance between publishers and platforms, and to persuade the online platforms to use their position in more accountable ways.

¹⁰⁴ CCPR/C/GC/34, September 2011 at para 40.

¹⁰⁵ Cairncross above n 9.

¹⁰⁶ Id at pages 5-6.

Second, how should society continue to support the monitoring of, and reporting on, the activities of public bodies not just in central government, but also in localities: local councils, courts, inquests? This area of reporting, which this Review calls “public-interest news”, has always been one of the most important functions of journalism, and brings undeniable public benefit. At a national level, it attracts considerable reader interest. However, at a local level, the story is different. Now that it is possible to see online how many people read reports of local councils, for instance, it is all too evident that the numbers rarely justify the cost of sending a reporter. So here are activities which are important public goods, essential to the preservation of an accountable democracy, with poor market incentives for supply (and limited demand), but which it would be inappropriate for the state to finance directly.”

66. The Cairncross Review noted the rapid scale of change presented by the digital economy, which has seen a drop in the sales of printed papers and advertising revenue. It also noted that the switch to online has changed the way people find and absorb news:

“They are much less likely to see the mixed bundle of politics, finance, entertainment and sport that constitutes many papers, and more likely to see an individual story, chosen by a computer program and not necessarily clearly labelled with the name of a particular publisher. This “unbundled” experience has implications for the visibility of public-interest news and for trust in news.”¹⁰⁷

67. In sum, the Cairncross Review made the following recommendations:

67.1. Market study: The Competition Commission should conduct a market study of online advertising. This is necessary in light of the difficulty in obtaining reliable information concerning the operation of online advertising. The study should investigate the various players involved and make recommendations, if necessary, in order to ensure fair competition.

67.2. Codes of conduct: Online platforms should develop codes of conduct which regulate their commercial relationship with news publishers. The purpose of the code is to rectify the power imbalance that exists between online platforms and news publishers concerning the distribution of news and online advertising. Such codes could sufficiently constrain online platforms whilst still allowing for individual negotiation with news publishers which accounts for differences in reach and online advertising. The codes should be overseen by a regulator who is able to enforce compliance and provide guidance on the content of such codes. The Cairncross Review makes the following recommendations concerning the content of such codes:

67.2.1. Online platforms should commit to the publication of a specified amount of content contained in an article on its platform. The indexing of news articles on an online platform has increased traffic to the publisher’s website, but if too much of the content is included on the online platform

¹⁰⁷ Id at page 6.

it reduces the need to click through, decreasing traffic to news publishers' sites.

67.2.2. Online platforms should commit to notify news publishers of intended changes to algorithms that may impact the ways in which their content is ranked.

67.2.3. Online platforms should increase transparency by making the shares of online revenue available.

67.2.4. Online platforms should pledge to work with news publishers to determine how content is presented.

67.2.5. Online platforms should commit to assist publishers to understand the rules concerning the ranking of content.

67.2.6. Online platforms should share information concerning their readers' behaviour.

67.3. Oversight over the mechanisms to identify news quality: The Cairncross Review noted that online platforms have a responsibility to monitor untrustworthy news sources and to educate readers on the reliability of different sources. It recommended that governments place an obligation on online platforms to assist users in distinguishing between good quality news and unreliable news. In acknowledging the importance of such a job, it recommended that the initiatives and mechanisms implemented by the online platforms should be put under regulatory oversight. In so doing, the regulatory authority should define objectives and measure improvements. Furthermore, the role of the regulator should simply be to gather information on the steps taken by the online platforms in order to understand their effectiveness, which may be expanded if it becomes apparent that the steps taken by the online platforms have not increased the distribution of high-quality news. This expanded role may, in the future, entail the development of best practice guidelines on the presentation of news content on online platforms.

67.4. Media literacy: The government should work with relevant stakeholders, including online platforms, news publishers, civil society organisations, and academics to develop a media literacy strategy. This is necessary to equip adults and children with the necessary skills to navigate information online in order to understand the sources of information and determine what is reliable. The Cairncross Review noted that online platforms will be an important stakeholder when developing this strategy because they understand their users' knowledge and behaviour.

67.4.1. Investigate market impact: The Cairncross Review recommended that an assessment should be done on whether the British Broadcasting Corporation (BBC) is effectively re-directing traffic to other commercial

publishers, especially local ones. Although this recommendation relates specifically to the BBC, it may be applied to other significant players in the broadcasting space.

- 67.4.2. **Fund:** The Cairncross Review recommended that the government set up a fund aimed at exploring and developing new tools and approaches to improve public-interest news. The fund should focus on increasing innovation in the sector and should have clearly defined objectives. The Cairncross Review recommended a focus on the following: (i) business solutions for local journalism; (ii) supporting the use of data analytics to understand when readers are likely to pay; (iii) innovative use of artificial intelligence to increase journalistic quality and reduce cost; and (iv) mechanisms which aim to attract new audiences.
- 67.4.3. **Tax relief:** The Cairncross Review recommended utilising tax measures in order to reduce publishers' reliance on advertising revenue. Specifically, it proposed reducing or zero-rating VAT rates for electronic publications. It further recommended the introduction of tax relief for online news content and local and investigative content.
- 67.4.4. **Financial support for local news:** Financial support should be provided to local news publishers. Such support should be provided by government and private actors. The Cairncross Review acknowledged that reliance on the government could undermine the media's role as an effective watchdog, and noted that the provision of funding is only a short-term solution.
- 67.4.5. **Establish an institute for public interest news:** An independent institute should be established which aims to safeguard the future of public-interest news. The institute could receive public and private funds and should work with multiple stakeholders to improve the quality of online news. The institute should be insulated from political interference and any commercial obligations. The Cairncross Review recommended that the institute be responsible for the following: (i) centralise funding for the media sector; (ii) oversee the fund established for innovation; (iii) establish and encourage good practice for public-interest news; (iv) work towards increasing media literacy in collaboration with relevant stakeholders; and (v) conduct research and engage with government bodies to assist with disseminating information in ways that are accessible.

Australia

68. Between 2018 to 2019, the Australian Competition and Consumer Commission (ACCC) conducted a digital platform inquiry, which concluded in its [final report](#) that certain digital platforms had distorted advertising and local media markets, making it difficult for media

organisations to monetise their content.¹⁰⁸ The ACCC resolved that a voluntary code of conduct would not solve the issue and a mandatory code was necessary. Accordingly, a Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act, 2020 (the Code) was enacted and commenced on 3 March 2021.

69. The Code aims to address the power imbalance between Australian news organisations and digital platforms in order to encourage competition, increase consumer protection, and enable sustainable media in a digital world. The Code does so by providing four sets of requirements to guide the relationship between digital platforms and news organisations. These include:
- 69.1. Bargaining rules: This requires that digital platforms and news businesses, which have indicated an intention to bargain, do so in good faith.
 - 69.2. Compulsory arbitration rules: If the parties cannot agree about the remuneration of news content, an arbitration panel will choose between two final offers made by the parties.
 - 69.3. Minimum standards: These prescribe that digital platforms must notify news organisations in advance of the following: (i) algorithmic changes; (ii) information about the availability and collection of user data; and (iii) changes that would affect the presentation and accessibility of news content.
 - 69.4. Non-discrimination requirements: Digital platforms are required to prevent digital platform services from disadvantaging the news content of a news organisation.
70. The Code currently applies to Facebook and Google, but subsequent instruments may be developed in the future to include additional platforms. The Treasurer determines which digital platforms must comply. For news organisations to participate in the Code, they must be registered with the Australian Communications and Media Authority, which will occur if they have annual revenue of above \$150 000 and their news business meets the following requirements: (i) the business relates to core news content; (ii) the business is subject to professional journalistic standards; and (iii) the business operates predominantly in Australia for Australian audiences.
71. All commercial negotiations and agreements between online platforms and news organisations that fall within the scope of application of the Code must comply fully with the Code, i.e., parties should “contract out”. News organisations are permitted to form a group in order to collectively bargain with the online platform. If an agreement cannot be reached within three months, the matter is automatically subject to arbitration, where the panel will decide between two final offers.

¹⁰⁸ ACCC, ‘Digital platforms inquiry: Final report’, July 2019, accessible at <https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report>.

United States

72. In 2020, the Subcommittee on Antitrust, Commercial Law and Administrative Law of the Committee on the Judiciary (the Subcommittee), which forms part of the House of Representatives, released its majority staff report and recommendations following its investigation of competition in digital markets.¹⁰⁹ While the report included a number of recommendations on restoring competition in the digital economy, its findings regarding a free and diverse press are particularly relevant for present purposes. As noted by the Subcommittee:

“A free and diverse press is essential to a vibrant democracy. Whether exposing corruption in government, informing citizens, or holding power to account, independent journalism sustains our democracy by facilitating public discourse”.

73. However, the Subcommittee noted further that, since 2006, the news industry has been in economic freefall, primarily due to a massive decrease in advertising revenue. In this regard, both print and broadcast news organisations rely heavily on advertising revenue to support their operations, and since the market shifted to digital platforms, news organisations have seen the value of their advertising space plummet steeply.

74. According to the Subcommittee:

“[T]he rise of market power online has corresponded with a significant decline in the availability of trustworthy sources of news. Through dominating both digital advertising and key communication platforms, Google and Facebook have outsized power over the distribution and monetization of trustworthy sources of news online, creating an uneven playing field in which news publishers are beholden to their decisions.”

75. In order to address this imbalance, it was recommended that legislation be considered to provide news publishers and broadcasters with a narrowly tailored and temporary safe harbour to collectively bargain with dominant online platforms.

France

76. Lastly, Alphabet Inc. — Google’s parent company — recently settled a year-long copyright complaint with 121 French publishers by agreeing to pay \$76 million over three years as a result of copyright infringements and lost advertising revenue.¹¹⁰ However, the settlement has been criticised as “opaque” and lacking in fair treatment of all news publishers”, with some not benefiting from the enhanced revenue occasioned by the settlement.¹¹¹

¹⁰⁹ Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, ‘Investigation of competition in digital markets: Majority staff report and recommendations’, 2020, accessible at

https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf?utm_campaign=4493-519.

¹¹⁰ Mathieu Rosemain, ‘Exclusive: Google’s \$76 million deal with French publishers leaves many outlets infuriated’, Reuters, 12 February 2021, accessible at <https://www.reuters.com/article/us-google-france-copyright-exclusive-idUSKBN2AC27N>.

¹¹¹ Id.

RECOMMENDATIONS	
C1	The South African government should work closely with countries in the Southern African Development Community (SADC), other regional economic communities (RECs), and the African Union (AU) to investigate an Africa-wide approach to multinational platform power. ¹¹²
C2	SANEF and other organisations should consider working more directly with the South African government (as Australian news media has done) and with FAANGs and other platforms to explore much larger-scale support for public interest journalism. ¹¹³
C3	SANEF should consider partnering with interested parties during the public participation process of the Competition Commission's market inquiry into competition in the digital economy, particularly in relation to the role that competition in the digital economy can play in achieving media sustainability.

D. Tax relief and other state support schemes

77. Tax relief and other state support schemes are referred to in multiple recent and ongoing media sustainability processes, with the zero-rating of value-added tax (VAT) or VAT exemptions being a notable international trend. Increasingly, equitable and innovative taxation regimes, including the taxing of FAANGS as dealt with in section IV-C, are receiving more prominence in the media sustainability landscape and warrant further consideration in media sustainability strategy planning.

Converting licensing fees

78. According to research by Dr Harry Dugmore, in Sweden and Norway, public service media licence fees have been “converted to bespoke taxes collected by competent tax authorities (in Norway this ‘levy’ is called a Public Service Media Tax) via an income-indexed but simply structured tax”.¹¹⁴ In a South African context, such a structuring could be used to recognise South Africa’s high levels of inequality and the case could be built, over time, “for these taxes or special levies to be collected by the South African Revenue Service (SARS).”¹¹⁵ Dugmore is of the view that such an approach could secure sufficient funding for the SABC — which would make the organisation less dependent on advertising and government handouts — and the broader public interest journalism sector as well.¹¹⁶

¹¹² Dr Harry Dugmore above n 1 at 6.

¹¹³ Dr Harry Dugmore above n 1 at 6.

¹¹⁴ Id at page 8.

¹¹⁵ Id.

¹¹⁶ Id.

An online-ad tax

79. As an alternative taxation method, the Free Press proposes an online targeted-ad tax, which would be levied against targeted advertising to fund diverse, local, independent, and non-commercial journalism.¹¹⁷ Akin to a carbon tax—

“the tax on targeted advertising would be levied not against individual consumers but against enterprises that profit from targeted-ad sales. The revenues could be used to create a Public Interest Media Endowment, which would support production and distribution of content by diverse speakers — with an emphasis on local journalism, investigative reporting, media literacy, non-commercial social networks, civic-technology projects, and news and information for underserved communities.

A tax on targeted-advertising revenues must be structured in a way that doesn’t unduly burden for-profit journalism institutions. This concern can be addressed by establishing a threshold that targets the tax on outlets earning hundreds of millions of dollars in targeted-ad revenues. These would result in the new tax being imposed on large advertising-supported firms that produce little to no journalism while avoiding levies on most for-profit ad-supported journalism outlets.”¹¹⁸

Tax relief for media organisations

80. In terms of direct tax relief for public interest media organisations, the CoE recommends that:

“In securing an enabling economic environment, States are encouraged to pay particular attention to the development of general, viewpoint-neutral policies that seek to support innovation in terms of production and dissemination of news and other media content, the development of new tools and services and the development of alternative or adapted business models for quality journalism. Any tax advantages or exemptions from other charges should in principle apply equally to traditional and online media and be granted through non-discriminatory and transparent procedures. Particular incentives can be offered to newsrooms that hire new staff.”¹¹⁹

81. Comparatively, “Belgium provides indirect support to its media sector. This support includes exemptions from VAT for newspapers and magazines publishing informative content for the general public and appearing at least fifty times a year, as well as subsidies for postal delivery of Belgian newspapers and magazines.”¹²⁰ There are also indirect support measures for all Norwegian newspapers, particularly through a VAT exemption on sales.¹²¹ In the South Africa context, in addition to VAT exceptions, SARS may consider further tax relief through reduced pay-as-you-earn (PAYE) taxation on public interest media organisations and their members.

¹¹⁷ Timothy Karr and Greg Aaron, ‘Beyond Fixing Facebook: How the multimillion-dollar business behind online advertising could reinvent public media, revitalize journalism and strengthen democracy’, Free Press, February 2019, accessible at https://www.freepress.net/sites/default/files/2019-02/Beyond-Fixing-Facebook-Final_0.pdf at page 7.

¹¹⁸ Id.

¹¹⁹ CoE Draft Recommendation above n 87 at page 8.

¹²⁰ Australian Future of Public Interest Journalism Report above n 49 at para 5.15.

¹²¹ Id at para 5.23.

Tax relief for donors

82. In addition to tax relief for public interest media organisations, “incentives for private and philanthropic investment in news, particularly by offering tax deductions for ‘a portion’ of donations for the establishment of new non-profit news ventures or ongoing operational funding” for existing organisations should be considered.¹²² Presently, Section 18A of the Income Tax Act 58 of 1962 allows for a tax deduction on donations made specifically to Public Benefit Organisations. However, tax relief mechanisms directly tailored to public interest journalism should be considered. This could include, for example, enacting legislation similar to the US Local Journalism Sustainability Act which allows businesses, donors, and individual taxpayers to earn tax credits for supporting local journalism through subscriptions.¹²³

RECOMMENDATIONS	
D1	The South African government should consider amending tax laws to enforce a fairer taxation of profits that are made from local advertising in particular, including the possible introduction of special transaction levies. ¹²⁴
D2	The South African government should consider converting licence fees to bespoke taxes collected by competent tax authorities (in Norway this ‘levy’ is called a Public Service Media Tax) via an income-indexed but simply structured tax to reflect South Africa’s high levels of income inequality. ¹²⁵
D3	Tax relief for public interest media organisations in the form of value-added tax (VAT) exemptions and reductions in pay-as-you-earn (PAYE) taxation should be considered by the South African Revenue Service (SARS).
D4	Amendments to the Income Tax Act enabling tax deductions for businesses, donors, and individual taxpayers who support local journalism (including through subscriptions) should be considered by SARS.

E. Subsidisation, subscriptions, and other income-generating models

83. Direct and indirect state subsidisation of public interest journalism is central to discussions around media sustainability at the domestic, regional, and international levels. The CoE recommends that:

“States could consider complementing any policies aimed at promoting and facilitating the production and dissemination of quality news and other media content by encouraging its consumption through tax-based or other incentives for users, including through subsidies for (digital) news subscribers.”¹²⁶

¹²² Id at para 1.59.

¹²³ See Anya Schiffrin, ‘Weighing different paths to funding local news’, Columbia Journalism Review, 16 April 2021, accessible at https://www.cjr.org/business_of_news/how-to-fund-local-news.php. See, also, Anya Schiffrin et al., ‘New Report outlines COVID-era proposals to save journalism’, Columbia Journalism Review, 13 January 2021, accessible at https://www.cjr.org/business_of_news/new-report-outlines-covid-era-proposals-to-save-journalism.php.

¹²⁴ Dr Harry Dugmore above n 1 at 6.

¹²⁵ Dr Harry Dugmore above n 1 at 8.

¹²⁶ CoE Draft Recommendation above n 87 at page 9.

84. Internationally, various subsidisation schemes have been established to support public interest journalism:

84.1. Europe: According to the Australian Future of Public Interest Journalism Report, “[g]overnment newspaper subsidies, which have been in use since the 1970s, exist in Belgium, Finland, France, Netherlands, Norway, and Sweden. According to the London School of Economics, the French government provides €1 billion a year in state subsidies.”¹²⁷

84.2. Austria: The Austrian Government gives extensive support to the newspaper sector through its Press Subsidies Act, 2004, “which is designed to encourage diversity and support public interest journalism.”¹²⁸ This Act empowers KommAustria, the national communications authority, to distribute subsidies in terms of recommendations made by the Australian Press Subsidies Commission, which evaluates grant applications.¹²⁹ Notably:

“In addition to distribution subsidies for daily and weekly newspapers and special subsidies for the preservation of diversity in regional daily newspapers . . ., the Press Subsidies Act of 2004 also provides for a number of new measures to promote quality and secure the future of the industry . . .

Under the heading 'Promotion of Journalist Education,' the publishers of daily and weekly newspapers can now receive subsidies toward the costs of training new journalists.

Another new development is the subsidy for employing foreign correspondents.

For the purpose of promoting the reading of daily and weekly newspapers — especially at schools — associations that have defined the promotion of reading as their sole objective can also receive subsidies. Publishers which provide schools with daily and weekly newspapers free of charge can be reimbursed for up to 10% of their regular selling price.

Another new addition is the promotion of research projects in this field.”¹³⁰

84.3. Norway: The Norwegian government is particularly proactive when it comes to subsidies, providing a range of assistance to public interest media organisations to encourage “healthy diversity and competition”.¹³¹ Subsidies are prioritised for newspapers in a “difficult market position” and particularly those serving local communities.¹³² Expenditure for these subsidies — which totalled €33.4 million

¹²⁷ Australian Future of Public Interest Journalism Report above n 49 at para 5.6.

¹²⁸ Id at paras 5.11-2.

¹²⁹ Id.

¹³⁰ Id.

¹³¹ Id at para 21.

¹³² Id.

in 2015 — is determined annually by the Norwegian parliament and administered by the Norwegian Media Authority.¹³³

- 84.4. Sweden: “The Swedish government provides two types of subsidies for the press: an operational subsidy and a distribution subsidy. Indirect subsidies for all printed newspapers include reduced [VAT] on sale price. The subsidies are funded by a 10[%] levy on advertising in general, and a 3[%] levy on newspaper advertising.¹³⁴
- 84.5. Italy: Since 1990, the Italian government has subsidised 30% of the operating costs of media organisations through a fixed annual amount.¹³⁵

Access tiering and concessions

85. A notable South Africa approach to subsidisation relates to concessionary TV licences in terms of regulation 5 of the Regulations Regarding Television Licence Fees, 2004 which allows pensioners, social grant recipients, and war veterans to receive a substantial discount on their TV licence. However, Dr Harry Dugmore notes that there are “hoops that pensioners need to jump through” and getting a concessionary licence “is an exercise in wrangling red tape”.¹³⁶
86. Relying on the concessionary model, public interest media organisations may consider, as a sustainability strategy, tiering access to their premium content — whether in print or online — to enable broader access to public interest journalism. In this regard, public interest media organisations may consider reducing their subscription and membership fees for designated groups of people which, in addition to recipients of concessionary TV licenses, may also include students and young professionals.

New business models

87. The impacts of the COVID-19 pandemic have caused further damage to the sustainability of the public interest media landscape which, as with other industries, may necessitate new thinking and the development of burgeoning or hitherto untested business models. The South Africa Media Innovation Program¹³⁷ (SAMIP) is a leading light in this regard. Other potential models may include:
- 87.1. The Medium model: Medium is an open platform where readers have access to community-generated content, i.e., anyone can write and publish content.¹³⁸ Membership to the platform is based on a monthly fee which provides for access

¹³³ Id at para 22. See the eligibility criteria for Norwegian media subsidies and compare with section IV-A.

¹³⁴ Id at para 5.24.

¹³⁵ Id at para 5.29.

¹³⁶ Dr Harry Dugmore above n 1 at 57.

¹³⁷ See <https://samip.mdif.org/>.

¹³⁸ Ev Williams, ‘The Medium Model: How we are building a system for high-quality publishing at scale’, 5 April 2018, accessible at <https://blog.medium.com/the-medium-model-3ec28c6f603a>.

to unlimited content and, through the Medium Partner Program, writers receive income based on the community's interest (through clicks) in their content.¹³⁹

- 87.2. The Digital Transitions Project (DTP): The DTP has been developed by Botswana journalist, Ntibinyane Ntibinyane, and Zimbabwean reporter, Dumisani Muleya, who are raising funding to assist 20 southern Africa newspapers' transition to digital.¹⁴⁰ Similarly in Kenya, investigative economics journalist, Mark Kapchanga, is arguing for state financial assistance for Kenya media outlets, provided that funding is delivered in a manner that ensures independence, for example through the Media Council of Kenya.¹⁴¹
- 87.3. Media 2070: According to Anya Schiffrin, several projects in the United States are disrupting traditional business models and "uplifting traditionally marginalised voices".¹⁴² These include Media 2070 which is seeking to "radically transform who has the capital to tell their own stories by 2070" and "seeks to highlight how the media can serve as a lever for racial justice — and underscore the repair and reconciliation necessary to build strong, free, democratic communities. To achieve full freedom and democracy, it's critical to change entrenched media narratives about Black people."¹⁴³

Government advertising allocations

88. In addition to considering new business models, the Independent Panel Report notes SANEF's critique to the Panel that "government has not delivered on its promise to develop a strategy and plan of action to support the community media sector".¹⁴⁴ Additionally, the Independent Panel Report notes that the state—

"has not set aside 30% of government and Chapter 9 advertising; GCIS has employed only one media buyer to represent GCIS and one to represent community media in the past ten years. Further, Treasury has advised municipalities to use their own websites rather than newspapers to advertise their events (budget speeches, municipal campaigns), despite approximately 80% of municipal websites not currently functioning. Government has also failed to finalise or implement the draft Community Broadcasting Support Scheme, gazetted in 2015."¹⁴⁵

89. As a point of departure and in complying with its pre-existing commitments, the South African government should consider consulting more effectively with community media representatives, including the Association for Independent Publishers (AIP), the Forum of Community Journalists (FCJ), and the National Community Radio Forum (NCRF), among others, to ensure more effective and consistent advertising spend within the sector. As identified in the Independent Panel Report, urgent steps need to be taken to remedy the

¹³⁹ See <https://medium.com/about>.

¹⁴⁰ Anya Schiffrin above n 123.

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ See <https://mediareparations.org/about/>.

¹⁴⁴ Independent Panel Report above n 12 at page 121.

¹⁴⁵ Id.

“financial see-saw” of community media and to create sustainable income-generating strategies to avoid reliance on “waning government funding”.¹⁴⁶ In addition, the role, function, and utility of the MDDA in effectively supporting community media, as discussed above, needs to be further examined and a gap analysis may need to be conducted.

RECOMMENDATIONS	
E1	Direct and indirect media subsidies — in addition to state subsidies for the SABC and MDDA — should be considered by the South African government, in partnership with the private sector. These subsidies should seek to promote and facilitate the production and dissemination of quality news and other media content, and encourage media diversity.
E2	Any and all bureaucratic obstacles in the concessionary licence application process should be removed by the SABC.
E3	Public interest media organisations should consider introducing “access tiering” to their memberships and subscription offerings to ensure that older persons, grant recipients, and students, among others, have access to public interest journalism at reduced rates.
E4	The proposed MSF or another funding mechanism should support media innovation and sustainability, and research and initiatives seeking to facilitate new media business models.
E5	The South African government should proactively and urgently develop a strategy and plan of action to support the community media sector, including allocating at least 30% of government advertising spend to community media organisations.
E6	A series of dialogues between stakeholders in the community media sector, including the South African government, ICASA, the MDDA, SANEF, the AIP, the FCJ, and the NCRF, should be facilitated to discuss financial sustainability models in the sector.

F. Coupon and open access systems

Coupons and collective access

90. With increasing reliance on online paywalls to replace lost print and advertising revenue, new opportunities may start to emerge, including opportunities that may assist with media sustainability. One such model relies on a coupon or collective access system which allows a subscriber to access premium content on multiple public interest news websites with a single login detail. In effect, a subscriber pays a subscription fee to a not-for-profit organisation, designed especially for this purpose. This not-for-profit, in agreement with public interest media organisations, collects a subscription fee and provide a subscriber with access to the websites of participating media organisations, with a percentage of the subscription fee being paid to the participating media organisations — potentially on a percentage of clicks basis — and to the MSF or similarly structured funding mechanism.
91. The potential benefit of such a coupon or collective access system is three-fold:
 - 91.1. Additional subscriptions may be collected and disbursed to public interest media organisations thus creating an additional income stream.

¹⁴⁶ Id at page 126.

- 91.2. The MSF or similarly structured funding mechanisms receives additional funding through the percentage split or “tax” on each subscription.
- 91.3. Socially conscious subscribers are able to subscribe to a mechanism that promotes public interest journalism.
92. In addition, and as a potential access tiering or concession system, coupons or collective access systems could be provided to older persons, persons relying on social grants, and young persons for free or at a reduced rate to promote access to information and to acknowledge the stark disparities in wealth (and access) in South Africa.

openTrust

93. Outside of potential coupon and open access systems, the openTrust model¹⁴⁷ is partly used to sustain the operations of openDemocracy — a global independent media platform based in the United Kingdom (UK).¹⁴⁸ In essence, openTrust is a UK-registered charity that receives grants and gifts to sustain the openDemocracy program.¹⁴⁹ openDemocracy itself is a UK-registered company that is wholly owned by the non-profit openDemocracy Foundation.¹⁵⁰ Additionally, openDemocracy also works with Neo Philosophy which acts as a US-based fiscal sponsor.¹⁵¹
94. In terms of revenue, between 1 January and 31 December 2020, openDemocracy received 66% of its revenue from direct grants; 16% from reader donations; 14% from openTrust grants; and a combined 4% from partnerships and administrative fees.¹⁵² The various entities which enable openDemocracy are, in effect, geared to ensure the private-sector sustainability of its operations and to create a viable vehicle for corporate social investment (CSI), a model which may find application in South Africa.

RECOMMENDATIONS

F1	SANEF and other organisations should consider exploring not-for-profit and social enterprise models which enable and facilitate media sustainability, socially conscious business practices, and corporate social investment (CSI) in public interest media.
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G. The establishment of (public interest) wire services

95. To assist with what Frances Cairncross refers to as the “humdrum task of reporting on the daily activities of public institutions”¹⁵³, a public interest wire service could be established to assist under-capacitated public interest media organisations and ensure that additional public interest media content is produced and distributed for publication, particularly on matters relating to the exercise of the democratic function and its institutions. This

¹⁴⁷ openDemocracy, ‘About’, accessible at <https://www.opendemocracy.net/en/about/>.

¹⁴⁸ Id.

¹⁴⁹ Id.

¹⁵⁰ Id.

¹⁵¹ Id.

¹⁵² Id.

¹⁵³ The Cairncross Review above n 9 at page 17.

so-called public interest wire service could be based on a similar model and management structure to the erstwhile South African Press Association (SAPA), save for its funding which may be drawn, in part, from the MSF or state subsidies as opposed to pre-existing media organisations.

96. The Australian Future of Public Interest Journalism Report noted that the London School of Economics estimated that France provides around €1 billion each year in state subsidies for media including:

“Indirect subsidies worth around €500m have been made available, including €200m for exemptions from local business rates, €160m for the lower VAT rates and around €250m on the special tax and social security contributions status granted to journalists. The state also pays over €100m a year to the newswire agency AFP.”¹⁵⁴ (Own emphasis.)

97. Subject to further engagement, it may be that public interest media organisations see utility and benefit in a re-emergent South African wire service which is owned and operated by public interest media organisations — as shareholders¹⁵⁵ — and funded either directly by the MSF, or through hybrid funding models which may include MSF funding, state subsidies, and, to the extent possible, contributions from shareholders.
98. In addition to the proposed public interest wire service — or as an addition to the proposed offering — a wire service or similar mechanism may be developed to collect local content from community media organisations and distribute it to larger media houses potentially for a fee. Wits Journalism has in the past run a news desk for community radio called *Local Voices* which gathered stories from local areas and brought them to wider attention. Imbedded in the process was support and mentorship opportunities for local journalists.¹⁵⁶
99. Such a service (or content sharing arrangement) may serve the dual purpose of ensuring that local content reaches wider audiences, and that community media receives additional income. Funding for this service may be through a subscription-based model directly with larger media houses or through a joint-venture or similar model with the MSF, which partly funds the service, alongside larger media houses.

RECOMMENDATIONS	
G1	Further research and engagement on the possibility of the establishment of public interest wire services — including proposed functions, management structures, and funding models — should be conducted by SANEF and other interested parties.
G2	The possibility of interim content sharing arrangements between community media organisations and larger media houses should be considered to ensure that hyper-local content, content from hard-to-reach communities, and street-level issues reach wider audiences.

¹⁵⁴ Australian Future of Public Interest Journalism Report above n 49 at para 5.26.

¹⁵⁵ See, for example, the ownership structure of the German Press Agency, accessible at <https://www.dpa.com/en/company/ownership-structure#ownership-structure>.

¹⁵⁶ For more information see <https://localvoices.co.za/>.

H. Education, training, and learnerships

100. Underpinning all media sustainability strategies should be a philosophy of training and continuing education. The Independent Panel Report notes that one of the constraints on the effective functioning of the media is—

“a drastic reduction in training, coaching, professional development opportunities and reporter support. Despite the existence of comprehensive, nationally accredited newsroom training curricula, formal training on anything other than the technical skills of online publishing barely functions. The numbers of senior, specialist and more experienced editors and journalists who might mentor have been cut, and a reduced staff complement has less access to administrative, archival, transport and other supports for reporting and verification.”¹⁵⁷

Fellows

101. As a point of departure, and as briefly discussed under Section IV-A, a portion of funds from the MSF may be used to fund fellowships, learnerships, and internships within public interest media organisations and community media. Additional funding may also be sought from Sector Education and Training Authorities (SETA's) which are established in terms of the Skills Development Act 97 of 1998, particularly the Media, Information, and Communication Technologies Sector Education and Training Authority (MICT SETA). Such a strategy may serve multiple purposes:
- 101.1. To allow young journalists to enter the profession and receive training without a direct financial cost to the public interest media organisations that host them.
 - 101.2. To assist public interest media organisations to alleviate capacity and increase their staff complement without the additional financial burden.
 - 101.3. To ensure that young journalists are professionally trained to promote media ethics and credibility, and ultimately sustain public interest media organisations in future.
102. By way of comparative examples, openDemocracy employs “fellows” who are early- or mid-career journalists who join the organisation for six months to develop their skills and careers.¹⁵⁸ Additionally, negotiations around the Australian Broadcasting Legislation Amendment (Broadcasting Reform) Bill, 2017 led to the introduction of a “cadetship program for up to 200 places with small and regional publishers . . . as well as 60 regional journalism scholarships.”¹⁵⁹ In Austria, the state contributes to newspapers that emphasise the training of young journalists “to assure the future of public interest journalism”.¹⁶⁰

¹⁵⁷ Independent Panel Report above n 12 at page 4.

¹⁵⁸ openDemocracy above n 147.

¹⁵⁹ Australian Future of Public Interest Journalism Report above n 49 at para 1.67.

¹⁶⁰ Id at para 5.14.

Training for media professionals

103. In terms of training for media professionals, the CoE notes that:

“Journalistic profession is becoming less attractive due to financial constraints, threats and pressures for faster-paced and less expensive news, which are exacerbated by limited opportunities for training and development. To address this phenomenon, States should encourage and promote careers in journalism by publicly recognising that quality journalism is central to the functioning of democratic societies. Training institutions should aim to make their curricula more accessible and diversified, promote practical experiences as well as theoretical approaches, and deliver ethical training to all future actors of the media industry. Topics related to civic education, human rights, workings of democratic states, elections and referenda should be taught as part of basic journalistic skills.”¹⁶¹

104. Allied to the importance of training young journalists is the need to upskill mid-career and senior journalists to ensure that “media actors and individuals committed to producing quality journalism . . . have access to life-long training opportunities.”¹⁶² In this regard, the CoE suggests that:

“[Journalists] should be able to regularly update their skills and knowledge, specifically in relation to their duties and responsibilities in the digital environment, through fellowship programmes and financial support. Public service media should organise systematic workshops and trainings of verification techniques and encourage the exchange of good practices in the area of countering disinformation and propaganda, looking for synergies with other quality news partners. Adequate training and retraining opportunities should be made available to journalists, including those working in lesser-used and minority languages and/or local and regional communities.”¹⁶³

Media and information literacy (MIL) initiatives

105. In addition to the training of media professionals as a sustainability strategy, state support for MIL initiatives is central to media sustainability.¹⁶⁴ The CoE notes that:

“States should establish adequately funded financing instruments for independent MIL initiatives. Such initiatives by media organisations, public service media, and community media, independent regulatory bodies, civil society actors and other relevant actors should be supported by way of strategic coordination at a national level, based on a dedicated policy and strategy development, implementation and evaluation.”¹⁶⁵

¹⁶¹ CoE Draft Recommendation above n 87 at page 19.

¹⁶² Id at page 20.

¹⁶³ Id at page 20.

¹⁶⁴ Id at page 18.

¹⁶⁵ Id at page 19.

RECOMMENDATIONS	
H1	Fellowships, learnerships, and internships with public interest media organisations — that are funded by the proposed Media Sustainability Fund or the South African government, or both — should be prioritised.
H2	Professional development and upskilling of mid-career and senior journalists should be considered and funding may be made available by the MSF.
H3	As an urgent priority, the South African government should establish adequately funded financing instruments for independent MIL initiatives, including through an MSF. Such initiatives by public interest media organisations, community media, independent regulatory bodies, civil society actors, and other relevant actors should be supported by way of strategic coordination at a national level, based on a dedicated policy and strategy development, implementation, and evaluation.

V. RECOMMENDATIONS

General Recommendations	
1	The utility and efficacy of defining and distinguishing public interest journalism, journalism as a public good, and public service journalism should be considered.
2	The following working definition of public interest journalism should be considered for adoption and endorsement by SANEF: “Public interest journalism refers to journalistic activity that is central to the democratic function and the protection and promotion of the South African Constitution, including investigative journalism, reporting on the daily affairs of public institutions, and local journalism focused on the generation of public interest stories in towns and villages and underserved rural areas.”
3	SANEF, in coordination with interested and affected parties, should consider preparing a detailed advocacy and engagement strategy — inclusive of priority areas and time timeframes — based on this report to ensure that key role-players within the South African government and the sector are identified and fully engaged on the proposed media sustainability strategies.
Specific Recommendations	
A.	Media Sustainability Fund (MSF)
1	The establishment of an MSF — which is independent of the MDDA and state oversight and control — to support, promote, and strengthen public interest media organisations in South Africa should be considered.
2	The criteria used to determine the beneficiaries of the funding distributed by the MSF should be mandatory and objective — with limited discretion, if any — to insulate the MSF from political pressure and undue influence.
3	With reference to the Multi-Party Democracy Fund established in terms of section 3 of the Political Party Funding Act 6 of 2018, the MSF could play a similar role in the media industry to channel new individual and corporate donations to shield recipients from donor pressure or undue influence.
4	The South African government, through the Minister in the Presidency as the Executive Authority of the MDDA, in partnership with SANEF and community media representatives, should conduct a gap analysis to determine the disjunct between the activities of the MDDA and its perceived utility to community media organisations and the media sector as a whole, including an analysis of potential sustainable public-private partnership, including with the MSF, and strategies to strengthen the MDDA in terms of funding and outputs.
B.	Access to public interest news websites
1	Data provision — in terms of levels of access, minimal standards of quality and reliability, and levels of affordability — needs to be seen as part of the ‘social infrastructure’ which is, in the digital era, as important to people’s well-being as access to electricity and other services. ¹⁶⁶
2	Further research and greater public debate about zero-rating of public interest news should be a major project for the SABC, and SANEF, to ensure a fair balance between

¹⁶⁶ Dr Harry Dugmore above n 1 at 10. Dugmore notes further at page 62 that “[to] be ‘off grid’, communication wise, as we’ve seen in the pandemic, often means a denial of education opportunities, the inability to be economic active from home and/or seek economic opportunities, and indeed being subjected to a lack of access to multiple informational ‘means of life’.”

	for-profit and public interest media organisations and for a fair balance between rural and local news provision. ¹⁶⁷
C.	Fostering competition in the digital economy
1	The South African government should work closely with countries in the Southern African Development Community (SADC), other regional economic communities (RECs), and the African Union (AU) to investigate an Africa-wide approach to multinational platform power. ¹⁶⁸
2	SANEF and other organisations should consider working more directly with the South African government (as Australian news media has done) and with FAANGs and other platforms to explore much larger-scale support for public interest journalism. ¹⁶⁹
3	SANEF should consider partnering with interested parties during the public participation process of the Competition Commission's market inquiry into competition in the digital economy, particularly in relation to the role that competition in the digital economy can play in achieving media sustainability.
D.	Tax relief and other state support schemes
1	The South African government should consider amending tax laws to enforce a fairer taxation of profits that are made from local advertising in particular, including the possible introduction of special transaction levies. ¹⁷⁰
2	The South African government should consider converting licence fees to bespoke taxes collected by competent tax authorities (in Norway this 'levy' is called a Public Service Media Tax) via an income-indexed but simply structured tax to reflect South Africa's high levels of income inequality. ¹⁷¹
3	Tax relief for public interest media organisations in the form of value-added tax (VAT) exemptions and reductions in pay-as-you-earn (PAYE) taxation should be considered by the South African Revenue Service (SARS).
4	Amendments to the Income Tax Act enabling tax deductions for businesses, donors, and individual taxpayers who support local journalism through subscriptions should be considered by SARS.
E.	Subsidisation, subscriptions, and other income-generating models
1	Direct and indirect media subsidies — in addition to state subsidies for the SABC and MDDA — should be considered by the South African government, in partnership with the private sector. These subsidies should seek to promote and facilitate the production and dissemination of quality news and other media content, and encourage media diversity.
2	Any and all bureaucratic obstacles in the concessionary licence application process should be removed by the SABC.
3	Public interest media organisations should consider introducing "access tiering" to their memberships and subscription offerings to ensure that older persons, grant recipients, and students, among others, have access to public interest journalism at reduced rates.
4	The proposed MSF or another funding mechanism should support media innovation and sustainability, and research and initiatives seeking to facilitate new media business models.

¹⁶⁷ Dr Harry Dugmore above n 1 at 10.

¹⁶⁸ Dr Harry Dugmore above n 1 at 6.

¹⁶⁹ Dr Harry Dugmore above n 1 at 6.

¹⁷⁰ Dr Harry Dugmore above n 1 at 6.

¹⁷¹ Dr Harry Dugmore above n 1 at 8.

5	The South African government should proactively and urgently develop a strategy and plan of action to support the community media sector, including allocating at least 30% of government advertising spend to community media organisations.
6	A series of dialogues between stakeholders in the community media sector, including the South African government, ICASA, the MDDA, SANEF, the AIP, the FCJ, and the NCRF, should be facilitated to discuss financial sustainability models in the sector.
F.	Coupon and open access systems
1	SANEF and other organisations should consider exploring not-for-profit and social enterprise models which enable and facilitate media sustainability, socially conscious business practices, and corporate social investment (CSI) in public interest media.
G.	The establishment of a (public interest) wire service
1	Further research and engagement on the possibility of the establishment of public interest wire services — including proposed functions, management structures, and funding models — should be conducted by SANEF and other interested parties.
2	The possibility of interim content sharing arrangements between community media organisations and larger media houses should be considered to ensure that hyper-local content, content from hard-to-reach communities, and street-level issues reach wider audiences.
H.	Education, training, and learnerships
1	Fellowships, learnerships, and internships with public interest media organisations — that are funded by the MSF or the South African government, or both — should be prioritised.
2	Professional development and upskilling of mid-career and senior journalists should be considered and funding may be made available by the MSF.
3	As an urgent priority, the South African government should establish adequately funded financing instruments for independent MIL initiatives, including through an MSF. Such initiatives by public interest media organisations, community media, independent regulatory bodies, civil society actors, and other relevant actors should be supported by way of strategic coordination at a national level, based on a dedicated policy and strategy development, implementation, and evaluation. ¹⁷²

¹⁷² CoE Draft Recommendation above n 87 at page 19.

VI. CONCLUSION

106. Years of decline in advertising revenues and the devastating impact of the COVID-19 pandemic has left public interest journalism in a difficult position. However, public interest media actors are proving to be resilient, working tirelessly to develop new media sustainability strategies. This research seeks to complement this tide. It complements and develops existing strategies and, where possible, introduces potential new strategies for debate and consideration by journalists, public interest media organisations, and other interested and affected parties and stakeholders, in both the public and private sector. With concerted and collective action — and the requisite political will — strides can be made in not only sustaining public interest news in South Africa but working towards an enabling environment in which it can grow and flourish.

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ANNEXURE 1: POTENTIAL STRUCTURE OF THE MEDIA SUSTAINABILITY FUND BOARD

The potential structure of the MSF Board may be as follows:

- Four professionals or former professionals — one of whom will be the chair of the board — with acknowledged and proven expertise collectively reflecting a diversity of relevant experience and skills necessary to shape direction and take decisions, who command the trust and respect of a wide range of media and other stakeholders and have management or other similar experience relevant to overseeing the management of such a fund.
- Two members of the media academic or research community; one highly respected figure credible to donor or development agencies.
- The chair of an advisory council; an expert in financial or fund management who will also be the treasurer of the board.

Major decisions on strategy will normally be expected to be unanimous but, in the event of a majority vote, would need to be by a majority of at least 7 to 2 to prevent one voting bloc from having undue power on the board.

Two committees of the board will be established: one of these will focus on finance and audit issues; and the second will focus on donor liaison ensuring that proper dialogue and engagement with key donors to the fund is maintained.

For present purposes, whatever structure is ultimately preferred, the need for appropriate oversight is imperative to ensure the credibility and ongoing sustainability of the media sustainability fund that is being proposed.

ENDS.

ANNEXURE 2: RECENT AND ONGOING MEDIA SUSTAINABILITY INITIATIVES

The following recent and ongoing media sustainability initiatives, among others, have been identified and should be considered alongside this report:

- The establishment of the **International Fund for Public Interest Media**.¹⁷³
- The **Forum on Information and Democracy Working Group on the Sustainability of Journalism**.¹⁷⁴
- The **Highway Africa 2021** conference which will focus, in part, on how journalism can be reinvigorated as a renewed force for good in the world.¹⁷⁵
- The **Media Development Investment Fund (MDIF)**, which continues to fund and invest in independent media.¹⁷⁶

ENDS.

¹⁷³ James Deane, 'Enabling media markets to work for democracy: An International Fund for Public Interest Media', April 2020, accessible at <https://www.comminit.com/media-development/content/enabling-media-markets-work-democracy-international-fund-public-interest-media>. See, also, Luminare, 'International Fund for Public Interest Media: The next decisive steps forward', 8 February 2021, accessible at <https://luminaregroup.com/posts/news/international-fund-for-public-interest-media-the-next-decisive-steps-forward>.

¹⁷⁴ Forum on Information and Democracy, 'Working Group on the Sustainability of Journalism', accessible at <https://informationdemocracy.org/working-groups/sustainability-of-journalism/>.

¹⁷⁵ Highway Africa 2021, accessible at: <https://highwayafrica.ru.ac.za/wp-content/uploads/2021/03/Blurb-for-HAs-academic-track-for-marketing-230221.pdf>.

¹⁷⁶ See <https://www.mdif.org/>.