Submission to Press Freedom Commission (PFC) on media self-regulation, co-regulation or statutory regulation in South Africa.

School of Journalism and Media Studies: Lynette Steenveld, Larry Strelitz, Herman Wasserman, Rod Amner, Priscilla Boshoff, Jude Mathurine, Anthea Garman.

Prof Duncan has outlined the relative merits and demerits of self-regulation, co-regulation and deregulation, with which we are in broad agreement. She has also ably dealt with the three functions of regulatory bodies, namely the setting of ground rules for the industry to ensure best practice; enforcement of these; and adjudication of claims and counter claims re journalistic practice (Duncan 2012, p17). Finally, she has also taken up the issue of the necessity of accepting Third Party Complaints as one of the fundamental mechanisms by which citizens can make complaints on the basis of principle, rather than being personally aggrieved. While we are in broad agreement with her on these issues, we would like to highlight some further points for consideration.

Context: Lynette Steenveld, Larry Strelitz, Herman Wasserman
1. **The political context: citizens caught between state power and capitalist media power.**

The liberal ideal of the role of the media is that they provide citizens with the information they need in order to make informed decisions about how they are governed. Typically this is interpreted as the media being the citizen's 'watchdogs' against the state. This view obscures the fact that their practice is shaped by their being profit-driven enterprises. So, while they potentially can (and do) serve the interests of citizens against the state, this function is circumscribed by economic considerations.

The post-apartheid era has seen the growth and international expansion of local media industries, while foreign media companies have entered the local media market. This suggests that contrary to the claim often made by media institutions that they are independent watchdogs of power, the media industry itself is also a centre of economic power.

Although the current state is a democratic one, with the support of about 65% of the voters, it is also one with one of the highest Gini coefficients (i.e. huge disparities between wealth and poverty), high unemployment, failing education and health systems, and troubling reports of nepotism and corruption. These are precisely the areas that the media report on in the service of the public. It is thus obvious that there would be a tension between these two institutions, both of which claim to represent the interests of the public.

Debates around the media's role in post-apartheid South Africa have in recent years highlighted that there is not yet consensus about precisely what the role of the media in such a transitional context should be – for instance, to what extent the media should contribute to the realisation of the government's developmental goals. Research has shown that South African journalists often think of themselves in terms of an 'unofficial opposition' to counter the dominance of the ANC in national politics. Therefore the media should not only be seen as a centre of economic power, but also a powerful political role player in their own right.

When debating the freedom of the press, the economic and political power relations at play should therefore not be lost from sight.

The debates about media regulation speak directly to this tension: greater state involvement could thus be a means of 'silencing' its key critic; while greater press autonomy means that this sector is not held accountable to the public that it professes to serve. Both sectors make their claim on the basis that they serve the public interest, but both also have their own agendas and practices which are self-serving.

The challenge facing any form of press regulation is to find optimal ways of ensuring that the media are not only accountable to their share-holders, but also to the public that they profess to serve, and furthermore that their right to press freedom is not curtailed.

2. Freedom of Expression v Freedom of the Press
(a) A rationale for 'regulation' of some sort

One of the defences of freedom of expression is that it enables the media "to investigate and disclose possible malpractices and abuses of power in administration and relevant aspects of the professional and private conduct of those putting themselves forward as leaders" (Van der Westhuizen 1994: 270). In this regard media freedom works in concert with other rights such as freedom of assembly and association to secure the effective operation of a liberal democracy. While freedom of expression may mean little to those without social and economic rights, it is "an indispensable tool in pointing out the illnesses and injustices of a society to the world and in campaigning for better education, housing and health policies" (Van der Westhuizen 1994: 270). Freedom of expression thus makes possible the media's watchdog role in liberal democracies. But Lichtenberg (1990) draws a distinction between freedom of expression and freedom of the press: while fully committed to the former, she argues that any commitment to the latter "should be contingent on the degree to which it promotes certain values at the core of our interest in freedom of expression generally (1990: 104). In sum:

> Freedom of the press…is an instrumental good: it is good if it does certain things and not especially good (not good enough to justify special protections, anyway) otherwise. If, for example, the mass media tend to suppress diversity and impoverish public debate, the argument meant to support freedom of the press turn against it, and we may rightly consider regulating the media to achieve the ultimate purpose of freedom of the press. (1990: 104-105)

Given the changes in the structure of press ownership, she argues it is no longer convincing to claim that only governments present a threat to press freedom. Lichtenberg's argument is that government regulation of the press does not necessarily entail censorship, but is a means of ensuring diversity of views (1990: 122, 127). From her perspective, the fear that the media will lose their autonomy if there is state interference confuses the right to speak with questions about the place and form of such speech, and in so doing, "the ability to express oneself becomes entangled with questions of property" (1990: 121).

In short, her argument could be read as one in which regulation of the press is to encourage more speech, not less. However, we have to be mindful of the kind of context in which this approach is more or less relevant.

(b) Recent South African debates

In the early 1990s, the South African media underwent a shift from an environment in which their freedom was severely restricted by an intricate and authoritarian legal framework to one of self-regulation based on constitutional guarantees of freedom of expression. The self-regulatory system that was set up as part of the on-going transformation of the media industry was seen as a safeguard against new forms of control by government.

The current debates around press freedom, manifested most recently in the response to the proposed Media Tribunal and the Protection of State Information Bill centre around the effectiveness of the mechanisms put in place as part of this self-regulatory system. Questions include the following:

- whether the Press Council is pro-active enough in upholding media ethical standards;
- whether the public has enough representation in these bodies;
- whether stronger sanctions should be imposed on offenders, etc.

These procedural debates are important to ensure that the self-regulatory mechanisms work properly.

However, the debate about media freedom and media responsibility should extend beyond only procedural questions. Attention should also be paid to what we expect the outcomes of these procedures to be, namely:

- what ethical responsibilities the media should have in our new and still highly unequal country;
- what role the media should play in democratic debate;
- what we expect the media to contribute to the 'good life' and the flourishing of all its citizens.

One view would be that the outcome of ethical journalism would be a government that is accountable to its citizens, and that such accountability can only be brought about by a vigilant, 'watchdog' type of journalism to speak on behalf of citizens. On this view, the media can and should be adversarial towards the government in order to achieve this accountability, as this is their duty in terms of the right to freedom of speech. *Another view* is that such adversarial journalism may contribute to the widening of social rifts by setting up an 'us' and 'them' discourse. A hostile, attack-dog kind of journalism directed at a legitimately-elected, democratic government seeking to establish trust in democratic institutions after centuries of colonialism and apartheid, might, on this view, be read as insulting to those who still see the ruling party as the movement of liberation. These critics may argue that the media should be more sensitive in their reporting, show more respect for the dignity of news subjects and adopt a more humane approach to journalism.

The tension between the various positions regarding the roles and responsibilities of the media in a democratic South Africa require that debates about media freedom do not remain on the level of self-regulatory *procedures*, but extend to the *substantive* questions about what the outcome of self-regulation should be. Criticism of the media, such as offered by media scholars and university departments should therefore not be seen as attacks on the freedom of the media, but attempts to get more clarity on the roles and responsibilities of the media over which there is still very little consensus. This will be an on-going debate, and the

aim of media scholars and practitioners should be to encourage as wide as possible participation in these debates.

3. Forms of Regulatory bodies

1. The aim of any form of regulation is to ensure the accountability of the press to its publics, while not infringing on their rights to press freedom.
2. Currently, at least three main forms of regulation have been identified: self-regulation, statutory regulation and co-regulation.
3. We currently have a system of self-regulation i.e. the Press Ombudsman, the Press Council of South Africa. However, the latter is constituted by members of the journalism profession as well as members of the public. As Prof Duncan points out, this begs the question about whether this is indeed self-regulation or a form of co-regulation.
4. We would favour a form of co-regulation, rather than strict 'self-regulation', which gives the impression of the lack of accountability of the media to anyone but themselves. The form of co-regulation that we would advocate would require all print media to opt into the system, so that no sector of the print media is left outside of a system of accountability and sanction. The *composition of this body* is important, and should be constituted by people who know how journalism works (journalists, sub-editors, editors), media academics, representatives of civil society organisations, as well as members of the broader public. In order to protect the independence of such a body from state intervention, we suggest that members of government should be excluded as potential members of the Press Council (or some similar regulating body). The Appeals Tribunal should be similarly composed. In other words, we suggest a form of co-regulation between members of the industry and civil society, *not* between the industry and government as suggested by the PFC. To *ensure the credibility* of these bodies, they should be given powers of sanction over offending media, and regular reports of their findings and the reasons for them should be published prominently in the media. Both the media and the public should be encouraged to engage with these reports. This will not only educate the public about how the media work, but the transparency of the process will also build public confidence in both the accountability of the system, and in the media themselves. Ultimately, we believe that the role of the press in our democracy will be strengthened when citizens are empowered to take up their position as the key stake-holders to whom the media should be accountable. In sum, we believe that the role of citizens in this process should be strengthened. However, we recognise that this will be part of a longer educative process as we build a commitment to a participatory democracy.
5. Professor Duncan ably makes the case against statutory regulation which we support (even though we are mindful of Lichtenberg's argument that regulation can in fact be a means of promoting, rather than curtailing, freedom of expression).

4. Journalism Standards

One of the main purposes of any regulatory body is to ensure the high quality of journalism and the upholding of ethical practices. The decline in journalistic ethical standards in South

Africa has been attributed to the juniorisation of newsrooms, the minimal investment in journalism education and training by the media companies, and staffing cutbacks. These are all problems that relate to the ways in which South African journalism practice is shaped by the economic imperatives of the private companies for which they work. This raises deeper questions about how these structural problems can be addressed and the role of a regulator in relation to them.

The decline in journalism standards also begs questions about the role of tertiary institutions in the education and training of journalists. Prof Duncan notes that "Most of the complaints received by the PCSA's Press Ombudsman have been about accuracy, followed by not seeking the views of the subjects of critical reporting, and lack of context and balance" (Duncan 2012, p12). She attributes these failures to a need for better fact-checking and "sufficient time to investigate stories properly" (Duncan 2012, p12). While this may be the case, what has also surfaced anecdotally is that some junior journalists haven't fully understood the issues they are to report on, especially when they relate to specialist areas. This points to a more fundamental problem of the conceptual understandings of journalists – which cannot be addressed by mere 'skills training'. While tertiary institutions can offer a basic level of skills training, and rudimentary aspects of high-level thinking (creating, evaluating, analysing), these should be regarded as basic entry level competencies which need to be developed and honed in newsrooms over a number of years. Denuding the newsrooms of senior journalists with these competencies has, in our view, contributed to the lowering of journalistic standards and ethical practices.

Interventions: Rod Amner and Priscilla Boshoff
Given our understanding of the above historical and socio-political context which informs our understanding of freedom of expression, freedom of the press and regulation, Rhodes School of Journalism and Media Studies suggests two direct practical interventions, one at the level of regulation, and another as regards education.

1. **Regulation**
At the level of regulation, we recommend that the press council obliges its members to consciously and deliberately foster closer links with its various constituencies. In particular, the public needs to be seen as an active partner and actor in what is usually described as media/state relations. From the liberal perspective, the principle aim of journalism is to provide the information necessary to enable public participation in democratic practice and processes. This responsibility is unarguably vital to a developing democracy such as ours. However, it is naive to assume that a liberal model of journalism, and its accompanying notion of journalistic professionalism, stands outside of, and is immune to, the wider political economy of the state, as demonstrated in the section above. Journalism in the liberal model is ultimately compromised by needing to address an audience that advertisers find attractive, with accompanying pressure from the private interests of shareholders, and institutional management; in addition, the journalistic routines and the professional notions of newsworthiness can incline news organisations to habitually turn to elite sources – including other high-status journalists – for information. There are repercussions in terms of content (yet to be fully analysed), but also in terms of relationships, both with its audiences and with

the state. Not only does journalism not serve a broad social constituency within civil society, it perhaps opens itself to conflict by depending for information on powerful interest groups through routine sourcing.

      The current anxiety about accountability derives in part from these fractured – and fractious – relationships. From the point of view of the broader public, while the powerful routinely enjoy preferential access to the media, minority groups and subaltern communities struggle to gain access, and when they do, are obliged to participate within "the terms of the debate" already set by primary definers. In essence, journalism is not accountable to its public(s). A positive way to re-claim this lost ground is to employ pro-active strategies to open the news agenda to input from marginalised social groups. This could be achieved in adopting one or more of the following strategies:

1. Given the weakness of our nascent civil society, journalists should see it as their primary goal to encourage and enable citizen participation in democratic processes by setting a "citizens' agenda" which is less dependent on routine journalistic and newsroom procedures and elite sources. In practical terms, this approach demands that journalists and editors seek to engage with marginalised and other publics through public meetings or community forums or like gatherings in which the citizens themselves bring to light issues that most concern them. Such direct communication, advocated by proponents of the public journalism movement, arguably helps to set a "citizens' agenda"; allows ordinary voices to be heard; produces stories that stimulate deliberation of the problems presented by the news; and creates a more accessible kind of news. In addition, by drawing on issues of direct concern to the participants, this news addresses readers as citizens who are concerned about public issues that go beyond their immediate self-interest; and as social actors who are prepared to involve themselves in tackling issues of public concern. While the setting up and conducting of such meetings may be unusual and time-consuming, they provide rich material for stories of direct relevance to the constituencies served by the journalistic institutions. More importantly, readers may feel more inclined to take their local news more seriously and have a direct interest in the well-being of the news organisation that serves them.

2. Another practical suggestion that would empower citizens and re-connect newspapers with the communities they serve would be for the Press Council to mandate that all news organisations at the level of individual publications set up editorial boards, or councils, which systematically incorporate community input into the decision-making and editorial review processes of the newspaper. This step would be qualitatively different to having a public editor or ombudsman, which is essentially a reactive process that responds primarily to complaints. Such councils could consist of elected representatives from the general readership, and experts and leaders in the private, public civic and non-profit sectors, as well as educational and religious organisations. By recruiting and consulting regularly with such a voluntary, but durable, editorial council of citizens, and systematically involving them in editorial reviews, the news organisation achieves several important objectives. First, such councils provide reader feedback, which helps to determine what readers want to see published. Then,

councils have the opportunity to promote the public interest by suggesting novel ways of presenting or framing issues or giving perceived problems different ranking. Importantly, when citizen voices are taken seriously, government performance is examined not just by the press but by the community itself. Such citizen councils thus help to insulate the news organisation from charges of anti-government bias, as those in power are aware that the citizens help to shape the news agenda. Not only is the government held more accountable but the news organisation is also visibly more accountable to its constituencies. Readers also are empowered by having direct access to the decision-making processes of the paper, and have the opportunity to participate in public opinion making, and to contribute to civic life outside of the political structures that at present dominate public life. The main objection to such radical steps is that the journalistic profession must retain its autonomy and its right in respect to setting the news agenda. It is true that there is a necessity for principled decisions – in particular with respect to the supremacy of our Constitutional rights and responsibilities – to be protected. Apart from this, given the already skewed access by political and financial elites to the news, such a step would merely help to shift some of the news agenda towards non-traditional actors. The result is a shared agenda-setting, a more credible media and a citizenry infused with a sense of civic responsibility. For both suggestions 1 and 2 there is a wide body of international literature that testifies to the efficacy of such partnerships with the public.

2. Education

The second way in which the Press Council can make a pro-active intervention in journalism is in the area of education. Here it has two direct constituencies; journalists (including those in training within tertiary education institutions); and the general public. With regard to the first, the press council could include in its mandate regular meetings with student journalists and their teachers in order to explicate its role and discuss rulings with regards to decisions taken by the ombudsman about complaints lodged and ruled. Such a process would lead to an active participation and dialogue between student journalists and the press council about the role of the press council and the journalistic ethics on which its rulings are based. Such dialogue is critical if a broad consensus is to be reached on the nature and scope of journalistic ethical practice necessary and valuable to a developing democracy. This process could also strengthen the suggestion made by Professor Duncan that journalists themselves contribute to and help to draft and design a revised self-regulatory system.

With regard to the public, the Press Council can also broaden its mandate to include actively informing the public of its role, not merely passively signalling it via newspaper inserts. As mentioned in the above section, the press council could seek to use a number of online, broadcasting and written forums to speak to its role and the decisions taken in cases of complaints laid, and open these to the public for discussion and debate. By engaging the public in this way, the Press Council will be more able to point to its capacity and readiness to mediate between journalistic institutions and the broader public whose interests it serves. It will also contribute to fostering within the broader public a more critical appreciation and understanding of media generally and journalistic practice in particular. This educational function will in turn be greatly facilitated by the removal of the third party provisions.

A note concerning new media journalism: Jude Mathurine

Noting the influence of new media technologies' use – as increasingly ubiquitous (though not equally accessible) cultural and communication tools and platforms – on the structures, practices, relations, roles and sustainability of the contemporary press, Rhodes School of JMS suggests pragmatic and more explicit interventions to further the Press Council's goals and objectives as defined in its constitution.

As a first step, this would require that the Press Council explicitly indicate the scope of its jurisdiction in relation to a) print media's 'new' platforms and b) editorial role players that populate the emerging media landscape in the Press Council's code, its constitution and/or procedures.

Further, while principles in the press code may have wider application we further recommend that the Press Council engage with print media's multiplatform context to develop and publicise guidelines related to new and emerging ethical challenges that increasingly arise in this space.

Finally, new media technologies have implications for increasing transparency and participation in press regulation and engagement around media standards. We would like to make three further recommendations that are related to improving public awareness of the Press Council and its goals, objectives and decisions.

1. Explicit jurisdiction

Codes are constructed value frameworks that actively offer guidance on the boundaries of ethical conduct within a profession. However, the practice, profession and institutions of journalism are not static. Codes should be constantly reviewed to consider how to guide journalists and media organisations during times of radical change. Media organisations and journalists are increasingly using new media technologies as tools of journalistic communication, research and publication. However, while some operate without explicit codes for online journalism, others have developed their own online media policies (arguably within a national vacuum).

Increasing constraints posed by commercial newsroom imperatives mean that journalists are spending more time in front of their desks. Consequences, among others include 'churnalism' (publishing public relations releases without interrogation) and online plagiarism. Rationalisation and centralisation of traditional gatekeepers (sub-editors) have increased the likelihood for editorial bungles, ethical breaches and inaccuracies that can and do extend to new media platforms and increase the potential scope for liability and damage to media credibility and trust. Furthermore, irresponsible use of new media as a consequence of competition for declining circulation (which is partly a consequence of audience and advertiser flight to new media) also leads to ethical breaches. In the United Kingdom disclosures that Newscorp's flagship *News of the World* had hacked celebrity and members of the public's mobile phones led to the closure of that title, the arrest of its editor and arguably delivered a body blow to media credibility and trust – an essential public value if the media is to be allowed to work in the 'public interest'.

The Press Freedom Commission should consider its role not only in the practice, promotion, adoption of and adherence to print journalism standards of practice and ethics but in relation to emerging media norms on digital, mobile, networked and interactive platforms

etc. The Press Council should be at the forefront of researching and promoting norms of conduct, standards of practice and ethical guidelines pertaining to the journalistic use of new media technologies within multiplatform print legacy environments for purposes of ensuring press freedom, independence and sustainability through mechanisms that proactively facilitate transparency in journalism ethics and standards. While 'shovelware' remains an unfortunate norm in the digital space, original online editorial content such as articles, blogs, podcasts, tweets and possibly even some user generated material may increasingly fall within the Press Council's jurisdiction.

There is a need for an explicit reference in the Press Council constitution which establishes the scope of the body's mandate with regard to adjudicating ethical breaches with regard to legacy print media's evolving scope of digital, interactive, networked and mobile channels and editorial content.

The question of whose content may also arise. Historically, media freedom has been a right exercised on behalf of the public, ostensibly because the public previously lacked the literacy and costly technology to generate and share news and information themselves. Despite asymmetries in capacity, this has changed. Every citizen (with technological literacy and means to access the technological means of information production and distribution) can now exercise their media freedom more freely enshrined under Section 16 of our Constitution. However, the inference is that the press code relates to the professional conduct of member publications listed in paragraph 4.2 of its constitution. The assumption is that this would bind employees such as journalists, editors and media managers to the orthodoxy of professional press conduct as described in the Code of Practice.

The inclusion of print media's multiplatform environment and editorial content within the Press Council's remit should suggests that the body may also consider editorial content (including news and opinion) which emerges on such platforms in the form of user generated content whether citizen reporting, leaked documents or other forms of user generated content on print owned or managed platforms or channels that subject themselves to the Press Council's authority. It also suggests that the press may have to subject citizen journalism and other user generated content used on their platforms to the values contained in the code.

The Press Council urgently needs to consider the degree to which its digital jurisdiction extends to complaints regarding print media's use and editorial management of user generated content – with particular sensitivities to issues of freedom of expression. This needs to be published and included in the constitution, procedure and code of the Council as a matter of course.

2. Public awareness and transparency

The Press Council would also do well to consider how new media use can enhance the public and participatory nature of its own mandate particularly in relation to the goal of promoting "public awareness of the existence of the Press Ombudsman and Press Appeals Panel and to create an understanding of their function and purpose".

Given that research conducted by the Deputy Press Ombudsman Johan Retief found that only 5% of SA journalists had knowledge or sight of the South African Press Code, it likely suggests more accessible sets of guidelines (and education) in this area is required.

This is increasingly necessary in relation to new media technologies that will become the de facto forms of media communication in the next generation.

For example, guidelines regarding how far journalists are able to express themselves as private citizens and not just as public communicators would be useful. South African journalists have already been fired or sanctioned for overstepping the mark in their use of new media technologies like blogs and social media and networks in print and media environments that don't always enjoy codified policy or guidelines on ethical online media use.

Publication and education with regard to new media ethics requires further research and consultation of the Press Council with various stakeholders (like academics and media NGOs) to develop a framework policy which national media can use to develop their own guidelines for ethical new media use to inform their practices of journalistic research, curation, crowdsourcing, community management, publishing (including real-time publication) etc. Promotion of in-house codes of practice including social or online media guidelines are a critical step in the development of publicly accountable media organisations and furthering the Press Council's aims and objectives.

Guidelines and related training material should take due cognisance of the tension between professional journalism ethics and constitutionally enshrined rights to freedom of expression and freedom information, the right to privacy, dignity, as well as existing regulations such as the Regulation of Interception of Communications and Provision of Communication-Related Information Act, the Electronic Communications and Transactions Act and also the pending Privacy Bill, among others.

3. Participatory regulation

While self-regulation remains a necessary goal of the profession, new media technologies disrupt the Press Council's position as the sole body which is able to censure unethical journalism.

Ethical breaches by the media (such as the *Sowetan's* publication of a front page picture of a tryst between a correctional services officer and a policewoman) are already subject to criticism by online (and offline) audiences as a so-called 'Fifth Estate'. The Fifth Estate in the form of networked publics arguably become a potent force for holding the media to account and may even in some instances provide sufficient pressure or sanction to censure the press for its decisions (it is acknowledged that this may also be detrimental to media freedom and independence if media are beholden to organised online pressure).

In many cases dialogue within the Fifth Estate may occur without much engagement from exponents of the Fourth Estate leading to so-called "echo chambers". Failure of institutions and authorities to use new media tools to engage with the 'former audience' may have the potential of further eroding media credibility.

The Press Council would do well to harness new media technologies to effectively extend their "public awareness" remit in order to grow public understanding and support for the institution of the Press Council and credibility and trust in a free and independent press. The press should be encouraged to do the same. Indeed, new media may facilitate a degree of participatory regulation that takes place between the Press Council (and at least) the wired public. New media offers another tool to enhance public literacy and interaction (albeit

mainly with elite audiences due to digital divides) around the decisions of the Press Council, print journalism standards and media ethics in general. Appropriate strategies may permit deeper dialogue around media standards and ethical practice. This may form a basis of critical media literacy for media production and use.

We would like to recommend that the Press Council should increase its own transparency by allowing open and ongoing dialogue in relation to its judgements which are published on http://presscouncil.org.za in the form of comments.

Secondly, corrections, retractions or explanations ordered as judgements under section 5.2 of the Press Council Constitution should also be applicable on related items of content on a print title's new media platforms. Given that editorial content produced for print appears on platforms such as websites, mobile sites and tablet publications, the Press Council should have the prerogative to extend its judgements directly to nodes of related new media content in question in applicable instances. This means that judgements or corrections could be added to online articles as an appendix or note or alternatively a link provided to the judgement (in instances where the removal of such content is not ordered). The consequence may be greater transparency for the Press Council's decision making, increased levels of accountability, sanction for erring media and greater opportunity for public media education and dialogue.

Conclusion: Anthea Garman and Priscilla Boshoff

We have made this submission because we believe we should not be striving to find one final solution to what is a deeply complex inter-related set of issues. Rather our submission requests the commission to engage with the dynamic nature of the journalism-public-state relationship and to seek to put in place a form of regulation which strongly promotes freedom of expression beyond just freedom of the press (and here we remind the commission of the points made above about the burgeoning online environment). Our suggestion is that whatever form regulation takes it must adopt a more dynamic and pro-active approach in its mandate We also see this as an ongoing process which should be subject to review as our understandings of this complex terrain deepens.

In conclusion we would like to say the following:

1. A critical understanding of the socio-historical context of media and journalistic production needs to inform any decisions taken in regards to the role of the press council and the form of regulation chosen.
2. Any decisions about the nature and scope of regulation need to take into consideration the primacy of the public as the often silent partner with the media and the state.
3. These above considerations need to be informed by ongoing research into the nature of our developing democracy and its needs for informed dialogue and a deeper participation in civic life.
4. This research must also assist all media workers (and the public) to develop a critical appraisal of trends emerging in journalism practice which could undermine the principles we have outlined in our submission. Self-reflexive practice among journalists is critical given the crucial nature of the media mandate in a developing democracy and whatever form of regulation is chosen should promote this.

5. Regulation should go beyond negative injunctions and promote positive ways of encouraging and assisting media producers to improve the standards of journalism and to work more closely with the public and thereby increase their credibility and public accountability.
6. Given the nature of our emerging democracy any form of press council should take seriously the need to promote media literacy among journalists and the public.